

THE TRIBUNAL RESUMED ON THE 20TH DECEMBER, 2005 AS FOLLOWS:

CATHAL CROWLEY, HAVING BEEN SWORN, WAS EXAMINED BY

MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Good morning, Mr. Crowley. Thank you very much for your attendance and your assistance to the Tribunal in its preparations.

A. You are very welcome.

Q. MS. O'BRIEN: Morning, Mr. Crowley.

A. Morning.

Q. Mr. Crowley, what I propose doing in relation to your evidence is, firstly, to take you through the Memorandum of Intended Evidence which you kindly provided to the Tribunal, just ask you to confirm its contents, and what I propose doing, if it's agreeable to you, is raising one or two matters with you arising out of the memorandum, and we might just look at some of the documents to which you have referred in your memorandum. And I just wonder, do you have a copy of your Memorandum of Intended Evidence with you in the witness box?

A. I have it here, yes.

Q. I see you have a copy of the documents as well?

A. Well, of the ones I considered relevant.

Q. Very good.

Now, you have informed the Tribunal that you were the Assistant Secretary in the Department of Justice in the late 1980s with responsibility for the Aliens Section, although that section amounted to a small part of your

overall responsibility. You had previously been Assistant Secretary in the Law Reform Division; is that right?

A. Correct.

Q. You stated that, for most of that time, the Aliens Division was under the control of Mr. Bryan O'Brien, who then held the grade of Principal Officer but who reported directly to you; is that correct?

A. Correct, yes.

Q. You state that you recall that, in March 1987, an issue arose in relation to applications for naturalisation in respect of a number of Lebanese nationals and, in particular, in relation to a number of minors whose parents had been naturalised in 1982; is that correct?

A. Correct.

Q. You state that you would not have been familiar with the background to these applications, nor would you have known of the related applications which dated from 1981, you would have been briefed by Mr. O'Brien and you would have reviewed the files in the Aliens Section; is that correct?

A. Correct.

Q. On the 29th November, 1987, you furnished the Minister with a written memorandum setting out the position in relation to a number of applicants, some of whom were known and some of whom were not known to the Department, and the Department's attitude to these applicants; is that correct?

A. That's correct.

Q. You state that, at that time, there were four categories of

applicants, or potential applicants, for naturalisation, all of whom were connected to applications originally made in 1981 and promoted by Dr. John O'Connell. You state that four of the applicants were minors, three of them were children of Adnan Moubarak, who had been naturalised in 1982, and one of them, Faten Moubarak, was the lawyer of Slieman Moubarak, who had also been naturalised. I think it should be in 1982?

A. Correct.

Q. You state that the civil servants, including yourself, were concerned about the naturalisation of these three minor children for two reasons: Firstly, in the original applications completed by their fathers prior to their naturalisation, no reference had been made to these minors even though the form requested information about the children of applicants. You state that, secondly, and of greater significance as far as the civil servants were concerned, was the possibility that the applications of the fathers, which had been residency-based, had been obtained fraudulently as it appeared from subsequent investigations undertaken by the Department and by the Gardai that the fathers may not have been resident in this country. You state that in your memorandum to the Minister, you refer to the fact that the possibility that the initial naturalisations had been based on fraudulent applications, had been adverted to in discussions relating to these minors between a previous Minister, Mr. Michael Noonan, and

Dr. John O'Connell, in September of 1983; is that correct?

A. That's what I put in the memorandum.

Q. You state that it is your belief that the Minister decided to adopt the same approach as had been adopted by Mr. Michael Noonan; namely, neither to grant nor refuse the applications but to adopt a not-to-proceed formula?

A. Correct.

Q. You state that you were aware that there was pressure from the Taoiseach's Office in relation to these applications and, in particular, in connection with Faten Moubarak. You had noted from the departmental files that you furnished an aide-memoire to the Minister which, from some documents attached to it in connection with an unrelated matter, appears to date from in or about May of 1988. In relation to the Moubarak children and others, the aide-memoire records that the question of their naturalisation was considered in 1983 and in 1987; that a serious problem arose, namely that if the Minister decided to proceed with the applications, a question would necessarily arise as to whether the parents' naturalisations in 1982 had been obtained on the basis of fraudulent applications, and that the Minister decided to, and you quote, "Do nothing for the time being but may have discussed it with the Taoiseach at the time." Is that correct?

A. Correct.

Q. You state that it was your understanding that the Minister persisted in the course he had already taken, namely not to

proceed because of the problems that had been identified by the civil servants. The matter did, however, continue on the Minister's agenda and it appears was a subject of formal representations by the Taoiseach by letter of the 8th September, 1988, and further inquiries from the Taoiseach's Office; is that correct?

A. That's correct.

Q. You state that a follow-up inquiry from the Taoiseach's Office by letter of the 14th December, 1988, resulted in a further query to you from the Minister's Private Secretary dated the 15th December, 1988; is that correct?

A. Correct.

Q. You state that from the departmental file it appears that Mr. Bryan O'Brien furnished you with a memorandum dated the 6th January, 1989, in connection with that query, and that you forwarded that memorandum to the Minister's Private Secretary on the same date, expressing a suggestion that if the Minister still did not wish to go ahead with the application, steps might be taken to remove the matter from the justice outstanding issues list in the Taoiseach's Office. Mr. O'Brien's memorandum records the views of the civil servants in relation to the matter, and you quote as follows: "The nub of the matter is that written evidence of five years' residence was not produced in respect of Faten's father, Slieman Moubarak, prior to his naturalisation, nor is there evidence that he is here now. Were his naturalisation free from doubt and were his

daughter resident here now, there would be no problem about her naturalisation. Given the doubts about his naturalisation and his and her residence here now, I recommend that Faten should not be naturalised. If, however, her case is to proceed, we would need a formal application from her and we would then have to investigate her father's residence here and his naturalisation in 1982.

I recommend that the Minister be asked what he wants done about the Faten Moubarak case." Is that correct?

A. That's on the file.

Q. Yes, indeed. Now, you state that your impression at the time was that the Minister did not wish to act against the advice of civil servants, but was under considerable pressure from the Taoiseach. Ultimately, you state that you were directed by the Minister to meet the Taoiseach in relation to the matter. It was your understanding that the issue should be brought to a conclusion at that meeting with the Taoiseach and that, ultimately, it was the Taoiseach who would determine the matter. Is that correct?

A. That's correct.

Q. You state that you recall that you met with the Taoiseach at the Taoiseach's Office in Merrion Street. There was no other person present at the meeting. You state that you had a level of acquaintance with the Taoiseach mainly from your previous service in the Law Reform Division when Mr. Haughey had been the junior minister in charge. You state that the meeting was entirely cordial. The Taoiseach

was fully conversant with the background to the application and with the concerns and resistance of the civil servants. You state that it was your recollection that the Taoiseach took the view, for humanitarian reasons and in the light of the case to be made by her as an independent juvenile alien resident here, Faten Moubarak should be naturalised, and that even if there were doubts regarding the bona fides of her father's naturalisation, she should not be visited with the sins of her father, as the Taoiseach put it; is that correct?

A. That's correct.

Q. You state that following your meeting with the Taoiseach, you made a handwritten record on a copy of the memo dated 6th January, 1989, and that you are satisfied that the note constituted an accurate record of what occurred at the meeting. And the note records as follows:

"Discussed with Taoiseach at Minister's request. This girl (14) has been here for the required period and there are humanitarian reasons she can't travel. Send form to T and on completion" I think it's "to me" rather than "to be," but we'll look at the document in the course of your evidence "to me for decision (positive). Even if father's case is in doubt, this is not strictly relevant."

Is that correct?

A. That's correct. Also, your doubt as to whether it's "me" or "be" is correct, and I can't resolve that doubt.

Q. I see. We'll have a look at the handwritten memo in the

course of your evidence, Mr. Crowley.

You state that you were in no doubt that a decision on the matter had been made at your meeting with the Taoiseach.

The application form was to be forwarded to the Taoiseach.

It would be completed and returned to the Department. The application was to be approved and a certificate of naturalisation was to issue. Is that correct?

A. Correct.

Q. You state that it was your impression that the family of Faten Moubarak was known to the Taoiseach and you understood from the Taoiseach that her father was involved in the bloodstock industry; is that correct?

A. Correct.

Q. You state that you cannot be certain as to the precise date of your meeting with the Taoiseach, and, until your recent reading of the relevant papers, you were under the impression that it was Mr. Gerard Collins who directed you to meet with the Taoiseach. However, Mr. Raphael Burke had been appointed Minister for Justice in July 1989, and the handwritten note of your meeting with the Taoiseach, which you had referred to at paragraph 14, is dated the 1st May, 1990. If that date is correct, the Minister in question would have been Mr. Burke. And I think in the course of your evidence, Mr. Crowley, we'll be referring to some documents which may throw some light on when that meeting actually took place?

A. Yes, not now.

Q. No, we'll refer to them in the course of the evidence.

A. Yeah, because that doubt that I make that is in the statement which you read out, is, I think is resolved now.

Q. Right. Well, we'll certainly look at it in the course of your evidence.

A. Okay.

Q. And you state that you have noted from the file that an application for naturalisation was lodged with the Department on the 1st May, 1990, and that a certificate of naturalisation was issued on the 4th May, 1990, and you state that from a note on the foot of the copy certificate on the departmental file, it appears that the original certificate was delivered by hand to the Office of the Taoiseach on the 4th May, 1990. Is that correct?

A. That's as in the file.

Q. And that completes your Memorandum of Intended Evidence.

A. Yes.

Q. Now, Mr. Crowley, as you stated in your memorandum, you were Assistant Secretary of the division of the Department of Justice at the time that had responsibility for the Aliens Section; isn't that right?

A. That's correct.

Q. And I think you had also stated, in fairness, that the business of the Aliens Section was but a small part of your overall responsibilities as Assistant Secretary?

A. Yes, particularly in the period which is relevant to this inquiry.

Q. What were your other areas of responsibility at that time?

A. Right. At the time I was president of the European group which was implementing the European Free Movement of Persons Programme, and leading up to the Irish Presidency, which was in 1990, of course, that would have been extremely busy in terms of travelling abroad and meetings and all that kind of thing. I am pretty sure the Tribunal is aware that during a Presidency the officials chairing various groups have to take on extra responsibilities, and that isn't only in the six months of the Presidency, but the preceding six months and the subsequent six months because of the troika arrangement that works in these circumstances.

Q. And I think the Aliens Section at the time was headed up by Mr. Bryan O'Brien, I think until about September 1989, and I think he was then succeeded by Mr. Dermot Cole; is that correct?

A. That's right, in the middle of 1990, I see from the file, actually. I hasten to add, I don't remember these dates.

Q. Of course not, I can appreciate that. And am I correct in thinking that you were Mr. Olden's immediate successor?

A. I think so.

Q. That would have been about mid-1980s, 1985 perhaps, that you were appointed Assistant Secretary of that division?

A. It could be.

Q. And prior to that, you were Assistant Secretary in the Law Reform Division; is that right?

A. Yes, I had been, yes.

Q. And did you remain, then, on as Assistant Secretary in the Department of Justice or did you move to any other Department after your stint as Assistant Secretary?

A. I went to Foreign Affairs out of the Northern Ireland office.

Q. I see. And was that in 1980 or

A. That was in

Q. Or 1990?

A. That was in the middle of I have to do my sums now, I am afraid

Q. Yes, of course.

A. March '92, I retired too late, and I was there for 18 months, so go back 18 months I think it was the middle of 1990 that I went to Foreign Affairs.

Q. Now, in your memorandum, you had indicated to the Tribunal that in March 1987 an issue arose in relation to these naturalisations and that it was as a result of that issue that you prepared a memorandum to the Minister, and that's at Divider 42 of the Book of Documents. If I could just refer you to that, Mr. Crowley.

Before I refer to it, just from looking at the file that I think you have seen, there doesn't appear to have been any issue that arose from any action taken by the applicants, and I wonder can you recall what that issue was in March of 1987 or how it arose, because it's not actually referred to in your memorandum? Do you have any recollection of that,

I wonder?

A. I am dependent on the file, I am afraid, for that, and I took it that it was related to a document on the file headed "Mr. Fustok's friends". And that the obvious thing, if one writes to the Minister, one is being asked to do it, you know, but I'm afraid that I have to depend on the file for that, too.

Q. If we just look at that document first, headed "Mr. Fustok's friends," because it was by reference to that document that you had prepared your memorandum, because that document, I think, referred to four categories of people. If we just put that on the overhead projector, first.

It's headed "Mr. Fustok's friends," and then:

"1. The children of Adnan Moubarak

Adnan Moubarak of 34 Willbrook House, Northbrook Avenue, Dublin 6, became an Irish citizen in 1982, but his children "Mohamad, born 25 February, 1972; Karem, born 30th July, 1973; and Zena, born 6th June, 1978, are not yet citizens.

"2. Slieman Moubarak of 42 Willbrook House, Northbrook Avenue, Dublin 6 became an Irish citizen in 1982 but his daughter, Faten Slieman Moubarak, born 1977, has no application in as yet to become an Irish citizen."

Then there are two other persons that you refer to, but they are not within the Tribunal's current inquiries.

Now, you see at the top of that document, there is a handwritten annotation. Do you see it on the copy that you

have?

A. I do, and I think it's my handwriting.

Q. And it says "Document given by Minister to Secretary on 27/7/84"?

A. Correct.

Q. Do you remember that occasion, Mr. Crowley?

A. No. I am totally dependent on the file.

Q. Right. It looks as if it was a document that was given by the Minister to the Secretary as opposed to the Secretary to the Minister?

A. Yes, and a clear implication for me is that the Secretary asked me to do a note on that for the Minister.

Q. And that's the 27th July of 1984, which would have been during, I think, Mr. Michael Noonan's term of office as Minister for Justice; isn't that right?

A. Yes.

Q. You see the document is headed "Mr. Fustok's friends"? Do you see that?

A. Yes.

Q. I don't know if you can assist the Tribunal at all as to whether there was some knowledge within the Department that all of these applicants were connected to a Mr. Fustok?

A. I have no recollection of Mr. Fustok being involved at all.

All I recollect is that, at that time, the shorthand for those doubtful cases was the "Dr. O'Connell cases".

Q. But clearly, somebody within the Department must have known that there was a connection to Mr. Fustok, would you agree

with me, given the heading of that document?

A. I do not know that.

Q. All right. Well, let's have a look at your memorandum, then, to the Minister, that's dated the 29th July of 1987.

And we can put that on the projector.

You say, "Minister,

"The attached note lists 4 categories of "friends" of Mr. Fustok."

Then you have referred to 3 and 4, but, as I said, they are not material to the Tribunal's inquiries. So if we just go right down to number 1.

"No. 1 are the children of Adnan Moubarak who (with his wife) became an Irish citizen in 1982. There was an application in 1983 to have the three children made Irish citizens but serious difficulties arose. Essentially, the problem was that to proceed with the application would necessarily raise the question of whether the applications of Mr. and Mrs. Moubarak's own naturalisation were fraudulent not only with regard to themselves, but also with regard to their referees. This centred around the question of whether the applicants were resident here having regard in particular to:

"A) the fact that the applications made no mention of children (information which is required), and

"B) the fact that had the Moubaraks been resident here during the period claimed, one of the children would prima facie have been born here and would be an Irish citizen

already.

"No. 2 relates to a child of Slieman Moubarak. We have no application in this case, but if we did get one, the same difficulties would arise as mentioned above. In this case, Mr. Moubarak stated positively in his own application that he had no children and stated that he was single. This was in November 1981 the child in question is stated to have been born in 1977.

"The possibility that the Moubarak naturalisations were based on fraudulent applications and that, in fact, these people did not reside here at all was adverted to in discussions between a previous Minister (Mr. Noonan) and Dr. John O'Connell, who had been a referee to their applications."

And I think that's your initial below that?

A. That's correct.

Q. That's how you initial matters?

A. That's correct.

Q. And the date is the 29th July of 1987. And I think you informed the Tribunal that, following a consideration of that memorandum, the Minister decided that he would adopt the formula "not to proceed," is that correct?

A. That's correct.

Q. Can I just ask you about one matter in that memorandum, and it's just a point of detail really, Mr. Crowley. You state in relation to Slieman Moubarak that "We have no application in this case," but you then go on to state who

her father was, what her date of birth was and you refer to it as having been stated, and I know maybe it's a bit difficult, but I'm just wondering how would the Department have had that information without an application?

A. I really don't know.

Q. Well, I suppose it had to have come from somewhere?

A. It must have come from there must have been some contact, or there may have been representations.

Q. Right. Now, you see just at the very top of that document, as well, there is another handwritten annotation. I wonder is that your handwriting, Mr. Crowley, just at the very top? You see, I think this reads "D2A"?

"No action for the time being per Minister," and it seems to be dated 20/1.

A. I am afraid you have lost me.

Q. Well, if I just if you just refer to that document if you look at the projector, the screen beside you, Mr. Crowley, you see at the very top of the document above the words "The attached note lists 4 categories of 'Friends of Mr. Fustok'." Do you see just above that there is a handwritten note?

A. Yes.

Q. Do you have a copy of it there from the hard copy? We'll just hand one up to you and Mr. Brady will show you the note I am referring to.

A. Oh, yes, yes, I see it now.

Q. You see that there?

A. Yes.

Q. Is that your handwriting, Mr. Crowley?

A. No, that's not my handwriting.

Q. Can you assist the Tribunal at all as to whose handwriting it might be?

A. I am afraid not.

Q. The D2A

A. The D2A would be the name of a division, Division 2A, which I can't recollect now precisely what that meant, but it could have been meant the Aliens Section.

Q. Right. I think there is another copy of this memo in which I think it's your writing, you may have recorded your discussion with the Minister, Mr. Collins, and if I just refer you to 43, you see, it's exactly the same

A. It's the same document, yes, but a different.

Q. A different

A. Ah, I see this, yes.

Q. I think that's your handwriting, is that right?

A. No, it's not my handwriting, definitely not.

Q. Can you assist the Tribunal as to whose handwriting it might be?

A. I can only assume it was the Secretary's handwriting.

Q. That's

A. Because the content would suggest that it was somebody between me and the Minister.

Q. So you think it was his Private Secretary or the Secretary General of the Department?

A. I think it was the Secretary of the Department, but I can't recognise his handwriting, as such, nor I don't see any signature, but I assume it was the Secretary of the Department.

Q. We'll just read it anyway because it does seem to reflect what was your understanding.

It says "I think the question of the Mubarak children was raised in '83 with Minister Noonan by Dr. J. O'Connell.

The difficulties mentioned in the note arose. O'Connell and Noonan met in September '83 the matter was not proceeded with after that. There was a Garda investigation at that stage and this established the Mubaraks were not resident here at the time of application."

Then I think there is some illegible words.

A. I think that's "birth certs," is it?

Q. It then goes on to say "Let sleeping dogs lie." And that's in quotation marks.

Then below that: "If the children, in due course (over 18 and non students) make an application which is not relevant to their parents' position a totally independent application they could be naturalised provided, of course, they comply with requirements living here good character, etc." Do you see that?

A. That's correct.

Q. That would seem to represent what was your understanding, certainly, of the then-Minister's approach to this matter?

A. Yes.

Q. Would that be fair to say?

A. That's fair, yes.

Q. Now, in your memorandum you then referred to an aide-memoire which you had prepared for the Minister, and I think you state, from other documents to which it was attached, that it seems to you that it was prepared in May of 1988, and that a copy of that aide-memoire is at Divider 44 in the documents, Mr. Crowley. If I could just ask you to turn to that.

Now, just before I open this document to you, Mr. Crowley, you stated in your memorandum that you were aware that there was pressure from the Taoiseach's Office in relation to these applications and, in particular, in connection with Faten Moubarak.

Can you tell me what knowledge you had of that pressure around that time, because that actually predated the letter of the 8th September, 1988?

A. Well, I think it's significant to draw attention that I'm saying pressure from the Taoiseach's Office because that could amount to administrative pressure in the ordinary course.

Q. Of course, of course.

A. I am afraid, I can't date my knowledge or my understanding that that pressure was there. It's impossible for me. I am just aware at that particular time.

Q. Okay. Well, we'll just look at your aide-memoire. It's headed it's actually an aide-memoire which I think,

in fairness, it relates to a number of matters, and one of the matters that you addressed was the Mubarak children and others.

It's headed

A. It's 164, is it?

Q. It's 163, in fact, I think is the first page of it, and they are both at Tab 44 in the Tribunal's book.

A. No, I don't seem to have I seem to have 163. I don't seem to have 164.

Q. We'll hand you up a copy of it.

(Document handed to witness.)

You see it's headed "Aliens Matters" and below that

"Aide-memoire for Minister," and under the heading "The Mubarak children and others," it reads:

"The question of naturalising a group of Mubarak children and others was considered in 1983 and in 1987. A serious problem arose: If we were to go ahead with the applications, a question would necessarily arise as to whether the parents' naturalisation in 1982 had been obtained on the basis of fraudulent applications."

You decided to "Do nothing for the time being but may have discussed it with the Taoiseach at the time." And you refer to "My note of the 29th July, 1987, on 68/1/4448."

Do you see that?

A. I see that.

Q. And, again, that appears to record what was your understanding of the approach being adopted at the time by

Mr. Collins, that he would do nothing for the time being; isn't that right?

A. Yes. Just something occurs to me, that the title of this "Aliens Matters" would suggest to me that it was a response to a list of matters arriving from the Taoiseach's private office of things outstanding in the Department of Justice. That would be just one of a number of matters that they were reminding us about.

Q. I see. Why would you think that they would have all been matters that arose as a result of queries from the Taoiseach's Office?

A. No, no, this note was written as a response to the Minister's Office to reminders from the Taoiseach's Office.

Q. Why do you say?

A. Because the title "Aliens Matters".

Q. Why would the title "Aliens Matters" suggest that to you? Couldn't it equally have been just matters which the Minister himself was asking about? What would make you think the query had come from the Taoiseach's Office?

A. I think that there is on the file a list of matters from the Taoiseach's Office and one of the headings in this is "Aliens Matters".

Q. The only thing about that, Mr. Crowley, is that, in fact, that list postdates the date of this memo. That list didn't come into existence I think until December of 1988; whereas I think your view of it is that this memo was prepared by you much earlier than that, in May of 1988?

A. Quite. That's perfectly correct. The point I made was that the title suggests to me that this is the way it would be described on a list from the Taoiseach's Office.

Q. Right. Can I just ask you, your reference to aide-memoire for Minister, is there any significance to the document being an aide-memoire as opposed to a memorandum or a submission or is there any particular status to an aide-memoire over any other type of document? Maybe there isn't.

A. 17 years ago I would have been able to answer that question and that there may have been a slight distinction; now, I am afraid I can't recall that, what that distinction was.

CHAIRMAN: Previously, I think, Mr. Crowley, we would have usually seen aide-memoires in the context of something maybe going to Cabinet, but that wasn't a consideration at this time.

A. I would think not.

Q. MS. O'BRIEN: Would the intention of the document have been to arm the then-Minister with information to enable him to deal with these issues?

A. Oh, yes.

Q. If the Minister was going to discuss it with someone else?

A. Yes, and off-the-cuff just now, I think that there would be a certain discretion. If I did an aide-memoire or my assistant did an aide-memoire, it would be up to me to make a submission to the Minister or, you know, I think aide-memoire was again, this is only speculation but

I think it was what we would, at the time, put on a document if we weren't sure as to what precise where it was going to end up.

Q. Oh, I see, I see. So it would be a formal document in which you would exercise some discretion?

A. Oh, every document on the file was formal, and it would be simply not directed at a particular target.

Q. I see. In that you said that in your in your aide-memoire to the Minister, that the Minister may have discussed it with the Taoiseach at the time. And presumably that you would agree with me that that appears to suggest that you had some knowledge that the Minister was discussing the matter with the Taoiseach?

A. I must have had. I have no recollection.

Q. Now, I think doesn't the contents of your aide-memoire to the Government, or to the Minister, in relation to the Mubarak children, isn't that consistent, would you agree, with, Mr. Crowley, to the note which we referred to at the top of the document of the 29th July "D2H, no action for the time being per Minister"?

A. Yes.

Q. It appears to reflect it?

A. Yes.

Q. Now, if I can just ask you to look at the second page of the aide-memoire, that's number 164, and in the Tribunal public sitting books, it's at Tab 44. Do you have that, Mr. Crowley?

A. Yes.

Q. It's headed "Naturalisation of Moubarak children and other Lebanese." It states:

"The parents Adnan Moubarak, wife, and Slieman Moubarak were naturalised in 1982. There were subsequent applications in 1983 and 1987 in relation to the children but on both occasions it was decided not to pursue the applications. The question of the distinction between this and a refusal is discussed at paragraph 4.

"2. The reason for not proceeding with the applications; that to do so would necessarily raise the issue as to whether the applications for the parents' naturalisation in 1982 were fraudulent. The nub of the problem was that when their naturalisation was granted, there were serious doubts as to whether they were resident here at all. The applications on behalf of the children only served to reinforce, if not confirm, those doubts. Had the parents been resident here as claimed, one of the children would prima facie have been born here and would, therefore, have been Irish already, and, in any event, in some cases the applications failed to mention the children required information at all. In the case of one of the children, the parent in question stated positively that he had no children and that he was single in November 1981. In 1983, the child was stated to have been born in 1977.

"3. The original applications were sponsored by Dr. John O'Connell.

"It must be said that the question of whether fraud was involved in the case of the parent/applicants in 1982 also applies in the case of the referees. When the difficulties about naturalising three of the children arose in 1983, it appears from the file that the doubts about the validity of the parents' position were adverted to in discussion between the Minister at the time (Mr. Noonan) and Dr. O'Connell.

"4. The formula 'not proceed' was not a refusal. A refusal on the grounds that the parents had obtained naturalisation fraudulently might be justified but could hardly be given as an explanation. That does not, however, exclude a refusal without explanation, should that be decided upon.

"5. There are names, other than the Moubaraks, mentioned in the latest list. These have not been investigated to date and, naturally, if they are not connected, they can be processed in the ordinary way."

And that, really, I think, appears to have expanded on, somewhat, the advice and recommendations that you had previously furnished to the Minister in your memo of July of 1987; isn't that right, Mr. Crowley?

A. That's right.

Q. And there, as well, you have focused on the distinction between a refusal and a decision not to proceed, and you have adverted to the difficulties that might flow from a formal refusal of the applications; isn't that right?

A. That's correct.

Q. Now, I think in your Memorandum of Intended Evidence you had referred to the formal submission, representation that was made by Mr. Haughey to Mr. Collins on the 8th September, 1988, and that's at Divider 45. It just reads:

"Dear Gerry,

"I would be grateful if you would look, as sympathetically as possible, at the question of granting Irish citizenship to Ms. Faten Moubarak of 42 Willowbrook House, Northbrook Avenue, Dublin 6.

"This girl is twelve years of age and her father, Slieman Moubarak, of the same address, is an Irish citizen. He is very anxious that his daughter, who resides here, should become a citizen also.

"I would be grateful if you would look into this case and let me know whether there is any problem about it and whether there are any further details that you would require,

"With kindest regards,

"Yours sincerely,

"Charles Haughey."

Then we have also seen on the file at the next divider in the formal acknowledgment of that letter which was dated the 9th September, 1988, and I think it's in a fairly standard acknowledgment, and it just reads "Dear Taoiseach,

"You were in touch with me recently on behalf of physician, Faten Moubarak, 42 Willowbrook House, Northbrook Avenue,

Dublin 5, regarding her wish to obtain Irish citizenship.

"I am having inquiries made in this matter and I will be in touch with you again in the near future."

If we just look again, there is another handwritten note on this letter, "Seamus is checking up with appropriate section, 14/10." So I think there must have been a follow-up on that date, 14th October?

A. That would be somebody in the Minister's Office, yes.

Q. And then, as you said in your memorandum, it was following a further follow-up of the 14th December, 1988, that you had further contact with the Minister regarding the matter, and that, I think, further follow-up, is at Divider 48 in the Tribunal's book.

It's dated the 14th December, 1988, and it's addressed to Mr. John Kirwan, Private Secretary, Minister for Justice.

And it's "Dear Private Secretary,

"The Taoiseach has asked me to attach herewith a list of cases which have been sent to your office over the past few months and to which, according to our records, no reply has yet been received.

"As the Taoiseach requested us to take up most of these cases personally with your office, perhaps you would arrange to furnish suitable replies as a matter of urgency."

And it's signed "Yours sincerely, Private Secretary to the Taoiseach."

And I think, am I correct in thinking, Mr. Crowley, that

that's a note from the Minister's Private Secretary to you, dated the 15th December, "Mr. Crowley, I need an immediate explanation re five items marked X below"?

A. That's right.

Q. And if we turn over the page, we see that there is a list of cases, I think, pending, and, in fact, on that page there were three separate items, and the third item is Ms. Faten Moubarak, 42 Willbrook House, Northbrook Avenue.

Subject of problem: Wish to obtain Irish citizenship.

Date sent to your office: 8 September, 1988; and date of reminders: 14 October, 1988, and 30th November, 1988."

And below that, "Copies of correspondence relating to each case are enclosed for your information."

Now, in fact, there were two items marked X on that list on which you were asked for a response, and I don't want to refer to the other one by name, Mr. Crowley, but it was also an aliens matter; isn't that right?

A. Yes, it appears from the file that it was.

Q. And the first one, and just again for you to confirm, and also, I don't want to refer to the person by name, but that had nothing to do with any naturalisation matter; isn't that right?

A. That's correct.

Q. And as you said in your memorandum, following the Minister's Private Secretary's request for an explanation, Mr. O'Brien's memorandum to you was prepared. Presumably you'd have gone back to Mr. O'Brien, as head of the Aliens

Section, and asked him for his views on the matter, would that be correct?

A. Correct.

Q. Now, if I could just refer you to that memorandum; it's at Divider 49 of the Tribunal's public sittings book, Mr. Crowley, and we have it on the overhead projector as well.

And it reads:

"Mr. Crowley,

"The Taoiseach's Office has made further inquiries about the possible naturalisation of Ms. Faten Moubarak, whose address is given as 42 Willbrook House, Northbrook Avenue.

"Ms. Faten Moubarak is the daughter of Mr. Slieman Moubarak who was naturalised in September 1982.

"Thom's directory lists Ibrahim Moubarak for 42 Willbrook House.

"At the Minister's request last May, I gave him a list of options in relation to a number of naturalisation cases, including that of Ms. Faten Moubarak see Tab A.

"The nub of the matter is that written evidence of 5 years' residence was not produced in respect of Faten's father, Slieman Moubarak, prior to his naturalisation, nor is there evidence that he is here now. Were his naturalisation free from doubt and were his daughter resident here now, there would be no problem about her naturalisation. Given the doubts about his naturalisation and his and her residence here now, I recommend that Faten should not be naturalised.

If, however, her case is to be processed, we would need a form application from her and we would then have to investigate her father's residence here and his naturalisation in 1982.

"I recommend that the Minister be asked what he wants done about the Faten Moubarak case."

And it's signed "B. O'Brien," and the date on that is 6 January, 1989. And in his memo, Mr. O'Brien referred to a list of options that he had furnished to the Minister the previous May, that would be May of 1988, which I think was the same time as your aide-memoire, and presumably was part of the advice that was being given to the Minister at the time. And I think if you just go over the page, it's document 166, you'll see a copy of the document referred to by Mr. O'Brien as at Tab A, and if you don't have a copy of that by any chance, Mr. Crowley, we can hand it up to you.

A. I have 166.

Q. And this is just Mr. O'Brien's list of options that were available to the Minister and which he brought to the Minister's attention in May of 1988.

It's headed "Applications for naturalisation of Moubarak children and others."

"The present request is for the naturalisation of

"1. Mohamad, Karem and Zena Moubarak, the children of Adnan and Leila Moubarak who were naturalised in December 1982.

"2. Faten Moubarak, the child of Slieman Moubarak who was

naturalised in September 1982." And then two others which we needn't refer to at this time.

It then goes on to state "There are suspicions that the naturalisations of Adnan and Leila Moubarak and Slieman Moubarak were obtained by fraud. It is suspected that they were not resident here when naturalised (5 years' residence is required for naturalisation).

"Options and consequences:

"Moubarak children.

"1. Have the requests dropped. There would then be no investigation of the 1982 naturalisations.

"2. Process the applications: This would necessitate checking on the authenticity of the 1982 naturalisations.

Should the suspicions of fraud be confirmed, it could prove embarrassing for Dr. John O'Connell and, perhaps, for the then-Minister. (The original applications were sponsored by Dr. O'Connell).

"3. Naturalise the children: This would be on the basis of their parents being Irish (through naturalisation) and given doubts about fraud in their cases, it would seem unjustifiable to naturalise the children."

Then if we just go down to the heading "Additional notes."

"Dr. John O'Connell was one of the three referees who signed the application form of Slieman Moubarak."

Then there is Mr. O'Brien's handwritten note:

"Minister, there were quite a number of applications in this group in the early 1980s please see detailed

note. 68/1/448 attached. Bryan O'Brien, 25/5/88."

Now, in his memorandum to you of the 6th January, 1989, which is, as you have indicated, was prompted by a request from the Minister's Private Secretary, which, in turn, arose from a reminder from the Taoiseach's Office, Mr. O'Brien effectively again set forth what had been the views of the Aliens Section in relation to this matter dating back for a number of years. Isn't that the position, Mr. Crowley?

A. That's correct.

Q. There is nothing new in this memo of the 6th January of 1989?

A. Not really.

Q. I think you then transmitted a copy of this memorandum to the Minister's Private Secretary, and I think you made a note on the memorandum yourself, and I think that's the note which starts I think at the top of the copy memorandum headed "Runai Aire"?

A. That's right.

Q. I think it then continues below on the right-hand side of the page, and we'll just read that. It states "The Minister is familiar with the case and the problem, i.e. that to proceed with the daughter's application would necessarily raise the question of whether her father's naturalisation was obtained fraudulently. Nevertheless, the matter is obviously on the Taoiseach's Office list of unfinished cases, and may continue to be so. If the

Minister does not wish to go ahead with the 'application',
you might arrange to have it off the list."

And again, that's your initial, I think?

A. That's correct, that's my initial.

Q. And it's the 6/1, 6th January?

A. That's correct.

Q. You would then have transmitted that to the Minister's
Private Secretary?

A. Correct.

Q. And just on a little point of detail, can I ask you there,
you had said that it would continue to be on the
Taoiseach's list of unfinished business, and if the
Minister didn't wish to go ahead with the applications,
that the Private Secretary might arrange to have it off the
list. How would the Private Secretary go about arranging
to have something like this taken off the list of
outstanding cases? I was just wondering what the mechanics
of that would be?

A. Well, I assume that a Private Secretary could talk to the
Private Secretary to the Taoiseach and say, let's drop the
correspondence on this because there is we are not going
ahead with it, or, you know, that purely an
administrative

Q. Yes. Now, in your memorandum you have informed the
Tribunal that it was your impression at the time that the
Minister did not wish to act against the advice of the
civil servants, but was under considerable pressure from

the Taoiseach. And that appears to have been your impression as you stated in your memorandum?

A. That's my that's the impression I was under, yes.

Q. So would I be correct in thinking then that, as far as you were concerned, that the Minister was faced with a dilemma; he didn't want to act against the advice of his civil servants, and, as you say, he was under pressure from the Taoiseach and the Taoiseach's Office?

A. Yes. Not necessarily reluctant to act against the advice of civil servants, but reluctant to take a positive decision in that case.

Q. Now, you state in your and you refer in your memorandum to your meeting with the Taoiseach that you had personally with the Taoiseach regarding the Faten Moubarak application. And just, firstly, if we could just deal briefly with the timing of that, because, as you said in your memorandum, it had been your impression that it was during Mr. Collins' time that you had that meeting with the Taoiseach, but that you were slightly uncertain because of a date which appears on a copy of that memorandum of the 6th January, 1989, and that date was 1/5/90 1st May, 1990?

A. Yes.

Q. And I think we can just point out it's very faint on the overhead projector; I hope it's a little clearer in the copy of the document which you have but perhaps we can just point out the positioning of the date on the

projector. And that's beside the note which you state that you made on that memo of the 6th January, 1989, after your meeting with the Taoiseach, do you see that?

A. Yes.

Q. And if we just refer to your note, and we may come back to it.

"Discussed with Taoiseach at Minister's request. This girl (14) has been here for the required period, and there are humanitarian reasons (she can't travel). Send form to T and on completion to" I think it does look like "me for a decision (positive). Even if father's case is in doubt, that is not strictly relevant."

And it was that date of the 1st May, 1990, which I think gave you some doubts about your recollection that it was during Mr. Collins' time that you had that meeting; isn't that right?

A. That's correct.

Q. Now, I think Mr. McAuliffe, who gave evidence to the Tribunal on Friday last, Mr. David McAuliffe, who was a Higher Executive Officer in the Department when this certificate was ultimately granted in May of 1990, he has confirmed that he placed that date, the 1st May, 1990, on the memorandum which was on the departmental file, but he can't assist the Tribunal as to why he placed that date on the memorandum, although he noted that it was the date of the application that had been received on behalf of Faten Moubarak.

And I think the Tribunal has also heard evidence from Ms. Paula Connolly in relation to a note which is within the files in the Taoiseach's Office of a telephone conversation which she had with an official in the Taoiseach's Office on the 24th April of 1989, and I can refer you to that briefly. As I say, this is purely for the purposes of fixing in time when this meeting may have taken place. It's at Divider 52 in the Tribunal's book, and if you don't have it or if you have difficulty in finding it, Mr. Crowley, I can have it handed up to you.

A. I have it.

Q. And it records "Spoke to Paula she thinks an official from her Department spoke to the Taoiseach about 3 weeks ago will check position again." And that is dated the 24/4/89.

Does any of that assist you further in the matter, Mr. Crowley?

A. It does, it resolves the doubt completely.

Q. Now, I should, nonetheless, bring to your attention that the Tribunal will be hearing evidence from a Mr. Magnier, a Mr. Stephen Magnier, later in the course of the day, and he will also refer to a brief discussion that he had with the Taoiseach in relation to this application. But you are happy enough, are you, Mr. Crowley, that your initial recollection on this was correct, that it was during Mr. Collins' time?

A. Yes.

Q. Now, in your memorandum, you have informed the Tribunal that you were directed by the Minister to meet the Taoiseach in relation to the matter. It was your understanding that the issue should be brought to a conclusion at your meeting with the Taoiseach and that, ultimately, it was the Taoiseach who would determine the matter.

And what I should bring to your attention, Mr. Crowley, to enable you to comment, is what Mr. Collins has informed the Tribunal in his Memorandum of Intended Evidence, and I think you have been served with a copy of that memorandum; isn't that right?

A. Yes.

Q. And if I could just refer you to paragraph 9 of Mr. Collins' Memorandum of Intended Evidence, he states, "Mr. Collins understands that Mr. Cathal Crowley, then Assistant Secretary, may have met with Mr. Haughey in the Taoiseach's Office on the 6th January, 1989, to discuss the Faten Moubarak application. During the period which Mr. Haughey was Taoiseach, his office had a policy of establishing high-level contacts with the heads of various departments. Mr. Collins' understanding was that this policy enabled the Taoiseach to have a direct line of contact to departments so that he could personally follow up matters directly with the officials concerned.

Mr. Collins thinks it unlikely that he would have asked Mr. Crowley to meet Mr. Haughey about any matter which had

been raised with him directly by Mr. Haughey, such as the Faten Moubarak application, as he believes that Mr. Haughey would have expected him to respond personally. Mr. Collins would certainly not have authorised Mr. Crowley to negotiate and conclude matters on behalf of the Department with Mr. Haughey in relation to the application."

Now, can I just ask you about your knowledge of the practice to which Mr. Collins has referred to in that memorandum of Mr. Haughey establishing contact with high-level officials in departments.

A. I know nothing about the practice. I have no way of knowing what went on with people in our departments.

Q. Well, within your own Department, do you know what do you know of that practice?

A. No, I had only one other experience of being sent to the Taoiseach to discuss any other thing.

Q. And on that other occasion when you met with the Taoiseach, was that in relation to a matter such as this or was it in relation to a technical matter of legislation or

A. It was years earlier in relation to legislation.

Q. It was in relation to legislation, and was this proposed legislation or legislation in draft form?

A. Yes.

Q. And on that earlier occasion, was that for the purposes of you briefing the Taoiseach so that the Taoiseach would understand what was in the legislation this is the earlier occasion that you spoke of?

A. Well, I can't be quite sure what the precise intention was, but I certainly went and gave whatever information I had.

Q. And you said in your memorandum I think that you were acquainted with Mr. Haughey. Is it possible that Mr. Haughey might have made direct contact with you on this occasion?

A. Definitely not.

Q. And you are quite clear in your recollection that you were requested by the Minister to meet Mr. Haughey about this matter?

A. Yes, I remember.

Q. Now, Mr. Collins, as I have said, in his memorandum, stated that he would not have authorised you to conclude matters on behalf of the Department with Mr. Haughey. Are you quite clear in your recollection that it was your understanding that the matter was to be decided at your meeting with Mr. Haughey?

A. It was not my understanding beforehand but it certainly was my understanding afterwards.

Q. And what was your understanding beforehand, before the meeting?

A. That I was simply to go down to the Taoiseach about something that had to do with aliens, because that's all the information I had, and apart from the fact that I was to go down immediately.

Q. And can you recall who relayed to you that you were to go to the Taoiseach immediately?

A. The Minister did.

Q. And was it the Minister personally or

A. Yes.

Q. And were you discussing this matter of Faten Moubarak with the Minister at the time?

A. No. In fact, I didn't know it was about Faten Moubarak until I called Mr. O'Brien in and asked him what is this all about?

Q. Sorry, you said you called Mr. O'Brien?

A. Yes. I think it was Mr. O'Brien now, but the aliens people, anyway, and came and told me what was going on.

Q. But you did know it was in connection with this file then?

A. Yes. The file didn't enter into it, as far as I was concerned, though. It was certainly the case of a girl, a little girl who was looking for naturalisation, and it was a Dr. O'Connell case.

Q. So you knew that before

A. I did.

Q. before you went to the Taoiseach?

A. Mm-hmm.

Q. Do you recall did you bring the departmental file from the Aliens Section with you to the meeting?

A. I can't be sure, but I am pretty sure I did not.

Q. Would you have had discussions with Mr. O'Brien about it before you went to see the Taoiseach?

A. Yes well, 'discussion' is probably overstating it. I was in a hurry, I remember, and asked for information as to

what it was all about.

Q. Do you recall whether the Minister knew that it was about the Moubarak matter or whether it was just about an aliens matter?

A. I did not know.

Q. So you were just told it was an aliens matter by the Minister?

A. Yes. That I deduct that from the fact that I did ask the aliens people to talk to me when I came out of the Minister's Office.

Q. But in that case, how did you know it was about a juvenile or how did you know it was the Moubarak case?

A. I didn't know until I spoke to the aliens people.

Q. No, I appreciate that. But of all of the cases that the Aliens Section was dealing with, the Moubarak case was only one of them, so how could the Aliens Section have known what case it was unless you were in a position to give them information that would allow them identify it as this case?

A. They must have known it was a live case in the Minister's Office, and, of course, a case that the Taoiseach was interested in.

Q. Right. Now, you say that you recall that you met with the Taoiseach in the Taoiseach's Office in Merrion Street, that there was no other person present at the meeting. You say that you had a level of acquaintance with the Taoiseach, mainly from your previous service in the Law Reform Division when Mr. Haughey had been the junior minister in

charge, and you say that the meeting was entirely cordial; that the Taoiseach was fully conversant with the background to the application, and with the concerns and resistance of the civil servants. It was your recollection that the Taoiseach took the view that, for humanitarian reasons and in the light of the case to be made by her as an independent juvenile alien resident here, Faten Moubarak should be naturalised, and that even if there were doubts regarding the bona fides of her father's naturalisation, she should not be visited with the sins of her father, as the Taoiseach put it.

Now, can I ask you, firstly, roughly how long did the meeting take place for?

A. It was a short meeting. I'd say a quarter of an hour at the most, maybe ten minutes.

Q. And apart from this case, did you discuss anything else?

A. No.

Q. Now, you say in your memorandum that the Taoiseach was fully conversant with the background to the application and with the concerns and resistance of the civil servants.

A. Well, yes, I certainly put the case of our resistance to naturalisation of the juvenile in question, and the Taoiseach gave his reasons why we should do the opposite, and very impressively, if I may say so.

Q. Did you deduce from your conversation with the Taoiseach that this wasn't the first time that he had heard the details of the civil servants' resistance to this

application?

A. I'm not sure about the details, but certainly he was not surprised at our resistance.

Q. You were discussing this in the context of the history of the matter; isn't that right?

A. Yes, yes.

Q. Now, as you said in your memorandum, the Taoiseach took the view that, for humanitarian reasons and in the light of the case to be made by the applicant as an independent juvenile alien resident here, that she should be naturalised, and that even if there were doubts regarding the bona fides of her father's naturalisation, she should not be visited with the sins of her father, as the Taoiseach put it. And as you have just stated, the Taoiseach put those matters to you most eloquently?

A. Mm-hmm.

Q. And it was your view that there was validity in what the Taoiseach was saying to you?

A. Yes, it was a stateable case.

Q. Well, did you think it was more than a stateable case?

A. No, I certainly wasn't reversing the official stance on the matter.

Q. So he didn't change your mind; is that right?

A. No.

Q. But you accept that it was a stateable case that he was making?

A. Maybe a bit stronger than that, even.

Q. Right. You have just stated in evidence that, certainly, after the meeting, it was your understanding that the matter had been decided by the Taoiseach?

A. Yes.

Q. What was it that gave you that impression?

A. The I think the, if I can recollect the final words was, "Yes, all right, we have heard this now, we have you know, know your objections and all this, this is what we'll do. Send the forms down here."

Q. So you then made a note on the copy of the memo of the 6th January, 1989, and we have just referred to that, but we'll just look at it again. It says "Discussed with Taoiseach at Minister's request. This girl (14) has been here for the required period and there are humanitarian reasons (she can't travel). Send form to T and on completion to perhaps it's "we" or to "me" for decision (positive). Even if father's case is in doubt, that is not strictly relevant."

And that was the note that you made on the file?

A. That was the note, yes.

Q. So the arrangement, therefore, was that you were to send a form to the Taoiseach, is that correct, an application form?

A. Yeah, the Aliens Section would do the normal procedural

Q. And, on completion, that form was to be sent back to the Department?

A. Yes.

Q. And to the Aliens Section?

A. Yes.

Q. And it was for a positive decision?

A. Yes.

Q. And would I be correct in thinking that that was effectively a direction of the Taoiseach?

A. Yes, that's what I took it to be.

Q. Would you have brought that matter then to the attention of the Minister?

A. I did not.

Q. You did not?

A. I am pretty sure.

Q. And why would you have not done that, Mr. Crowley?

A. Well, I would have thought that the Minister did not want to be involved in it again.

Q. I see. Would you have sent the form directly I presume you'd have arranged for the form to go fairly promptly to the Taoiseach after that meeting?

A. I have no recollection and I don't think I had any involvement after that in the whole matter.

Q. I am sure you didn't, but I presume you must have told somebody in the Aliens Section, "send a form to the Taoiseach"?

A. Oh, yes, yes, the file would have gone to Mr. O'Brien and gone down to the section, yes.

Q. And there is no reason to believe that that wouldn't have happened fairly promptly after your meeting with the

Taoiseach?

A. I have no idea. I would have expected it to happen.

Q. You would have expected it to?

A. But I see from the file that it didn't, as it happens.

Q. Well, we don't know, Mr. Crowley, because there is nothing on the file to indicate what date the application form went out.

When you say that it would have been your understanding that the Minister, Mr. Collins at the time, didn't want to know anything more about that, how did you get that impression?

A. Well, it was clear to me that the Minister had a particular stance on the matter and did not want to get involved.

Q. I see. Was that your impression before your meeting with the Taoiseach or after your meeting with the Taoiseach, do you recall?

A. Before. I have no recollection of any involvement in it after the meeting.

Q. I see. Now, we know that I think there was an election in mid-1989 and that Mr. Collins was succeeded as Minister for Justice by Mr. Raphael Burke on the 12th July of 1989, I think it was. And we know from the file, Mr. Crowley, and I mean you have adverted to this in your memorandum, that certainly no certificate of naturalisation issued in this matter during Mr. Collins' time as Minister; isn't that right?

A. That's correct, from the file.

Q. Do you recall ever having a discussion with Mr. Magnier in relation to this matter, Mr. Stephen Magnier, who I think was head of the security division in the Department?

A. No, I have no recollection.

Q. I think Mr. Magnier has informed the Tribunal, and again I think you have been circulated with a copy of his memorandum, that he recalls that on one occasion when the Minister for Justice was away and the Taoiseach had assumed the functions of the Minister for Justice, that he was meeting with the Taoiseach, and the Taoiseach raised a query with him in relation to the Moubarak case; that he examined a copy of the file, he discussed it with Mr. O'Brien, and that, on the following day, he reverted to the Taoiseach and he said that it would not be possible to naturalise Faten Moubarak, and Mr. Magnier has stated in his memorandum that he may have discussed that with you but he certainly wasn't aware that you had also met the Taoiseach. Do you recall any discussion with Mr. Magnier in which he may have relayed to you the fact that he had also discussed this with the Taoiseach?

A. No, I have no recollection.

Q. Can I ask you to just refer to the document behind Tab 55, and this is a record produced by the Taoiseach's Office of a contact between a member of the staff in the Taoiseach's Office and Ms. Paula Connolly, who was part of the staff in the Minister's private office. Do you see that?

A. Yes, I think so.

Q. You see it records "I telephoned Paula again she maintains that the Taoiseach is aware of what's happening on this case no correspondence to issue." That's the 5th April, 1990. It's about four weeks before the certificate of naturalisation was granted. Do you recall there being a decision or a direction that no correspondence was to issue in relation to this case?

A. No, I have no recollection.

Q. Why would a decision be made or a direction be given that no correspondence should issue in any case in the Department of Justice? Why would that be, Mr. Crowley, I am just wondering?

A. I have no idea. This is a matter between the Taoiseach's Office and the Minister's Office.

Q. Well, in fairness, I think Ms. Connolly, in her evidence to the Tribunal last Friday, indicated that the probable source of the information which she relayed to the Taoiseach's Office would have been officials within the Aliens Section?

A. Well, I have no recollection of ever meeting Ms. Connolly in my lifetime.

Q. Oh, I am sure you didn't, but I am just wondering were you aware within the Aliens Section that there had been some decision taken that there should be no correspondence in relation to Faten Moubarak?

A. I am not so aware.

Q. Would you agree with me that if there was such a decision,

it would indicate that there was some unease in relation to a case, or some sensitivity in relation to a case?

A. Well, I'm sure there was sensitivity, I am quite sure.

Q. There'd have to be sensitivity, wouldn't there?

A. Ah, yes, of course.

Q. In your view, what did that sensitivity flow from?

A. The unusual nature of the from an administrative point of view the unusual nature of the decision.

Q. Right. Because the decision was taken by the Taoiseach?

A. Exactly.

Q. Now, the application form itself is at Tab 53, and that was dated the 1st May, 1990. Do you see that there? It was an application form on behalf of the minor by Slieman Moubarak. And the date there is the 1st May, 1990. Now, we have seen from your note that you made following your meeting with the Taoiseach, that the Taoiseach's direction was that you would send, or the Aliens Section would send an application form to the Taoiseach and that the Taoiseach would return it, I think probably to you?

A. Well, that would be the expected

Q. That would be the usual course, so can we take it that it must have been you that received this application form?

A. No, it wasn't.

Q. Well, can you recall, Mr. Crowley, that it wasn't you who received it?

A. Well, if I received it, my signature would be on it.

Q. Well, there is nobody's signature on any of this,

Mr. Crowley. That's the difficulty. All there is on the file after the memo of the 6th January of 1989 with your record of the decision taken by the Taoiseach, is a copy of the application form of the 1st May, 1990, and a copy of the certificate of naturalisation. There is nothing else on the file.

A. Well, as I said, I have no recollection of having any involvement with the case after the meeting with the Taoiseach. It would be unusual for the forms to be well, maybe in the particular case it wouldn't be unusual, but

Q. No, in this case it probably wouldn't have been, would it? Because, in fact, the application form was to be sent to the Taoiseach, so it wouldn't be in the least bit unusual if it came back to you?

A. No, but I have no recollection that it did. I rather think it didn't.

Q. Now, if you go over the page, you'll see a copy of the certificate itself, the certificate of naturalisation, and we know from Mr. David McAuliffe, we know that Mr. David McAuliffe prepared the certificate in that he filled in the spaces that required completion on the certificate, and we know that it was signed by Mr. Mellett, who was an Assistant Secretary, and Mr. Mellett has indicated that if you weren't available to sign a document, it would come to him to sign.

A. That's correct.

Q. Now, Mr. McAuliffe, I don't know if you knew Mr. McAuliffe at the time

A. I did, vaguely, yes.

Q. He is a Higher Executive Officer. He was at a relatively junior position within the Aliens Section in the Department, and he stated in evidence to the Tribunal that he must have been directed to do this by one of his line managers. Can you assist the Tribunal at all as to the person by whom he would have been directed to do this?

A. No. There would be two people in between him and myself, anyway.

Q. You see, Mr. Cole has no recollection. Mr. Cole was the Principal Officer in the section at the time, and he says that he was tied up at meetings here in Dublin Castle in connection with the Presidency during that week, and I think his wife's father-in-law had died the previous week, and Ms. O'Reilly, who I think was the Assistant Principal in the office at the time, she had only joined the Aliens Section in January, I think, to take up some of the slack because of the additional work that was caused by the Presidency, and she has no recollection of it.

A. Well, the same as applied to Mr. Cole applied to me. I was more than taken up here in Dublin Castle at the time.

Q. Now, you see on the bottom left-hand corner of the certificate, that there is a handwritten annotation

"Delivered by hand to Oifig an Taoiseach, D. McAuliffe, 4/5/90." Now, Mr. McAuliffe, in his evidence, stated that

he would have made that endorsement to indicate how the certificate of naturalisation which, as he said, is a valuable document to the recipient, had been transmitted to the recipient, and he said in the ordinary course they would be sent by registered post to the address shown on the application, and he indicated that he would have made that endorsement on the directions of some other person; that he would not have known to deliver this to the Taoiseach's Office, or, indeed, that it had been delivered to the Taoiseach's Office, unless he had been informed by a superior?

A. Well, I can like I say, it wasn't I didn't give any direction and I can't help the Tribunal, I am afraid, as to who did.

Q. I see. Do you know of any other occasion on which a certificate such as this was sent to the Taoiseach's Office?

A. No.

Q. And just finally, Mr. Crowley, can I just bring to your attention the fact that Mr. Burke has furnished the Tribunal with a short statement in which he has indicated that he has never seen this file before it was brought to his attention by the Tribunal; that he made no decision in the matter, and that he had no involvement in the processing of the application.

A. I am aware of that.

Q. So, am I correct in thinking, therefore, Mr. Crowley, that

the only decision made in this matter was the decision made by, or direction made by Mr. Haughey at your meeting with him sometime in the early months of 1989?

A. That is correct.

Q. Thank you very much, Mr. Crowley.

A. Thank you.

CHAIRMAN: Thanks, Mr. Crowley.

Mr. Collins, I am conscious you have made a second trip from Kerry to assist the Tribunal. There is nothing, through one of the barristers, you'd like raised? I'll be hearing your evidence later today, and, as you recall, Ms. O'Brien has put matters in your statement where there may be differences of recollection, but I just wanted to make sure there was nothing you might have wished one of the Tribunal barristers to take up with Mr. Crowley before he finishes his evidence.

MR. COLLINS: If I may, Mr. Chairman, ask if

CHAIRMAN: Perhaps I might just take a couple of minutes, Mr. Crowley, if you don't mind, and just enable Mr. Collins to have a word with the Tribunal legal team, and I'll sit again in a couple of minutes.

THE TRIBUNAL ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

Q. MS. O'BRIEN: There is just one or two small additional matters, Mr. Crowley, that perhaps I might ask you about.

When you came back from your meeting with the Taoiseach, and, as you have said in evidence, the Taoiseach gave a direction as regards the attitude that should be taken to

the Faten Moubarak application, do you recall at all whether you would have discussed that matter with the Secretary General of the Department at the time?

A. I have no recollection, but it's likely that I did mention it to him.

Q. And as regards the Aliens Section itself, that's Mr. O'Brien and possibly Mr. Cole later on, you certainly would have told them about the meeting?

A. Oh, certainly.

Q. And, in fact, it would have been for the Aliens Section to forward a copy of the application form to the Taoiseach; isn't that right?

A. That's yes. In fact, I think that there is an indication on the file cover which is on the record

Q. Yes, that's right

A. of the file going to Mr. O'Brien, you know

Q. I think it's the 3rd March?

A. Yes. So it's likely that I called him in and said, "look, this has happened, I am writing this, now, there is the file for you."

Q. You recorded it very clearly on a copy of the memorandum of the 6th January; isn't that right?

A. Yes.

Q. Thank you, Mr. Crowley.

CHAIRMAN: I think Mr. McAuliffe, in his evidence last week, referred to the phrase of not visiting the sins of the father on the daughter, so it seems it did go the

rounds a little bit.

A. I am glad to hear that.

CHAIRMAN: Thanks very much for your assistance,

Mr. Crowley.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. Magnier, please.

STEPHEN MAGNIER, HAVING BEEN SWORN, WAS EXAMINED BY

MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Thanks, Mr. Magnier. You are still a serving
civil servant, are you?

A. I am indeed, yes.

Q. And where are you

A. I am still in the Department of Justice, now called the
Department of Justice, Equality and Law Reform.

Q. What's your position there at the moment?

A. I am Director of the Reception and Integration Agency.

Q. The Reception?

A. And Integration Agency. It's basically mainly to do with
asylum seekers that try to enter the country in that
fashion.

Q. What rank do you hold now?

A. Assistant Secretary.

Q. You were a Principal Officer in the security division of
the Department from May '86 until 1990?

A. Correct.

Q. You have provided the Tribunal with a memorandum of your
intended evidence, and, as with the other witnesses, what I

propose is I'll just take you briefly through it

A. You know I have amended slightly from the original draft?

Q. Yes, of course.

A. Thank you.

Q. And if you want to pick me up on anything while I am doing it, feel free to do so. You say that you were a Principal Officer in the Department from May '86 until you left the division in 1990. Can you be any more specific about when you left the division?

A. 14th December, 1990.

Q. Thank you. You recall that during Mr. Haughey's years as Taoiseach, it was Mr. Haughey's custom to assume the functions of the Minister for Justice when that Minister was out of the country, and this meant that you, as head of security, would, during such periods, liaise directly with the Taoiseach?

A. That is correct.

Q. You recall liaising with the Taoiseach in such a manner approximately two or three times a year?

A. Yes.

Q. You recall that on one such occasion when you were meeting with the Taoiseach at Government Buildings, the Taoiseach made inquiries of you in relation to the possible naturalisation of a member of the Moubarak family. You took the matter up with Mr. Bryan O'Brien of the Aliens Section and would have reviewed the contents of the Moubarak file.

A. That is correct.

Q. You recall reverting to the Taoiseach the following day?

A. I do, yes.

Q. And recommending to the Taoiseach that it would not be possible to grant a certificate of naturalisation to any member of the Moubarak family. Furthermore, you recall informing the Taoiseach that the file was suspect in certain respects.

A. That is correct.

Q. You say that at no time were you aware that Mr. Crowley had separately met with the Taoiseach to discuss the case.

However, you may have yourself discussed the case with Mr. Crowley, but you are unsure on that point?

A. That is correct. I have no definite recollection of discussing it with Mr. Crowley. I have, of discussing it with Mr. O'Brien.

Q. You are aware that, or you were aware that the Moubarak case, together with other cases, were linked to Dr. John O'Connell. You were also aware that there was disquiet in the Department of Justice amongst senior personnel relating to these cases.

A. That is correct.

Q. You say you would have briefed the Minister for Justice of any dealings you had with the Taoiseach during the Minister's absence, and it is likely that you would have informed the Minister of your dealings with the Taoiseach regarding the Moubarak file?

A. Correct.

Q. Now, just in a general way, can I ask you what your normal points of contact, if any, would have been with Aliens Section at the time that you were head of the security section, or is it security division?

A. We were we shared the same building. We would have been colleagues of many years' standing. So, there would, naturally, be discussions about departmental affairs, so I would have had a good relationship with nearly all of the staff of the Aliens Division.

Q. I appreciate that, but would there have been any interlinking of the work of your division and the Aliens Division?

A. Very, very little.

Q. Up to this time, had you ever dealt with aliens' files?

A. Just give me a moment till I think.

Q. I am not going to keep you to the pin of your collar. It's the best recollection you have?

A. The best recollection that I have is I never worked in what was known then as the Aliens Division of the Department, but that I shared a large office area with a number of Executive Officers and Higher Executive Officers and clerical officers when I was a relatively junior civil servant, and the crime division was on one side of the office, the aliens division was on the other. So obviously there would be

Q. Would that mean somebody might simply say to you "Would you

look at this or give me your view"?

A. They wouldn't necessarily, but you would overhear conversations and there might be exchange of information, you might get the wrong letter and you might read it and say "that's for you". But there would be no link.

Q. There was no interlocking or interlinking of functions?

A. No.

Q. Okay. Now, you refer to what you call the custom the Taoiseach had adopted, whenever the Minister for Justice was absent or unavailable, of taking over that function.

Is that a function that other Taoisigh took over as well during the absence of a Minister for Justice?

A. Not to my knowledge.

Q. Presumably you would have been in that section when other Taoisigh when other Ministers

A. Yes, I was.

Q. in governments led otherwise than by Mr. Haughey were out of the country or unavailable?

A. Yes.

Q. And what would happen when such a Minister was unavailable?

A. I recall on one specific instance, I think, I remember going to the office of the Minister for Foreign Affairs when a Minister for Justice was away, so I can only deduct from that that at some stage it must have been the Minister for Foreign Affairs who was

Q. Taking over the function for the duration of the Minister for Justice's absence?

A. Yes, mm-hmm.

Q. In any case, you remember on one occasion during the absence of the Minister for Justice you were meeting with the Taoiseach in Government Buildings dealing with Department of Justice business?

A. Correct.

Q. And you say that when you were meeting with the Taoiseach, the Taoiseach mentioned to you the question of the possible naturalisation of a member of the Mubarak family?

A. Correct.

Q. Was that something that arose as a result of the Taoiseach asking you to come down to discuss the possible naturalisation of an alien or a member of the Mubarak family or was it something that arose in the context of other discussions you were having with the Taoiseach?

A. It arose in the context of other discussions that I was having with the Taoiseach, and I had requested the meeting, because I felt I needed to keep the Taoiseach informed. He didn't request the meeting; I did. I went in. When the matter, which was the subject matter of the meeting was concluded, the Taoiseach turned to me and said, "By the way, can you inquire into the possibility of whether anything can be done for the naturalisation of this family" of whom I had never heard before. And I said I didn't know, but that I would make inquiries.

Q. And what level of detail did the Taoiseach convey to you, do you recall, in the course of that meeting?

A. None whatsoever. He didn't even mention the nationality of the person.

Q. He just gave you a name?

A. He just gave me the name, and I assumed that it would be Egyptian, because the president of Egypt at the time was Mubarak, if you remember.

Q. That's right.

A. And I reverted back to the Department of Justice, and Mr. O'Brien came to my office with a file, and on that file there was perhaps five or six paragraphs of Mr. O'Brien's writing in which he doubted the sincerity of information which was advanced to naturalise Mr. Mubarak, and that he had then added something to the effect and I am paraphrasing now because my memory isn't that good that if the second application was dependent, in part, on the first, then it couldn't be advanced further because there were doubts about the first. I then read, I think it was, Mr. Crowley's manuscript endorsement on it, and I said, that's enough for me. And I closed the file and I rang the Taoiseach's Department back, either that afternoon or the following morning, and said I needed to speak to the Taoiseach briefly. I went over to him and explained to him. I said, "This doesn't look very good. I don't think any possible application could succeed if it were based on an application which may not or may not have been genuine at the time," and the Taoiseach accepted that. And that was the end of our conversation.

Q. When you asked Mr. O'Brien to bring the file to you, did you effectively ask him for a briefing, as it were, initially, or did you examine the file yourself?

A. I examined the file in his presence. I read the file in his presence.

Q. Right. And, I mean, did you ply him with questions as you were reading the file?

A. I didn't have to ply him with questions. He saw what I was reading. We exchanged glances. And we knew straightaway we were civil servants of longstanding at that stage we knew that this didn't look quite all right, and I said, "Well, I am satisfied." And he said, "Are you satisfied?"

I said, "I am." That was it. The matter ended, the discussion ended.

Q. And you got back on to the Taoiseach, you went down to meet him. You explained, presumably, in did you explain in some detail, did you bring the file with you?

A. No, I didn't bring the file with me, no, I did not.

Q. Did you explain to him more or less what you have told me, along the lines that this is an application that appears to be, or would have to be based on an earlier application, and if it was based on an earlier application, the earlier application

A. Which was suspect.

Q. Was suspect?

A. Yes, and I described it in roughly the same way as I have described it to you, to the best of my recollection, and

Mr. Haughey accepted that.

Q. When you say in your statement that you say the file was suspect in certain respects, did you detail those beyond what you have told me now?

A. No, I didn't.

Q. I see. Now, at that stage, I don't know whether you were aware of it at the time, but we certainly know now, there was no application, as it were, in the Department from the Moubarak family?

A. There wasn't any on the file.

Q. When you said to Mr. Haughey that this didn't seem to be something that he should be involving himself in and that, as you say, it was suspect in a number respects, did Mr. Haughey accept that or did he debate it with you?

A. He didn't say whether he accepted it or nor did he say he didn't accept it, nor did he debate it with me.

Q. It was just a case, "very well, thank you very much"?

A. Yes.

Q. Right. I am just trying to identify when that meeting took place?

A. I am sorry, I took no notes, so it's really a matter of memory, so I am reluctant I can't I am sorry, it I don't mean to mislead the Tribunal, but it was sometime between, I think, mid-'88 and '90, and I can't really put a better date on it than that.

Q. I suppose something you said a moment ago may help us in that you said that you examined the file and you saw, I

think, Mr. Crowley's note; is that right?

A. Yes.

Q. Now

A. And Mr. O'Brien's note.

Q. Do you know what those notes were and can you identify them from the documents that you were given?

A. I looked at the file recently and I am satisfied that that is the document that I saw.

Q. Well, maybe you'll just open the document I think you are referring to. Do you have a Book of Documents?

A. No, I don't.

Q. I'll let you have a book.

(Book of Documents handed to witness.)

I am opening document 49.

A. Yes, that is almost certainly, in my view, the document that I saw when I consulted the file with Mr. O'Brien on the same day that the Taoiseach had raised it with me.

Q. So that was history, as it were?

A. That was history at the time.

Q. When Mr. Haughey spoke to you?

A. So whatever date that is my conversation with Mr. Haughey was subsequent to that.

Q. Subsequent to that. If you can just help me a little further, I am trying to establish whether this was during Mr. Collins' period as Minister or during Mr. Burke's period as Minister. The dates you have given me bring me right up to, obviously, when you left, and span both

Mr. Burke's and Mr. Collins' periods as Minister.

Can I ask you this: If the Minister was away or out of the country for a day or a weekend, one assumes that there wouldn't always be this transfer of functions?

A. Oh, there would.

Q. There would?

A. There would, yes, signed under the Ministers' Secretaries Act, 1924.

Q. I was suggesting can you remember if you were at this particular time fulfilling that function for for a week or two weeks; in other words, it was a summertime when a person might be on a longer holiday than they'd be, for argument's sake, in January, February or March?

A. My recollection of such absences was that they tended to be shorter and to be of two and three days' duration during regular Council meetings, informal Council meetings of Ministers for Justice of the European Union. It also might occur during the summertime during a period of longer holidays, if a Minister were out of the country or in the period around St. Patrick's Day when Ministers tend to depart I am just trying to be helpful.

Q. I appreciate that. Can you recall whether it was a longer period or a shorter period?

A. I am sorry, I don't mean to be difficult, but I can't recall.

Q. If at the time that you spoke to Mr. Haughey you had access to this note and to Mr. Crowley's note, you'd have seen

that Mr. Crowley had already discussed it with the

Taoiseach?

A. If I reread it now and if I re-examine it, I may deduce

that fact now, but it is not my recollection at the moment

that I deduced it at the time.

Q. The view you formed from the title at the time was that it

wasn't something to proceed with?

A. The matter was closed, as far as I was concerned.

Q. I suppose, in fairness, Mr. Crowley's note suggests that an

application, if it was processed, would be favourably

received and would receive a positive response; isn't that

right?

A. Well

Q. His two notes?

A. The important part of the note that I read was the first

application was suspect and that, therefore, anything that

was coming as a result of that, that was suspect as well.

Q. Right. And Mr. O'Brien, as you say, had the same view as

you had?

A. Yes, he did.

Q. Now, I think you are aware that Mr. Burke has informed the

Tribunal that you had a discussion with him about this

case?

A. Yes.

Q. And that you informed him not to touch this file and that

the file was being handled by the Taoiseach's Office; is

that your recollection of your dealings with him about it?

A. My difficulty is I don't ever have a recollection of a detailed conversation or indeed any conversation with Mr. Burke about this, and I have seen his statement of evidence to the Tribunal, and when he says that I said something to him, I have no reason to doubt it, other than one aspect of the case where he says that the file was being dealt with in the Taoiseach's Office. That is not something, to my knowledge, that ever happened. So whatever he said, and I have no doubt to doubt what he said, I think that aspect of his statement to the Tribunal is erroneous.

Q. Right. Do you mean that you wouldn't have had any knowledge to enable to you make that statement, is that what you're saying?

A. No, it is my experience that a file has never gone out of the Department of Justice over to the Department of the Taoiseach.

Q. Right. I suppose being handled in this case let me put it this way: We have heard the evidence of Mr. Crowley, who formed the view that the decision in this case or who was quite clear in his mind that the decision in this case was being taken in the Taoiseach' office

A. That, by the way, was news to me. I hadn't heard that before.

Q. You never heard that?

A. I never heard that.

Q. Because I was going to suggest to you that if Mr. Burke

asked you about this, you might, again, have gone to the Aliens Section; do you follow me?

A. I don't think so. I can't say I definitely did, but I think if I did if I had done so, I would have a recollection of it now.

Q. Right. So you think that if Mr. Burke had asked you about it, you'd have given him an answer based on your earlier knowledge?

A. Exactly.

Q. Did you ever have any further dealings with the Aliens Section after you had that second meeting with Mr. Haughey?

A. Did I ever have discussions

Q. Further dealings with the Aliens Section?

A. On this matter or on other matters?

Q. Firstly, on this matter?

A. On this matter, no; on other matters, yes.

Q. Do you recall, in the course of having those other dealings, of whether this matter was ever mentioned or alluded to even in the terms you have described earlier in

A. I don't think so.

Q. Thank you very much, Mr. Magnier.

A. Thank you.

CHAIRMAN: Thank you, Mr. Magnier.

You, Mr. Magnier, as the person who perhaps has been in the Department at all stages since these matters first arose, as you are aware the Tribunal is only examining a small

part of the files that were sent to us because of the Tribunal's specific Terms of Reference, but do I correctly recall from reading other files that you may have issued a couple of fairly trenchant memoranda to line managers or to Ministers?

A. Yes, I did.

CHAIRMAN: And insofar as one can generalise on the investment-based scheme whilst it was in being, would it be a fair summary of the civil servants' predominant view that whilst there may have been bona fide intentions to get investment into the country at a fairly rocky time, that, nonetheless, it did appear to be driving a coach and fours through the statutory scheme that had been set up and perhaps it was a hearty source of relief to nearly all of you when it was finally abolished?

A. I couldn't anything but echo those sentiments, Judge.

CHAIRMAN: Thanks very much indeed, Mr. Magnier. Well, we have had a long enough session. I am conscious that I'd like to get Mr. Collins on the road as soon as is realistically possible, so perhaps we'll take as truncated a lunch as we can. Could we maybe resume at ten to two and make what progress can then be made. Thank you.

THE TRIBUNAL ADJOURNED FOR LUNCH.

THE TRIBUNAL CONTINUED AFTER LUNCH AS FOLLOWS:

MR. HEALY: Mr. Collins, please, Mr. Gerard Collins.

GERARD COLLINS, HAVING BEEN SWORN, WAS EXAMINED BY

MR. HEALY AS FOLLOWS:

CHAIRMAN: Thank you very much for your attendance and assistance, Mr. Collins.

Q. MR. HEALY: Thank you, Mr. Collins. You have provided the Tribunal with a memorandum of your intended evidence and you have been here this morning and I think you'll be aware that the Tribunal's practice of taking a witness through that memorandum first, then clarifying one or two things and looking at the documents.

A. I understand.

Q. So, I'll go through it, and if you feel at any time that you want to correct me in relation to any part of it, don't hesitate to stop me.

Firstly, you say that you served three terms as Minister for Justice. You were appointed by Mr. Jack Lynch, the then Taoiseach, in 1977, and subsequently reappointed as Minister by Mr. Charles Haughey in 1979 and again in 1987.

I think you ceased to be Minister for Justice in July of 1989; is that right?

A. That's correct, yes.

Q. Although I suppose was there an election that year?

A. I think there was, yes.

Q. So that you were presumably effectively out of the office in the latter part of the summer of that year?

A. I would think if the new Government met in mid-July of that year, that that meeting day would be three weeks after the election, and the election would have been a period of maybe four weeks, maybe six weeks, whatever.

Q. And during the election, you wouldn't have been at your desk every day?

A. Exactly, yes.

Q. It was during your second term as Minister that residency-based applications for naturalisation were received by the Department of Justice from four Lebanese and Palestinian nationals which were sponsored by Mr. John O'Connell?

A. That's correct.

Q. While you have no detailed recollection of the applications, it appears from the copy file made available by the Tribunal that notice of the four applications was received in June of 1980 through Dr. O'Connell and that formal applications were lodged in December 1980.

A. That is so, yes.

Q. And I think, I hasten to add that I'm not suggesting that you had a memory of these things, it's from examining the files that you are able to say these things in the main?

A. That is so.

Q. In the early 1980s, you were not closely acquainted with Dr. O'Connell; you had no discussions or contact with Dr. O'Connell in relation to the applications. You recall that both Dr. O'Connell and his Private Secretary were in regular contact with your Private Secretary in relation to the applications. Your recollection is that Dr. O'Connell was anxious that the applications would be processed

without delay.

A. That is so, yes.

Q. You believe that it is probable that Mr. Haughey informed you that Dr. O'Connell had been in contact with Mr. Haughey regarding the four applications and that Mr. Haughey conveyed to you Dr. O'Connell's anxiety that the applications be processed speedily. As you were not closely acquainted with Dr. O'Connell and as there was a close acquaintance between Mr. Haughey and Dr. O'Connell, it was not unusual that such inquiries would have been made indirectly through Mr. Haughey?

A. That is quite so, yes.

Q. In granting certificates of naturalisation to the four applicants after the expiry of the twelve-month notice period, you would have relied on the report of the Gardai which confirmed that the applicants had resided in the country for the period stated in their applications?

A. That is so, yes.

Q. You have noted that the applicants were informed that you had approved their applications for naturalisation by letters dated 2nd June, 1981. You would not have been in your office to supervise the writing of the letters as at that time an election was imminent. It appears that these letters were signed by your Private Secretary, Mr. John Kirwan, and it is probable that you would have authorised Mr. Kirwan to notify the applicants of your decision?

A. That would be so, yes.

Q. During your second time in office, there was a related application pending on behalf of a minor, Ms. Faten Moubarak, who, you understand, was the daughter of Mr. Slieman Moubarak what had been naturalised on the 29th September, 1982. That was a period when you were out of office; isn't that right?

A. That's right sorry, during the naturalisation of Mr. Slieman Moubarak? That period of time

Q. 29th September, 1982?

A. We would be in Government, but I wasn't in the Ministry of Justice at the time.

Q. You have noted from the file that the civil servants had informed you of their reservations in relation to the application which rested on their concerns surrounding the naturalisation of the applicant's father in September 1982. During your time as Minister, you did not grant the certificate of naturalisation in respect of Slieman Moubarak I think that perhaps should read in respect of Faten Moubarak, I think?

A. That is so, yes.

Q. You have noted from the file that a formal representation from Mr. Haughey who can remember the Faten Moubarak application was received by letter of the 8th September, 1988, and that further inquiries were subsequently made by the Taoiseach's Office?

A. That is correct.

Q. You understand that Mr. Cathal Crowley, then Assistant

Secretary, may have met with Mr. Haughey in the Taoiseach's Office on the 6th January, 1989, to discuss the Faten Moubarak application. During the period in which Mr. Haughey was Taoiseach, his office had a policy of establishing high-level contacts with the heads of various departments. Your understanding was that this policy enabled the Taoiseach to have a direct line of contact to departments so that he could personally follow up matters directly with the officials concerned. You think it unlikely that you would have asked Mr. Crowley to meet Mr. Haughey about any matter which had been raised with him directly by Mr. Haughey, such as the Faten Moubarak application, as you believed that Mr. Haughey would have expected him to respond personally.

A. That is so, yes.

Q. As you believed that Mr. Haughey would have expected him, do you mean Mr. Crowley, to respond personally?

A. No, no, that Mr. Haughey would expect that I would respond, and I would expect that.

Q. Right. You would certainly not have authorised Mr. Crowley to negotiate and to conclude matters on behalf of the Department with Mr. Haughey in relation to the application?

A. Most certainly not.

Q. Do you have a book of the documents? I think the first thing I'll try to do is deal with some of the early applications that you mention in the first part of your statement. Do you Have Book 70?

A. What page?

Q. In your statement you refer to or in your Memorandum of Intended Evidence you refer to applications which were sponsored by Dr. O'Connell in 1980. I want to bring you to those and to refer you, in the first instance, to Document Number 1 in Book 70?

A. Okay, yes.

Q. This is an internal document generated within the Department, signed by a Mr. Fay and also by a Mr. O'Toole, do you see that?

A. I do, yes.

Q. And it refers to the names of four applicants for naturalisation: Mr. Noujaim, Mr. Daher, Mr. Fustok and Mr. Moubarak. It refers to their nationalities, their ages and the period of their residencies in the country.

It says "The applicants say they arrived in the State in June of 1973 having fled the Lebanon at the outbreak of the trouble there. None of them have complied with the aliens' laws. The reason they give for this is that they were afraid they would be asked to return home where they would be in danger of their lives. All are reported to have lost some members of their families."

I think the aliens' laws in this case simply means notifying the authorities of your presence in the country.

"The applicants maintain satisfactory bank accounts with Bank of Ireland and are reported to be persons of good character.

"These aliens first came to the attention of this Department in May 1980 when they made an approach to a member of the Aliens Registration Office, Dublin Castle. As ARO has reported that they have resided here for the period stated, the residence requirement appears to have been satisfied. The advance notice requirement has not been satisfied. The first indication that the applicants intended to seek Irish citizenship was in June 1980 when Dr. John O'Connell made verbal representations on their behalf. Irish travel documents were issued to the applicants in December of 1980. They do not claim Irish associations which would entitle them to a waiver of the statutory requirement to give at least twelve months' notice of intention to apply for naturalisation, and there is no record in this Department of any of them doing so (giving notice).

"In view of the fact that they did not report their presence in the State until 1980, there is only their word for their claims that they are here since 1973, but in the case of Kamal Fustok, it is on record in the British Revenue Home Office that he was landed in Britain in March 1976 and was granted extensions there to December '76 and to June '77. He arrived there again from Paris on 5/3/79 and left the UK in June 1979. A few days later he returned there with a business visa to go to 'Le Baron', 90 Fount Street, London West 1. His mother lives in London."

Now, that's an internal departmental note of the state of

information the Department had concerning these four applicants, and, in particular, Mr. Kamal Fustok. Then underneath that in manuscript, what I think is Mr. Olden's handwriting, is a letter to you, presumably indicating that this document came before you for decision, and he appears to say "Minister, there appears to be no basis for exempting them from the requirement to give a year's notice and there is no independent evidence that they have lived in the country for five years." And it's signed 18th February.

A. Mm-hmm.

Q. The day after the printed note.

So that document would appear to suggest, and I think you have no reason to believe otherwise, that this was brought to your attention with a recommendation from your civil servants?

A. Yes, I am sure it was, yes.

Q. Now, I am not going to go through all the details of the information obtained by the Department concerning these individuals, but I want to bring you on to a letter signed by you. It's at Leaf No. 7 of the Book of Documents you have. This is a letter of the 24th February, 1981.

A. Yes.

Q. It's addressed to Dr. John O'Connell, signed by you.

"Dear John,

"I have considered your representations on behalf of

Mr. Ibrahim Moubarak and three other Lebanese men who have

applied for certificates of naturalisation.

"One of the statutory conditions which must be fulfilled before I can award a certificate of naturalisation is that the applicant has given notice of his intention to make the application at least one year prior to the date of his application. As there was no notice of the applications before June 1980, I am, therefore, not in a position at present to grant the applications, and I must defer consideration until June next.

"However, I shall grant the applications when the year's notice has been satisfied, provided that all the other preconditions for naturalisation are fulfilled."

That's simply putting the thing off because there was no way of exempting him from the obligation to give a year's notice.

Then if you go on to document No. 9, and if you want to draw my attention to any other document, feel free to do so. But if you go on to the Document Number 9, I think this is the next relevant document in relation to the decision made, which was, in fact, ultimately made, to grant the certificates of naturalisation to these individuals.

This document is headed with the names of four individuals:

"Philip Noujaim, Razouk Daher, Kamal Fustok and Ibrahim Moubarak.

"Nationality: Lebanese.

"Occupation: Businessmen.

"Period of residence: 8 years each, stated.

"General remarks."

Now, this is a memo from Mr. O'Toole, whom you recall had a role in the previous memorandum, about a year earlier.

"This application was submitted on 18th February, 1981, and consideration was deferred until the expiry of twelve months' advance notice of intention to apply for naturalisation (a statutory requirement in most cases).

Notice was given in June 1980.

"The Gardai state that the applicants are of good character" that's one of the conditions that have to be complied with "and that they have resided here as claimed by them."

This is addressed, or submitted, I think, to the Assistant Secretary by Mr. O'Toole, and then it's forwarded to you for decision with, I think, Mr. Olden's notation "Minister, you have already agreed to the naturalisation of these men when the notice period is up."

A. That's correct.

Q. And we know that you did, in fact, then proceed on the basis of that advice?

A. That's right.

Q. Now, that was the end of your dealing with that Department for a number of years?

A. That's correct.

Q. And you came back into the Department in 1987

A. Sorry, I was sent back in.

Q. You were sent back in

A. Big difference.

Q. Sorry. You were appointed Minister again in 1987 in that Government, and again assumed responsibility then for the Department?

A. That's right.

Q. And that was the next time you, again, came into contact with the whole question of aliens' registration and naturalisation?

A. That is so, yes.

Q. Now, this matter appears to have been brought to your attention, at least from the file, appears to have been brought to your attention sometime in 1987, probably in early 1987. Can you remember when you came into office?

A. I think we came into office in July.

Q. July

A. July '87. You know, governments changed much more often during that period than they have in recent times.

Q. I appreciate that. Well, '87 wasn't so bad. '82/'83 was the year when we had a lot of changes, wasn't it?

A. Mm-hmm. I do remember the occasion, of course, yes.

Q. Are you sure it wasn't March?

A. I'm not sure. I'm not sure.

Q. I think, actually, it may have been March, but

A. Sorry, the next election, '89, was in July, that's the time Government changed, in July. Sorry, you are right, March was the time, yes.

Q. It's with trepidation that I disagree with any politician about the date of an election.

A. There comes a stage when they get browbeaten too, you know.

Q. Well, I want you to look at document number 42, please.

Now, to put this in context for you, I'm now coming on to the period in which the documents deal with what ultimately transpired to be the naturalisation of Faten Moubarak on the application of her father, Slieman Moubarak. During the period

A. Sorry, just a second now, you referred me to Document Number 14, or Tab 14.

Q. No, 42.

A. Sorry, I beg your pardon.

Q. Now, just to put this document in context. As I said, it's one of the documents dealing with what ultimately transpired to be, or proved to be, the naturalisation of Faten Moubarak, a child or juvenile, on the application of her father, Slieman Moubarak. In the period when you were not in Government and partly appeared when you were not Minister for Justice, Slieman Moubarak had been naturalised on foot of an application sponsored by Dr. John O'Connell and ultimately granted by the late Mr. Doherty when he was the relevant Minister?

A. That's right, yes.

Q. Now, by this stage, for whatever reason, the applications apparently had come to be known by this shorthand of "Friends of Mr. Fustok," and I think this is a reference to

the fact that well, possibly a reference to the fact that some of these people, or all of these people were related to one another and were all related to a Mr. Fustok, and one of the people that you naturalised in 1981 was, in fact, a Mr. Kamal Fustok. Had you ever heard of the other Mr. Fustok at that point?

A. No, I hadn't.

Q. And we are referring to the gentleman who

A. Who was alleged to have given a large sum of money to the former Taoiseach. No, I never had heard of him.

Q. Now, this document is addressed to you. It's from Mr. Crowley. You heard it read out this morning?

A. I did, yes.

Q. And it refers to what the Department perceived to be the problems that would arise from the processing of any application and no application had been made to naturalise Faten Moubarak. And what the Department I think was suggesting is referred to as the potentially, or possibly fraudulent naturalisation of Mr. Moubarak which would have undermined or, according to the Department, precluded the naturalisation of his daughter on his application, is that a fair way of putting it?

A. Mm-hmm, that's right, yes.

Q. Now, at the top of this document on the front page there is a notation "D2A", which I gather is a reference to the Aliens Section. And then underneath that, "No action for the time being per Minister." Then there is a date

underneath it which appears to be the 20/1. Now, the document is itself dated the 29th July, 1987. The 20/1 wasn't a time when you were around, if it's 1987; isn't that right?

A. Mm-hmm.

Q. On the other hand, it could easily be 1988, couldn't it?

A. Yeah.

Q. Can you say anything about either the content of that manuscript note or the appearance of it? Do you recognise the writing?

A. I would think that the words "No action for the time being" look very like the way I would write the same phrase myself.

Q. Right. And the "Per Minister" you don't think is your writing?

A. No, that would have been added because underneath are what I would recognise are the initials of my Private Secretary at the time, whose second initial was K, K for Kirwan.

Q. Mr. Kirwan?

A. Yes.

Q. Do you know if Mr. Kirwan was the Private Secretary to the previous Minister for Justice before you?

A. He was Private Secretary to Mr. Mitchell after he had served his time with me

Q. He was Private Secretary to Mr. Mitchell after you, your first sojourn. Do you know if he stayed on then with Mr. Doherty and Mr. Noonan?

A. I wouldn't think so at all, no, no, certainly not with Mr. Noonan. So there would have been a change then at that stage in 198 start of '83.

Q. So, therefore, if he signed that and dated it the 20/1, it's probably certainly not '87

A. No, because there is another there is a third page yeah, the second page has "1987" written on it and then on the third document on the same tab you see the document was given by the Minister to Security on the 27/7/84. So...

Q. That document, "Mr. Fustok's Friends," was actually attached to the first two pages, according to Mr. Crowley, and if you read his memorandum, that appears to be clear. So that's a document that he might have taken from the file and attached it to a note that he made in 1987, do you understand?

A. He may have for the purposes of briefing me at the time, he may have, yeah.

Q. If that manuscript note "No action for the time being" is your writing, then that would suggest that you were adopting some kind of stand-off attitude to this application?

A. Oh, certainly, because I could see the implications of what was involved in the decision that was being sought, I could see that very, very clearly, and this was spelt out to me in the briefing that I had received from the departmental officials who were more than convinced that I couldn't make a positive decision, which perplexes me, having listened to

some of the people here today.

Q. At that time they were more than convinced?

A. Unbelievably so and properly so and correctly so, and they had even prior to briefing me, they had already briefed my predecessor, my predecessor Michael Noonan, on the same position, and, again, the file shows that he, having had a meeting with Dr. John O'Connell, was very firm in his thinking on that, and I certainly wasn't going to change.

Q. I just want to come to another aspect of this document by referring you to another copy of the note which is in the next leaf, Leaf 43.

A. Yes.

Q. And this copy of the same note has two manuscript paragraphs at the end of it, do you see that?

A. I do, yeah, I do.

Q. Now, to help you on the next page, you'll see a printed version of the manuscript?

A. Yes, I see that. On that, I am reasonably sure that the handwriting is mine. The wording isn't mine, but the handwriting is mine, as if it were dictated to me, as if I needed additional information, but I am reasonably sure, I am prepared to swear that the handwriting is mine.

Q. Well, are you suggesting that you were at a meeting taking down what you were being told by civil servants?

A. I would suggest that in my office at whatever, I presume it would be Mr. Crowley, he is the person who normally came to me in relation to this particular case, I can't recall if

anybody else did, I am thinking of Bryan O'Brien, but rarely, Bryan might have been with him on occasions, but maybe was looking for additional information and I got this information because I am quite prepared to swear that that's my writing. Now, the words aren't mine, but I'm not disowning the fact that they are mine.

Q. Well, perhaps we'll just go through the content.

"The question of the Moubarak children was raised in September '83" well, "September" crossed out and then "'83 with Minister Noonan by Dr. John O'Connell. The difficulties mentioned in the note arose" meaning, presumably, the difficulties mentioned in the printed note

A. Yeah.

Q. " arose O'Connell and Noonan met in September '83 the matter was not proceeded with after that. There was a Garda investigation at that stage and this established the Moubaraks were not resident here at the time of application."

I think this is a reference to Mr. Slieman Moubarak, the father.

A. Mm-hmm.

Q. We now know the illegible wording to be a reference to birth certs.

Then underneath that, "Let sleeping dogs lie."

Then underneath that, "If the children in due course (over 18 and non-students) make an application which is not

relevant to their parents' position a totally independent application they could be naturalised provided, of course they comply with requirements living here good character, etc."

A. I think, if I may, that that, you know, in a nutshell, was the basis of the reasons why I couldn't proceed and grant that application, irrespective of what pressure was put on me.

Q. Do you see the expression "Let sleeping dogs lie"?

A. I do, yes.

Q. It seems to suggest, am I right, that better not to go near this, better to stay away from it, whatever. Is it an expression you would have used?

A. In one of the earlier documents we were talking about a criminal investigation into an allegedly false application made by the father of this particular girl, and of the fact, also, that one of the referees for that particular person was Dr. John O'Connell, and the fact that it was agreed by, I think it was, the late Minister Doherty of the day, so all these probably were factors as to why that phrase came to mind, "let sleeping dogs lie".

Q. Do you think you used it or somebody used it and you noted it?

A. I have been known to use it.

Q. Right, I see.

A. I am not disowning it, I'm not taking credit for it, but I have been known to use it.

Q. In fairness to you, it is an expression which may have evolved from a use of a similar expression elsewhere in the file by either by Mr. Noonan or by some civil servant in the course of a discussion with Mr. Noonan which was recorded at document 40; I'm not going to ask you to turn to it, but the same expression is used in relation to the selfsame issue.

A. It's a phrase I have used, and maybe it's a phrase that mightn't have been uncommon within that particular Department to other areas, perhaps, as well as the Aliens Section. Sleeping dogs are dangerous animals.

Q. They can jump up sometimes; isn't that right? And I think the expression is "and bite you," or whatever.

Can I ask you to turn now to book number or Leaf Number 44. There are a number of documents in this Leaf. One of them is headed "Naturalisation of Moubarak Children and Other Lebanese," and the other document is headed "Alien matters. Aide-memoire for Minister." Do you see that?

Have you

A. I see "naturalisation of Moubarak children and other Lebanese," and I see the aide-memoire, yes.

Q. Now, both of these documents were mentioned this morning.

A. I remember that, yes.

Q. And the reason they are together here is that they were together on the file and also they are numbered sequentially on the file, 163, 164.

Now, the first document I want you to look at is

"Aide-memoire for Minister".

A. Yes.

Q. Which reads "The question of naturalising a group of Moubarak children and others was considered in 1983 and in 1987. A serious problem arose. If we were to go ahead with the applications, a question would necessarily arise as to whether the parents' naturalisation in 1982 had been obtained on the basis of fraudulent applications."

"You decided to 'do nothing for the time being'" and that's in quotation marks "but may have discussed it with the Taoiseach at the time. (My note of the 29 July, 1987)."

Now, the note of the 29th July, 1987, is the note we were looking at a moment ago, so you were being referred, once again, to the same question, and it was noted here that "You decided to do nothing for the time being," which I think is the note we saw a moment ago as well?

A. Mm-hmm.

Q. I'm going to come back to that in a minute. I just want you to look at the other page, "Naturalisation of Moubarak children."

A. Okay.

Q. And again, I'll go through it fairly quickly. "The parents, Adnan Moubarak, wife, and Slieman Moubarak were naturalised in 1982. There were subsequent applications in 1983 and 1987 in relation to the children, but on both occasions it was decided not to pursue the applications.

(The question of the distinction between this and a refusal is discussed at paragraph 4.)"

Some of that intimation may not be, strictly speaking, correct, but the gist of it is correct.

"The reason for not proceeding with the applications was that to do so would necessarily raise the issue as to whether the applications for the parents' naturalisation in 1928 were fraudulent. The nub of the problem is that when their naturalisation was granted, there was serious doubts as to whether they were resident here at all. The applications on behalf of the children only served to reinforce, if not confirm, those doubts. Had the parents been resident here as claimed, one of the children would prima facie have been born here and would, therefore, have been Irish already, and, in any event, in some cases the applications failed to mention the children (required information) at all. In the case of one of the children, the parent in question stated positively that he had no children and that he was single in November 1981. In 1983, the child was stated to have been born in 1977."

Now, I want to go I don't want to weary you with reading out the next paragraph, which refers to the dealings between Mr. Noonan and Mr. O'Connell. And then go on to the next paragraph, paragraph 4: "The formula 'not proceed' was not a refusal." This seems to be a reference to a decision as to how the Department should respond to the approaches being made in relation to these people.

"A refusal on the grounds that the parents had obtained naturalisation fraudulently might be justified but could hardly be given as an explanation. That does not, however, exclude a refusal without explanation should that be decided upon.

"There are names other than the Moubaraks mentioned in the latest list. These have not been investigated to date and, naturally, if they are not connected, they can be processed in the ordinary way."

Now, the aide-memoire to you referred you back to your earlier, if you like, response to this matter being brought before you, which was to do nothing for the time being.

And you were referred to a formula that had been adopted by a previous administration, i.e. not to proceed, which is effectively the same thing, to put the thing on the long finger, to push it away in some way without necessarily becoming embroiled in giving reasons.

It's suggested here that you may have discussed this matter with the Taoiseach at the time, meaning that, possibly, the approach to you in 1987 had come not from Mr. O'Connell directly, but perhaps in a roundabout way through the Taoiseach, is that possible?

A. I think that, as I said earlier with regard to the applications that I dealt with in 1981, I didn't have a great personal relationship with Dr. O'Connell, and it had nothing to do with this business that we are talking about other matters and he was much closer to the Taoiseach

and he used the Taoiseach and the Taoiseach's Office and the Taoiseach's political position at a time when we were almost without a majority or probably had lost a majority, to exercise as much influence as he possibly could on the Taoiseach to bring about the granting of these particular matters, and, on occasions, after Government meetings, the Taoiseach would say "Can you not do anything in relation to this to keep O'Connell happy? Can you not move? Can you not move?" And I would always say "Look, there are many problems, very serious problems, and we'd be making a bad situation much worse. Let's leave it alone."

Q. That's probably what that discussion was about?

A. That's exactly.

Q. And you are now being armed with more information, as far as we can see?

A. Yes.

Q. Perhaps to brief you

A. The purpose of the aide-memoire, as far as I am concerned, is to make sure that when I'd be talking about the particular issue, that I didn't forget anything, because please remember, this was about 0.00001 percent of one day's work out of my agenda, and Dr. O'Connell didn't rate terribly highly on my telescope either, might I add.

Q. All I am saying is the fact it came to you in the form of aide-memoire is presumably because you said "Look, get me the gen on this "

A. "Give me an up-to-date on this. Let be me prepared for

whatever I have to contend with.

Q. If you could look at the next document, which is number 45.

A. Yes.

Q. I think this is the first time you have a sort of a more formalised approach from the Taoiseach where we are we have passed away from, 'by the way' our asides after a Cabinet meeting, to something a little more formal a direct letter from Mr. Haughey to you:

"Dear Gerry,

"I would be grateful if you would look as sympathetically as possible at the question of granting Irish citizenship to Ms. Faten Moubarak of 42 Willowbrook House, Northbrook Avenue, Dublin 6.

"This girl is 12 years of age and her father Slieman Moubarak, of the same address, is an Irish citizen. He is very anxious that his daughter, who resides here, should become a citizen also.

"I would be grateful if you would look into this case and let me know whether there is any problem about it and whether there are any further details that you would require."

And I think on the next page we have a response from you, which says,

"Dear Taoiseach,

"You were in touch with me recently on behalf of Ms. Faten Moubarak, 42 Willowbrook House, regarding her wish to obtain Irish citizenship.

"I am having inquiries made in this matter and I will be in touch with you again in the near future."

CHAIRMAN: I think we have seen from the other files, Mr. Collins, that was pretty much the automatic formula, whether it was even an opposition TD who wrote, anybody who wrote, that was the standard holding letter?

A. You are right. And in relation to the letter from the Taoiseach, it was, as has been suggested, that this was the first time that something was formally put to me in paper, but not taking away from Mr. Haughey, this is a standard-type letter that would issue between Ministers about business they might have with that particular Department. It did not put me under any additional pressure, I might add.

Q. MR. HEALY: The only thing I would ask you about is it does say, "I would be grateful if you would look into this case and let me know if there is any problem."

Now, at this stage you had come across this case several times; you were well briefed in relation to it, and the response you sent back was what I'd call the standard response, you know, "My constituent has rung me up, I'm doing my best," and in the ordinary way one Minister shows your letter to his constituent. But in this case you actually knew this was a non-runner; isn't that right?

A. Not alone did I know, but the man who wrote the letter also knew. It's no great secret. Because if it were a secret and if there weren't any problems, the matter would have

been dealt with six months before that, but there were very serious problems. It's always to be assumed, and properly so, that if a Taoiseach of the day makes a request, that you give that request priority, and, if it can be dealt with if it can be dealt with speedily, then one would do that out of normal courtesy to a colleague, let alone a Taoiseach.

Q. I appreciate that. But we know that there was another letter on the 14th December?

A. On the same year, 1988?

Q. Yes.

A. That's on file number?

Q. It's number 48.

A. I see that, yes.

Q. And this time it's the same thing, another reminder.

A. That would be the normal type of reminder one would get from a Private Secretary who was trying to do his boss's business.

Q. I don't know if you were here yesterday or

A. No.

Q. Have you read the transcript of yesterday's evidence?

A. I have read the transcript. Sorry, I read it rather quickly.

Q. I appreciate that. It's a long document.

A. Okay.

Q. And you may rest assured I'm not going to ask you about minute parts of it, but it wasn't yesterday in fact, it

was last Friday's evidence?

A. Yes, I read that transcript.

Q. Ms. Paula Connolly gave evidence, and she gave evidence really from files which disclosed contacts that she had had with the Department of the Taoiseach, and it would appear that there was a lot of telephone contact back and forth trying to see could something be done about this?

A. On a continuous basis. Perhaps, on occasions, every couple of weeks, and interestingly about those recorded calls, of those logged calls from the Taoiseach's Office, they continued long after the supposed meeting that Mr. Crowley had with Mr. Haughey, which, you know, raises many questions too, not for me, but many questions.

Q. But notwithstanding all of these calls and recognising that apart from the fact that you would be anxious to facilitate the Taoiseach and recognising that you would be anxious not to be discourteous to the Taoiseach, at no point did, if you like, the Taoiseach's Department, or Ms. Moubarak or Dr. O'Connell, get any satisfaction; is that right?

A. None, whatsoever, not from me.

Q. Now, you didn't, by the same token, write back and say, "No, we won't do this"?

A. No, nobody had written since the date of the application in 1983, whenever it was.

Q. To give you your due, you may not be being quite fair to yourself there, Mr. Collins. There was no application at this stage?

A. Sorry, but there was pressure.

Q. There was pressure.

A. One truthfully assumed that the application was on board because, you know, we had been discussing the issue and reporting on it, and I think the application there may have been an application in the Faten's own name, but, seemingly, that couldn't be dealt with

Q. Is that right? I am not aware of that.

A. I think the application that could only be processed was the application that was dated 1st May, and which was in her father's name.

Q. That was 1990.

A. 1990, 1st May, and was processed within a period of three days.

Q. Yes. I'll just come to this note that Mr. Crowley made of his dealings with the Taoiseach in 1989, and you'll find these at Leaf 49. Have you got a copy of it?

A. I have, yes, yes.

Q. And here, again, we have a reference to Mr. O'Brien in his memorandum or note to Mr. Crowley to "Further inquiries from the Taoiseach's Office about the possible naturalisation of Ms. Faten Moubarak."

It says, "Ms. Faten Moubarak is a daughter of Mr. Slieman Moubarak who was naturalised in September 1982. Thom's directly listed Ibrahim Moubarak for 42 Willowbrook House.

"At the Minister's request last May, I gave him a list of options in relation to number of naturalisation cases,

including that of Ms. Faten Moubarak see Tab A.

"The nub of the matter is that written evidence of 5 years' residence was not produced in respect of Faten's father."

He describes the problem again, the problem we have described time and again in various documents.

He goes on to say, "I recommend that the Minister be asked what he wants done about the Faten Moubarak case."

Now, I suppose there is a slight degree of impatience there from the point of view of the civil servants saying "when are we going to get to the end of all this pressure from the Taoiseach's Office?"

A. By the way, there was no pressure on the people involved in Aliens Section. The pressure from the Taoiseach's Office was on yours truly and nobody else. I was the only body he could pressurise.

Q. I appreciate that, and I'm not suggesting they were under pressure but they

A. They were getting somewhat annoyed, perhaps, yes.

Repetition and yeah, I can understand that.

Q. Then there is a note from Mr. Crowley to the Runai Aire; that's to Mr. Kirwan, presumably?

A. Yes.

Q. Saying "The Minister is familiar with the case and with the problem i.e. that to proceed with the daughter's application would necessarily raise the question of whether her father's naturalisation was obtained fraudulently.

Nevertheless, the matter is obviously on the Taoiseach's

Office list of unfinished cases and may continue to be so.

If the Minister does not wish to go ahead with the 'application' you might arrange to have it off the list."

So, at that stage Mr. Crowley appears to be suggesting that to Mr. Kirwan can you ascertain what the Minister is going to do, and, if he is not going to proceed, we'll get it off the list. That's a fair summary

A. That's a fair summary. I heard Mr. Crowley on that today.

Q. And then Mr. Crowley says that he makes a note of a discussion he had with the Taoiseach.

A. Before we go to the note with the Taoiseach can I bring something to the attention of the Tribunal, please? On the bottom left-hand corner there is weak print, but I believe that this file I believe it says something you know, this section down here and it's indecipherable on the copy documents that we have, but it might possibly be the date which my office returned that file back to the Aliens Section.

Q. Exactly, and I can tell you that date.

A. I think it's written here, sometime would it be March?

Q. Yes, 1989.

A. 1989. And would it be the 8th March?

Q. Well, I'm dredging up something from my own memory. I think it's the 3rd or the 8th. I checked it on the original this morning, and we'll get it up again.

A. Well, that rules out the month of January and the month of February and the first ten days of March for Mr. Crowley's

visit to the Taoiseach because he couldn't have written on the file because it wasn't in his office; it was in my office at that particular time, and I also I would love to be able to recall when it is, or when it was that we went into a General Election situation. You know

Q. July was the change of Government.

A. I think we probably went into an election situation sometime in May. I can recall the reason, the Taoiseach's return from Japan, and a private members' motion by the Minister for Health, which was the height of political stupidity at the time but he persisted in it, and we foolishly went for an election, very foolishly went for an election. But anyway, that's political history. But the date is important.

Q. I agree. The date is important in that if this, what you are suggesting, I think, and correct me if I am wrong, is that it didn't happen up to the 8th or the 3rd March

A. He couldn't have written on this, and what surprises me more than anything, Your Honour, in relation to the Department of Justice, that on a matter so serious as this, a matter which there was total opposition within the Department to the granting of this particular naturalisation certificate; that the very senior officer dealing with it, having received a direction which I believe was illegally given because I was the Minister, not the Taoiseach, that he didn't think it fit or worth his while to write the date on it, and he certainly didn't come

back to me, as he admitted today, and, to my knowledge, he didn't go to the Secretary of the Department who would immediately come to talk to me on the matter. There was, seemingly, a conspiracy of silence, as far as the Minister was concerned.

Q. You were kept out of the loop?

A. I wasn't told. I wasn't told. Nor I wouldn't have tolerated it because I couldn't abrogate my position as Minister for Justice and stand aside and allow a decision be made by the man who had no constitutional responsibility for that decision. It was my decision if it were to be made, and it wasn't made by me.

Q. Well, can I just deal with one aspect of that, but before I do, just dispose of two other matters?

A. Please.

Q. Firstly, you are saying you have made your point about the date, and I can now confirm I am reading from the original "Returned from Runai Aire on the 3rd March, 1989," so 3rd, 8th, doesn't make much difference. I think what you are suggesting is after that you would have gone into election mode and there wouldn't have been a lot of time for this sort of level of detail for something which wasn't a high priority?

A. Yes.

Q. I want to leave those two aside for a moment, and then I want to ask you whether, as Mr. Crowley says, and I think you may have answered this but I want to be clear about it,

you directed him to go to the Taoiseach?

A. I certainly didn't. In fact, Chairman, I was aghast during the course of the discussions I had with your staff earlier on, my first meeting with your staff, when it was revealed to me for the first time that Mr. Crowley had been to see the Taoiseach. I didn't believe he had, but the man has said it on oath, and, to the very best of my knowledge, I didn't do it. Now, I do want to say, and I want to be very fair and I want to be strictly honest about it; if we were if I got a phone call saying that there is massive pressure on from the Taoiseach's Office around election time, and that's a great time to exert pressure to get results, and if I got a phone call to say I may have said, I am just if he did go, I may have said, "Look, go and talk to the man and tell him, explain to him what's involved." But, as far as I am concerned, there is no way that I would authorise him to negotiate. Imagine sending a civil servant to negotiate with a Taoiseach. You know, it's not on. It's not on. It's David and Goliath with David's hands tied behind his back. No way. And then not to report back to me. If he did go on my instruction, I would be waiting for him to find out what happened, what transpired, where is the official report? Do you think I'd have tolerated any agreement between he and the Taoiseach on this issue? Because I was the person who would take the political fall for it, not anybody else. I am the person who would be held responsible. And Mr. Crowley, this

morning, said, and I am looking at my notes he decided he wouldn't talk to me because he clearly understood that he was opting out. How dare he? And he then he also said something terribly interesting this morning, that he hadn't he said that it was after the meeting with Mr. Haughey that he decided that this was a direction. You know, that didn't arise in any shape, in any form. The Taoiseach had no right to give a direction, full stop.

Q. And you wouldn't have complied with it?

A. No way. No way. How would I comply? Even, firstly, I knew it was all wrong; it was falsely based. And that I was going to be the person who was going to be held responsible, and there was no talks of tribunals at that time, but I was still going to be held responsible for making a bad decision. My credibility within that Department was gone overnight. And the second thing, from a political point of view, my predecessors, Dukes and Noonan, knew about it and they decided it couldn't be done, and do you think it was going to be kept a State secret from these boys? They'd have my political head on a plate within a matter of hours. You know, that's the practical reality of the whole thing and I wouldn't do that for any Taoiseach.

MR. HEALY: Thanks very much.

CHAIRMAN: Thanks very much indeed.

MR. BURKE: Chairman, may I ask a question? I don't have representation myself

CHAIRMAN: I appreciate, Mr. Burke. Maybe the best way this arose this morning is if I just took a little five-minute break and if I suggest you maybe have a word with any one of the three Tribunal barristers to maybe so that they might perhaps put, on your behalf, the matters that may concern you. Would we try it that way? That's the usual practice when people haven't had representation in the Tribunal sittings to date. So maybe if you'll have a quick word with any of the three of them

MR. BURKE: This will only take one minute, that's all.

CHAIRMAN: I'll let you do it that way. Just bear with us one moment, Mr. Collins.

THE TRIBUNAL ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

Q. MR. HEALY: Thank you, Mr. Collins. I just want to ask you, arising from something some discussion I have just had with Mr. Burke. Do I understand you to be saying that you did not certainly direct Mr. Crowley to go to the Taoiseach? That's absolutely unutterably your evidence, you did not direct him?

A. I did not direct Mr. Crowley to go in the way that he described for the purposes of negotiations and concluding and bringing about a decision, most certainly not.

Q. Just let me summarise it for a moment. You are saying if he went you are saying it's not beyond the bounds of possibility that you may have said, "look, go and talk to the man"?

A. Go and tell him what's involved and let him understand and

yeah.

Q. You are not suggesting, I take it, that anyone could infer from your evidence that Mr. Burke sent Mr. Crowley?

A. No, no, no way, I am not saying that.

Q. Because Mr. Burke only came into all of this much later

A. No, no, I appreciate that. I wouldn't do that. I am not saying that at all at all.

Q. Thanks very much.

CHAIRMAN: Thank you very much, Mr. Collins.

A. Thank you very much.

THE WITNESS THEN WITHDREW.

MS. O'BRIEN: Mr. Raphael Burke, please.

RAPHAEL BURKE, HAVING BEEN SWORN, WAS EXAMINED BY

MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Thanks very much for your attendance and cooperation, Mr. Burke. Please sit down.

A. Thank you, Chairman.

Q. MS. O'BRIEN: Thank you, Mr. Burke. Mr. Burke, what I propose doing is just referring you to your short Memorandum of Intended Evidence. I am just going to read it out and ask you to confirm that it's correct, and then there are just one or two small matters that I need to raise with you, apart from what's in your memorandum. Is that agreeable to you?

A. That's okay, yes.

Q. Very good. Now, you have furnished the Tribunal with a document headed "In the matter of the inquiry in relation

to circumstances surrounding the grant of certificates of naturalisation to a number of connected persons, including Ms. Faten Moubarak. Statement of Raphael P. Burke, prepared without the benefit of legal advice."

You have informed the Tribunal as follows:

"I was honoured to be Minister for Justice from the 12th July, 1989, until the 11th February, 1992. The first time I saw a copy of the relevant file in this matter, Department of Justice file 68/1/448, was when I was furnished with same by the Tribunal with their letter of the 8th November, 2005."

You state "As can be seen from the file, I did not make the decision on the naturalisation of Ms. Faten Moubarak, nor did I deal with the processing of the application," and it's signed by you and it's dated, I think, 7th December, 2005; is that correct?

A. That's correct.

Q. And I think, in fairness, Mr. Burke, you are quite right in relation to the file, the only document on the file which records any decision in the matter is the handwritten note of Mr. Crowley following his meeting with the Taoiseach in respect of which he gave evidence this morning, and that's the note at Divider 49 and the note to which we have referred, and, in fairness, as well, Mr. Crowley confirmed to the Tribunal that there was no Ministerial decision in the matter and that the only decision made on the matter was that of the Taoiseach.

A. Thank you.

Q. Now, just one or two matters, as I said, Mr. Burke. I think that you were although, as you say, you never saw the file and it's clear you made no decision I think you may have been aware of the case, would that be fair to say?

A. I was made aware of the case, yes.

Q. Can you tell the Tribunal the circumstances in which you were made aware of it and what you were told about it?

A. In the course of a briefing by Mr. Magnier, by Mr. Stephen Magnier, I was advised of the existence of the file and I was advised of the complications with the file, and I was strongly advised by Mr. Magnier that, in view of the complications and that I didn't have to involve myself in the file, that I shouldn't involve myself in the file, and I didn't. I took his good advice.

Q. And you never raised any queries whatsoever with the Aliens Section in relation to that file?

A. Absolutely not.

Q. And as I said, that's perfectly clear from the file, and, indeed, you also drew to the attention of the Tribunal the dates on which there had been work done on the file and you pointed out to the Tribunal that the last date on which there was any movement in the file was the 3rd January, 1989; that's the last time that, if you like, it came out of the Aliens Section, and we know from evidence already heard that was when it went to Mr. Collins, together with Mr. Crowley's memorandum?

A. That's correct. And if the file had come near me, there would have been, as you can see from the front of the file, on every occasion it went near the Minister there is a note on the front of the file "gone to Runai Aire" the Secretary, and there is no such evidence of any such thing on the file.

Q. In fact, we might just put that the front of that on the screen so we can show that the last occasion that there was activity in relation to the file or movement was the 3rd January of 1989. We'll just put that on the screen there and you'll see it beside you, Mr. Burke.

Maybe if we could just point to that entry.

A. That's correct, yeah.

Q. And then it's just brought forward, 7th May, 1999

A. It would have gone back to the Department, as we heard from Mr. Collins' evidence, and it never came out again until '99.

Q. Now, were you made aware, after the certificate of naturalisation had been issued, that it had been granted?

A. Sometime, I can't be precise about the time, in the course of conversations during other work, I was informed by Mr. Magnier that a certificate of naturalisation had been issued. It was just a passing comment, and that was it.

There was no further nothing further. It was just historical.

Q. Would you have been aware from what he told you or would you have otherwise been aware that that was as a result of

a decision of the Taoiseach?

A. No, I didn't get involved in the matter. It was a question of the business was done and it might have been mentioned to me about the Taoiseach, but I don't have a clear recollection.

Q. Can I just ask you, between the 1st May and the 4th May, is it possible that you might have been out of the country on business at that time?

A. This is when the matter was being processed within the Department?

Q. Yes.

A. It wouldn't have had to come to me in the processing.

Obviously it was processed on the basis of the decision that was made and it never left the area, so it would a processing like that would never go to the Minister's

Office anyway. But it is possible that I could have been

away. Ministers are in and out for various meetings, but I

can't be sure of that. I have checked, because I don't

have diaries, I have checked with the Office of the

Department of the Taoiseach to know was there any

delegation of power at the time. I am informed that they

have no record of it, but it was I checked that myself

just in recent times.

Q. That's very helpful.

Now, just the last thing I have to ask you, and I think you

will understand that I have to ask you this question; can

you tell me did you have any dealings with Mr. Haughey in

relation to this?

A. Absolutely not.

Q. And then, just finally, did you have any dealings with Dr. O'Connell in relation to it?

A. No. But in relation to Mr. Haughey, I should say this, and it's a matter for yourselves, obviously, and I understand, Chairman, you are carrying out your duties on the instructions that you were given, but we are dealing with a decision here of over 15 years ago

Q. Of course.

A. and seeing the file when it was sent to me in November, I can understand the humanitarian reasons, as given by Mr. Haughey to Mr. Crowley, for taking the decision not to punish the child no matter what had happened to the parents. I'm not saying I would have done it, I am just saying I can understand the humanitarian reasons as to why it was done.

Q. Of course. And in fairness, so did Mr. Crowley.

A. Yes.

Q. Thank you very much, Mr. Burke.

A. Thank you very much.

CHAIRMAN: Thank you indeed for your attendance and assistance, Mr. Burke.

THE WITNESS THEN WITHDREW.

CHAIRMAN: That concludes the witnesses for this week, and I think the situation as regards the fairly limited balance of this matter of evidence and one or two additional

matters, we will be taking it up early in January, at the earliest feasible date. I think just as regards Mr. Brady's finalising the dates of availability of those remaining witnesses, it's preferable that rather than name a precise day now, that I cause it to go on the web site immediately we're alerted to that, but it will be early January. Thank you very much indeed.

THE TRIBUNAL ADJOURNED UNTIL FURTHER NOTICE.