

1 THE HEARING RESUMED AS FOLLOWS ON THE 3RD MARCH, 1999:

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3 CHAIRMAN: Good morning everyone.

4 .

5 Mr. Cooney.

6 .

7 1 Q. MR. COONEY: May it please you, Mr. Chairman.

8 .

9 Mr. Gogarty, when the Tribunal adjourned yesterday

10 afternoon, I had been asking you some questions about the

11 events in or about the week of the 8th of June of 1989, and

12 in particular about some transactions which were carried

13 out in relation to the JMSE accounts, and I had already

14 dealt with memos which had been made by Mr. Denis McArdle

15 of requests which he received to drawdown £30,000 from

16 funds in the ICC, now I want to return to that subject.

17 .

18 First of all, Mr. Chairman, can I say we have prepared

19 booklets of the relevant documents, these documents have

20 already been discovered, we merely extracted them and put

21 them together for this.

22 .

23 CHAIRMAN: Thank you very much. Would there be a copy for

24 me?

25 .

26 MR. COONEY: Yes, one for you, Mr. Chairman, one for the

27 witness and one for whoever else we can get. These are

28 already in the possession of the Tribunal, it is just a

29 matter of convenience.

30 .

31 MR. CALLANAN: Perhaps a copy of the booklet?

32 .

1 2 Q. MR. COONEY: Yes, there is one there.

2 .

3 Now, Mr. Gogarty, if you look at the first document  
4 contained in that booklet it is a cheque stub; isn't that  
5 right?

6 A. It could be.

7 3 Q. Yeah. And it bears the serial number 011546; isn't that  
8 right?

9 A. Yes.

10 4 Q. And then it bears the date the 8th of June of 1989?

11 A. That's right.

12 5 Q. And that's Re: Grafton it says, then in brackets underneath  
13 that it has the word "Cash"; isn't that correct?

14 A. That's correct.

15 6 Q. Then it has the sum £20,000; isn't that right?

16 A. That's correct.

17 7 Q. And then if you look at the next page, you will see another  
18 stub from a cheque book which contains the next number,  
19 serially, that's 011547, then it has the 8th of June of  
20 1989, and says "Re: Grafton, cash", and this records that  
21 the cheque against which this stub exists was for £10,000;  
22 isn't that correct?

23 A. That's correct.

24 8 Q. Yes. Now, do you recognise the handwriting on that stub?

25 A. No.

26 9 Q. Yes, well the evidence will be to the Tribunal that that's  
27 the handwriting of Mr. Tim O'Keefe, who I mentioned to you  
28 yesterday, you recall me mentioning his name to you  
29 yesterday?

30 A. Yes, that's right.

31 10 Q. And he will confirm to the Tribunal that that is in his  
32 handwriting, and he will also confirm that it is very

1 likely that he wrote out the cheques which relate to those

2 two stubs; do you understand me, Mr. Gogarty?

3 A. That he wrote them?

4 11 Q. Yes.

5 A. Yeah.

6 12 Q. And that these cheques were signed both by you and Mr.

7 Frank Reynolds?

8 A. Well, if he says that I accept that, is there --

9 13 Q. All right. Now, I want you to turn on then, if you would

10 please, Mr. Gogarty, about two or three pages further on,

11 where there is a photostat of the statement of account?

12 A. What page is that?

13 14 Q. It's about --

14 A. Number?

15 15 Q. Sorry, it is page 8.

16 A. Number 8.

17 16 Q. And you see that that's a photostat of a statement of

18 account from Allied Irish Banks in Talbot Street; isn't

19 that right?

20 A. That's right.

21 17 Q. Yes, and it is addressed to the Secretary, Joseph Murphy

22 Structural Engineers in Shannowen Road in Santry; isn't

23 that right?

24 A. That's right.

25 18 Q. It is the usual statement of account the bank will furnish

26 to a client; isn't that right?

27 A. That's right.

28 19 Q. I want to pause, we can see that that refers to No. 2

29 account, you can see that, can't you? See just underneath

30 the box containing the name and address, there is Joseph

31 Murphy Structural Engineers Limited, No. 2 account, you see

32 that?

1 A. Yes.

2 20 Q. I want to pause and ask you about this; I think you know  
3 that JMSE maintained three accounts, three current accounts  
4 with the AIB in Talbot Street?

5 A. No, I won't know that.

6 21 Q. I suggest you knew it very well; one account was for the  
7 payment of salaries, a monthly account; one was for the  
8 payment of wages which was a weekly account, and then there  
9 was a, the creditors account, which is this one we are  
10 dealing with here, account No. 2; isn't that right?

11 A. I take your word for it.

12 22 Q. You say you weren't aware?

13 A. I wouldn't be aware of the mechanics.

14 23 Q. But you certainly were a mandated signature on all the  
15 cheques; isn't that right?

16 A. That's correct.

17 24 Q. All right. Now, I want you to look down, this account  
18 which we have here shows on the left-hand side the dates  
19 upon which the cheques were debited against the account of  
20 JMSE, you see that?

21 A. Yes.

22 25 Q. We see that there is first dated the 7th of June and then  
23 underneath that is the 8th of June; isn't that right?

24 A. That's right.

25 26 Q. Then in the next column it is headed "balance forward", and  
26 in fact what is recorded there is the number of the cheques  
27 which were cashed or which were drawn on the bank on that  
28 day and cleared; isn't that right?

29 A. Well, I take it as that's what it is, yeah.

30 27 Q. Yes, and then the column beside that are set out the  
31 amounts of each one of these individual cheques; isn't that  
32 right?

1 A. Yes, yeah.

2 28 Q. And then in the right-hand column we have the balance in  
3 the bank account; isn't that correct?

4 A. That would be correct, yeah.

5 29 Q. And we can see that for the 7th of June the account was  
6 overdrawn to a sum of £54,438.17; isn't that right?

7 A. 54,000.

8 30 Q. That's what it seems to me to be -- DR, you see that --  
9 if you look --

10 A. Sorry, at the top?

11 31 Q. Yes, at the right-hand column?

12 A. Sorry yeah.

13 32 Q. Yes, in fact by the end of the 8th of June that overdrawn  
14 amount had increased to £224,451; isn't that right?

15 A. That's right, yeah.

16 33 Q. So there were a lot of cheques drawn and debited to the  
17 JMSE No. 2 account on that day; isn't that right?

18 A. On that day, yeah.

19 34 Q. Yes. I want you to look at the very last one of those  
20 entries and you will see that the cheque number is 011546,  
21 do you see that?

22 A. Yes.

23 35 Q. And you see that the sum of that cheque is £20,000; isn't  
24 that right?

25 A. That's right.

26 36 Q. And that relates back to the first of the cheque stubs that  
27 we mentioned just a moment ago; isn't that right?

28 A. I take your word for it.

29 37 Q. There is no doubt about it, if you compare the numbers they  
30 are exactly the same, aren't they, 0115 --

31 A. 46.

32 38 Q. -- 546. So?

1 A. Yeah.

2 39 Q. I suggest to you that it seems very clear from that entry

3 that that cheque for £20,000 was paid on that day; isn't

4 that right?

5 A. That's what appears, yeah.

6 40 Q. Yes, so the cheque was written on that day and the sum of

7 £20,000 was debited to the account of JMSE against that

8 cheque on the same day; isn't that right?

9 A. That's what would appear, yeah.

10 41 Q. And I suggest to you that that's the £20,000 which Mr.

11 O'Keefe collected on your instructions from the bank and

12 gave to you on the 8th of June?

13 A. Not on my instructions.

14 42 Q. You don't agree with that?

15 A. Oh no.

16 43 Q. All right. But you do agree that there is a cheque made

17 out to cash for £20,000 on that day, and it is quite clear

18 from the statement account from AIB bank in Talbot Street

19 that that cheque was paid on that day; isn't that right?

20 A. It appears that way, yeah.

21 44 Q. And it is debited to the account; isn't that right?

22 A. Yes, yes.

23 45 Q. All right. I want you to turn on to, I am not sure there

24 is a number on this page, it should be the page following

25 page 12, page 13 -- have you found page 13, Mr. Gogarty?

26 A. Well, I think I have yeah.

27 46 Q. Again it is a photostat of a statement of account from AIB

28 in Talbot Street; isn't that right?

29 A. Yeah.

30 47 Q. And again it refers to a JMSE No. 2 account; isn't that

31 right?

32 A. Yeah.

1 48 Q. Yes, and the dates on the left-hand side are the 19th of  
2 June, of 1989, and underneath that the 20th of June of  
3 1989; you see that, don't you?

4 A. Yes.

5 49 Q. And then on the right-hand side we can see that the  
6 indebtedness of the company had now been reduced to  
7 £38,603; isn't that right?

8 A. That's correct, yeah.

9 50 Q. Yes, and then we can see in the column second from the  
10 right under the heading of "credit", sums which were  
11 credited to the account of JMSE; isn't that right?

12 A. That's right.

13 51 Q. And the first of these is the sum of £9172.85; isn't that  
14 right?

15 A. That's right.

16 52 Q. And beneath that is a sum of £30,000; isn't that right?

17 A. That's right.

18 53 Q. Now, I put to you, Mr. Gogarty, that that sum of £30,000  
19 represents the sum of £30,000 which Mr. Denis McArdle  
20 withdrew from his clients' account in the ICC and which he  
21 sent on to JMSE?

22 A. I couldn't say.

23 54 Q. And that that sum was there to reimburse JMSE for the  
24 payment of £20,000 which was recorded in the bank statement  
25 as having come out on the 8th of June and a further payment  
26 of £10,000 by cheque, and I am going to come to that in a  
27 moment.

28 .

29 If you turn over the next page, you will see here another  
30 copy of a statement of account from AIB in Talbot Street,  
31 do you see that?

32 A. There is no number on this.

1 55 Q. I'm afraid it is not numbered but it is the next, exactly

2 the next page, Mr. Gogarty; do you see that?

3 A. I see that.

4 56 Q. Okay. Again this is another statement of account from AIB

5 in Talbot Street; isn't that right?

6 A. It appears to be, yeah.

7 57 Q. On the No. 2 account?

8 A. On the -- yeah.

9 58 Q. And again we can see the dates on the left-hand side. The

10 opening date is the 21st of June of 1989, and beneath that

11 is the 22nd of June of 1989; isn't that correct?

12 A. That's correct.

13 59 Q. And then we can see in the next column the numbers of

14 cheques which came in to the account in Talbot Street and

15 which were debited against JMSE's account; isn't that

16 right?

17 A. Yes.

18 60 Q. And if you look down you will see cheque number 011547;

19 isn't that right?

20 A. That's right.

21 61 Q. And against that is the sum of £10,000; isn't that correct?

22 A. That's correct.

23 62 Q. And that corresponds in amount and in cheque number with

24 the stub, cheque stub that we referred to some moments ago;

25 isn't that right?

26 A. It appears to, yes.

27 63 Q. So it seems that the cheque for £10,000 had eventually

28 found its way back to the AIB in Talbot Street, and there

29 that amount was debited against the account of JMSE; isn't

30 that right?

31 A. Yes, it was, yes.

32 64 Q. So in summary then, Mr. Gogarty, it would seem that two



1       cheques were written on the 8th of June of 1989, at least  
2       both made out to Grafton and described as cash. One for  
3       £20,000 --

4       A. You mentioned Grafton --

5       65 Q. Yes.

6       A. They are both to Grafton, is it?

7       66 Q. We looked at the stubs, you remember?

8       A. We didn't see Grafton.

9       67 Q. We did see the word "Grafton" on the stubs, Mr. Gogarty?

10      A. Sorry, I don't know much about it at all.

11     68 Q. Yes indeed. What I suggest to you is that this  
12     establishes that on the 8th of June two cheques were  
13     written on the JMSE account, one for £10,000 and one for  
14     £20,000. The cheque for £20,000 was cashed immediately on  
15     that day; isn't that right?

16     A. Well, I accept that, yeah.

17     69 Q. Yes, and that the cheque for £10,000 eventually showed up  
18     16 days later on the JMSE account having come from its  
19     recipient, and presumably through his bank it had been  
20     cleared; isn't that right?

21     A. Yeah, it was me, was it, who was the recipient?

22     70 Q. I will come to that in a moment now. These cheques were  
23     drawn serially, they were written together one after the  
24     other, that seems to follow, doesn't it, from the  
25     consequential numbers?

26     A. Yeah.

27     71 Q. And at the same time a payment of £20,000 was also put into  
28     JMSE; isn't that right?

29     A. Well, I can't say if it is right but it appears like that.

30     72 Q. Yes, it does. Well, I suggest to you that, I suggest to  
31     you that payment into the account of the £30,000 obtained  
32     by Mr. McArdle, and that was sent by him to JMSE to

1 reimburse JMSE for the £30,000 which was drawn on the 8th  
2 of June and which comprised of £20,000 in cash eventually  
3 and a cheque for £10,000?

4 A. I couldn't say that, I don't know.

5 73 Q. You don't know that?

6 A. No, no.

7 74 Q. All right. But I referred you yesterday to the  
8 attendances or written attendances which Mr. McArdle had  
9 made on Mr. Copsey; isn't that right?

10 A. You did, you mentioned that, yeah.

11 75 Q. You remember what I put to you yesterday?

12 A. Well, I have an idea of it, yeah.

13 76 Q. All right. Well, just to remind you, they are included in  
14 this book, again on page five, Mr. Gogarty. I don't want  
15 to waste too much time on this, Mr. Chairman, we have been  
16 over it before. You see this is the attendance written by  
17 Mr. McArdle of a telephone conversation which he had with  
18 Mr. Copsey on the 8th of June, of 1989, and it says;  
19 "£30,000 wanted today, if possible £10,000 cheque and  
20 £20,000 cash. June the 15th -- election --  
21 contribution". Do you see that?

22 A. Yeah.

23 77 Q. Then Mr. McArdle records himself as having said to Mr.  
24 Copsey "Told him I could not get cash, it would be in the  
25 form of bank draft". Do you see that?

26 A. Yeah.

27 78 Q. That's the 8th of June, all right?

28 A. Yes.

29 79 Q. Now, if you turn over to the next page there is a note by  
30 Mr. McArdle's secretary, obviously Mr. McArdle wasn't there  
31 and she recorded this message from Mr. Copsey for Mr.  
32 McArdle, you see at the bottom of the note it also bears

1 the date the 8th of June of 1989; do you see that?

2 A. 8th of June, 1989, at the bottom.

3 80 Q. You see it at the bottom, and I think the lady's signature

4 is there, I think it is Irish but I am not sure. That

5 reads; "Roger Copsey said forget the call of this morning

6 and at his reasonable leisure draw up cheque from clients'

7 account for £30,000 payable to JMSE. If you need a letter

8 of instruction or such like phone his secretary". Now, it

9 does appear that in the interval between the date of the

10 first telephone call from Mr. Copsey and this second one

11 the urgency or necessity for the payment, for the drawing

12 down of the £30,000 had evaporated, had gone; isn't that

13 right?

14 A. What was the date of the first call?

15 81 Q. Also the 8th of June?

16 A. Owe yeah.

17 82 Q. You see I put it to you --

18 A. It was the same day.

19 83 Q. Yes. I put it to you because, the necessity or the urgency

20 for this payment had evaporated because you had by that

21 stage arranged the payment of the £30,000 from the JMSE

22 account in Talbot Street. Do you agree or disagree with

23 that?

24 A. Disagree with that.

25 84 Q. All right. Now, if we go onto the next document, it is a

26 letter again dated the 8th of June, from Mr. McArdle, and

27 it is to the Deposit Manager?

28 A. What number is this?

29 85 Q. Sorry, just the next page, page seven?

30 A. Page seven, yes.

31 86 Q. And again it is a letter of the 8th of June clearly written

32 by Mr. McArdle and addressed to the Deposit Manager ICC

1 PLC, Harcourt Street, Dublin 2. He refers to the account  
2 number and says; "I would be obliged if you would give the  
3 bearer of this letter a cheque for £30,000 out of the above  
4 numbered account". Do you see that?

5 A. Yeah.

6 87 Q. There is Mr. McArdle following the instructions which he  
7 received from Mr. Copsey; isn't that right?

8 A. Mr. Copsey, yeah.

9 88 Q. Yes, okay. Now, the next document then is the first  
10 statement of account from AIB which we have looked at and  
11 already dealt with this, so would you turn on then to page  
12 9?

13 A. Yes.

14 89 Q. Again, this is a letter written by Mr. McArdle to Mr.  
15 Copsey and it bears the date of the 12th of June; do you  
16 see that?

17 A. Yes.

18 90 Q. And I think, as far as I can read the address it is to Mr.  
19 Copsey at his address in Pembroke Road or Pembroke Row, I  
20 think?

21 A. Yeah.

22 91 Q. And it says; "Re: Grafton Construction Company Limited,  
23 land at Swords". It then says; "Dear Roger, I refer to  
24 our telephone conversation of Thursday last and confirm  
25 that I am sending a cheque for £30,000 payable to JMSE  
26 directly to Jim". You see that?

27 A. Yeah.

28 92 Q. Now that Jim is you, isn't it?

29 A. I would accept that, yeah.

30 93 Q. Yes. So again I don't want to go over this ground, we have  
31 been over it yesterday, but it is quite clear, is it not  
32 from that, that you had an involvement in these

1 arrangements?

2 A. Well, it appears that way. It is very interesting, this is  
3 the first time I saw it first of all, and hopefully now Mr.  
4 McArdle and Mr. Copsey will come and explain the nuances of  
5 it, you know, because I can't help you out in that respect.

6 94 Q. Again we had this yesterday and I read it out to you  
7 yesterday, perhaps I should have shown you a copy for  
8 clarity purposes, but I will just make the point, make two  
9 points to you and you can comment on them, reject them if  
10 you like.

11 .

12 First of all Mr. Copsey's evidence will be that he sought  
13 this money from Mr. McArdle at your instructions?

14 A. Well I wait to hear it, I will be pleased when I hear it.

15 95 Q. No, no, this is a fact, Mr. Gogarty, which will be adverted  
16 to?

17 A. Certainly, yes.

18 96 Q. Now, is it a correct factor, is it not?

19 A. That what?

20 97 Q. That Mr. Copsey sought this money from Mr. McArdle on your  
21 instructions?

22 A. Not on my instructions. He can come in here and tell us  
23 where or how he was acting.

24 98 Q. He will do that, and what we are trying to determine now,  
25 Mr. Gogarty, is not whether or not Mr. Copsey will give  
26 evidence, but what your response is to an alleged fact?

27 A. I am telling you what my response is.

28 99 Q. You disagree with that?

29 A. I disagree.

3 100 Q. All right. What part were you playing in these  
31 arrangements at all, Mr. Gogarty?

32 A. I think I explained that do you see, that I got, after the

1 meeting on the 8th of June I got a ring from Frank Reynolds  
2 to go in to Santry, and they told me they had developed the  
3 progress on the arrangement to, between Bailey and Burke  
4 and that they had the run there of £30,000 in cash and I  
5 checked that to the best of my ability and Joe Junior says  
6 they were short of £10,000 and I signed a cheque with  
7 Frankie for it.

101 Q. You have told us that already, Mr. Gogarty, what I am  
9 asking you about now is not generally but specifically  
10 related to the phrase in Mr. McArdle's letter saying "I am  
11 sending the cheque for £30,000 payable to JMSE directly to  
12 Jim"?

13 A. I can't speak for Mr. McArdle, honestly.

1 102 Q. Okay. All right. Very well, I will pass on to the next  
15 letter then, which is on the following page and is written  
16 on the 13th of June of 1989?

17 A. Yes.

1 103 Q. And again this is a letter to Mr. Copsey from Mr. McArdle  
19 and again it is Re: Grafton, Re: Grafton Construction  
20 Company Limited and Reliable etc., "Dear Roger, further  
21 to my letter of the 12th of June, the sum of £30,000  
22 requisitioned from Industrial Credit Corporation has now  
23 come to hand. I telephoned Jim to inquire whether I  
24 should post it to him or if he would prefer to have it  
25 collected but he tells me that he does not need it and I  
26 should send it to you. What am I to do? Yours sincerely".  
27 Now, do you recall a telephone conversation with Mr.  
28 McArdle in or about the 12th or 13th of June in which you  
29 discussed this cheque for £30,000?

30 A. Well, I can not honestly recall it, but I accept Mr.  
31 McArdle's word that if he says he rang me, if he says that.

3 104 Q. You see, I have to put it to you that you did have this

1 telephone conversation and by this stage you didn't need  
2 the £30,000 because you had already obtained it on the 8th  
3 of June on the JMSE account in the form of £20,000 in cash  
4 and a cheque for £10,000?

5 A. I didn't need it, Joe Junior didn't need it, that's what it  
6 was, Frank had already got it, you know.

105 Q. All right. The next document is on page 11, again it is  
8 an attendance -- it is the 13th of June of 1989, it is the  
9 day of the, around the time of the telephone conversation  
10 with you, and again he is taking instructions from Mr.  
11 Copsey. He says; "£30,000 to JMSE; (1) Tim O'Keefe, two  
12 will split it when he does final tax computation, apportion  
13 between the companies Grafton and Reliable --

14 A. Who is this now?

1 106 Q. This is an attendance note of Mr. McArdle's?

16 A. Mr. McArdle on who?

1 107 Q. On Mr. Copsey, it is dated the 13th of June, do you see  
18 that?

19 A. Yeah, yeah.

2 108 Q. Now what he says is; "£30,000 to JMSE. Tim O'Keefe", and  
21 he is being told obviously there to send it to Mr. O'Keefe  
22 who was the in-house accountant at that time; do you recall  
23 that?

24 A. Yeah, he was in yeah.

2 109 Q. And then this was, this £30,000 was to be split when a  
26 final tax computation was being done and apportion between  
27 the two companies Grafton Construction Limited and Reliable  
28 Construction Limited; isn't that right?

29 A. Well, that's what it says, I can't say whether it is right  
30 or wrong, that's what it says.

3 110 Q. All right. I am putting this to you now for the sake of  
32 completing, this portion of the case. The monies which

1 were in ICC were as a result of the sale of lands which  
2 were in the names of Grafton Construction and Reliable  
3 Construction; isn't that correct?

4 A. I didn't know that at the time, I didn't know anything  
5 about ICC.

111 Q. No -- all right. Then I will go a step further back, the  
7 lands which were sold in 1988 were in the names of Grafton  
8 Construction Limited and Reliable Construction Limited?

9 A. I accept that, yeah, but I don't know where that money  
10 went.

1 112 Q. That's all right. Then he, Mr. McArdle writes; "Went to  
12 Joe with overall bill. Joe said that to take some from  
13 such-and-such a company for professional services, will  
14 send invoice". That's Mr. McArdle recording the fact that  
15 he was sending a bill for his professional service to Mr.  
16 Murphy Senior?

17 A. Are you sure it is Mr. Murphy Senior?

1 113 Q. That's what it says, "Joe" --?

19 A. I know, are you sure?

2 114 Q. That will be Mr. McArdle's evidence?

21 A. Fair enough, because I thought Senior said the other.

2 115 Q. Yes, and then I think that on the 14th of June we have a  
23 letter on the next page, page 12?

24 A. Sorry -- did you finish this?

2 116 Q. Yes, I did.

26 A. Because at the end it says "Went to Joe with -- what?"

2 117 Q. Overall bill?

28 A. What's the bill?

2 118 Q. Mr. McArdle's professional services bill?

30 A. Sorry yes and then "Joe said --

3 119 Q. "Take some from such-and-such a company, it is for  
32 professional services, will send me invoice"?



1 A. Who will send him the invoice? Sure I don't know.

120 Q. Well you don't know, all right. Mr. McArdle will explain

3 that when he has to give evidence.

4 A. Of course he will.

121 Q. The next and I think final document here, second last

6 document is a letter from Mr. McArdle dated the 14th of

7 June and it is to Mr. O'Keefe care of JMSE at Shannowen. I

8 don't know if you have got a proper one, it says; "Dear Mr.

9 O'Keefe, on the instructions of Mr. Roger Copey --

10 A. Sorry, I haven't that, it is not in that.

1 122 Q. It is badly bound, is it? All right. It is very

12 straightforward. I think if you just listen to me, Mr.

13 Gogarty. "Dear Mr. O'Keefe, on the instructions of Roger

14 Copey I enclose herewith cheque for £30,000 which I have

15 endorsed in favour of JMSE, yours sincerely Denis McArdle".

16 Isn't that right?

17 A. Yes.

1 123 Q. And that's clearly the cheque for £30,000 which we see

19 lodged to the account of JMSE; isn't that correct?

20 A. I don't know, I couldn't tell you.

2 124 Q. You don't know. All right. The final documents in this

22 booklet are photostated extracts from the cheque ledger

23 book of JMSE?

24 A. What pages are you at now.

2 125 Q. The very last pages in that booklet?

26 A. The very last pages or page.

2 126 Q. Yes, pages, there are about five of them, in fact there are

28 seven of them actually?

29 A. I would want to be an accountant to read them.

3 127 Q. Pardon?

31 A. I would want to be an accountant to read them.

3 128 Q. We won't deal with them in any great detail, it is just to

1 establish a particular point if I can.

2 A. Yeah.

129 Q. If you look at -- the sixth of those seven pages I think?

4 A. The sixth?

130 Q. Yes, it may have the figure 20 at the bottom?

6 A. No, I haven't got it.

131 Q. All right. Yes -- perhaps could we show it to the

8 witness, Mr. Chairman, it might save time. Do you see

9 about two thirds of the way down that page, Mr. Gogarty,

10 there are two entries, Grafton Construction, the number of

11 the cheque and the sum £20,000; do you see that?

12 A. Yeah, there is a line under it.

1 132 Q. Yeah, and then underneath that also Grafton Construction,

14 again the number of the cheque and sum £10,000?

15 A. £10,000.

1 133 Q. Yes, you see those two entries, do you?

17 A. No, I don't see the 10. Sorry, is that a 10?

1 134 Q. Yes, directly underneath the 20?

19 A. I thought it was 181.

2 135 Q. Well, it is £10,000, Mr. Gogarty, you can take it from me.

21 A. Well, there is an 8 in it, isn't there?

2 136 Q. No, it is the photostating which makes it appear like

23 that.

24 A. No don't ask me to explain it because I can't.

2 137 Q. All right. I want to draw your attention to the fact that

26 these two cheques were recorded in the companies cheque

27 ledger book?

28 A. I accept they would be.

2 138 Q. Yes. Just generally speaking, Mr. Gogarty, we can see that

30 for the months I think of May or June, there were a very

31 large number of cheques written on this account; isn't that

32 right?

1 A. It would appear that way.

139 Q. I think I calculate that each page has 40 entries and there  
3 are seven or eight pages, so there is a total perhaps of  
4 280, maybe 300 cheques approximately written over that  
5 period of time?

6 A. You know all about them, no I am being facetious. You see,  
7 Mr. Cooney, I wonder could you extrapolate of them 280  
8 cheques how many I signed?

140 Q. I don't know.

10 A. It is a fair point, you know.

1 141 Q. All I am doing, Mr. Gogarty --

12 A. I know what you are doing, I have an idea anyway.

1 142 Q. All I want to do, Mr. Gogarty, is to establish that this  
14 was an extremely busy account on which a lot of cheques  
15 were bearing sums of money were drawn; isn't that right?

16 A. You are doing your best, there is no doubt about that, that  
17 is correct, I will give you credit for that.

1 143 Q. Well just now I would like you to answer the question.

19 A. I haven't a clue about them things, honest to God.

2 144 Q. Well I mean, Mr. O'Keefe will say, Mr. Gogarty --

21 A. That's your man, God you have him now, that's your man, the  
22 accountant.

2 145 Q. Mr. O'Keefe will say, Mr. Gogarty, while he was in JMSE you  
24 were regularly in and out of the premises and when you were  
25 there you were exercising the authority of the boss, you  
26 were the boss; is that right?

27 A. The boss, I wasn't the boss, no.

2 146 Q. Well that's what he will say?

29 A. Mr. Roger Copsey was the Chief Executive, acting Chief  
30 Executive.

3 147 Q. He wasn't, he was the financial director and when you were  
32 there --

1 A. Well --

148 Q. Please listen to me now, please listen, Mr. Gogarty. When

3 you were there and you visited the premises frequently, you

4 acted as boss and exercised the authority of boss; do you

5 agree or disagree with that?

6 A. I disagree with it.

149 Q. All right. Well, I just want to establish as a matter of

8 fact, and this is something which I suggest you would know

9 from your own experience, that this account was an

10 extremely busy one, upon which a lot of cheques were

11 written over a short period of time for varying sums of

12 money; isn't that right?

13 A. I can't comment on that.

1 150 Q. You can't comment on that, although you were still at that

15 stage a mandated signature so far as the bank was

16 concerned?

17 A. That's true, that's true but at that time I had very little

18 attendance at Santry but Mr. O'Keefe will explain it all

19 right.

2 151 Q. All right, Mr. Gogarty. Now, I want to put it to you, Mr.

21 Gogarty, that is correct, these documents, particularly the

22 bank statements show the origin of the, some of the money

23 which was given to Mr. Ray Burke, and that sum of money was

24 £30,000 and not 40 as you contend, and it came in the form

25 of £20,000 in cash and a cheque for £10,000 also made out

26 to cash. Now, do you agree or disagree with that?

27 A. I disagree with this.

2 152 Q. I also put it to you that you were the one who directed the

29 drawing down of these funds from the JMSE account in Talbot

30 Street?

31 A. It is interesting what you are saying, but that's a

32 departure from what you said earlier on, that I did it on

1 my own.

153 Q. It is not, I put it to you that you were responsible for

3 the drawing down of these funds from the JMSE account in

4 Talbot Street and that you did so for the purposes of

5 paying them over to Mr. Burke?

6 A. I am telling you I did not.

154 Q. All right. Where then, according to your account, did the

8 £30,000 come from which you say Roger Copsey had given

9 Frank Reynolds?

10 A. Well Frank Reynolds told me that it came from Copsey's

11 funds, that is what appears now.

1 155 Q. When did Frank Reynolds tell you that?

13 A. The day we went in there on the 8th of June.

1 156 Q. I suggest to you that that's an invention, Mr. Gogarty?

15 A. Sure I have been inventing all the time.

1 157 Q. Let me finish please, that is an invention to cover up the

17 indisputable facts which have emerged from these documents?

18 A. I dispute that completely, reject your insulting remark,

19 you know.

2 158 Q. And that there was no question of Mr. Copsey paying £30,000

21 out of some other funds at his disposal?

22 A. Mr. Copsey will tell you that himself.

2 159 Q. Indeed he will.

24 A. He will.

2 160 Q. And I suggest to you that this latest suggestion that you

26 have made, a refinement on your earlier evidence, Mr.

27 Gogarty, is an attempt to avoid the implications of what we

28 see in this documentation?

29 A. What am I trying to avoid? I am not trying to avoid

30 anything, that's why I am in here, I am not trying to avoid

31 anything. I know you're doing your best all right, no

32 doubt to you but that's not my job.

161 Q. Excuse me please. -- All right, Mr. Gogarty, I will just  
2 move on to a related subject.

3 A. Have I finished with this thing?

162 Q. Yes, you can put it down now.

5 A. Thank you very much.

163 Q. Mr. Gogarty, you have told the Tribunal that the lands were  
7 of secondary interest to you; isn't that right?

8 A. That's right.

164 Q. Now, I think you also told the Tribunal on the 5th day of  
10 your evidence that you were completely unaware of what  
11 happened to the lands; isn't that right?

12 A. Completely unaware.

1 165 Q. Yes, I will give you the exact quotation of what you said?

14 A. Yeah.

1 166 Q. First of all on page 18 on Day 5, you were giving evidence  
16 in answer to questions put to you by Mr. Gallagher and at  
17 Question 53 on page 18 Mr. Gallagher was asking you about  
18 the meetings with Mr. Bailey and so on, then he asked you,  
19 he says to you; "We will stay on this for the moment". You  
20 answered; "I have emphasised this you see, that the lands  
21 were of secondary interest to me". And this remains your  
22 evidence; isn't that right?

23 A. Yeah.

2 167 Q. That the lands were of secondary interest to you?

25 A. I have no vested interest in the lands.

2 168 Q. I am not asking you that, that the lands were of secondary  
27 interest only to you?

28 A. I am explaining the word "secondary".

2 169 Q. All right. Now, I think that you went on then and you said  
30 at page, I will just locate it now -- yes, at page 48 you  
31 give, again you are being asked questions by Mr. Gallagher  
32 and I think that you were asking, you were here in this

1 part of your evidence, you were describing the visit to Mr.  
2 Burke's house and Mr. Gallagher had asked you at Question  
3 173; "So far as you were concerned what was he expected to  
4 do?"; that's Mr. Burke. And your reply is; "Well, it is a  
5 pity having to say these things. What I expected him to  
6 do and Bailey expected him to do was that he could  
7 influence Fianna Fail councillors, and at that time  
8 according to Mr. Bailey they had the majority in Dublin  
9 County Council, but in addition to that, according to Mr.  
10 Bailey, Burke could control the Fianna Fail vote in the  
11 count and Bailey could cross the ... In the letter he named  
12 people that I don't want to be naming either but I am only  
13 telling you it is hearsay on my part. And I am only  
14 telling you that that's how it happen and it would take two  
15 meetings of the council to do that and that could be done  
16 not immediately but over a period of years, as he said in  
17 his letter" . This is the part of your answer I want you  
18 to listen to very carefully; "It didn't bother me -- and  
19 it didn't bother me afterwards, what happened to the land  
20 at all. I don't know what happened the lands even to this  
21 day. I have no interest in them either vested or  
22 otherwise". Now, do you recall giving that evidence?

23 A. Yes, that would be what I said.

2 170 Q. On Day 5; is that correct?

25 A. Yeah.

2 171 Q. So you were telling the Tribunal that you didn't know  
27 anything in a relation to the history of these lands and to  
28 the visit to Mr. Burke's house in June of '89?

29 A. Generally speaking that would be correct.

3 172 Q. No interest and no knowledge?

31 A. I had no vested interest in it, I didn't give a damn to  
32 tell you the truth.

173 Q. You had no knowledge either you say?

2 A. You have to put in the context, I didn't give a damn, I had  
3 no vested interest in it, I wanted me pension, I was  
4 suffering from threats, your clients' threats and  
5 intimidation after all these years, and I didn't give a  
6 damn about the lands, honest to God.

174 Q. What you said in your evidence, given on the 19th of  
8 January to this Tribunal was; "I don't know what happened  
9 to the lands even to this day". Now, what you are telling  
10 the Tribunal is that you know nothing about the lands or  
11 what happened to the lands from the time of your meeting  
12 with Mr. Burke almost ten years ago down to the present  
13 day; isn't that right?

14 A. At the time I couldn't be specific about anything that  
15 happened to the lands.

1 175 Q. No, no, Mr. Gogarty, I am suggesting, just listen to me now  
17 please, I am suggesting to you that you told this Tribunal  
18 specifically that you had no knowledge, good, bad or  
19 indifferent as to the history of these lands following the  
20 meeting with Mr. Burke?

21 A. That's what I am telling you, that's what I am telling you.

2 176 Q. All right. Now, what I want you to do is to reconcile  
23 that piece of sworn evidence, Mr. Gogarty, with the  
24 statement you made to Mr. Broughan at a meeting with him in  
25 the Marine Hotel in 1997, that 450 acres of the 712 acres  
26 had been rezoned?

27 A. Yes, I was told that, that was hearsay, I was told that.

2 177 Q. You have told this Tribunal under oath that you did not  
29 know what happened to these lands and yet you told Deputy  
30 Broughan at that meeting in April of 1997 that 450 acres,  
31 over 50 percent of the lands had already been rezoned as of  
32 April 1997; isn't that right?



1 A. That's right.

178 Q. Yes.

3 A. I was told that.

179 Q. Well, how do you reconcile telling this Tribunal under oath

5 that you do not know what happened to the lands with the

6 fact that less than two years ago you were telling somebody

7 else that 450 acres had been rezoned?

8 A. I was telling him what I was told, I didn't give a damn, I

9 was telling what I was told.

1 180 Q. You see, Mr. Gogarty, I suggest to you that this is quite

11 different, that you made a blunt unqualified statement to

12 Deputy Broughan, that over 50 percent of these lands had

13 achieved rezoning; isn't that right?

14 A. I was told that.

1 181 Q. I am not asking you what you were told, I am asking you --

16 A. That's why, that's why --

1 182 Q. You told him that, why didn't you tell the Tribunal that?

18 A. Sure I don't know, if I didn't tell them I didn't

19 deliberately withhold it either.

2 183 Q. I am not asking -- you were here in the witness-box under

21 direct examination for days and days and days, Mr. Gogarty,

22 you were not pressed, you were allowed to speak for as long

23 as you wanted to and answer questions at any length of

24 time. I want to know why given that latitude, why didn't

25 you tell this Tribunal that 450 acres of the 712 acres had

26 been rezoned?

27 A. I am only telling the way it was put to me, you know, I

28 don't see what big deal they are making out of that, you

29 know.

3 184 Q. No, no --

31 A. What big deal are you making out, you are making me out a

32 liar, is that what you are doing?

185 Q. Don't ask me questions, Mr. Gogarty, just answer my  
2 questions.

3 A. I am entitled to protect me and give me a reasonable  
4 explanation in the context which I was talking and  
5 swearing, I am reasonably satisfied on that.

186 Q. I am asking you why didn't you tell the Chairman, the same  
7 thing that you told Deputy Broughan, that 450 acres of  
8 these lands had been rezoned?

9 A. Because it was hearsay first of all.

1 187 Q. But you were prepared to seek the assistance and support of  
11 Deputy Broughan on the basis of hearsay; isn't that right?

12 A. For what?

1 188 Q. For your various grievances that he was entertaining at  
14 that time; isn't that right?

15 A. How do you relate that to what he was chasing? He was  
16 chasing the fraud and intimidation by your men, by your  
17 clients and getting an explanation why they weren't  
18 charged.

1 189 Q. You see at this time you had moved on in the course of your  
20 relationship with Deputy Broughan from your original  
21 complaints related to the figure of the Guards prosecuting  
22 Mr. Murphy Junior, and you now moved on to the allegations  
23 of alleged bribery, allegation of bribery and corruption  
24 against Mr. Burke and your former employers, and in order  
25 to make a case against them you deliberately made a false  
26 statement to Mr. Broughan, that 450 acres had been rezoned?

27 A. I reject it was a false statement, I reject that.

2 190 Q. Do you know now it is an untrue statement?

29 A. I don't know, I don't know because I don't know what  
30 happened to the lands.

3 191 Q. Well, at the time?

32 A. In fact --

192 Q. At the time you said, made the statement to Mr. Broughan  
2 where did you get the information that over 50 percent of  
3 the lands had achieved rezoning?

4 A. I was told that.

193 Q. By whom?

6 A. I am not going to tell you by whom.

194 Q. You must answer my questions, Mr. Gogarty; by whom?

8 A. What?

195 Q. Who told you that?

10 A. I couldn't say who told me that, it was hearsay anyway.

1 196 Q. Why can't you say it?

12 A. No, I am not afraid to tell you anything at all, no.

1 197 Q. Is it that you don't remember the name of the person who  
14 told you this or you do?

15 A. That's possible.

1 198 Q. Which is it now?

17 A. I couldn't tell you now, I am telling you, you are trying  
18 to make me out a liar and you are making a big deal out of  
19 something that I was told, and in fact if you read the  
20 papers too as well, they are saying that there was no land  
21 rezoned, so --

2 199 Q. You see, Mr. Gogarty --

23 A. -- so hearsay, you know, is a dangerous thing and I am not  
24 denying that I said these things on hearsay.

2 200 Q. Is it dangerous to repeat this to Mr. Broughan and lead him  
26 to believe that the corrupt dealings which you were  
27 alleging my client was involved in had resulted already in  
28 the rezoning of more than 50 percent of the lands in  
29 question?

30 A. Not necessarily, because they could have been rezoned  
31 legitimately, I don't know, I don't know.

3 201 Q. And is that what you intended to convey?

1 A. I was telling you what I was concerned with at that time,  
2 that I was told this, you see.

202 Q. I put it to you, Mr. Gogarty, that at least with  
4 carelessness and at most with extreme malice, you told  
5 Deputy Broughan a lie, or a misstatement of fact with a  
6 view to blackening my clients and other people in the  
7 estimate of Deputy Broughan?

8 A. That was never my intention.

203 Q. Why did you tell him that?

10 A. I told him what I heard.

1 204 Q. Who did you hear it from?

12 A. I couldn't tell you who I heard it from, in fact it was  
13 general knowledge around the time.

1 205 Q. General knowledge?

15 A. Yeah.

1 206 Q. What general knowledge?

17 A. The papers were there.

1 207 Q. What papers carried that information?

19 A. I couldn't tell you, I couldn't tell you.

2 208 Q. You see, Mr. Gogarty, you were very, very experienced in  
21 the management of lands, you knew your way around County  
22 Council offices, didn't you?

23 A. County Council offices?

2 209 Q. Yes.

25 A. I was fairly experienced, yes.

2 210 Q. And it would be the simplest thing in the world for a man  
27 of your experience to go into the County Council offices  
28 and find out what portion of these lands, if any, had been  
29 rezoned since the time of your meeting with Ray Burke in  
30 June of 1989; isn't that correct?

31 A. It wasn't my prerogative to do it, I wasn't interested.

3 211 Q. There is nothing to prevent you, it is information which

1 the public are entitled to have; isn't that right?

2 A. Beg your pardon?

212 Q. This is information which the public is entitled to have?

4 A. Yes.

213 Q. I suggest to you that you didn't even do that before you

6 made the statement to Deputy Broughan; isn't that right?

7 A. I didn't.

214 Q. No, so you just picked a pig out of the air and gave it to

9 him not caring whether it was true or false, never --

10 A. If you look at it that way maybe so, I don't know.

1 215 Q. And you did it for the purpose of making a case against my

12 clients and against Mr. Burke and Mr. Bailey; isn't that

13 right?

14 A. No, that's your suggestion, you are saying that.

1 216 Q. To sustain your central allegation, that there had been

16 some corrupt deal including all of these people; isn't that

17 right?

18 A. Even if the lands were never rezoned I believe it was a

19 corrupt deal.

2 217 Q. But you told this lie to Deputy Broughan for the purpose of

21 persuading him to that view?

22 A. I didn't tell him a lie, I was repeating what I heard you

23 know.

2 218 Q. Well, you won't tell us when you heard it or who you heard

25 it from, and you made no inquiries which you were well

26 capable of making at the time?

27 A. I didn't because I wasn't interested in that sense.

2 219 Q. I see. I see. Well, I suggest to you that that lie was

29 simply a part of the vindictive course of action you

30 embarked upon at the time against my client?

31 A. Sure everything I am telling you has been a lie according

32 to you, so where do we go to?

220 Q. All right. You also told, I will just deal with this  
2 matter when we were dealing with Deputy Broughan, you also  
3 told Deputy Broughan that Mr. Reynolds had been at this  
4 meeting?

5 A. That's right.

221 Q. You never corrected that to him, did you?

7 A. I could have, I don't know.

222 Q. You know what's in Deputy Broughan's statement, don't you?

9 A. I accept it is in his statement.

1 223 Q. No, no, do you know what's in his statement?

11 A. I don't know.

1 224 Q. Did you read his statement of evidence?

13 A. I scanned through it there.

1 225 Q. Did you read it?

15 A. I didn't no, in detail.

1 226 Q. When we ask you any questions on a thing like this, Mr.

17 Gogarty, and you don't want to answer you pick a word like

18 "scan" or "peruse", let's stop playing game. Did you read

19 his statement of evidence?

20 A. I resent you telling me I am playing games.

2 227 Q. Did you read his statement of evidence?

22 A. Not in full detail but I have a fair idea of what's in it.

2 228 Q. I didn't ask you that, did you read the statement?

24 A. I didn't read it in detail.

2 229 Q. Which is it?

26 A. I didn't read it in detail.

2 230 Q. All right. What part of it did you not read?

28 A. I would want to look at it again sure.

2 231 Q. Was it the beginning or the middle or the end?

30 A. I couldn't tell, I was talking to Mr. Broughan over a

31 period of time, now know.

3 232 Q. I am not asking you about your conversations with him, I am

1 now asking you questions, as you well know, Mr. Gogarty,  
2 about the contents of the statement and whether or not you  
3 have seen those before you got into the witness-box?

4 A. Before I got into the witness-box?

233 Q. Yes, or since, indeed since you got to the witness-box?

6 A. Since I got to the witness-box?

234 Q. Either before or since?

8 A. I hadn't seen them before except my letters to him and his  
9 to me, but I didn't see a statement.

1 235 Q. Well, when was the statement of evidence shown to you, Mr.  
11 Gogarty?

12 A. In this Tribunal.

1 236 Q. When?

14 A. Sometime recently on the direct or what do you call it?

1 237 Q. Sometime since you started giving evidence; is that right?

16 A. Yeah, yeah.

1 238 Q. Who showed it to you?

18 A. It must have been from the Tribunal.

1 239 Q. Who gave it to you?

20 A. I am not sure.

2 240 Q. Who handed it to you?

22 A. I am not sure at the moment now.

2 241 Q. You can't remember who handed to you the statement of  
24 evidence?

25 A. Probably some of the girls here.

2 242 Q. Pardon?

27 A. Some of the girls here.

2 243 Q. Which girls are you talking about?

29 A. That girl mostly hands me documents.

3 244 Q. Which, Miss Cummins?

31 A. That girl here mostly handed me documents.

3 245 Q. Are you saying that she gave you a copy of Deputy

1 Broughan's statement of evidence since your evidence  
2 started?

3 A. I am not sure.

246 Q. Mr. Gogarty, I put it to you that it is a certainty that  
5 you know who gave it to you and when it was given to you  
6 and the purpose why it was given to you?

7 A. I don't, honest to God, I don't.

247 Q. We will -- then you are not able to tell the Tribunal who  
9 gave you the statement of evidence; is that right?

10 A. No, honest to God I don't know who handed it to me.

1 248 Q. Nor can you tell the Tribunal when you got it, other than  
12 it was since you started to give evidence here on the 12th  
13 of January last?

14 A. I couldn't pin down the date.

1 249 Q. I know. And you don't know why it was given to you?

16 A. It was given to me to read and to show what you say  
17 inconsistencies in what I was saying, something to that  
18 effect.

1 250 Q. Okay. You see, you also, you told me and this is Mr.  
20 Gallagher who dealt with these two things, these were two  
21 of the inconsistencies which he dealt with towards the end  
22 of his direct examination, we know that you corrected to  
23 Mr. Connolly the allegation that Mr. Reynolds had been at  
24 the meeting, but I have to put it to you that you never  
25 gave a similar correction to Deputy Broughan; is that  
26 right?

27 A. That's possible, yeah.

2 251 Q. And you left him, this member of the Dail, who had been  
29 communicating with the Minister for Justice, and with the  
30 National bureau of Fraud Investigation, you left him under  
31 the impression that Mr. Frank Reynolds was an active and  
32 direct participant in what you describe as an act of



1 corruption; is that right?

2 A. If that's the way you are putting it, it was unintentional,

3 that's all I can say, unintentional.

252 Q. Well, I suggest to you that at the best can be said is it

5 was a very careless approach to Mr. Reynolds' reputation;

6 wouldn't that be right?

7 A. Well, you are saying that, he will defend his reputation.

8 .

9 CHAIRMAN: Mr. Cooney, if you are changing topic, would you

10 like to take a very short break?

11 .

12 MR. COONEY: I would be grateful.

13 .

14 CHAIRMAN: Only if you are changing topic.

15 .

16 MR. COONEY: Yes I am, thank you.

17 .

18 CHAIRMAN: Same thing 10 or fifteen minutes.

19 .

20 MR. COONEY: Thank you.

21 .

22 THE HEARING THEN ADJOURNED FOR A SHORT RECESS AND RESUMED

23 AS FOLLOWS:

24 .

25 CHAIRMAN: Ladies and gentlemen, the delay in sitting was

26 due to the fact that I was asked for a short interval to

27 enable instructions to be obtained.

28 .

29 MR. CALLANAN: That was at my request Mr. Chairman, and

30 there was just one matter that I wanted to clarify, both on

31 my behalf and on behalf of my client, and I have spoken,

32 with Mr. Cooney's leave to Mr. Gogarty in relation to it.

1 .  
2 And it concerns the document, the draft statement, the  
3 unsigned draft statement of the 28th of August of 1997  
4 which appears at page - which appears at page, of the  
5 Tribunal reference documents it appears at page 285. I  
6 certainly indicated to the Tribunal that that document had  
7 never been in anyway signed or adopted by Mr. Gogarty.

8 .  
9 In fact the position is that there is a typed version of  
10 the draft in similar terms, dated the 28th of August 1997  
11 which Mr. Gogarty did sign on the 25th of September 1997.  
12 Though it is still headed "draft" and I would obviously  
13 arrange to have a copy of that document furnished to Mr.  
14 Cooney, it is just something that I wanted to clarify in  
15 the light of an objection that I myself had made to the  
16 document earlier.

17 .  
18 I should say that the province of the document is that it  
19 was a document in respect of which privilege would have  
20 been claimed. It was furnished by the Tribunal and in  
21 those circumstances were, there was already a dispute about  
22 the status of the document and where it has already been  
23 admitted in evidence, it seemed to be incumbent upon me to  
24 advise the Tribunal of the position and I will make  
25 available to Mr. Cooney a copy of the signed draft  
26 statement.

27 .  
28 CHAIRMAN: Well, do I understand you correctly Mr.  
29 Callanan, that what you are saying is that there is a  
30 document which you wish to substitute, effectively, it is  
31 the same document but one has been actually acknowledged  
32 while this one hadn't, is that the situation?

1 .

2 MR. CALLANAN: It is not a matter of -- I am just  
3 indicating that historically --

4 .

5 CHAIRMAN: There is a --

6 .

7 MR. CALLANAN: Contrary to what I had indicated to the  
8 Tribunal, in fact the document was subsequently signed, so  
9 it would be - it could be taken in parallel, I just didn't  
10 want the Tribunal to proceed under any misapprehension.

11 .

12 CHAIRMAN: That seems to clarify the position. What I said  
13 yesterday as a result of substantive cross-examination the  
14 document was now in evidence. So now an original or an  
15 authenticated version is available, isn't that what it  
16 amounts to?

17 .

18 MR. COONEY: That seems to be the position Mr. Chairman.  
19 I am very grateful to Mr. Callanan for informing the  
20 Tribunal and ourselves of this matter.

21 .

22 CHAIRMAN: Thank you very much.

2 253 Q. MR. COONEY: May it please you Mr. Chairman.

24 Mr. Gogarty, I was asking you about your relationships with  
25 Deputy Tommy Broughan before the break, and there was just  
26 one other matter about that that I want to ask you about.

27 In his statement of evidence he refers to a meeting which  
28 he had with you in September of 1997 and at which you  
29 produced the letter of the 8th of June of 1989 you know  
30 that he says that?

31 A. I accept that, yes.

3 254 Q. And you agree that he recounts accurately what transpired

1 between you and him on that occasion?

2 A. I would accept that, yeah.

255 Q. And I think that happened in your home; isn't that right?

4 A. Yes, yes.

256 Q. All right. Now, that is the letter which Michael Bailey

6 had written to you, bearing the date of the 8th of June;

7 isn't that right?

8 A. That's correct, yes.

257 Q. And is this a letter which you brought with you to the

10 meeting in Mr. Burke's house; isn't that right?

11 A. That's right.

1 258 Q. I think you have already told the Tribunal that you

13 proffered this letter to Mr. Burke, but he said he didn't

14 want to see it, that he was already aware of its contents,

15 you say?

16 A. That's correct, yes.

1 259 Q. And that you put it back in your pocket?

18 A. Yes.

1 260 Q. I see; and is it the position then that the next time this

20 letter, the original of this letter reappeared in the

21 history of the events leading to this Tribunal, was when

22 you showed it to Deputy Broughan in September of 1997?

23 A. It could well be.

2 261 Q. I see. So you took possession of the original in June of

25 1989 and you kept it, at least until 1997; is that right?

26 A. That would be correct, yes.

2 262 Q. And then the same month in 1997 a copy of this letter

28 appeared in Magill Magazine?

29 A. That's correct.

3 263 Q. Do you know how it got there?

31 A. I have an idea, yes.

3 264 Q. Would you tell the Tribunal how it got there?

1 A. Well now, I think you see -- my family are very close to  
2 me, you see, and at the time we discussed these things and  
3 my recollection is that before the Tribunal - and my son  
4 who was very close to me as well, thanks be to God, might  
5 have something to say on that, you know.

265 Q. Did he give this document to the editor of Magill?

7 A. No, no.

266 Q. Well, was he responsible for leaking it to the magazine?

9 A. He could be, he could be yeah, yes.

1 267 Q. He could be, all right I see. Okay. Now just leave that  
11 matter and I just want to ask you about another subject  
12 that we touched upon this morning and that is the amount of  
13 land or the number of acres of the lands in question which  
14 have actually been rezoned since 1989?

15 A. Yes.

1 268 Q. I am instructed that the total is 107 acres of which 35 had  
17 been previously sold by Mr. Bailey and the remaining  
18 rezoning is partly industrial. Do you know that?

19 A. I don't know it particularly, no.

2 269 Q. I see.

21 A. No, no.

2 270 Q. But certainly you didn't know that or anything else at the  
23 time, you told Deputy Broughan that 450 acres had been  
24 rezoned?

25 A. Well, I was told that it was rezoned.

2 271 Q. Yes, and all of this rezoning of course, such as it is,  
27 took place after we had sold the lands; isn't that right,  
28 that's JMSE?

29 A. It would appear so.

3 272 Q. There is no doubt about that?

31 A. Yeah.

3 273 Q. So this rezoning, if it was of any benefit to the

1 landowners, certainly conferred no benefit of JMSE or  
2 anybody else associated with the company. That the, in the  
3 sense of a shareholders either in that company or any  
4 subsidiary company?

5 A. I couldn't speak for JMSE, I know I didn't benefit from it.

274 Q. Don't you know well Mr. Gogarty, that we sold these lands  
7 in November of 1989 as agricultural lands only and at  
8 agricultural values; isn't that right?

9 A. I am not sure of that now. I think there was one  
10 particular lot that was sold at a much higher rate than  
11 agricultural lands.

1 275 Q. Which was that?

13 A. That would be the nine acres in Portmarnock I think now, I  
14 think.

1 276 Q. Out of the 712 acres there was nine acres which were sold  
16 because they had some development, residential development  
17 potential; is that right?

18 A. No, they hadn't, that is the thing you see. That nine  
19 acres was zoned open space, amenity land.

2 277 Q. I see. You see Mr. Gogarty, this brings us to one of the  
21 implausibilities in this entire process; why if what you  
22 say is correct, would Mr. Murphy pay a bride to Mr. Ray  
23 Burke when he sold the lands at agricultural value? What  
24 was in it for him?

25 A. I don't know, you would have to ask Mr. Murphy.

2 278 Q. I suggest that this is totally implausible?

27 A. Well sure sorry, you see you must remember that there was  
28 two Mr. Murphy's. Senior wanted to get rid of them and did  
29 get rid of them at a discounted value, 30 percent lower  
30 than the reserve that was put on them by the auctioneers,  
31 and that was against all logic because he had built up this  
32 profile with potential in the long-term, but he sold them.

1 Junior and Frank Reynolds didn't want to sell them and  
2 there was a complete disagreement between the two of them.  
3 They saw, as I am sure Mr. Murphy only for Conroy would  
4 have agreed, that there was a long-term potential in them,  
5 that is all I am saying.

279 Q. Well, I suggest that this is a theory which you have  
7 carefully constructed in order to justify your account.  
8 Now I want to put this to you; you have already told the  
9 Tribunal that Mr. Murphy Senior, or "Senior" as you refer  
10 to him, panicked on the 3rd of July of 1989 and directed  
11 that the sale of the lands should proceed at agricultural  
12 prices; isn't that right? You have used the word "panic"  
13 in the course of your evidence?

14 A. That's right.

1 280 Q. You say that his panic arose out of the proceedings which  
16 Mr. Conroy had launched in the Isle of Man; isn't that  
17 right?

18 A. That is what he told me, yeah.

1 281 Q. Well, I put it to you that that is untrue and this is  
20 another invention on your part Mr. Gogarty, and the reason  
21 why is this; that in the court in the Isle of Man on the  
22 26th of June of 1989, sorry the 28th of June of 1989, Mr.  
23 Murphy had won an important preliminary legal point which  
24 effectively stopped the Conroy proceedings in their  
25 tracks. Do you know that?

26 A. I don't know anything about that at all.

2 282 Q. You know nothing about that?

28 A. Could we read Mr. Conroy's affidavit?

2 283 Q. No, we will not read Mr. Conroy's evidence. I am putting  
30 this point to you in answer to your allegation that Mr.  
31 Murphy panicked because of these proceedings. I am  
32 suggesting to you that on the 3rd of July of 1989 that he

1 didn't even have any cause to worry at that stage?

2 A. Extraordinary.

284 Q. You disagree with that do you?

4 A. Completely extraordinary.

285 Q. All right. Tell me this Mr. Gogarty, we have already this

6 morning dealt with a letter of the 14th of June which was

7 the last document in the transaction relating to the funds

8 which were taken out of the JMSE account, and the funds

9 which were taken out of the account held in the Industrial

10 Credit Corporation; you know that the following day you

11 received a letter from Duffy Mangan and Butler in which

12 they refer to the sale of these lands as at agricultural

13 value only; isn't that right?

14 A. That would be -- which letter is that? What date is that?

1 286 Q. That is a letter of the 15th of June?

16 A. Yes, could I have a look at it?

1 287 Q. Yes, we will see if we can get you a copy. It is document

18 number 46. 46.

19 .

20 CHAIRMAN: Excuse me?

2 288 Q. In which book? The reference book.

22 A. I am blinded with all the documents, honest to God. You

23 know.

2 289 Q. There is a lot of documentation, there is a lot of

25 documentation, I agree with you Mr. Gogarty?

26 A. Yes.

2 290 Q. It is hard to keep abreast of it all?

28 A. It is.

2 291 Q. It is a letter dated the 15th of June now. It is in your

30 reference book as well of the 7th of January. It is page

31 46 of the reference book. You see this letter now Mr.

32 Gogarty?



1 A. Yeah.

292 Q. You had written I think to Duffy Mangan and Butler on the

3 8th of June and on Lajos headed note paper; isn't that

4 right?

5 A. Yes.

293 Q. And this is the reply you got from them. You say "re:

7 Land zoned by Grafton Construction company etc.

8 Dear Sirs, further to your letter of the June last re the

9 above lands, we acknowledge with thanks the instructions to

10 act as sole agents with regard to the sale of these

11 properties. After giving the matter some consideration we

12 feel that it would be prudent to place an asking price in

13 excess of £3,000 per acre. That is agricultural value on

14 the entire holding. This we would feel will enable us to

15 reach a satisfactory conclusion at an early date. If you

16 are agreeable to this proposal we will contact some of our

17 clients who may be interested in purchasing the lands as

18 one holding and we will revert back to you as soon as

19 possible. We do hope you find the above in order".

20 Now, you recall receipt of that letter, you have already

21 referred to it?

22 A. Yes.

2 294 Q. Clearly here are these lands being sold at an agricultural

24 price; isn't that correct?

25 A. That's correct, yes.

2 295 Q. And there is no mention in this letter of the Bailey's;

27 isn't that right?

28 A. No, that's right.

2 296 Q. Because you see what I want to ask you about is that when

30 you wrote to Duffy Mangan and Butler on the 8th of June,

31 you made no mention of the fact that the Bailey's had shown

32 an interest in the lands in their letter of the 8th of

1 June; isn't that right?

2 A. But they had, no -- they hadn't given a bid.

297 Q. But surely Mr. Gogarty, if you were getting in touch with  
4 auctioneers the purpose of disposing of these lands, the  
5 first thing you would have done in the normal course of  
6 arrangements would be to tell these auctioneers, here is  
7 the name of one interested party at least?

8 A. Well it wasn't a normal, it wasn't a normal circumstances.

298 Q. I suggest to you that the reason for this was because you  
10 decided that you would do the negotiations with the  
11 Bailey's, meanwhile allowing Duffy Mangan and Butler to see  
12 what other interest they could generate in these lands;  
13 isn't that right?

14 A. Completely untrue.

1 299 Q. Well, yesterday I asked you about the negotiations which  
16 you had with the Bailey's and who decided on the ultimate  
17 price; isn't that correct?

18 A. That's correct.

1 300 Q. Yes; and I think you agree that you did have negotiations  
20 with the Bailey's; isn't that right?

21 A. Yes. Oh, yes on Mr. Murphy's instructions, yes.

2 301 Q. And that you did decide the price at the end of the day  
23 with them; isn't that right?

24 A. No, I didn't decide the price.

2 302 Q. Well, let's just turn if we may now if we can now, to the  
26 handwritten notes which have already been put into evidence  
27 in this Tribunal. Do you remember these handwritten notes,  
28 Mr. Gogarty. We have already gone through them?

29 A. Yes.

3 303 Q. They are documents starting with document 1032. You recall  
31 these?

32 A. I recall them.

304 Q. We will get you a copy of them. But while a copy is being  
2 produced Mr. Gogarty can I ask you where are the rest of  
3 the handwritten notes that you were in the habit of making?

4 A. I don't know.

305 Q. Well, you told us some weeks ago now Mr. Gogarty that you  
6 were a very assiduous note keeper, that you kept them  
7 sometimes in the form of a diary, sometimes as a aide  
8 memoire and sometimes to remind you of things which you had  
9 to do.

10 .

11 Now, we have been given these handwritten notes dating from  
12 about the 27th of September of 1989, until the 5th of  
13 October, Thursday the 5th of October for a period of about  
14 eight days. Where are the rest of these notes?

15 A. I don't know, all I can say is that you see in the period  
16 we moved house twice, we moved house twice and not  
17 necessarily me, but my wife cleared out a lot of stuff. Now  
18 when I gave stuff to the Tribunal I gave everything I had,  
19 down to personal affairs, personal documentation, because I  
20 didn't fear anything even if there was things that you are  
21 reading something else into them now, I gave everything to  
22 them and my solicitors but I held back nothing.

2 306 Q. Is it the position then that the notes, the voluminous  
24 notes that you kept over the year, but over the critical  
25 year 1989 are all missing with the exception of these  
26 notes?

27 A. I couldn't say, I am telling you that we give everything we  
28 had. Mr. Gallagher took away three boxes.

2 307 Q. Who?

30 A. Mr. Gallagher took away three boxes from my house.

3 308 Q. Which Mr. Gallagher is this, is this gentleman here?

32 A. That gentleman there, yes, sorry.

309 Q. I see. I see.

2 A. Everything I had. And if there was a few things left that  
3 was out in a hut and I came across them when we were  
4 clearing out the hut I gave them to our solicitors and I  
5 think he in turn gave them over to the Tribunal.  
6 Everything I had.

310 Q. But all that is left are the notes for these few days in  
8 September, mid September early October 1989?

9 A. I don't know. There could be other stuff, I don't know, I  
10 mean I hadn't gone through them since. In fact when I got  
11 them back from Mr. Gallagher I never looked at them at all.

1 311 Q. Can we assume that during the month of June of 1989 you  
13 would have been keeping notes much the same -- can we  
14 assume in June of 1989 you would have been keeping notes in  
15 much the same manner as the notes which we have seen for  
16 late September, early October?

17 A. Not necessarily.

1 312 Q. Not necessarily?

19 A. Yeah, because you see I was winding down as I say, like I  
20 was 72 years of age at that time and I was fighting on all  
21 fronts for me pension to get out of the bloody thing you  
22 know.

2 313 Q. Yes, all right. Now, these notes that we have here, start  
24 I think about the 27th of September of 1989 and I think  
25 they conclude, as far as I can see about the 5th of October  
26 of 1989, Mr. Gogarty?

27 A. Yes.

2 314 Q. And in the course of these notes you make reference to  
29 communication with Mr. Bailey, Mr. Michael Bailey on at  
30 least five occasions; isn't that right?

31 A. That is probably right, yes.

3 315 Q. Yes; was that the frequency with which you had contact with

1 Mr. Bailey, say from early April of 1989 down to the  
2 conclusion of the deal, or was were the meetings  
3 particularly frequent during this period of time?

4 A. They were particularly frequent during that period of  
5 time. You must remember I have communications with Mr.  
6 Bailey going back to 1988.

316 Q. I understand that. But what I want to establish is, are  
8 all of these quite frequent meetings an unusual feature in  
9 your relationship with Mr. Bailey?

10 A. Yes; because he was coming at me, chasing me, and I was  
11 talking to Senior and Senior would direct, he didn't want  
12 to direct to the auctioneer at that time although I did, I  
13 told him actually -- you know.

1 317 Q. Could it be, Mr. Gogarty, that at this period you were  
15 anxious to, you were anxious that the sale of these lands  
16 would coincide with the other financial benefits which you  
17 were then receiving or were in the course of receiving;  
18 namely your pension and perhaps the 50 percent commission  
19 on the final account with the ESB?

20 A. That was furthest from my thoughts.

2 318 Q. Was it? Just have a look at this entry on the third page  
22 of the notes?

23 A. Is it 1 - is it 1035, is it?

2 319 Q. That's right, that's right it is 1035. I think this is an  
25 entry which is dated the previous day on the previous page  
26 on the 27th of September of 1989. Do you see that?

27 A. I beg your pardon?

2 320 Q. You see, I think that entry, that particular page doesn't  
29 have the date on it, there is a page in the previous day  
30 which suggests that this entry was made on the 27th of  
31 September of 1989; do you understand me?

32 A. Well, I don't follow you because the first page -- sorry, I

1 see; I see a date there the 3rd of the 10th.

321 Q. Yes, that's subsequently I think. If you go back to page

3 1034 Mr. Gogarty?

4 A. 1034.

322 Q. 1034?

6 A. Yes.

323 Q. You see at the bottom half there is a date the 27th of

8 September of 89 you see? Perhaps - My Friends say it is the

9 29th of September, 1989, do you see that?

10 A. Yes, but in the same paragraph I see the 10th of the 10th

11 89. I have to --

1 324 Q. No, this seems to -- then it continues over leaf without

13 any other date intervening. Do you see that?

14 A. Over leaf.

1 325 Q. Yes it continues on to page 1035?

16 A. Well, I don't know what you are getting at you know, I just

17 don't know.

1 326 Q. All I want to do is follow this if you can. All right,

19 just turn your attention now to page 1035?

20 A. Yes.

2 327 Q. Do you see the heading there is "Duffy and Bailey" isn't

22 that right?

23 A. Yes.

2 328 Q. Now, at that stage Duffy Mangan and Butler were engaged in

25 putting on the market and selling the premises on Baggot

26 Street; isn't that right?

27 A. They sold Baggot Street, yes.

2 329 Q. Now, the next line says "agreed purchase price of 2.4

29 million pounds". 2.4; do you see that?

30 A. Yes.

3 330 Q. We know that the lands were sold about six, seven weeks

32 after that entry for 2.3 million pounds?

1 A. Yes. .3 million, yes.

331 Q. Can you explain to the Tribunal how the price decreased  
3 from 2.4 million to 2.3 million over that interval of time?

4 A. I can't to tell you the truth, no, I can't.

332 Q. But here is a positive entry saying "agreed price at 2.4  
6 million pounds", and yet the lands were actually sold and  
7 my clients received only 2.3 million pounds under a  
8 contract which was signed about seven to eight weeks after  
9 that. You can't explain how that difference arose, can  
10 you?

11 A. Not at the moment, no. No.

1 333 Q. Even though you have had contact with Michael Bailey on  
13 four or five or six occasions during this period of time,  
14 culminating in a face-to-face meeting with him on the 14th  
15 of October at 11:30 a.m in the Harp Inn in Swords; isn't  
16 that right?

17 A. Sorry?

1 334 Q. You did have a meeting, you had, these notes show that you  
19 contact with Michael Bailey the purchaser of this property  
20 on five or six occasions?

21 A. That I contacted him or that he contacted me?

2 335 Q. That you had contact with him?

23 A. That I had contact, yes, I don't remember ever meeting him  
24 in the Harp Inn to tell you the truth.

2 336 Q. Just look at the very last page?

26 A. Which page is that?

2 337 Q. That is 1038.

28 A. Yes, 1038.

2 338 Q. Look down at the very bottom, "Bailey meet at Harp Inn,  
30 Swords at 11:30 a.m Saturday the 14th of October of 1989".  
31 Isn't that clear?

32 A. Yes, it shows that. Yeah, yes.

339 Q. And isn't that clearly you noting down an arrangement that  
2 you had to meet with Mr. Bailey; isn't that right?

3 A. That is what appears yes.

340 Q. So you did have a meeting with Mr. Bailey at half past 11  
5 on Saturday the 14th of October and the occasion of that  
6 meeting was the Harp Inn in Swords; isn't that right?

7 A. I don't recollect that to tell you the truth, but at that  
8 time anyway -- it doesn't matter anyway, sorry. Go on.

341 Q. One of the things I suggest that you must have inevitably  
10 been discussing with Mr. Bailey during this period, leading  
11 up to the contract, was the price that he would pay and my  
12 clients would receive for these lands; isn't that right?

13 A. Oh, I am not disputing that, yeah.

1 342 Q. Well then, can you explain how in the course of these  
15 meetings with Gogarty the price that my clients were to get  
16 for these lands fell from 2.4 million to 2.3 million?

17 A. You would have to ask Mr. Bailey that.

1 343 Q. No. No, you were involved in the negotiations, you were  
19 meeting him, you had telephone contact?

20 A. Sorry?

2 344 Q. Let me finish please; and according to this note you also  
22 had personal contact with him. Now, can you offer any  
23 explanation for that?

24 A. Well, I am telling you that despite what you said the fact  
25 is that the Bailey's made their final offer of 2.3 million  
26 and that was accepted in, by the - they did that with the  
27 auctioneers office, after Mr. Murphy agreed to it, 2.3  
28 million.

2 345 Q. We know that the deal was finally done on Monday the 27th  
30 of November, 1989?

31 A. Yes, yes.

3 346 Q. In Duffy Mangan's office and we already have that



1 information from Mr. Kevin Duffy, but what I am asking you  
2 about now Mr. Gogarty is what transpired before that which  
3 lead to the reduction in the price of 2.4 to 2.3?

4 A. I don't know, honest to God, and I am not trying to be  
5 evasive, you know what I mean, because you see there was a  
6 three-way communication, there was Senior and Bailey and  
7 myself and in fact four-way and Duffy.

347 Q. I put it there was no communication from Mr. Murphy Senior  
9 in relation to this. He left this deal entirely in your  
10 hands?

11 A. That is what you are saying.

1 348 Q. That is what I am putting, I am putting it to you as the  
13 fact?

14 A. Well that is untrue, untrue.

1 349 Q. I put it to you that that was consistent with the fact that  
16 you effectively exercised control and management over these  
17 lands for many many years right up to their disposal?

18 A. That is untrue.

1 350 Q. All right?

20 A. I object to that.

2 351 Q. You are unable then to give to the Tribunal any explanation  
22 of how what was apparently an agreed price of 2.4 million  
23 in September, late September of 1989 became 2.3 point two  
24 months later; is that right?

25 A. I can't comment on the way that is worded, honest to God.

2 352 Q. Well, let's go down a little later on this entry and you  
27 have numbered the entries there and No. 6 is "arrange sale  
28 immediately. My pension 300,000 comes through" you see  
29 that?

30 A. What page is that?

3 353 Q. It is back on page 1035?

32 A. 1035.

354 Q. Yes?

2 A. The first one is it or the second one.

355 Q. No, it is the No. 6? You see?

4 A. "Arrange sale immediately".

356 Q. Yes "my pension 300 K comes through"?

6 A. And is endorsed, yes.

357 Q. And is endorsed; and there seems to be a line -- there a

8 line missing there between the line that the words "is

9 endorsed" and the upper line?

10 A. Is there?

1 358 Q. No, I am asking you?

12 A. No.

1 359 Q. You don't remember?

14 A. No.

1 360 Q. There seems to be a space there, but in any event the point

16 I want to ask you, or what I want to ask you about this Mr.

17 Gogarty is, you have made a note to remind yourself to

18 arrange the sale immediately my pension 300 K comes

19 through?

20 A. Well you put your own complex on that, that wouldn't be

21 unduly worrying me at all.

2 361 Q. Well, it is clear that the sale that you are referring to

23 there was the sale of my clients lands; isn't that correct?

24 A. Oh, yes that's right, yes. That's right.

2 362 Q. No doubt about it?

26 A. That's right.

2 363 Q. And you are reminding yourself to sell them immediately

28 your pension of £300,000 came through; isn't that right?

29 A. I don't see any particular significance in that at all.

3 364 Q. I am not asking you about the significance, not for the

31 moment Mr. Gogarty, I am merely asking you is this

32 accurately, does this accurately record what your

1 intentions were at that time?

2 A. I would say I recorded it accurately to the best of my

3 knowledge, yes.

365 Q. So we know that three days later on the 3rd of October an

5 agreement was signed under which you were to get £300,000

6 towards a, to purchase a pension for you; isn't that right?

7 A. I was to get me pension and the ESB money and --

366 Q. I know all about that, we will deal with that. I just want

9 to deal with the pension now and that this figure of 300 K

10 had been the subject of some negotiations and

11 correspondence between you and between your solicitors and

12 between my clients; isn't that right?

13 A. Yes.

1 367 Q. So that the figure of £300,000 was on the table and was

15 then incorporated into the agreement that you signed on the

16 3rd of October?

17 A. And that was my biggest worry.

1 368 Q. No. No, that this was incorporated into the agreement

19 which you signed on the 3rd of October?

20 A. And that was my biggest worry and biggest belief, that is a

21 fair point to make.

2 369 Q. And three days before this?

23 A. After seven years seeking, after I resigning my position -

24 after seven years at the age of 72 I had a pension or, and

25 I had an agreement for a pension, that was a very

26 significant day in my life and a great relief previous, Mr.

27 Cooney.

2 370 Q. Have you finished your answer now Mr. Gogarty?

29 A. Yes.

3 371 Q. All right. Now I want to ask the question. This entry

31 here tells us that you could arrange the sale immediately

32 before the pension deal had been completed; isn't that

1 right?

2 A. That is your interpretation.

372 Q. Oh no, isn't this --

4 A. I could only carry out Mr. Murphy's arrangements and  
5 communicate any information I had relating to Duffy Mangan  
6 and Butler which I did.

373 Q. What does the phrase "arrange sale immediately" mean, it  
8 means that you would arrange the sale; isn't that right?

9 A. No, it doesn't necessarily mean that. Sure are you saying  
10 if that is the case why didn't I sell the bloody thing  
11 myself?

1 374 Q. You did?

13 A. I didn't.

1 375 Q. You were in at the closing of the sale some weeks later?

15 A. But at that time I wasn't even an employee, I was only a  
16 consultant in November.

1 376 Q. Why --?

18 A. Sorry, is that true or not is it?

1 377 Q. Why did you attend the sale, this closing of the contracts?

20 A. I did anything.

2 378 Q. For the final deal?

22 A. I did anything Mr. Murphy wanted me as a consultant.

2 379 Q. I put it to you that you were acting on your own initiative  
24 but subject ultimately to the agreement of Mr. Murphy, but  
25 subject to that you had absolute discretion about the  
26 manner in which this sale went through and the price which  
27 would be obtained for these lands?

28 A. Absolutely ridiculous.

2 380 Q. And I put it to you --?

30 A. I was never consulted.

3 381 Q. I put --?

32 A. And I was acting on his instructions, in fact it just shows

1 you Mr. Murphy's concern that whether he was being naive or  
2 what, he wanted me to sign the bloody contract, and I  
3 wasn't even an employee, I wasn't a director for the  
4 previous seven months, six months. And you will see that  
5 even with Copsey at the Baggot Street thing, he wanted me  
6 to sign that contract too, as well, you know.

382 Q. You see Mr. Gogarty I put to you that that entry clearly  
8 means that as soon as you had copper fastened your pension  
9 you were going to arrange the sale of these lands?

10 A. I say it is mere coincidence, but the principle one was my  
11 pension.

1 383 Q. Purely coincidence. If it is a coincidence then Mr.  
13 Gogarty, let's look at an entry, just a little above that  
14 one, it is number 5 and it says "name of agent offering 2.3  
15 million" and then who is the principal any bank reference"  
16 doesn't this mean that there was another offer in from  
17 somebody else for 2.3 million?

18 A. I don't know, Mr. Duffy had an offer in.

1 384 Q. No. No I am asking you, yes Mr. Duffy had an offer in of  
20 2.3 million from somebody else and you were recording that  
21 fact there; isn't that right?

22 A. It could well be, but that would be -- Mr. Duffy will tell  
23 that you.

2 385 Q. So it does seem that while Mr. Duffy was dealing with other  
25 potential purchasers you were dealing directly and  
26 exclusively with the Bailey's; isn't that right?

27 A. On Mr. Murphy's instructions.

2 386 Q. Oh I see?

29 A. Yes.

3 387 Q. And you had agreed a purchase price of 2.4 million sometime  
31 about the end of September of 1989; isn't that right?

32 A. If that was it, it was on Mr. Murphy's instructions.

388 Q. No, that is what you have written in your notes; isn't that  
2 right?

3 A. That's right, yes.

389 Q. Tell the Tribunal, Mr. Gogarty, as an experienced  
5 negotiator as a shrewd businessman, tell the Tribunal about  
6 the details which lead to an agreed price of 2.4 million.  
7 Where did the negotiations take place; for how long did  
8 they go on with; was it just you and Michael Bailey or was  
9 there anybody else involved? Just give the Tribunal those  
10 details which lead to this?

11 A. Anything I was doing without the auctioneers involvement  
12 was on Mr. Murphy's instructions and they were purely with  
13 Mr. Bailey, nobody else.

1 390 Q. Mr. Gogarty, just - we know that Mr. Murphy was ultimately  
15 or his company was ultimately the owners of these lands and  
16 would have to sanction the price to be obtained, leave that  
17 aside for the moment and tell the Tribunal the details of  
18 your meetings and negotiations with Mr. Bailey which lead  
19 to an agreed purchase price of 2.4 million pounds?

20 A. I have told you all I can recollect as far as I am  
21 concerned.

2 391 Q. No you haven't Mr. Gogarty?

23 A. I have.

2 392 Q. You haven't Mr. Gogarty. I mean these are matters of  
25 detail of factual detail. Where did you meet him? When did  
26 you meet him? What were the opening bids? Were there  
27 counter offers? And when finally did your minds meet on a  
28 sum of 2.4 million? Now these are practical details Mr.  
29 Gogarty. You have impressed everybody on this Tribunal  
30 with your ability to recall detail. Now, exercise that  
31 ability now and tell the Tribunal these details?

32 A. That wasn't the scenario as you describe it at all. The

1 only reason I was negotiating with Bailey was because he  
2 wouldn't, he didn't want to go to the auctioneers at that  
3 time or until the last minute and he had Mr. Murphy's  
4 agreement on that and Mr. Murphy, whatever he was doing  
5 behind the scenes, was telling me to give Bailey any  
6 information you can; and my understanding because I  
7 couldn't trust anybody at the time, was that and it was a  
8 fair point to infer, that what Mr. Murphy was doing, he was  
9 playing a double game.

10 .

11 He was - sorry, sorry, sorry, sorry, I am only giving you  
12 my opinion and my recollection, that he still wanted to get  
13 a good price and he still wanted the auctioneers and there  
14 was competition between Bailey and the auctioneer's price,  
15 that is what I am saying.

1 393 Q. Mr. Gogarty, I have asked you to tell the Tribunal about  
17 the details of the meetings which lead to an agreement  
18 between you and Mr. Bailey that the purchase price of these  
19 lands would be 2.4 million. Are you going to give us those  
20 details?

21 A. I can't give you anything more specific than what I am  
22 telling you.

2 394 Q. You see, I just divert for a moment and put this to you?

24 A. Yes.

2 395 Q. That again your evidence that Mr. Murphy knew Mr. Bailey or  
26 had any dealings with Mr. Bailey is a total invention?

27 A. Well, if that is the case it is Mr. Murphy's invention.

2 396 Q. You see it is your evidence I think that Mr. Bailey and Mr.  
29 Murphy met when they were both working in London; isn't  
30 that right?

31 A. What I said was that he had known him.

3 397 Q. Well I suggest to you that that is an invention and the

1 evidence will be certainly from Mr. Murphy, I think from  
2 Mr. Bailey also that they never ever met in London or  
3 anywhere else?

4 A. Well they will explain that I can only tell you what Mr.  
5 Murphy told me.

398 Q. I am putting it to you that this is an invention on your  
7 part Mr. Gogarty, which you are now relying upon to avoid  
8 the point of the questions I am asking you about this  
9 agreed price of 2.4 million pounds?

10 A. Completely untrue.

1 399 Q. Completely untrue?

12 A. Yes.

1 400 Q. I see. All right. Well let's just simplify it then Mr.  
14 Gogarty. There is no doubt that what you have written there  
15 represented an agreement that you reached with Michael  
16 Bailey; isn't that right?

17 A. That would be the understanding there.

1 401 Q. Please, now answer the question directly Mr. Gogarty, no  
19 "would be's" or "if's" or conditions. It either was or  
20 was not a true statement of an agreement that you had  
21 reached with Michael Bailey in September of 1989?

22 A. I don't accept that that is totally inferred from that at  
23 all.

2 402 Q. Totally at all. Well, is it to be partially inferred then?

25 A. What.

2 403 Q. Is it to be partially inferred?

27 A. I don't know. All I am telling you is that Mr. Murphy had  
28 his own ideas of what they were going to be sold for.

2 404 Q. Well Mr. Gogarty?

30 A. And Mr. Murphy might be saying he agreed, he would agree a  
31 price of 2.4 with him.

3 405 Q. Mr. Gogarty, are you saying now that you are recording here



1 something which had been agreed between Mr. Murphy --

2 A. I don't know, I can't be particular.

406 Q. Yes, I just have to?

4 A. Because you know there was movements behind the scene that

5 I wasn't fully involved in.

407 Q. All right. Now, I just want to refer to another entry

7 here.

8 .

9 MR. GALLAGHER: Can I suggest that the entry for the 2nd

10 of October might be put to the witness?

11 .

12 MR. COONEY: If Mr. Gallagher wants to put matters to the

13 witness Mr. Chairman, he can do so when the time comes for

14 him in redirect examination.

15 .

16 CHAIRMAN: That's correct.

1 408 Q. MR. COONEY: I just want you to look at page 13, 1034 Mr.

18 Gogarty?

19 A. Yes.

2 409 Q. You see there is a number of entries which have crosses

21 through them?

22 A. Do I see what? Oh crosses in them, yes.

2 410 Q. And above that there are other entries; right?

24 A. Yes.

2 411 Q. Now they appear to be written under the date of the 28th of

26 September of 1989 and you refer in the first part, I think

27 to matters about drains and septic tanks and so, then you,

28 and so on. Then you say "deposit £240,000 closure four

29 months".

30 A. Yes.

3 412 Q. That deposit would have represented 10% of the total

32 purchase price of?

1 A. 2.4.

413 Q. Of 2.4 million.

3 A. Yes, yes.

414 Q. Now, how did you come to write that entry there suggesting

5 a purchase price of 2.4 million and not 2.3 million?

6 A. I couldn't tell you at the moment, but that would be

7 consistent with something that was discussed you know.

415 Q. With Mr. Bailey?

9 A. With Mr. Bailey, yes.

1 416 Q. All right. Okay. Then further on if we look on down, you

11 have the heading "M Bailey re lands" and then there are two

12 entries which are not of any significance. And then you

13 have at three "will pay booking deposit of £50,000 subject

14 to exchange of contracts" what was that about Mr. Gogarty,

15 that payment of £50,000?

16 A. I couldn't tell you.

1 417 Q. You don't know?

18 A. The whole thing is - first of all "M Bailey re lands" you

19 may leave out Longford because that was dealt with by the

20 auctioneers Quinn.

2 418 Q. Oh, we know that Mr. Gogarty?

22 A. Yes; Duffy has bid 2.3 million which would be seemingly the

23 final thing and "all lands including --

2 419 Q. Duffy had a bid of 2.3 million from somebody else; isn't

25 that right?

26 A. I don't know, it could be Bailey's bid now you see.

2 420 Q. I suggest not and that's not what your evidence earlier was

28 when we were looking at another entry?

29 A. Is it not? I don't know.

3 421 Q. Then three is: "Will pay booking deposit of 50,000 K

31 subject to exchange of contracts". What is that about Mr.

32 Gogarty?

1 A. I couldn't tell you, but the Gaiety Theatre was sold and  
2 Copsey took a deposit of £50,000 on it so he did.

422 Q. And that is what you think that is referring to, it is the  
4 sale of the Gaiety Theatre; is that right?

5 A. It could be, it could be.

423 Q. All right, I see?

7 A. I wouldn't rule it out.

424 Q. All right. Let's go back to page 1035 now?

9 A. Yes. Yes.

1 425 Q. And you see the entry 4 there?

11 A. Yes.

1 426 Q. Will you read that out please?

13 A. Yes "Duffy, would he give me £10,000 commission".

1 427 Q. Yes?

15 A. Yes.

1 428 Q. Okay. Now, Mr. Duffy's fees had been agreed at 10% of the  
17 total, I beg your pardon at 2% of the total purchase price?

18 A. 2% yes.

1 429 Q. Which would amount if the sale price was 2.4 million pounds  
20 to £48,000?

21 A. Something like that, yes.

2 430 Q. And if it was 2.3 million would amount to 46,000 pounds;  
23 isn't that right?

24 A. That's right, yes.

2 431 Q. And you were aware of that; isn't that right?

26 A. I would be aware, yes.

2 432 Q. And I suggest that at this stage you were about to tell the  
28 Duffy's that you had concluded or were at the point of  
29 concluding a deal with the Bailey's and you were wondering  
30 whether or not you would get £10,000 from the Duffy's as a  
31 backhander as it were?

32 A. That is wrong.

433 Q. Well, what other interpretation can be put on the words

2 "Duffy would he give me 10% commission"?

3 A. Well, I was noting --

4 .

5 MR. GALLAGHER: It is 10 K commission.

434 Q. 10 K?

7 A. I was noting would he give me £10,000 commission out of his

8 commission and I declined it, I declined it; I discussed it

9 with Frankie and I declined it because there was no way we

10 would get any agreement that he would satisfy the company,

11 in fact the Murphy's would begrudge if I got anything like

12 that and I declined it and once more I was dealing with

13 Duffy Mangan and Butler for nearly 20 years on Mr. Duffy's

14 land, the leases and all that kind of thing, and I never

15 sought nor got a penny from them and I think --

1 435 Q. You see Mr. Gogarty whenever you are faced with an awkward

17 question you resort to abuse of the Murphys. Now just

18 please just leave this aside for a moment?

19 A. Sorry, that is not abuse.

2 436 Q. And just concentrate on the question?

21 A. I take exception, that is not abuse, that is recording a

22 fact.

2 437 Q. All right?

24 A. Sure listen to me, he begrudged me four or 500 pounds

25 expenses on my consultancy, begrudged a lousy four or 500

26 pounds expenses on me, think about what a begrudger, he'd

27 begrudge the air you breathe in, so he would.

2 438 Q. Let's go back to these words. "Duffy, would he give me 10 K

29 commission". Now, you are saying that should be

30 interpreted as Fred Duffy offered me £10,000 commission but

31 I refused it; is that right?

32 A. That's right, yes.

439 Q. And you are saying that the words would, the interrogatory  
2 words "would he give me" is to be taken as a statement  
3 meaning something completely different from the ordinary  
4 meaning of the words; is that right?

5 A. No I wouldn't say it is a completely different meaning of  
6 the words at all. You are inferring or putting meanings on  
7 them.

440 Q. Mr. Gogarty again you have impressed everybody here not  
9 only by your facility for recall but also the accuracy at  
10 which you express yourself?

11 A. Yes.

1 441 Q. Now, I have to put it that when you wrote that note you  
13 were contemplating asking Fred Duffy for £10,000 commission  
14 on the sale which you had effectively concluded or were in  
15 the process of concluding?

16 A. I am telling you that is a scandalous suggestion and I  
17 reject it completely.

1 442 Q. And I suggest to you that those words "Duffy would he give  
19 me £10,000 commission", are capable --?

20 A. Would. Would.

2 443 Q. "Would he give me" you know the words now very precisely?

22 A. You know them well too.

2 444 Q. I put it to you that those words are capable of no other  
24 meaning?

25 A. Scandalous on your part, scandalous on your part.

2 445 Q. You see everything came together for you then didn't it Mr.  
27 Gogarty? Your pension came through, the agreement about  
28 your pension came through. You had done the deal with the  
29 ESB under which you were going to get £215,000, and now you  
30 were going to effectively close the sale of these lands for  
31 2.3 million pounds and all of these things were very neatly  
32 coming together for you; isn't that right?

1 A. I don't -- that's your interpretation I wouldn't look at it  
2 that way. My pension was after seven years of hard graft  
3 to get anything out of the Murphys and they begrudged it  
4 right left and centre.

446 Q. You see Mr. Gogarty, you weren't even satisfied with the  
6 benefit you got; isn't that right? You believed that you  
7 should have got more money from the Murphys; isn't that  
8 correct?

9 A. Well, I didn't give a damn but I believe that they did me  
10 out of a lot more money. They did me out of more money and  
11 that will come up later on.

1 447 Q. And I want to suggest to you again, again this is just --  
13 that this is the driving force behind a lot of what you  
14 said and done which lead to this Tribunal and what was said  
15 at this Tribunal?

16 A. Yes.

1 448 Q. Do you remember you have already given evidence Mr.  
18 Gogarty, about a meeting which you had with Joseph Murphy  
19 Junior in the Berkley Court Hotel, you recall that meeting?

20 A. That's correct, yes.

2 449 Q. And that meeting was in February of 1992; isn't that right?

22 A. That's correct, yes.

2 450 Q. And this was at the time when litigation had broken out  
24 between you and my clients over which was the proper  
25 company to issue the P60 form; isn't that right?

26 A. That's correct, on what was behind it, the fraud that was  
27 behind it.

2 451 Q. Now Mr. Murphy remember -- Mr. Murphy Junior remembers that  
29 meeting well, but he also remembers that there were two  
30 meetings in February of 1992. Do you remember that?

31 A. No, there was only one meeting.

3 452 Q. Well, he will say that there was the first meeting occurred

1 on the 10th of February of 1992 and that this meeting was  
2 sought by you through the agency of Mr. Frank Reynolds?

3 A. Incorrect, because Frank Reynolds at that time in 1982 he  
4 couldn't be got, we tried to serve subpoenas on him.

453 Q. I beg your pardon, 1992?

6 A. My relations with Frank Reynolds finished in October of  
7 1990 and in 1992 we were trying to serve subpoenas on him  
8 to attend the Circuit Court and he was missing and that is  
9 fairly well documented between solicitors.

1 454 Q. So Mr. Reynolds is now to be added to the list of villains?

11 A. He is there sure, he is there.

1 455 Q. Mr. Murphy will tell you that at this first meeting which  
13 was held at the 10th of February, he asked you why you were  
14 pursuing the issue of the P60 as it made no financial  
15 difference to you. He said that you were extremely  
16 aggressive and that you said there was the possibility that  
17 you might suffer double taxation; do you agree with that  
18 recollection of his about this meeting?

19 A. I don't accept it. I agree it may have been said all right,  
20 but what he said about what is the first thing he says  
21 about -.

2 456 Q. He said that you were aggressive?

23 A. No, that it made no difference to me what way the money was  
24 dealt with, doesn't he say that.

2 457 Q. He said that you were aggressive and that you suggested  
26 that - just listen please, and that you might suffer double  
27 taxation?

28 A. That's right.

2 458 Q. Did you say that to him?

30 A. Isn't that a fair point?

3 459 Q. Did you say that to him at this meeting?

32 A. Yes, yes.

460 Q. And that he will say that he offered you an indemnity in  
2 the event of double taxation and you said to him that if  
3 the matter was not sorted out to your satisfaction you had  
4 plans for him and the Murphy Group of companies. Did you  
5 say that to him?

6 A. No, that is incorrect, that is untrue.

461 Q. He says that when he asked you what were the details of  
8 your plans, you banged the table in what he says is a  
9 characteristic fashion and that you would find out if  
10 things were not sorted out. Did that happen?

11 A. I don't believe it happened, no.

1 462 Q. He will say that the meeting ended by you and he agreeing  
13 that your respective accountants should get together to see  
14 if this matter could be ironed out. Would you agree that  
15 that is true?

16 A. Would that represent such; the earlier stuff that you said  
17 that I was banging the table and -- would that?

1 463 Q. Yes; do you agree that the meeting ended with an agreement  
19 that Mr. Howley your accountant would get together with Mr.  
20 Maher JMSE's accountant?

21 A. Something to that effect, yes.

2 464 Q. And see if they could hammer out an agreement?

23 A. That's right, yes.

2 465 Q. And do you remember Mr. Howley telling you that he met with  
25 Mr. Maher?

26 A. I recollect that there was some meetings, yes.

2 466 Q. And did Mr. Howley not tell you that he was unable to  
28 resolve this difference with Mr. Maher and it would have to  
29 be resolved between you and Mr. Murphy Junior?

30 A. Basically it would come down to me yes, because you see,  
31 sorry.

3 467 Q. Sorry, go-ahead?



1 A. Because both he and me, he and Mr. Sheedy were advising me  
2 that I could not accept that solution because of the fraud  
3 behind it, I couldn't accept that solution.

468 Q. All right?

5 A. That is a fact and I was professionally advised and I could  
6 mention further, that where you said it was said at the  
7 meeting that is untrue because what happened - if you bear  
8 with me.

469 Q. Go-ahead Mr. Gogarty?

10 A. How the meeting arose was that arose was it was Saturday  
11 night after some rugby match in England or London that was  
12 over there and I got a call at about half 12 in the  
13 morning, you are not listening to me now.

1 470 Q. Sorry, I beg your pardon - I wasn't listening?

15 A. You weren't listening to me there.

1 471 Q. I missed you, sorry what did you say Mr. Gogarty?

17 A. I said how it started was it was a Saturday night or Sunday  
18 morning, before that, after some rugby match in London and  
19 he had drink on him and he phoned me up after about half 12  
20 in the morning and he attacked me over I breaking off  
21 relations with his father after so many years; and he was  
22 insisting that I should meet his father to sort out and try  
23 and restore relations with him and he went on in that vein,  
24 and I said I would be prepared to meet his father but it  
25 wasn't my fault that there was strained relations, and I  
26 said I would come back to him, and I believe even though it  
27 may be privileged, that I spoke with Mr. Sheedy and Mr.  
28 Howley and I would say that Mr. Sheedy has an attendance  
29 and that they told me that there would be nothing wrong in  
30 meeting Murphy and that is why I met him at the Berkley  
31 Court.

3 472 Q. I suggest to you --?

1 A. They have an attendance.

473 Q. That that is another malicious invention on your part to

3 blackguard my client which you have been doing regularly

4 over the last six weeks in the witness-box?

5 A. Sure if I patented all them inventions I would be, if I

6 patented those inventions sure I would be a bloody

7 millionaire.

474 Q. Now let's move on to the second meeting that you had with

9 Mr. Murphy Junior in the Berkley Court or do you agree that

10 there was such a meeting?

11 A. There wasn't such a meeting.

1 475 Q. Well I suggest to you that there was such a meeting because

13 when Mr. Howley and Mr. Maher failed to agree they said

14 that the only way this can be resolved is by the two

15 principles speaking and that you had a second meeting with

16 Mr. Murphy on the 17th of February in the Berkley Court

17 Hotel?

18 A. I don't believe that is true at all.

1 476 Q. Mr. Murphy will tell the Tribunal that once again you were

20 aggressive, you banged the table and on this occasion you

21 said that the P60 was not the problem, the real problem was

22 money?

23 A. Oh yeah, oh yeah, that would be your client's case all

24 right.

2 477 Q. You disagree with that?

26 A. I would of course disagree with that.

2 478 Q. Mr. Murphy will also say that you said you wanted a further

28 £400,000 and if you did not get it you would hold him

29 responsible and you would annoy him until the day you died?

30 A. That is Mr. Murphy.

3 479 Q. Did that conversation occur?

32 A. That is Mr. Murphy, no.

480 Q. But there is no doubt, there is no doubt irrespective of  
2 whether or not this meeting or conversation took place,  
3 that you felt aggrieved at not having received what you  
4 regarded as adequate compensation from the Murphy Group of  
5 companies; is that right?

6 A. That is not it, but I will explain it to you, will I?

481 Q. Just answer?

8 A. Sorry?

482 Q. Just answer the question Mr. Gogarty. Part of your  
10 grievance against the Murphy Group of companies related to  
11 what you regarded as inadequate payments or financial --

12 A. That wasn't my grievance at all. My grievance and fear and  
13 anxiety was that I had found out that without my knowledge  
14 or permission Copsey and the Directors of JMSE were  
15 negotiating with my tax position with the Revenue, and they  
16 represented to the Revenue that I had signed a waiver to  
17 certain monies and they got, they got the Revenue to agree,  
18 it is in writing, to agree to dealing with certain monies  
19 which I had earned hard for Murphy's to deal with it in a  
20 certain ways, but subject to the waiver that Copsey was  
21 representing as being binding. That is there, that is  
22 there and the Revenue will have to tell it as well, too,  
23 that is in writing and Mr. Sheedy will tell these things.  
24 So be clear about what you are saying. I know where you are  
25 coming from, but that's all in evidence.

2 483 Q. Mr. Gogarty, all I want to ask you is this --?

27 A. You are only asking me selective questions.

2 484 Q. Did you want and look for more money from the Murphy Group  
29 of companies in addition to the monies which you received?

30 A. I looked for what I was entitled to legally.

3 485 Q. Please just listen to the question. Did you want and seek  
32 more money from the Murphys in addition to the monies that

1 you were getting under the package that was worked out in  
2 '89 and '90?

3 A. I never sought more than I was legally entitled to and  
4 morally entitled to.

486 Q. Do you claim that you were legally and/or morally entitled  
6 to more money than you actually got?

7 A. That is true, yes.

487 Q. How much more?

9 A. I couldn't put a figure on it, I don't give a damn, it  
10 wasn't the money but it was the crowd that was trying to do  
11 me out of it.

1 488 Q. I have to put it to you that on this second meeting with  
13 Mr. Murphy?

14 A. There was no second meeting.

1 489 Q. You said that you wanted another £400,000 and if you didn't  
16 get it, if you didn't get it that you would make life  
17 extremely difficult, in fact that you would destroy them?

18 A. No, no second meeting whatsoever.

1 490 Q. And no such threat ever made?

20 A. And I go further, oh God if you only disclose everything,  
21 you have the documentation yourself Mr. Cooney, that would  
22 clear up all this, you have it there yourself.

2 491 Q. How much money do you say you were entitled to from the  
24 Murphy Group of companies Mr. Gogarty?

25 A. I couldn't put a figure on it.

2 492 Q. Well, you see you have put a figure on it, how much money  
27 do you say you were promised by the Murphy Group of  
28 companies?

29 A. I was promised, I was promised my pension, it was agreed  
30 that I would get first of all 50 percent of the monies I  
31 claimed from the ESB over and above £42,000 and they  
32 reneged on that. They reneged on that. They agreed to

1 give me my car, although they say I stole it on them.

493 Q. You see --?

3 A. Sorry, you are not giving me a chance.

494 Q. Carry on Mr. Gogarty.

5 A. There is so much bloody things to talk about. They also did  
6 me out of about £50,000 that one of their companies owed me  
7 for work I did for them, and they reneged on that because  
8 of their fraudulent or questionable conduct in selling AGSE  
9 which was a subsidiary at one time out of the Irish trust.  
10 That trust to distance themselves from any obligation to  
11 meet their commitments, and one of their commitments was  
12 that at that time AGSE owed Murphys 1.8 million and behind  
13 Frank Reynolds back and Gay Grehan's back they did this  
14 thing, selling them out of the thing, and they left them  
15 thumbing their nose at Frank Reynolds as Director, saying  
16 that Murphys were just an unsecured creditor. Oh sure, I  
17 could write a book on it, I could write a book on it.

1 495 Q. You see Mr. Gogarty, in your of affidavit?

19 A. I am nearly blind seeing, honest to God, honest to God I am  
20 nearly blind.

2 496 Q. In your affidavit Mr. Gogarty, of the 12th of October of  
22 1998 you said at paragraph 22 "he promised me half a  
23 million pounds to provide a pension for me commutable to my  
24 wife if I stayed on for that further period and if I did so  
25 agree", so you swore that Mr. Murphy Senior had promised  
26 half a million pounds to provide a pension?

27 A. In 1982.

2 497 Q. Yes okay. Again I think in your evidence here on the very  
29 first day, you also said -- I can locate it, yes, on page  
30 79, you were talking about your pension, this is the very  
31 first day you gave evidence and this is what you said "in  
32 1982 he was, he prevailed on me wife, Una, a lovely girl to

1 stay on for another 12 months or 2 years in a hope to sale  
2 Murphy's; and would I hang on for that 12 months or two  
3 years and then at that time he said he named a figure of  
4 about half a million pounds that would set me up pension  
5 wise when I was officially retired and looking forward to  
6 that"?

7 A. That's right.

498 Q. So on two occasions you have sworn that what Mr. Murphy  
9 promised you in 1982 was a fund of half a million pounds to  
10 set up a pension?

11 A. Yes, he promised me more than that.

1 499 Q. Well now, which is it, was it half a million or was it  
13 more?

14 A. Well in addition to the half a million he said that he  
15 would take out, he set up a trust for me in Guernsey and he  
16 would put in £100,000 to it.

1 500 Q. He did set up a trust for you in Guernsey.

18 A. But he never put in £100,000, the blackguard. Do you know  
19 how much he put in?

2 501 Q. Mr. Chairman, with respect Mr. Chairman, I don't want to  
21 re-visit the grounds.

22 .

23 CHAIRMAN: I appreciate, sorry, the statement - I missed  
24 it I was looking at something else, you just cannot  
25 describe people as blackguards, that is just not on.

26 A. Well, I will try and get a form of words to prevail --  
27 .

28 CHAIRMAN: No, you will not.

29 A. I don't know.

30 .

31 CHAIRMAN: That is just not acceptable.

32 A. Well, he did the blackguard on me.

1 .

502 Q. MR. COONEY: He seems incorrigible. It is almost  
3 impossible. You see you swore both in this affidavit and  
4 also in your oral evidence that the figure promised to you  
5 in 1982 by Mr. Murphy was half a million pounds; isn't that  
6 right?

7 A. That's correct.

503 Q. Do you remember what you said in the affidavit which you  
9 made in November of 1989 when you instituted proceedings to  
10 secure implementation of the pension agreement?

11 A. I don't remember them all, tell me.

1 504 Q. Well, I will remind you?

13 A. Yes.

1 505 Q. Yes, this is an affidavit which you swore, I will give you  
15 the date of it now, which you swore on the, I think it is  
16 the 1st of December of 1989. It is a report of the High  
17 Court proceedings which you instituted that you, arising  
18 out of the agreement that you had with the Murphys?

19 A. We were trying to get them to implement the pension which  
20 they said they would do from October the 3rd of 1989.

2 506 Q. In paragraph 5 of this affidavit this is not what you said  
22 Mr. Gogarty, but what you swore to be the truth. "By  
23 reason of my long service with Mr. Murphy's companies and  
24 the vital role which I have played within the development  
25 of Mr. Murphy's business, Mr. Murphy promised me as part of  
26 retirement that I would receive a benefit of approximately  
27 1 million pounds". Now, will you explain to the Tribunal  
28 how you could swear on that occasion to a promise of a  
29 benefit of one million pounds and then on two subsequent  
30 occasions you would swear to a different figure?

31 A. Well, I am trying to recollect now, that is in relation to  
32 -- sorry, you are turning your back and smiling at me, you

1 know, will you give me a bit of respect too?

507 Q. Yes certainly Mr. Gogarty?

3 A. Good enough, good enough.

508 Q. Can you explain the difference Mr. Gogarty? You see these

5 were three sworn statements you took an oath?

6 A. Yes.

509 Q. That they were true statements. Now how do you reconcile

8 the differences between them?

9 A. The changes that took place since 1982.

1 510 Q. No?

11 A. Sorry?

1 511 Q. Sorry, go-ahead Mr. Gogarty, sorry for interrupting you.

13 A. Yes, that one million was discussed because of there were

14 negotiations then that turned out to be a charade where he

15 was offering to sell me the companies, sell me the

16 companies, sell me the companies.

1 512 Q. Is that your explanation Mr. Gogarty?

18 A. Yes.

1 513 Q. So what you are really telling the Tribunal, to explain

20 away the differences between these sworn statements is that

21 it was on a different occasion or about a different event;

22 is that right?

23 A. Well, it is in a context you know.

2 514 Q. Well let's look at the context?

25 A. You see, if I was promised a half a million pounds in 1982

26 and you took inflation into consideration I don't know what

27 it would be in 1989.

2 515 Q. You see in paragraph 4 of the affidavit of December 1989 in

29 which you say that you were promised one million pounds,

30 that is what you are saying, "in 1982 I reached the age of

31 65 and was contemplating retirement. At that time I had

32 agreed with Mr. Murphy that I would remain an Executive



1 Chairman of the various companies but I would retire as  
2 Managing Director of the second named Defendant; that is  
3 JMSE; the position of Managing Director was then filled by  
4 Marcus A Sweeney. At that time Mr. Liam Conroy became the  
5 Group Chief Executive of the First Named Defendant, the  
6 Second Named Defendant and the other companies being  
7 subsidiaries of the first Defendant. Mr. Murphy himself  
8 increasingly withdrew from the day-to-day activity of these  
9 various companies over the past number of years". Then you  
10 go on to paragraph 5, the one I have already quoted and you  
11 say "by reason of my long service with Mr. Murphy's  
12 companies and the vital role which I played within the  
13 development of Mr. Murphy's businesses, Mr. Murphy promised  
14 me that as part of my retirement I would receive a benefit  
15 of approximately one million pounds"?

16 A. Yes.

1 516 Q. Now, I am putting to you Mr. Gogarty that it is quite clear  
18 that on the three occasions on which you have given sworn  
19 evidence about this conversation in this affidavit, in the  
20 affidavit of October last, and from that witness-box, you  
21 were referring to a single occasion that; that is that  
22 Murphy, you say, promised you upon your retirement and you  
23 had given different accounts about the money which you were  
24 to obtain?

25 A. Of course you are making me out a liar, no that is not it  
26 at all.

2 517 Q. Well I suggest to you Mr. Gogarty, that one of those  
28 statements at least cannot be true?

29 A. Oh, they can.

3 518 Q. Well, how do you, how can they be true?

31 A. Because one million is covering a number of things that  
32 happened during the period from 82 to 89.

519 Q. How can that be? You swear you are referring in your  
2 affidavit to a conversation which you say took place in  
3 1982, not to anything which could have occurred after 1982?

4 A. Sorry, this is a sworn statement I made in 1989, it is  
5 seven years on.

520 Q. I know?

7 A. Seven years on.

521 Q. But the promise --?

9 A. And an awful lot happened in that time.

1 522 Q. I understand that, but what you are describing in your  
11 affidavit is an event which took place in 1982, do you  
12 understand?

13 A. I do, yeah.

1 523 Q. So that whatever transpired post 1982 was not relevant to  
15 the conversation which you had with Mr. Murphy, as you say  
16 in 1982?

17 A. Oh it was, it would because it was an ongoing relationship  
18 there.

1 524 Q. Well, is this your explanation for swearing two quite  
20 different things about this matter?

21 A. Well I haven't sworn lies, that is what I am telling you  
22 anyway.

2 525 Q. Well, I am not asking you that. I am asking you is that  
24 your explanation for the fact that you swore to a million  
25 pounds in one affidavit, and to half a million pounds in  
26 another affidavit?

27 A. That is my explanation of it why.

2 526 Q. I see?

29 A. Because of events which were to take place after the date  
30 of this conversation. Which took place, which took place.

3 527 Q. I see.

32 A. Took place.

528 Q. That is your explanation is it?

2 A. Yes, that's right, yes.

3 .

4 MR. COONEY: I wonder Mr. Chairman, I have completed that

5 aspect.

6 .

7 CHAIRMAN: You are changing topic and might take a

8 period? All right. Tomorrow morning.

9 .

10 MR. COONEY: May it please you.

11 .

12 CHAIRMAN: Very good. Tomorrow morning 10 o'clock.

13 .

14 THE HEARING WAS THEN ADJOURNED TO THE FOURTH OF MARCH, 1999

15 AT 10AM.

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