

THE TRIBUNAL RESUMED ON FRIDAY, THE 27TH OF JANUARY, 2006,

AT 11 A.M. AS FOLLOWS:

CHAIRMAN: Good morning.

MS. O'BRIEN: Sir, the Tribunal is sitting today to hear some further evidence in connection with inquiries that the Tribunal is making pursuant to paragraph (d) of its Terms of Reference into the grant of certificates of naturalisation to certain nationals of Lebanese and Palestinian origin.

It will be recalled that these naturalisations were granted in the years from 1981 to 1990, and the evidence which the Tribunal heard prior to Christmas primarily related to the applications for naturalisation and a certificate granted in the late 1980s. The evidence which the Tribunal expects to hear today relates to the earlier naturalisations which were granted in 1981 and 1982. That evidence will be given by Mr. John Olden, who was Assistant Secretary in the Department of Justice in those years and who had responsibility for the division within the Department which included the Aliens Section.

The evidence which the Tribunal expects to hear from Mr. Olden has already been outlined in some detail in the Opening Statement which was delivered on 16th December last.

Apart from Mr. Olden, the Tribunal also expects to hear evidence from Dr. John O'Connell. Dr. O'Connell is currently receiving medical treatment in the UK and is not

at this time available to attend the Tribunal's public sittings, but the Tribunal hopes that it will be possible to make arrangements for his attendance in the near future. Since the Tribunal's last sittings, the Tribunal has received correspondence from Mr. Slieman Moubarak, the father of Ms. Faten Moubarak who was naturalised on the 4th of May 1990, and from Mr. Mahmoud Fustok, from whom it appears from evidence heard by the Tribunal that a payment of £125,000 was made to Mr. Charles Haughey in February 1985 and who, it appears, was related to all of the persons to whom certificates of naturalisation were granted and into which the Tribunal is now inquiring. And I propose reading each of the items of correspondence into the record of the Tribunal.

And the first item of correspondence is dated the 27th of December of 2005, and it's from Nicole Salomon on behalf of Mr. Mahmoud Fustok, and it's addressed to the Tribunal office for the attention of Mr. Stuart Brady.

"I received the following note from Mr. Mahmoud Fustok in Saudi Arabia stating the followings:

"All of the names written in your letter dated the 5th of December, 2005" I should say, sir, that's the names of the persons who were naturalised "fled from the civil war in Lebanon in 1976-77 to London and Saudi Arabia. They were all homeless, many of their passports were expired and could not travel back to their country. All of the Moubaraks came to London with the exception of Slieman

Moubarak that fled to Saudi Arabia.

"1. Ibrahim Moubarak was employed in my offices working in the horses business between Ireland and England.

"2. Mohamad Moubarak was a minor, eight years of age, went to school in London, and later on, when he became 16 years of age, he moved to Ireland to learn the training business and lived in Ireland for seven years and worked for Vincent O'Brien and the Mullens.

"3. Mohsen Moubarak, also a minor, around ten years of old, went to school in London and then joined his brother Mohamad between England and Ireland.

"4. Slieman Moubarak went to Saudi Arabia, worked for Euro System until 1980, was sent by the company to Belgium and England for certain courses, and later on, employed several Irish technicians in the Euro System in Saudi Arabia. As of 1981, he was relocated to England.

"Ibrahim and Slieman Moubarak later on bought two flats in Dublin, opened bank accounts and were travelling back and forth between Ireland, England and Saudi Arabia because of the nature of their work.

"5. Faten Moubarak, born in 1977, her full story well-known by Mr. Haughey and Dr. O'Connell. A child who did not know her real father until the age of eight, kindly asked Mr. Haughey and Dr. O'Connell about her story.

"6. Kamal Fustok is my brother, who is married to an English girl and has three children, opted to live in England, never travelled to the Arab world since then.

"During that period of time I was preparing with the Irish government for an invitation of the King of Saudi Arabia to Ireland, the purpose was to inject business in Ireland, which was suffering economically. The visit was later on fulfilled. As a result, many Irish doctors and establishments were working in Saudi Arabia. I have explained the status of my brother Kamal for the officials and asked a favour for him that was granted. Under no circumstances did any official in Ireland ask me for any financial gift or donation of any kind, the £1/250,000 mentioned in your letter I am positive it was a purchase of a horse or a share in a stallion that I truly do not recall. I assure you everything was proper and legal. My friendship with all the Irish officials concerned was mainly for the promotion of the Irish economy. I assure you that all the people that got their Irish citizenship approximately 25 years ago cherish and honour it as long as they live.

"Sincerely, on behalf of Mr. Mahmoud Fustok,

Nicole Salomon.

"Mr. Mahmoud Fustok, Private Secretary in America."

And the second item of correspondence, sir, was received from Mr. Slieman Moubarak. And it's dated the 14th of January and was faxed to the Tribunal office.

And we will just put that on the screen.

"Dear Mr. Stuart Brady,

"It has been brought to my attention an official at the

Irish Department of Justice stated that I fraudulently obtained an Irish passport. The basis for his claim apparently was that when I completed the original application form some 25 years ago, I declared that I didn't have any children, whereas five to six years later I made an application for a passport for my daughter Faten.

"The explanation for this apparent untruth is simple:

Shortly after my marriage I divorced my wife, totally unaware of the fact that she was in the very early stages of pregnancy.

"I was away from Lebanon because of the civil war, and some years later I discovered that the daughter of that marriage was mine. I took full responsibility for her upbringing and applied for Irish passport for her. (There are official document proving the above-mentioned).

"I would therefore appreciate it if the official in question would set the record straight by withdrawing his allegation, kindly let it be known to all officials concerned. We all respect and honour our Irish citizenship.

"Yours respectfully,

Slieman Moubarak,

2751 South Ocean Drive,

Apartment 1201 North,

Hollywood, Florida 33019",

and the telephone and fax number.

The Tribunal has written to Mr. Slieman Moubarak and has

asked him why it appears that the information contained in his fax was not brought to the attention of the Department of Justice during the years that his daughter Faten's application was pending in the Department.

CHAIRMAN: I think the only other correspondence, Ms. O'Brien, was a brief medical report in relation to Dr. O'Connell which it was indicated was to be for my attention only. In these circumstances, whilst I will have regard to it, it's undesirable that that be opened in public session.

MS. O'BRIEN: Indeed that is the position, sir.

I will just call Mr. John Olden, please.

JOHN OLDEN, HAVING BEEN SWORN, WAS EXAMINED BY MS. O'BRIEN AS FOLLOWS:

CHAIRMAN: Good morning, Mr. Olden. Thank you very much for your attendance. Please sit down.

Q. MS. O'BRIEN: Good morning, Mr. Olden. Thank you very much.

Mr. Olden, you provided the Tribunal with a Memorandum of Intended Evidence, and what I propose doing initially is taking you through that memorandum, just asking you to confirm its contents, and then I might go back and discuss one or two of the matters with you, and in that regard we may refer to some of the documents which have been furnished to you.

A. Yes, please.

Q. I wonder just arrange for a copy of your memorandum to

be handed up to you so that you can follow it.

A. Thank you.

Q. Do you have it there?

A. Yes.

Q. Now, you informed the Tribunal that you joined the Department of Justice in 1955, and you were appointed Assistant Secretary in 1973. For several years you had responsibility for the division which included the Aliens Section. You ceased to have any involvement with that division from around the end of 1983. You say that your involvement with the naturalisation work of the Department was minimal as it formed a small part of the work for which you were responsible, which since your appointment as Assistant Secretary in 1973 included several divisions, amongst them the Prisons Division and divisions dealing with the Gardai. The Aliens Section was run by Mr. Peadar O'Toole, who, in the 1980s, held the rank of Assistant Principal and reported directly to you; is that correct?

A. That is so.

Q. While you as Assistant Secretary were not involved in the detail of the processing of the series of applications promoted by Dr. John O'Connell on behalf of a number of Lebanese and Palestinian nationals, in your capacity as Assistant Secretary you would, from time to time, have had dealings with the Minister in connection with these applications. In advising the Minister you would have been briefed by Mr. O'Toole, and you would have reviewed the

contents of the Aliens Section file; is that correct?

A. Correct.

Q. You state that the first of these series of applications arose from representations made to the Department by Dr. John O'Connell in June 1980. The applications were all residency-based applications and were made by, firstly, by Ibrahim Moubarak; secondly Mr. Razouk Daher; thirdly Mr. Philip Noujaim; and fourthly, Mr. Kamal Fustok. You state that formal applications were lodged on the 16th of December 1980. Mr. O'Toole furnished you with a memorandum in relation to these applications, dated the 17th of February 1981, in which Mr. O'Toole set out the relevant information which he had gathered in relation to the applicants. It was clear to you that Mr. O'Toole had considerable reservations about the fulfillment of the residency requirements in the case of all four applicants, and in particular in the case of Kamal Fustok, there appeared to be clear evidence that he had not been resident in the State for four years prior to the date of application. You, as recorded in your handwritten note of 18th of February 1981, advised the Minister that there appeared to be no basis for exempting the applicants from the requirement to give one year's notice and that there was no independent evidence that they had lived in the country for five years. It appears that your advice was taken by the then Minister, Mr. Gerard Collins, who by letter dated the 24th of February 1981 informed Dr. John

O'Connell that he would grant the applications when the year's notice had been satisfied, provided that all other preconditions for naturalisation were fulfilled?

A. Correct.

Q. You state that in anticipation of the expiry of the 12-month notice period, Mr. O'Toole furnished you with a submission in respect of these applications, recording that the applications had been submitted on the 18th of February 1981, that consideration was deferred until the expiry of the requisite 12-month notice period, that notice was given in June 1980, and that the Gardai had stated that the applicants were of good character and that they had resided in the country as claimed by them. As the Gardai had confirmed that the applicants had resided in the country as claimed by them, you forwarded Mr. O'Toole's submission to the Minister and confirmed to the Minister that he had already agreed to naturalise the applicants when the notice period had expired. And it appears from the departmental file that the four applicants were granted certificates of naturalisation on the 3rd of June of 1981; is that correct?

A. That's correct.

Q. You state that on the 10th of November 1981, six further applications for naturalisation were received by the Aliens Section through the office of the Ceann Comhairle, Dr. John O'Connell. And I think in the interim there had been a change of government, and the late Mr. Jim Mitchell had been appointed Minister for Justice, and Dr. O'Connell at

that stage was Ceann Comhairle?

A. Correct.

Q. You state that two of the applications were on behalf of minors, who were brothers of Ibrahim Moubarak, who had been naturalised the previous June, and that the other four applications were by Mr. Bechara Anis Shoukair, Mr. Michael Albinia, Mr. Slieman Youssef Moubarak and Mr. Wael Khairi. You have informed the Tribunal that you have noted from the file that by memorandum dated the 9th of December 1981, Mr. O'Toole briefed you and the Minister's Private Secretary in relation to those applications. Mr. O'Toole noted in his memorandum that there were no previous there was no previous record in the Department or in the Aliens Registration Office in Dublin Castle of the presence in the State of the applicants, the applicants had not given the statutory advance notice of at least 12 months prior to the application, and that the statutory prerequisites for naturalisation had not, therefore, been satisfied, and that the applicants should be required to account for themselves to the ARO. That is the Aliens Registration Office, I think?

A. Yes.

Q. You state that by letter dated the 23rd of December 1981, it appears that the then Minister, the late Mr. Jim Mitchell, informed Dr. O'Connell that 12 months' notice had not been given and that he would defer consideration of the applications until December 1982, when he would grant the

applications provided all the other preconditions for naturalisation were fulfilled. The naturalisation of the four applicants of full age was accordingly deferred until December 1982, when the notice period would be satisfied.

In relation to the application for naturalisation of the two minors, the Minister informed Dr. O'Connell that those applications should be made on their behalf by their parent or guardian. Is that correct?

A. That's correct.

Q. You informed the Tribunal that in relation to the minor children, on the 8th of February 1982, you advised the Minister against granting certificates of naturalisation on the basis of the information then available. You state that as appears from the memorandum on the departmental files, the two minor children were brothers of Ibrahim Moubarak, who had been naturalised on 3rd June 1981. It appeared to you and to Mr. O'Toole that the statutory preconditions of Section 16 of the Irish Nationality and Citizen Act 1935 had not been met, and your advice to the Minister at that time was in the following terms:

"To grant certificates in these cases without, at the very least, some proof that the youths are living here and not equally or better placed for naturalisation in some other country is, in my opinion, pushing our liberality very far"; is that correct?

A. That's correct.

Q. You state that it appears that the Minister decided that he

would grant certificates of naturalisation to the minors in view of their brother's Irish association, and he so informed Dr. O'Connell by letter dated the 26th of February, 1982. You state, however, that it appears that the naturalisations of the two minors were not progressed during Mr. Mitchell's term as Minister for Justice as they were still pending when the late Mr. Sean Doherty was appointed Minister in March of 1982. You state that as of that date, the four other applications which had been lodged in November 1981 were still pending and had been deferred for consideration until November 1982, to allow for a 12-month notice period, and the two applications in respect of the minor brothers of Ibrahim Moubarak had not been processed. Is that correct?

A. That is correct.

Q. You have informed the Tribunal that you have noted from the file that by letter dated the 8th of September 1982, Dr. John O'Connell, who continued in the office of Ceann Comhairle of the Dail, wrote to the Minister for Justice, the late Mr. Sean Doherty, in relation to the six applications. It appears from the contents of that letter that in the interim, there must have been some contact between Dr. John O'Connell and the Department, as he referred to his understanding that as far as the Department was concerned, the two minors had failed to call to the Department with their elder brother as had been required by Mr. Doherty's predecessor. It appears from the contents of

that letter that you must have discussed the six applications with the Minister, as you have noted from the file that you recorded on the 23rd of September that the Minister was satisfied that the applicants had been in the country for the stated period, that the Minister was further satisfied that they complied with the other requirements of the Act, that the Minister was prepared to dispense with them having to wait for a full year after they gave notice of their intention to apply, and that accordingly, the Minister had directed that they be naturalised forthwith on the payment of the appropriate fee.

You state that it appears that by letter of September 1982, the Minister confirmed the position to Dr. John O'Connell, and that certificates of naturalisation subsequently issued to the four applicants on 29th September 1982. Is that correct?

A. Correct.

Q. You have informed the Tribunal that it appears from the file that the two minors called to the Department on the 4th of October, 1982, and were accompanied by Dr. John O'Connell's Private Secretary. When it was indicated to them that it was expected that they would be accompanied by their brother Ibrahim Moubarak for the purposes of attesting their relationship, it appears that Dr. John O'Connell's Private Secretary informed the Department that their brother was unable to attend as he had business

commitments. Is that correct?

A. Correct.

Q. You state that it appears that on the 6th of October 1982, you brought to the attention of the Minister certain developments which had occurred in relation to these applications. You state that it appears that on the 4th of October 1982, Detective Garda Carmody of the Aliens Registration Office, a division of the Special Branch based in Dublin Castle, reported to the Aliens Section in the Department of Justice that the Aliens Registration Office had certain doubts regarding a number of Lebanese nationals who had registered with the office. These included the six who had just recently been naturalised. It appears that these reports were not forwarded to the Department prior to that date, as the Department were informed that the office was not satisfied with certain of the information that the applicants had furnished and had not proceeded to investigate the claims of residency.

Mr. O'Toole recommended that the Alien Registration Office should be instructed to proceed with their inquiries at that time and to ascertain how the applicants had lost their passports and to get detailed reports of the business engaged in by them and evidence of their residence since 1974. You have informed the Tribunal that you agreed with Mr. O'Toole's recommendation and brought this matter to the attention of the Minister and asked for permission to request that the Aliens Registration Office proceed with

the investigations proposed by Mr. O'Toole, and you state that there is no record that these investigations were authorised by the Minister. And is that correct?

A. Correct.

Q. You have informed the Tribunal that four further applications were received by connected persons in November 1982. These applications were made by Mr. Kamal Moukarzel, Mr. Adnan Moubarak, Mrs. Leila Moubarak and Mr. Antoine Ghorayeb. You state that on the 30th of November, the Minister's Private Secretary recorded that the Minister was satisfied from information available to him that the four applicants had been in the country since 1974 and that he wished to have them naturalised immediately. You have informed the Tribunal that on the 30th of November, you advised the Minister in a typewritten note that he would be leaving himself open to serious criticism if he went ahead with the naturalisations of the latest four applicants.

You stated in your memorandum that the material on the file was not adequate to enable the Minister to satisfy himself that the conditions had been met for naturalisation and that apart from one or two applicants, there was nothing to justify their being exempted from the residency or notice requirements. And you informed the Tribunal that the Minister's Private Secretary recorded the Minister's response on the 30th of November in the following terms: Minister said to go ahead and naturalise, as he had already decided that he would be providing satisfactory written

evidence.

A. Correct.

Q. You state that Garda reports were received in respect of the four applicants, and on the 3rd of December, 1982, you again furnished the Minister with your written advices.

You renewed your recommendation that the Minister should refrain from granting certificates of naturalisation in respect of these applications, and you suggested that the Minister consult the Attorney General before taking a decision in the cases. It is your view that your recommendation to the Minister that he should consult with the Attorney General prior to taking a decision in the cases was the strongest possible stance that you could take as a civil servant in circumstances where a Minister was proposing to take a course of action which you considered to be outside the limits of the Ministerial of his Ministerial discretion.

A. Correct.

Q. You state that the Minister's Private Secretary recorded the Minister's direction in manuscript on a copy of the typed memorandum of the 3rd of November 1982, which states as follows:

"Minister said that he was satisfied that these people had given a year's notice of intention orally and wishes to have them naturalised today".

You have informed the Tribunal that the manuscript entry on the note is also dated the 3rd of December 1982 and that

certificates of naturalisation issued to the four applicants on the 8th of December of 1982.

A. Correct.

Q. You state that you have noted from the file that on the 23rd of February, 1983, the Ceann Comhairle's office telephoned inquiring about the possible naturalisation of one Nahida Khairi, the wife of Wael Khairi, who had been naturalised in September 1982. An application was submitted on the 23rd of February 1983, and you have noted that you received a memorandum from Mr. O'Toole in relation to the matter on the 25th of February of 1983.

Mr. O'Toole's memorandum set out the background to the application and Mr. O'Toole's conclusion that he could not recommend that the practice of naturalizing spouses of naturalised persons should be followed in this case as he had doubts about the bona fides of the applicant and he had doubts about the bona fides of the original application made by her husband. You agreed with Mr. O'Toole's view, and you so advised the then Minister, Mr. Michael Noonan, as recorded in your handwritten note on a copy of Mr. O'Toole's memorandum. You have informed the Tribunal that the Minister agreed that the Gardai should carry out a check as proposed by Mr. O'Toole.

A. Correct.

Q. Is that correct?

You state that it appears that from the file on 18th April 1983, Dr. John O'Connell's Private Secretary rang the

Department to indicate that Dr. O'Connell intended to call into the Department the following day regarding applications for naturalisation of three minors, being the children of Adnan and Leila Moubarak, who had each been naturalised on the 8th of December of 1982. You state that the note records that Leila Moubarak wished to have her children registered on her passport but that there had been no reference to any children on the parents' original application forms. You state that it is not apparent from the file and you cannot recall whether Dr. John O'Connell did call to the Department in April 1983, but as application forms were received on behalf of the minor children of Adnan and Leila Moubarak, it is probable that he did so. You state that it appears from the file that the Minister agreed to meet Dr. John O'Connell in connection with these matters. You state that prior to meeting with Dr. O'Connell, the Minister wished to see the file, and you noted that the Minister received a formal or that you received a formal typed memorandum from Mr. O'Toole dated the 20th of September 1983, which you would have forwarded to the Minister, and you have noted your manuscript entry on a copy of the typed memorandum recording that the civil servants urged caution in dealing with the cases.

A. Correct.

Q. You state that in relation to the lengthy typed memorandum on the Department file setting out the full history of

events, you believe that this was prepared for the benefit of the Minister that would be Mr. Noonan prior to his meeting with Dr. O'Connell?

A. That is so.

Q. You state that you were aware that the Minister was meeting with Dr. O'Connell, but you were not present at the meeting. You have noted from the file that Mr. O'Toole prepared a handwritten note and placed it on the file in relation to the meeting which it appears to have taken place on the 21st of September, 1983, and appears to have related primarily to the minor children of the Moubaraks. You state that it appears from Mr. O'Toole's note that the Minister informed Dr. O'Connell that there were unresolved questions in relation to the application, including the whereabouts of the Moubarak family, who were not apparently residing at the address in Ireland stated in the application, and the fact that the Moubaraks had declared in their own naturalisation applications that they had no children. You state that the Minister also apparently drew Dr. O'Connell's attention to the fact that the children were born in the Lebanon when the parents were supposed to have been living in Ireland. You state that from Mr. O'Toole's note, it appears that Dr. O'Connell could not explain these details but that he had informed the Minister that he had no doubts about the children. You state that it appears that the meeting concluded by the Minister suggesting that the family call to the Department and meet

Mr. O'Toole about the unresolved issues.

A. Correct.

Q. You state that you cannot recall and that it is not apparent from the Department files whether the Moubaraks ever called to the Department to meet Mr. O'Toole about the unresolved issues; however, you have informed the Tribunal that in your experience, it was Mr. O'Toole's practice to note any significant development in the cases he was handling, and accordingly, in the absence of a note on the file, it is probable that the Moubaraks did not meet with Mr. O'Toole.

A. Correct.

Q. And you state, finally, that at about this time, you ceased to have responsibility for the division which included the Aliens Section, and you were free to concentrate on prisons. You left the Department of Justice in February 1985 on being appointed Secretary of the Department of An Gaeltacht?

A. Correct.

Q. Now, just before going back to discuss with you, Mr. Olden, the some of the specific matters to which you have made reference in your memorandum, I would just like initially to review with you Sections 15 and 16 of the Irish Nationality and Citizenship Act of 1956, so that you can just refer to the conditions that the Minister had to be satisfied of prior to granting a Certificate of Naturalisation. And this is so your evidence in relation

to this matter can be put in context.

Now, I wonder, do we have a copy to hand up do we have a spare copy to hand up to Mr. Olden so that he isn't straining to read it off the screen.

(Document handed to witness.)

MS. O'BRIEN: Now, Section 15 I will just read it out provides that "Upon receipt of an application for a Certificate of Naturalisation, the Minister may, in his absolute discretion, grant the application, if satisfied that the applicant complies with the following conditions (in this Act referred to as conditions for naturalisation):

"(a) he is of full age;

"(b) he is of good character;

"(c) he has (in the case of application made after the expiration of one year from the passing of this Act) given notice of his intention to make the application at least one year prior to the date of his application;

"(d) he has had a period of one year's continuous residence in the State immediately before the date of his application and, during the eight years immediately preceding that period, has had a total residence in the State amounting to four years;

"(e) he intends in good faith to continue to reside in the State after naturalisation;

"(f)" this is just a formal matter: "He has made, either before a justice of the District Court in open court or in such manner as the Minister, for special reasons,

allows, a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State."

And that is the Section 15 provision. And am I correct in thinking that it's Section 15 that would have governed the application of the adults for naturalisation?

A. Yes, I think so, yes, indeed.

Q. Can I just focus very briefly on paragraphs (c) and (d) because I think they are material to the matters that you were bringing to the attention of the various Ministers in relation to the applications. And I think C requires that there be one year's notice prior to the date of the application?

A. That is correct.

Q. And then (d), which, if you like, is a residency requirement, and it requires a continuous year's residency immediately in the year before the application and then four years in the preceding eight years?

A. That is correct.

Q. So it's kind of five years in total?

A. Absolutely.

Q. And then can I just refer you, over the page, to Section 16, and just the note states:

"Power to dispense with conditions of naturalisation in certain cases."

And it states: "The Minister may, if he thinks fit, grant an application for a Certificate of Naturalisation in the following cases, although the conditions for naturalisation

(or any of them) are not complied with."

And it gives then six instances where the Minister appears to have a discretion to waive strict compliance with the conditions to which we have just referred, and they are as follows:

"(a) where the applicant is of Irish descent or Irish associations;

"(b) where the applicant is a parent or guardian acting on behalf of a minor of Irish descent or Irish associations;

"(c) where the applicant is a naturalised Irish citizen acting on behalf of his minor child;

"(d) where the applicant is a woman who is married to a naturalised Irish citizen;

"(e) where the applicant is married to a woman who is an Irish citizen (otherwise than by naturalisation);

"(f) where the applicant is or has been resident abroad in the public service."

A. That is so.

Q. And they were the instances where the Minister had a discretion not to require strict compliance with the notice requirement and the, if you like, five-year residency requirement?

A. That is so.

Q. And I suppose, in terms of the applications that we are dealing with here and in respect of which you have furnished your memorandum, there would have been that type of discretion in the case of the applications by the

spouses of naturalised persons and also in the instance of applications on behalf of minor children of naturalised persons?

A. Correct.

Q. Now, can I just ask you, also, before moving on to deal with the specific material, could you just indicate for the Tribunal briefly, as best as you can recall, what the usual procedure was when the Department received an application for naturalisation which was residency-based?

A. Yes, it was a well-trying practice that when an application was received in the Department and it would come to the Department sooner or later anyway, whether it began with the guards or not that the guards were formally asked I think there was a set form; I think in fact there is a copy somewhere in this documentation. A set form was sent out to the guards asking various questions, and then, in the case of Dublin at least, there was this special office in Dublin Castle, which may be still there for all I know, the ARO, the Aliens Registration Office, and officers of that or Gardai from that office would in fact carry out do the legwork and carry out the inquiries, and then they would furnish, again in a special form, prescribed form, they would furnish the information to the Department. And normally, in most cases it was purely routine, because the applicants would have satisfied the conditions as to residency, they would have had their people vouching for them I think there were two or three people had to vouch

that they were of good character, and the matter would then be processed by Mr. O'Toole's section, which was a very small section, and eventually it would be that the file would be sent to the Minister with the recommendation, which usually was that the conditions had been fulfilled and that, therefore, it was in order for him to agree to naturalise.

Q. And tell me, what material, then, would the Minister have in front of him which would enable him to be satisfied of those conditions which we referred to in Section 16?

A. Well, I think that the whole file now I am speaking from memory, and it's a long time ago since I had anything to do with these matters he would get the whole file, but on the top of the file there would be a recommendation.

Q. Yes.

A. And usually from myself, in those years, simply saying "Everything here is in order; you may safely agree to naturalise." I can't remember the formula that we used, but presumably there was some set formula.

Q. I presume with that file would be the result of inquiries which the Aliens Section in the Department might have themselves carried out in terms of meeting with the applicant or so forth, and then, also, copies of the Garda report

A. Yes.

Q. on foot of the Garda investigations?

A. Absolutely, there would be a covering submission, normally

from Mr. O'Toole, or if he wasn't available, somebody else acting on his behalf, which would come again to me if I were in the Department; if I were not there, some other Assistant Secretary would presumably get it and then send it to the Minister.

Q. So it was a relatively formal procedure

A. Quite formal and quite routine.

Q. routine?

Now, can I just refer you, firstly, Mr. Olden, to the documents comprised in Book 70A. And that is a very small number of documents, and you may be aware that these documents only came to the attention of the Tribunal very shortly prior to the commencement of its sittings, and in fact, an order for production was made in respect of them on the 15th of December, just the day before the sittings, and in fact you didn't have these documents or the benefit of them when you were furnishing the Tribunal with your Memorandum of Intended Evidence. But really, what they do is they just flesh out some of the detail in connection with the early stages of the applicants, the first set of applicants?

A. Correct.

Q. And if I refer you to the document at 1, and this appears to have been a formal communication from the Aliens Registration Office to the Secretary, Aliens Branch, Department of Justice. And we see it's there on the overhead projector, dated the 21st of May of 1980, and it's

addressed to Secretary, Aliens Branch, Department of Justice.

It says: "Re 1. Daher Razouk (born 13 March '52) - Lebanese national; Moubarak, Ibrahim; Fustok, Kamal; Noujaim, Philip," and it gives the date of birth in each case and states: "The above named" it states: "The above named aliens arrived in Ireland in 1973, having escaped from their own country just as the trouble started. They travelled overland to France. From France they crossed to England and from England to Dublin. All this journey was undertaken without passports.

"Razouk Daher and Philip Noujaim reside at 62 Inchicore Road, Dublin 8, and Ibrahim Moubarak and Kamal Fustok reside at 20 Manor Villas, Mount Argus Road, Dublin 6. All four are anxious to go into an import and export business (cattle and sheep), and it is on this account that they have come out of hiding as they will need travel documents to do business on the Continent. They have more than ample funds to survive and for their proposed business venture.

Dr. J.F. O'Connell is prepared to go" guarantee sorry, "go guarantor on their behalf. They are anxious to remain in Ireland indefinitely and obtain Irish travel documents."

And it's signed "Patrick Carmody, Detective Garda".

Can I just ask you there, Irish travel documents, is that a first step towards obtaining a Certificate of Naturalisation?

A. No, not in the normal course. In fact, I had completely forgotten that there was such a practice, that people could in fact be supplied with travel documents even though they were not Irish citizens, but I take it from the file that that did occur. I don't think it occurred very often.

Q. No. Yes. I take your point. But Irish travel documents just enable someone to travel?

A. That's right, yes, absolutely.

Q. So it appears that certainly when they first came to the attention of the ARO, what they were looking for was just Irish travel documents?

A. Quite.

Q. Now, you will see there is a note on the bottom right-hand side of that handwritten note, and it looks to me as if it's Mr. O'Toole's writing, but perhaps you could assist on that point.

A. I am not 100 percent sure. It could very well be, but I don't know: It's certainly not my writing.

Q. Yes. I think it records "Dr. O'Connell told ARO on" I think it's 16/6 "16th June 1980, that he wants this cleared up before he goes off to Strasbourg tonight."

So if it is Mr. O'Toole's handwriting, presumably that was information with which he was provided by the Aliens Registration Office?

A. Presumably so.

Q. Now, if you just go over to Divider 2. And this seems to be a series of handwritten notes, and we will go through

them, but they appear to record, firstly, a communication between, I think, Mr. O'Toole and Dr. John O'Connell, and then, I think, dealings between the Aliens Section in the Department of Justice and the Aliens Registration Office, which is the Gardai.

And I think the top one records "Dr. John O'Connell phoned on behalf of the four Lebanese, and it appeared that what they want is Irish citizenship. I told him that they would have to give at least 12 months' notice of their intention to apply, and that as they had only recently reported, the background had yet to be established. Dr. O'Connell said that he would like to intervene further on their behalf as a TD."

And it seems to be initialled by Mr. O'Toole, and it's dated the 27th of June, 1980.

A. That's correct.

Q. And then below that, again I think it's Mr. O'Toole's writing, he records: "ARO" that would be Aliens Registration Office "to get them to give full details, passports and permissions held and stay in Ireland, et cetera". And again, that is initialled.

And then below that, it records: "P. Carmody will call on 1st July, 1980, to discuss the case."

That must be Detective Garda Carmody was going to call into the Aliens Section to discuss the matter; would you agree?

A. Yes, that is so.

Q. And then below that, this appears to record discussion with

Detective Garda Carmody "D/O Carmody called a Dr. Mahmoud (postgraduate) vouched for them and two of them were seen by D/O Carmody. They would not expand on their statement about getting into Britain without documents. I told D/O Carmody that they wanted detailed biographies and any supporting documentation from each individually, and that they should also come to the Department for interview. He said he would write to them to that effect."

And then it records, I think, down there on the left: "Ask AO for any information available."

A. No, I think that is Home Office, that is the the British Home Office, I think.

Q. Oh, the British Home Office, HO. That seems to record fairly kind of standard dealings and inquiries and contacts between the Aliens Section and the Aliens Registration Office?

A. Absolutely.

Q. Now, if you go over the page again to Divider 3, you see there is a copy of a letter from Dr. John O'Connell to Mr. Charles Haughey, dated the 21st of July, 1980, and it's on Dail Eireann headed notepaper, and it states:

"Dear Charlie, as I explained to you on the telephone, I need your help badly in regard to the case of the following four Lebanese:

"Mr. Razouk Daher, Mr. Philip Noujaim, Mr. Kamal Fustok, Mr. Ibrahim Moubarak, who fled at the time of the civil war in Lebanon and came into Ireland illegally in June 1973.

"I befriended them shortly afterwards and finally persuaded them to make application to the Aliens Office, Dublin Castle, for travel documents, as they are unable even to leave the country.

"They were interviewed by officials from the Aliens Office, who were quite satisfied about their bona fides, and the four persons in question produced documentary evidence about their arrival in Dublin as well as bank references vouching for the fact that they are financially independent.

"They are very anxious to have their position in Ireland regularised, as they are hoping to become Irish citizens and indeed want to establish business relations between Ireland and the Middle East, to Ireland's benefit.

"Their case has been submitted to the Department of Justice (a Mr. Peadar O'Toole), but the response has not been very sympathetic.

"I would consider it a very personal favour if you could intervene on their behalf, and I am prepared to vouch for their integrity.

"Kindest regards,

"Yours sincerely,

Dr. John O'Connell."

Now, this letter is on the Department of Justice file, so would I take it that the Taoiseach's Private Secretary had probably transmitted that to the Minister's Private Secretary, or perhaps the Taoiseach had given it directly

to the Minister; would that be the way in which this letter addressed to Mr. Haughey from Dr. O'Connell would have found its way on to the Department of Justice file in the Aliens Section?

A. Undoubtedly. But if it came from Private Secretary to Private Secretary, it probably would be accompanied by a covering note, and apparently there isn't any covering note.

Q. No.

A. Therefore, it's possible, and I can only say it's possible that it was handed for the Minister, but I don't know.

Q. Yes. Now, if you just go over the page, there is a copy of a letter from the Minister's Private Secretary, I think it's Mr. Kirwan, to the Taoiseach's Private Secretary. I don't know if you can read it; the type is very poor. But I will read it out anyway. It's dated the 15 August, 1990.

"Dear Private Secretary,

"In the absence of the Minister for Justice, Mr. Gerard Collins, TD, I am to refer to the representations made to An Taoiseach by Dr. John O'Connell, TD, on behalf of Mr. Razouk Daher and three other Lebanese, and to say that immediately following the Deputy's representations to the Office of the Minister for Justice, enquiries were commenced with a view to ascertaining the facts.

These enquiries are still in progress, and the Aliens have been asked to call to the Department to give details of their situation."

A. That's right.

Q. And that would be a reasonably standard letter as between the Minister's Private Secretary and the Taoiseach's Private Secretary simply keeping, presumably, the Taoiseach apprised of what was happening in a matter in which he had shown an interest?

A. Oh, absolutely, yes.

Q. Now, there is a further letter, I think two months later, of the 15th of October, 1980, again from the Minister's Private Secretary to the Taoiseach's Private Secretary:

"Dear Private Secretary,

"I am directed by the Minister for Justice, Mr. Gerard Collins, TD, to refer to the representations made to An Taoiseach by Mr. John O'Connell, TD, on behalf of Mr. Razouk Daher and three other Lebanese citizens and to say that these Aliens were asked to call to this Department to give details of their situation. As they have failed to approach this Department to date, it has not been not possible to ascertain the facts."

A. Correct.

Q. Is it likely that there is nothing on the file, the file that was produced to the Tribunal, Mr. Olden, that suggests any other query coming certainly formally from the Taoiseach's Office to the Minister's Office. Is it likely that this letter of the 15th of October which was, if you like, updating on the earlier letter, would have been prompted by a further request received from the Taoiseach's

Office, or is it possible that it would have just been sent in the ordinary course?

A. I think either is possible, but it's more likely that it was just a routine bringing forward of the file and then sending out an interim note to whoever it was in this case it happened to be the Taoiseach's Private Secretary, but it could have been any inquirer or any person making representations or passing on representations.

Q. Yes. Now, if you go over the page, you will see a note here; we will put it on the screen above and read it out.

"Taoiseach,

"This is the Justice file on Dr. O'Connell's Lebanese people. He will be calling to the office here again about 2:30 p.m." And it's dated the 22nd of October.

Now, can you assist the Tribunal at all as to whose handwriting that is?

A. Yes, it's Sean Aylward.

Q. Mr. Sean Aylward?

A. Yes.

Q. And what was Mr. Aylward's position at the time?

A. He was Private Secretary, as I understand it, to the Taoiseach.

Q. To the Taoiseach?

A. Mm-hmm.

Q. And he seemed to have been furnishing the Taoiseach with the Department of Justice file?

A. Well, I am not sure there may be a slight ambiguity

about that; it might be the file in the Taoiseach's office about the Department of Justice, but I am not sure. It would be quite unusual, I think, for the actual Department of Justice file to go to the Taoiseach's Office.

Q. Yes. It does say, "This is the Justice file"?

A. Yes.

Q. "On Dr. O'Connell." It doesn't say "This is our file".

A. Exactly.

Q. I mean, that seems to suggest that it is the Department of Justice file as opposed to any file in the Taoiseach's Office?

A. Yes, obviously it could well be so.

Q. How usual would it be for a Department of Justice file to leave the Department and to be in the Taoiseach's Office?

A. Oh, I think in those days quite unusual.

Q. Did you ever come across another instance where a file like that would be transmitted out of the Department of Justice and

A. Not that I can recall.

Q. and sent to the Taoiseach's Office?

A. But once a Minister has a file, then he may do it he may pass it on, if only for half an hour, to another Minister or to the Taoiseach. That could possibly happen.

Q. Yes.

A. But for a departmental file to go formally from the Department to another Department, including to the Taoiseach, would be very unusual.

Q. Well, there isn't anything to suggest certainly that it went formally, because there is isn't anything on the file to suggest that it went formally?

A. Well, it may have, but I don't know who would have done it. You know, it wouldn't have come spontaneously from the Department of Justice; there would have had to be a request.

Q. Now, the next document on the file is at Divider 7. And it's a I think a submission, initially, from is it a Mr. Fay?

A. Yes.

Q. In the Aliens Section, to you, and then you appear to have read it, and you sent it on to the Minister, and you have added your handwritten comments to his typed submission?

A. Yes, that is so.

Q. And it's headed "Lebanese nationals: Daher, Razouk; Moubarak, Ibrahim; Fustok, Kamal; Noujaim, Philip.

"Mr. Olden,

"The above-named Aliens first came to the attention of this Department in May 1980 when the Aliens Registration Office, Dublin Castle, reported their presence in the State. The report stated that these men had arrived here in 1973 after travelling overland to France and across here from Britain without passports.

"Aliens Section made enquiries of the Home Office in relation to stay in Britain, and one of these persons

(Mr. Moubarak) was known to the Home Office as having at

some stage a regular status there. Further information from the Home Office is still awaited. Dr. O'Connell made representations on their behalf in June '80, and he was told that the Department did not know much about the aliens, and that they should come in and discuss their situation. The Department has yet to hear from them."

And then below that, I think that is your handwriting immediately below it, is it?

A. It is, yes.

Q. "Mr. O'Toole takes serious exception to Dr. O'Connell's reflection on him."

And below that, again in your handwriting: "Minister, it is perfectly reasonable to expect these men to call here at their convenience to discuss their position. If they have been here for several years, they must have no fear"

A. "They need have no fear".

Q. "They need have no fear that any technical irregularity might result in their being peremptorily told to leave forthwith."

And I think that is dated the 14th of November?

A. That is correct.

Q. And you would have submitted that, then, to the Minister with your comments on it?

A. Well, that is my submission to him.

Q. Yes, yes.

A. Yes.

Q. Now, if you go over the page again to Divider 8, there is a

typed written communication to you from Mr. Kirwan, the Minister's Private Secretary, dated the 20th of November; you see that?

A. Yes.

Q. Can I just ask you, would it be unusual for you to receive a formal communication like this from the Minister's Private Secretary?

A. I think most unusual, yes.

Q. In what way would you consider that unusual?

A. Well, normally, a Private Secretary of course, there was, as would be apparent from these files, there was from time to time direct communication between the Private Secretary and Mr. O'Toole.

Q. Yes.

A. That was common enough, I think. But it was quite unusual for me to receive a formal submission of this kind from a Private Secretary. Nothing wrong with it; I mean, it's all right, but it's quite unusual.

Q. Just I hadn't seen anything like this before, so I was just wondering.

Now, it's Mr. Olden: "On Wednesday November 12th, I was approached in Leinster House by Dr. John O'Connell, TD, in relation to four Lebanese nationals as per the attached file."

So, in fact, the file appears to have been attached to this submission or this communication.

A. That would appear to be so, yes.

Q. "I explained to Dr. O'Connell that the matter was now at a point where it would be necessary for the Aliens concerned to visit the Department of Justice and discuss their situation and requirements with the officials there.

Dr. O'Connell outlined that the Aliens were unwilling to come to the Department as they feared expulsion or something else equally vague. Despite further requests to him that they come to the Department of Justice, he could not agree to bring them, and finally asked if I would meet them in Leinster House. This I agreed to do, and so informed yourself. On the following day, November 13th, Dr. O'Connell spoke with the Minister in Leinster House, and at that stage it was decided that Dr. O'Connell would bring the aliens to see not myself but the Minister, who said that he would be accompanied by yourself.

Dr. O'Connell was to contact me sometime this week to arrange dates, et cetera.

"Yesterday, November 19th, Dr. O'Connell spoke to me in Leinster House and asked that I meet him in the restaurant to discuss the Lebanese aliens. This I agreed to do, and met him in there at approximately 5:30 p.m. I asked him had he arranged with the Lebanese as to when would be most suitable to them to call to see the Minister. He said that the evening before, he had had a long meeting with them, and the result of this meeting was that they would not under any circumstances come to speak with either departmental officials or the Minister. The only excuse he

could give for this attitude on their part was a fear held by the Lebanese of being 'interrogated', a fear which he said was rooted in their previous experience in being interviewed by the Aliens Registration Office, Dublin Castle.

"At great length I explained to Dr. O'Connell that all the Department or indeed the Minister wished to do was meet with them and discuss what precise documentation they had, what their plans were and what precisely they required. He continued to be extremely vague about the issue and adopted a hard-done-by attitude in relation to the Department of Justice and officialdom in general, he explained that these people were related to royalty in their native country and had developed a fear of authority since the status quo changed there."

And then over the leaf: "He said that what in fact they required were travel documents as presently, with expired passports, they have no ability to travel outside of either Britain or Ireland. I explained to him that this made it even more necessary for us to meet and interview these people. He continued to hedge the issue and intimated that he had been told by An Taoiseach that the matter was now at decision stage and needed only the 'imprimatur' of the Minister and the documents required would be produced immediately. He said that he had been put in an extremely embarrassing position by the entire sequence of events and now wished that he had never got involved at all.

"He asked me to again approach the Department with the request that travel documents be supplied to the aliens on the information which we presently had about them and without the necessity of their meeting anyone.

"During the course of the above conversation, he again brought up the matter of Mr. Peadar O'Toole of this Department. He again emphasised that Mr. O'Toole had been unsympathetic to the case and described a phone call he had had with Mr. O'Toole some months ago. He alleged that during the course of this phone call, Mr. O'Toole had stated to him that he would 'see to it that these Aliens were not granted any such travel facilities'. He also stated that he had approached the previous Minister for Justice, Mr. Pat Cooney, TD, as far back as 1973/74 with regard to these aliens, but that the then Minister had requested addresses which Dr. O'Connell felt unable to give him as they had been given to him in confidence.

"The end result of the above conversation was that Dr. O'Connell again renewed the request that official residence status and travel documents be issued to the Lebanese without any necessity to be interviewed."

A. Correct.

Q. So it appears from this communication from the Minister's Private Secretary that he was meeting Dr. O'Connell in relation to that matter?

A. Yes, obviously so.

Q. Were there other instances that you had come across where

the Minister's Private Secretary would have had dealings in connection with a matter involving an application for travel documents pending in the Department of Justice?

A. Well, I am not aware of any, but I would assume that it was quite unusual.

Q. Do you recall at all, at any stage, did you meet with these applicants, as had been suggested, with the Minister?

A. No, never.

Q. Now, there is a letter at the next divider, and there is seems to be two versions of the same letter, one with an X through it and one with a line through it. I think the one with the X through it clearly mustn't have been sent; I think the one with the line through it, I discussed that with you, I think, before we sat, and again you weren't sure as to whether this may or may not have been sent, but I think I will refer to this one, although I won't refer to the one at Divider 10 which has the X through it.

A. OK.

Q. And it's dated November 1980:

"Dear Deputy,

"I am directed by the Minister for Justice, Mr. Gerard Collins, TD, to refer to your representations on behalf of four Lebanese and to say that it has yet to be determined whether or not these Aliens should be permitted to stay in this country, and to emphasise that it is imperative that they present themselves at the Department of Justice as soon as possible in order that the facts of their case may

be determined. Their presence in the State if they are here is contrary to the Aliens Orders, 1946 to 1978, as far as can be ascertained, and it is up to them to endeavour to regularise it, if possible. Their continued failure to report as already requested is in itself an offence under the Aliens Act, 1935, and if they persist in refusal to report, they merely aggravate their offences.

"I am to add that serious objection is taken to your misrepresentation of statements made by an officer of this Department to you in the course of a telephone conversation last June.

"Yours sincerely,

"Private Secretary."

Now, if I can take you on to Divider 13, which is the note to the Superintendent of the Garda Siochana from the Department of Justice. And, from reading it, it appears that two things had occurred: that firstly, travel documents had been issued in December to the four individuals concerned, and that applications for naturalisation had also been received. Would that be fair to say?

A. That would appear to be so.

Q. And I think it's Mr. Fay's writing, again, is it?

A. I think so. I think so, yes.

Q. Yes. And it's addressed to "Superintendent, Garda Siochana, SDU:

"I am to refer to Lebanese nationals Daher, Razouk;

Moubarak, Ibrahim; Fustok, Kamal; and Noujaim Philip, and to say that these aliens have been given travel documents.

The address is given, and their applications are as follows", and it just sets out the addresses.

"Please have a discreet check made to ascertain whether they live at these addresses and for how long they have lived here. They are understood to be in London at present."

And they would be standard checks that the Gardai would be asked to make in relation to

A. Quite, yes, this is obviously a standard form, it's a pre-prepared form, so that it is routine, yes.

Q. Now, if we go over the page again to Divider 14, again there appears to be one of these submissions to you from Mr. O'Toole to which you have added your comments and sent on to the Minister?

A. Yes.

Q. And it's dated the 12th of January, 1981.

"Mr. Olden,

"Forms of application for naturalisation have been received from four Lebanese. They claim that they have been here since 1973, a length of time which would, subject to some statutory conditions, qualify them for naturalisation. It is not evident that they satisfy all the statutory conditions."

And he quotes Section 15, that we referred to earlier.

He states: "As none of the applicants has given the

statutory notice of intention (or any notice that I am aware of) prior to the application itself, Condition C remains unsatisfied.

"Section 16 provides that the Minister may waive any of the conditions in certain cases, including that that (a) where the applicant is of Irish descent or Irish associations (and other cases not relevant).

"As you know, it has been long-established practice to interpret Irish associations as allowing for a waiver of the preliminary notice if the applicant has been resident here for at least ten years. We have not reduced the amount of years below ten, with the sole exception of John Heuston, and in his case, he at least had a residence in the State for 10 years before he applied. (At this stage, the Aliens Section has no information about the character of the applicants, but if they were here since 1973, they have not been given permission to be here and they did not report their presence to the Department or the Gardai until 1980. This is normally taken to be against the applicant, and what amounts to illegal stay is generally reckoned as not counting towards the statutory stay of five years out of the preceding nine.)"

And "May the applications be transmitted to the Gardai for the routine enquiries."

And then there is a handwritten note attached to the bottom of the typed note: "An inquiry to the Gardai as to their current addresses has been has not been answered yet."

And that is dated the 12th of January, 1981.

Then that would have come to you, and you appear to have added your note here: "Minister, may we proceed as at X above?" And that is asking if you can proceed to have inquiries made?

A. Yes.

Q. And I think below that, then, there is another X: "Done in mid-January 1981." That would have been the instructions to the Gardai to make the usual inquiries.

And below that: "ARO checked, asked to forward reports on the applicants before Friday the 13th."

A. Yes.

Q. And that would all be fairly standard procedure?

A. Yes, indeed.

Q. Now, they were the additional documents which came to light from the file which came to the attention of the Tribunal just before its sittings. And now if we turn to Book 70, and the documents in this book really follow on from the documents that we have been looking at.

A. Yes.

Q. Now, the document, I think, at Divider 1 there, which is another submission to you from Mr. O'Toole, which you then transmitted on to the Minister with your advice.

A. Yes.

Q. And it's headed: "Names of applicants", and it lists them, nationality, age, period of residence and general remarks.

"The applicants say that they arrived in the State in June

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 that 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.

"The applicants maintain satisfactory bank accounts with the 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 requirements appear 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 1980. They do not claim Irish associations which would entitle them to a waiver of the statutory requirement to give at least 12 months' notice of intention to apply for naturalisation, and there is no record in this Department of any of them doing so." And I think you bracket there "(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 Home Office that he was landed in Britain in March 1976 and was granted extensions there to December 1976 and to June 1977.

He arrived there again from Paris on the 5th of March, '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 Mount Street, London W1. His mother lives in London".

And that is dated the 17th of May [sic], 1981.

A. 17th of February.

Q. Sorry, 17th of February, 1981. I apologise.

And then there is your handwritten note, and you stated:

"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 here for five years."

And that is dated the 18th of February.

A. That is so.

Q. That, then, was transmitted to the Minister, and I think the Minister decided that he would defer consideration until the 12-month notice period had expired; is that right? You will see that

A. I don't see where is that recorded? I don't see it.

Q. I think Divider 6 and Divider 7. There isn't actually a record of his decision, but I think it can be inferred from the letter which it was directed should be sent.

A. Yes, absolutely, yes.

Q. And if I take you to 7. 24th of February of 1981:

"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.

"Yours sincerely,

"Gerard Collins,

Minister for Justice".

A. Yes.

Q. And then at Divider 9, there is a communication from Mr. O'Toole to you dated the 27th of May of 1981, in relation to the four applicants.

He states: "This application was submitted on the 18th of February, 1981, and consideration was deferred until the expiry of 12 months' advance notice of intention to apply for naturalisation (a statutory requirement in most cases).

Notice was given in June 1980."

And then Mr. O'Toole confirms: "The Gardai state that the applicants are of good character and that they have resided here as claimed by them."

And then there is your note to the Minister:

"Minister, you have already agreed to the naturalisation of these men when the notice period is up".

And that was dated the 27th of May.

A. Yes.

Q. And I take it that is because of the contents of the Garda report that's referred to in Mr. O'Toole's submission?

A. Absolutely.

Q. So although Mr. O'Toole certainly seems to have some doubts

A. Mm-hmm.

Q. the evidence that was available was the Garda evidence that they had been residing here as claimed by them?

A. Quite.

Q. And then if you go over the page to Divider 10, there is confirmation, a formal letter to each of the applicants that you were "directed by the Minister for Justice to say that your application for naturalisation has been approved.

"A certificate will be issued on receipt of the attached declaration form duly completed and the prescribed fee of $\text{€}100$ which should be made payable to the Secretary, Department of Justice.

"The declaration which must be made before a District

Justice in open court can be made at the commencement of business in Court Number 3, Morgan Place, Ormond Quay, on any Wednesday at 10:30 a.m.

"Yours faithfully."

I think the certificates were issued on the 3rd of June of 1980.

A. That appears to be so, yes.

Q. And I think there was a change of government then, Mr. Olden, on the 30th of June; isn't that right?

A. I am not very good on these things, I am afraid.

Q. Well, I think you can take it from me that it was the 30th of June.

A. If you say so.

Q. And I think the next Minister was Mr. Mitchell, the late Mr. Mitchell?

A. Yes.

Q. And I think at that stage, as well, Dr. John O'Connell had been appointed Ceann Comhairle of the Dail.

And I think the next set of applications, connected applications, were received on the 10th of December of 1981. I think you referred to that in your memorandum of information provided, and those applications were by Mr. Bechara Shoukair, Mr. Michael Albinia, Mr. Slieman Moubarak, Mr. Wael Khairi, and two minors, Mohamad Moubarak and Mehzen Moubarak.

A. Yes, I think so, yes.

Q. And there is a handwritten submission from Mr. O'Toole,

addressed to both yourself and to the Minister's Private Secretary, in connection with these applications, and you will see that at Divider 13.

A. Yes.

Q. Do you have that? And we can put it on the overhead screen. And it's "1. Mr. Olden", and "2. Runai Aire".

And it records: "Two Palestinians and four Lebanese have submitted applications for naturalisation through the Ceann Comhairle's office. Newspaper notice of the applications has not been supplied. There is no previous record in this Department, nor in the Aliens Registration Office, of the presence in this State of these aliens. If they are living here for six years, as they claim, they are here illegally.

They have not given the statutory advance notice, at least 12 months before application, of their intention to apply for naturalisation. Two of them are under 21 years of age and not entitled to apply themselves. It would appear that

(1) the statutory prerequisites for naturalisation have not been satisfied; and (2) these aliens should be required to account for themselves to the ARO as soon as possible. I attach one of the files pertaining to a previous set of applications by four other Lebanese who were living in secret in the same area as these applicants."

And it's signed "P. O'Toole", and I think it's dated the 9th of December of 1981?

A. That is so.

Q. And that would have come to you and would have gone to the

Minister's Private Secretary?

A. Yes.

Q. And, in fact, I think you have put a line through it with your initial to indicate that you received it and presumably that you considered the contents of it?

A. That is so.

Q. And over the page at 14, there is a record which appears to be created by the Minister's Private Secretary dated the 23rd of December of 1981. And am I correct in thinking, Mr. Olden, that the same Private Secretary remained on, even though there had been a change in Minister?

A. I think so, yes, John Kirwan, yes, yes.

Q. Yes. Is that usual, that where there is a change of Minister, the same Private Secretary remains?

A. Oh, it's certainly not unusual. Some Ministers want to, you know, have a particular person, or they don't want to have the Private Secretary to another person; it might have been a different party, or something, but, very often, it does happen that the Private Secretary is just kept on.

The Minister is always asked does he want to change, is he happy with what is the situation.

Q. Right. And it records: "The Minister wishes that similar arrangements be made in the case of these six aliens as was the case with the previous four Lebanese sponsored by Dr. O'Connell. A letter to issue to Dr. O'Connell this afternoon informing him that the Minister will naturalise them after the statutory 12 months."

And that is dated the 23rd of December of 1981.

And if you go over the page, again, you actually see the letter that was sent on the 23rd of December, 1981, to

Dr. O'Connell. It states:

"Dear John,

"I have considered your representations on behalf of Mr. Bechara Anis Shoukair and five other aliens who have applied for Certificates of Naturalisation. Of the six applicants, four are of full age (over 21 years) and two are minors.

"One of the statutory conditions which must be fulfilled before I can award a Certificate of Naturalisation to a person of full age 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 December 1981, I am therefore not in a position at present to grant the applications of the four adults, and I must defer consideration until December 1982. However, I shall grant the applications when the year's notice has been satisfied, provided that all the other preconditions for naturalisation are fulfilled.

"The application for naturalisation of the two minors - Mohamad and Mehseu Youssef Moubarak - must be made on their behalf by their parent or guardian. The appropriate forms for such application are enclosed."

And then I think at the bottom of the page there seems to

be a handwritten note of Mr. O'Toole's. It's difficult to read, but it seems to state "Dr. O'Connell was told by Runai Aire on"

A. 4th, 2nd.

Q. "4th of February '82 that the four were to report to ARO right away".

A. "He said he'd tell them", I think it is.

Q. Yes, "He said he would tell them."

A. "Tell them at the weekend."

Q. Yes. Yes.

So the Minister there appears to be informing Dr. O'Connell that, again, he would defer his decision until December 1982 when the 12-month notice period had expired, and that as regards the two minors, that the application should be made on their behalf by their guardian?

A. That is correct.

Q. And in that regard I think the Minister was really following the advice of you and Mr. O'Toole?

A. Yes.

Q. Now, if we go on to 16, Document 16, this appears to be a series of communications, again, this time relating to the two minors. And I think the one at the top of the page is from a Mr. Hanrahan to Mr. O'Toole; I take it Mr. Hanrahan worked within the Aliens Section?

A. He must have done at that stage. I just don't recall.

Q. And then I think one, again, from Mr. O'Toole to you, which is the second typed portion?

A. Yes.

Q. We can see it there. And then at the bottom of the page is your handwritten advice to the Minister; is that correct?

A. That is correct.

Q. If we just start at the top:

"Mr. O'Toole,

"1. Mr. Ibrahim Moubarak", and gives the date of birth, "has applied as guardian for the naturalisation of his two (minor) brothers." This was Ibrahim Moubarak, who had been naturalised in the previous June.

"2. It would appear that the whereabouts of the Moubaraks' parents are unknown, and Ibrahim therefore acts as guardian to his younger brothers. We have not, however, seen formal proof, if such is available, of guardianship.

And there 3 relates to a statutory fee.

And the next note, it's dated the 4th of February, 1982, and then below that is Mr. O'Toole's note to you which follows on from Mr. Hanrahan's note to Mr. O'Toole,

"Assistant Secretary,

"The Act (Section 16) allows for an application

"(b) where the applicant is a parent or guardian acting on behalf of a minor of Irish descent or Irish associations,

or

"(c) where the applicant is a naturalised Irish citizen acting on behalf of his minor child.

"Apart from the fact that we have no previous knowledge of these minors - how long they are here or whether they are

here at all (and one should have registered as a resident alien) - provision (c) does not apply: applicant is naturalised, but the minors are not his children. As to provision (b), the only Irish association of the minors is that their brother was naturalised in June 1981. I do not know that the applicant is their guardian, and their presence here was not reported to the Aliens Office.

"Can we process the applications as submitted (subject to fees being paid)?"

And that is signed by Mr. O'Toole. And it's dated the following date, the 5th of February.

A. Yes.

Q. And then there is your handwritten note to the Minister, the late Mr. Mitchell: "Minister, to grant certificates in these cases without, at the very least, some proof that the youths are living here and not equally or better placed for naturalisation in some other country is, in my opinion, pushing our 'liberality' very far."

And it's signed by you.

A. Yes.

Q. And it seems that the Minister, the late Mr. Mitchell, nonetheless determined that he would grant Certificates of Naturalisation to these two minors; isn't that right?

A. That appears to be the case, yes.

Q. Do you recall at all having any discussions you probably don't, at this remove with the late Mr. Mitchell in relation to this?

A. No, I don't recall.

Q. There is a letter here, anyway, from the Minister, the late Mr. Mitchell, to Dr. O'Connell dated the 26th of February, 1982:

"Dear John,

"I have now considered your very strong representations on behalf of Mohamad Moubarak and Mehsen Youssef Moubarak, who are anxious to become naturalised Irish citizens.

"I have decided that I will grant Certificates of Naturalisation to these young men on foot of their brother Ibrahim already being an Irish citizen and guardian of his brothers.

"I would, however, require that all three attend at my Department to attest to their relationship and to pay the statutory fee of $\text{£}1\frac{1}{2}$. Arrangements can be made through my Private Secretary, John Kirwan, to quickly arrange the formalities."

A. Yes.

Q. And it's signed by, I think, the Minister's Private Secretary?

A. Well, it's not too clear.

Q. By the Minister himself?

A. By the Minister himself, but I am not sure. I think it's by the Minister himself.

Q. Yes, it does seem to be the Minister's signature.

Now, I think we know that this application on behalf of the two minors hadn't progressed when there was another change

of government, and as regards the four adults who had applied in Mr. the late Mr. Mitchell's time, he had deferred his decision until December of 1982. And, again, there was a change in government in the interim, so that, in fact, there were no Certificates of Naturalisation granted during Mr. Mitchell's tenure; is that right?

A. That seems to be so, yes.

Q. But he had, in fairness, he had made a decision as regards the two minors, but he had deferred his decision until December 1982 as regards the four adults and indicated that he would consider it at that stage?

A. That is so.

Q. And I think the change of government was on the 9th of March, 1982, and the late Mr. Sean Doherty was appointed Minister for justice, and I think Dr. O'Connell, in fact, remained on as Ceann Comhairle?

A. I believe so, yes.

Q. Now, if you go to Divider 19, to the second document in that Divider, which is a handwritten note. And this appears to record a discussion between, I think, probably, an official within the then Minister's office and Mr. O'Toole in relation to the two minors; do you see that note?

A. Yes.

Q. And it's addressed "Runai Aire."

"As directed, I spoke to Mr. O'Toole, Aliens Division, re Ibrahim Moubarak, who is applying for Certificates of

Naturalisation on behalf of minor 'brothers', Mohamad Moubarak and Mehsen Youssef Moubarak. The three have not reported to the Department as requested in the previous Minister's letter of the 26th of February, 1982, and as far as Mr. O'Toole is aware, they have not reported to the ARO." And that is signed the 31st of August, 1982?

A. Yes.

Q. So presumably, some query must have arisen in connection with these two minors which prompted an official from the Minister's office to raise the matter with Mr. O'Toole?

A. That seems very likely, yes.

Q. Now, if you go over the page to Divider 20, there is a copy of a letter dated the 8th of September of 1982 from Dr. O'Connell to the Minister, the late Mr. Sean Doherty.

It says: "Dear Sean,

"I am very sorry for troubling you so much, especially at the present time when you have so many problems to contend with.

"My anxiety now is about the six Lebanese who have applied for naturalisation certificates. As you are aware, there is a particular interest in this matter.

"The thing that worries me, however, is that I was given to understand that the two younger Moubarak brothers failed to call to your Department with their elder brother on request.

"This is not so. They called there last February and signed the necessary documents.

"I should be most grateful if you would, as a personal favour to me, look into this matter as soon as possible, with a view to regularising the position.

"Best wishes,

"Yours sincerely,

"Dr. John O'Connell, TD,

"Ceann Comhairle."

And you will see there is a little handwritten note which

I correct me if I am wrong, but I think that is

Mr. O'Toole's writing; I am beginning to recognise it at this stage.

A. I think it is. I am not 100 percent certain, but I think it is.

Q. I think it records as follows we actually looked at the original yesterday: "There are no documents for minors to sign. There is no record of any" I think it must be "attendance"?

A. "Visit".

Q. "Visit"?

A. I think.

Q. Yes, "There is no record of any visit". And there is an X beside that, and then another X beside the second-last paragraph, where it was suggested that they had called the previous February and had signed documents?

A. Yes, that is so.

Q. So it was that would suggest that this letter came to the attention of Mr. O'Toole, because he made his comment

on the bottom right-hand corner?

A. That is so.

Q. Can I just ask you there, looking at that letter, the second paragraph of it, if I could just refer to you that specifically, again.

You see where Dr. O'Connell records his anxiety, and he then states: "As you are aware, there is a particular interest in this matter."

Now, I know that this is a letter addressed by Dr. O'Connell to Mr. the late Mr. Doherty, but I wonder, at all, Mr. Olden, were you conscious of there being any particular interest in these applications which were pending in the Department?

A. None whatsoever, no.

Q. You were aware, of course, that the then Taoiseach, Mr. Haughey, as regards the initial four applications, had been had made representation representations had been made to him by Dr. O'Connell, and there clearly appears to have been an interest on the part of the Taoiseach in those earlier four applications?

A. Yes, but from what I have seen on the file and from what I know, and I don't know anything outside what is on the file, it didn't appear to be a very strong representation; it was simply as one would interpret it, simply recording the fact that Dr. O'Connell wanted something done. And I wouldn't attach any great importance to the documentation that I have seen.

Q. Well, we know from Mr. Collins' evidence that the Taoiseach raised this with him on a number of occasions after meetings of the Cabinet?

A. Perhaps so. But then that would be something that I wouldn't know about.

Q. Now, if you just go over the page to Divider 21. And this is your own note

A. Mm-hmm.

Q. in your own hand, and in paragraph 11, I think, of your memorandum, you've indicated that you must have discussed this with the then Minister, the late Mr. Doherty, as you have recorded yourself what his decision was.

A. Yes.

Q. Do you recall discussing this with him?

A. No, I have only the most general memory of events at that time, and it would probably have been a very brief discussion with him, and I recorded it precisely as he had indicated. It would be quite unusual for me to record it so formally as this unless I was speaking precisely as he had told me how to record the matter.

Q. In the ordinary course, if you were with a Minister discussing a decision like this and the Minister made a decision, would you record it formally like that?

A. Well, that would hardly ever occur, that precise sequence of events. Usually there would be some documentation, and the Minister would indicate one way or the other on the documentation what he would decide.

Q. And you recorded as follows: "The Minister is satisfied that these aliens have been here for the stated period. He is further satisfied that they comply with the other requirements of the Act, and he is prepared to dispense them with having to wait the full year after the date of the notice of intention to apply. Accordingly, he has decided that they be naturalised forthwith on payment of the fee."

A. Yes.

Q. So his decision related to the four adults who had applied in the late Mr. Mitchell's time and which he had decided should be deferred until December of 1982, when the 12-month period had expired?

A. That is so.

Q. Can you assist the Tribunal at all as to why the Minister might have felt it was an appropriate case in which to waive the notice requirement?

A. No, I do recall, and I think it perhaps is recorded in slightly different context elsewhere, that he did say that he had information himself and that he had evidence and proof, that kind of line. He was never very specific about it, but I know that he did tell me that he had information.

Q. Did he ever make that information available to you?

A. As far as I know not.

Q. All right. If you go over to the next page, Divider 22. There is a letter from the Minister to Dr. O'Connell. There is no actual date other than the month and the year,

but it must have been either the 23rd or subsequently of September 1982.

And it says: "Dear John,

"I refer to your representations on behalf of Mr. Shoukair, Mr. Albinia, Mr. Moubarak, and Mr. Khairi of 18 Frankfort Park, Dundrum, who had applied for naturalisation.

"I will be prepared to award Certificates of Naturalisation as soon as the remainder of the necessary preliminaries are complied with, namely the publication of a notice in a daily newspaper that they are applying, declarations of loyalty (to be made before a District Justice), and the statutory fee of $\text{£}100$ each.

"Enclosed is a model notice, as set out on the application forms: One joint notice by all four applicants will suffice.

"I enclose, also, declarations of loyalty which are to be made in open court. The practice in the Dublin area is to make such declarations at Court No. 1, Morgan Place (beside the Four Courts) on any Wednesday at 10:30 a.m.

"Yours sincerely."

And then I think over the page, again I don't think we need to refer to it Dr. O'Connell responded, enclosing a copy of the advertisements, and he said:

"I would like to take this opportunity to thank you most sincerely for your kind and prompt assistance in this matter."

A. Mm-hmm.

Q. And if I ask you to turn to Divider 25, which I think records the attendance of the four adults at the Department, and also the attendance of the two minors.

It's John Skelly's [sic] note was John Skelly

A. Shelley.

Q. Was he an official in the Aliens Section?

A. I presume he was at that time, yes.

Q. And he would have reported to Mr. O'Toole?

A. Yes, that would be so.

Q. It says: "Note re collection of Certs of Naturalisation.

"The four adults called to the Department at (c) 11.00 on Wednesday, 29th October" and I think there seems to be a note there indicating that that should be September; do you see that?

A. That is so.

Q. " accompanied by Dr. John O'Connell. When I asked for the fees, Dr. O'Connell proceeded to write a cheque for $\text{€}400$, and he remarked that the Department had to be paid in 'Irish money', and Mr. Bechara produced a large wad of Irish money, but Dr. John insisted on paying.

"He also wrote a cheque for $\text{€}20$ for the two minors who called to the Department accompanied by Dr. John's Private Secretary. When I said I expected the boys to be accompanied by their brother, Ibrahim, the Private Secretary said, unfortunately, he had some business to attend to."

A. Yes.

Q. Now, if you go over the page, again, to Divider 26, there is another note or a series of communications at the top of the page from Mr. Skelly to Mr. O'Toole, dated the 5th of October, then from Mr. O'Toole to yourself dated the 6th of October, and then from you to the Minister, also dated the 6th of October. I think yours is on the top of the page; you see that document?

A. Yes.

Q. And I will just read that to you. "Mr. O'Toole" it should be on the screen.

"Mr. O'Toole,

"On Monday, 4th October, 1982, D/Garda Paddy Carmody called to this office and gave me 17 history sheets (photocopies attached) in respect of Lebanese/Palestinian nationals.

"Six of the persons named therein were granted certificates of naturalisation on Wednesday, 29th September, 1982.

"On Friday, 24th September, 1982, Detective Garda Carmody rang me regarding Mr. Michael Albinia, Mr. Slieman Moubarak, Mr. Khairi Wael, and Mr. Shoukair Bechara. He said he had received a telephone enquiry from SIB Garda Headquarters about the four (whether they had been naturalised or what). He mentioned to me that he had history sheets for the 17 who had reported to ARO in November 1981. I asked him what date, and he replied, 'Looking at my diary, the 22nd.' When asked why reports on these aliens were not forwarded to the Department, he answered that he was not satisfied with their stories that

they had all lost their passports. He added that the parents of some of them had been killed in the troubles in the Lebanon. I asked him to call to the Department on Monday, 27th September, with the history sheets. He rang on that day and Tuesday 28th to say that he was not able to come over and the remainder of the week he was on rest-days and did not call until yesterday.

"Detective Garda Carmody said he has not replied to the enquiry from Garda Headquarters. All the aliens stated that they had arrived in this country in 1973/74 through London and were living at Dublin addresses since then. They said they had not reported to the Gardai sooner because they were afraid that they would be required to leave.

"This morning I rang Detective Garda Carmody for some additional information. He informed me that the 17 aliens arrived at ARO individually and completed the history sheets themselves. They were not accompanied by anyone. (It seems to me that 6 of the history sheets were completed by one person and 11 by another). Detective Garda Carmody also stated that he has not seen the Aliens since 22nd November, 1981, which, incidentally, was a Sunday".

And that is John A. Skelly

A. Sorry, Shelley.

Q. I do apologise and dated the 5th of October 1982.

Then there is Mr. Olden's [sic] comments to you, which were presumably based on the information with which he had been

furnished?

A. Mr. O'Toole's.

Q. Sorry, Mr. O'Toole's comments to you, I do apologise,
Mr. Olden.

"Six members of the group have since been naturalised
(including two young brothers of a Lebanese who was
naturalised in June 1981).

"Should Aliens Registration Office be instructed to make
their enquiries now and get detailed reports of business
engaged in by the aliens since they came here, how they
lost their passports, particulars and evidence of stay here
since 1974, et cetera."

And that is signed by Mr. O'Toole and dated the 6th of
October, 1982.

And then your handwritten note to the Minister: "There is
something 'odd' about these cases. May the investigation
suggested at X below go ahead?"

And that is signed by you and dated the 6th of October of
1982.

And the X was whether the Aliens Registration Office could
be instructed to proceed to make their inquiries?

A. Yes.

Q. I think you stated in your memo that there is nothing to
indicate that the authority for them to proceed at that
stage was ever furnished?

A. That doesn't seem to be so, yes.

Q. Can I just ask you in relation to the history sheets and

that information: Would I be correct, therefore, in thinking that when you recorded the Minister's decision on the 23rd of September, that the Minister didn't have before him the Garda reports in relation to the applicants?

A. Well, I presume not.

Q. Yes. And of course, that information was coming after the fact, because the certificates had already been issued?

A. Yes.

Q. Now, if you go over the page to Divider 27, we know that, as you say on the 29th of September of 1982, those four certificates were issued, and we know, then, that if you like, the last four sets of applications applicants came to the attention of the Department, then, in November of 1982; is that right?

A. Well, I accept that it is, in fact that is the date, yes.

Q. Yes. Now, if you just go over the page to Divider 27, you will see there is a handwritten note, which I think is the Private Secretary's note, dated the 30th of November?

A. That is so.

Q. And it's headed "Kamal Moukarzal, Adnan Moubarak, Leila Moubarak, Antoine Ghorayeb".

And it records: "The Minister is satisfied from information available to him that the above four aliens have been in the country since 1974 and wishes to have them naturalised immediately."

Now, do you know at all, because it's not clear from the file, what information the Minister had before him?

A. I have no idea.

Q. There is certainly nothing on the file to suggest that he had any information?

A. Precisely, yes.

Q. At that stage, in fact, applications hadn't been received; isn't that correct?

A. I don't think so, no.

Q. Now, if we go over the page to Divider 28, there is your response, I think, to the Private Secretary's memo; would that be correct?

A. Yes.

Q. And it's addressed to the Minister. And you state:

"Minister,

"I have to point out that not only would the decisions to naturalise these Lebanese be extremely difficult to defend if challenged, but the validity of the naturalisation might be in doubt.

"We have serious doubts as to whether there is adequate evidence of the aliens' residence here to justify a decision that they comply with the residence requirements. We believe that the courts would require that adequate and verifiable evidence should be available on record to justify the exercise of statutory powers which is subject to the decision-maker's being satisfied that certain conditions are fulfilled."

And there you are referring to Section 15 of the Act which we discussed earlier?

A. Yes, yes.

Q. "The notes on file would not we think be" and you have underlined "not" "adequate. (Quite clearly, save in perhaps one or two cases, there is nothing", and you have underlined that as well, "in their cases that would justify their being exempted", which is also underlined, "from the residence requirements or indeed the requirement that they give a year's notice of 'intention to apply' for naturalisation)".

You have closed with stating, "You will be leaving yourself open to serious criticism if you go ahead with the naturalisation especially now that there is a 'cloud' over the ARO handling of the matter."

And it's signed by you and dated the 30th of November, 1982.

A. Yes.

Q. And on the top right-hand side this would have been submitted to the Minister, I take it, he would have considered it, and then you have his Private Secretary's response?

A. Yes.

Q. And that is also dated the 30th of November?

A. Yes.

Q. "Minister said to go ahead and naturalise as he had already decided and that he will be providing satisfactory written evidence."

A. Yes.

Q. And, in fact, all of those communications, the one that we referred to just earlier, your typed note to the Minister and the Private Secretary's communication to you, they all occurred on a single day?

A. Yes.

Q. The 30th of November.

Do you recall at all whether you had any discussions with the Minister about this, or were all of your communications, if you like, in writing?

A. I don't recall, but it's quite likely that I did talk to him about them at some stage, but I just don't recall any detail at all.

Q. If we just go over the page again, Divider 29, because you I think sent a further memo to the Minister on the 3rd of December of 1982

A. Yes.

Q. in relation to this. And it's headed: "Lebanese".

You say: "Minister,

"Garda reports on the four Lebanese have now been received.

"The reports do not" you underline "not" "say that the four have resided here for any period, and as I have said, we are not at all satisfied that there is adequate evidence that they qualify for naturalisation. (Our doubts must now relate to some of the earlier naturalisations of Lebanese also).

"These four have not of course made any formal application, and the 'history sheets' dated 22nd November, 1981 (a

Sunday!) do not constitute 'notice of intention'."

Would the history sheets be the sheets that are just compiled by the ARO?

A. Yes, I think that is what I was referring to there, yes.

Q. I see.

"A couple of Lebanese (minors) have been naturalised without being required to comply with the normal conditions, on the grounds that they had 'Irish associations' because a brother had already been naturalised. It seems to us that the decision in those cases is highly questionable.

"We would suggest that you consult the Attorney General before you take a decision in these cases."

And that is dated the 3rd of December, 1982.

And then, again, there is, I think, the Minister's response, which is recorded by his Private Secretary, and it's in handwriting on the bottom right-hand side of the document, and it records: "Minister said that he was satisfied that these people had given a year's notice of intention orally and wishes to have them naturalised today."

A. Yes.

Q. And I think, ultimately, they were naturalised on the 8th of December?

A. Yes.

Q. Now, in your memorandum, you stated that this was the strongest advice that you felt that you could give to any

Minister who you felt was acting outside the limitations of

his discretion

A. I believe so.

Q. you believe he should consult with the Attorney General?

A. I believe so, yes.

Q. Do you remember discussing that aspect of your advice with the late Mr. Doherty?

A. Not specifically, no, not discussing it with him, but I may have; I may well have.

Q. Apart from recommending that he consult with the Attorney General, is there anything else that a civil servant in that position can do

A. No

Q. when faced with a situation like that?

A. I think I formed the view, and I was thinking it over now since I got these papers, I must, in fact, have formed the view that he was going to go ahead anyway and naturalise, which he could do, of course, without any civil servants being involved.

Q. Of course.

A. And that, therefore, there was no point in making an issue, a public issue of it, even if that was, you know, advisable.

Q. Yes. And I think, in that, you record that, in fact, formal applications hadn't been received?

A. Sorry, yes.

Q. Yes. So again, just looking at your memo, you say that

there were no formal applications, and the history sheets

were dated the 22nd of November of 1981?

A. Yes.

Q. Sorry, of 1980. It can't be '81; it has to be 82?

A. Yes.

Q. And the Certificates of Naturalisation were granted on the 8th of December?

A. Yes.

Q. So I think that is about a three-week period?

A. Yes.

Q. I think it's a matter of public record that there was a change of government on the 14th of December of 1982?

A. If you say so.

Q. Yes. I think six days after the certificates were granted?

A. Yes.

Q. If you go on to Divider 36, we can see that as I said, there was a change of government, and Mr. Michael Noonan was then appointed Minister for Justice, and I think Dr. O'Connell ceased to be Ceann Comhairle. But there does appear to have been an inquiry that came through the Ceann Comhairle's office on the 21st of February of 1983, and you will see that is at Divider 36. Do you have a copy of that document?

I think it records: "Margaret Cullen, Ceann Comhairle's Office, rang today, 21st of February, 1983. What is the position about a Lebanese girl who is married to a naturalised (Lebanese) Irishman wishing to be naturalised.

"Discussed with Mr. O'Toole application form to be sent to home address. Dr. John O'Connell, TD, was making the inquiry.

"The lady's name is Nahaida El Labban, 25 Beech Drive, Dundrum, Dublin 14, who married Mr. Wael Khairi on the 12th of December, 1982. Mr. Khairi (Palestinian) was naturalised on the 29th of October, 1982."

And it appears to be signed by a Mr. Murphy; would be that correct?

A. Sorry, you have lost me at the moment. What divider are we on now?

Q. Divider 32.

A. 32. I thought it was 36. Sorry, could you repeat the question, then, please.

Q. Just, I think it was Divider 32 in my book. It's a handwritten document.

A. Yes, yes. Now the name Murphy doesn't mean anything to me. I don't recall a Murphy in that context.

Q. Right. It does seem to be a record of a call having been made, anyway?

A. Oh, yes.

Q. And an inquiry coming from Dr. O'Connell?

A. Yes.

Q. It seems to refer the call having come from the Ceann Comhairle's Office. But I think, as a matter of record, Dr. O'Connell was no longer Ceann Comhairle; but perhaps it was a mix-up with personnel, or something like that?

A. That could be. That could be.

Q. And we know that an application form was then received.

And if we go to Divider 34, there is another of the submissions that we have seen before, the typed submissions from Mr. O'Toole to you which you then transmit on to the Minister with your own advice?

A. Yes, yes.

Q. And it's dated the 25th of February 1983.

"Mr. Olden,

"We have received an application for naturalisation from a Lebanese woman who was married in London on the 21st December, 1982, to Wael Khairi, a Palestinian, who was given an Irish Certificate of Naturalisation on the 29th September, 1982. At that time he gave two Dublin addresses - 18 Frankfort Park and 62 Inchicore Road.

"At the time of his naturalisation, the former Minister, Mr. Doherty, was satisfied that he had been here for the statutory period of five years, and he was prepared to dispense with some of the statutory 12 months' advance notice. Routine Garda inquiries were not made, but there was no record of his presence in the State at any time since 1973 when, it was claimed, he came here.

"Dr. O'Connell, TD, has submitted this latest application, as he did all the others on file .

"The wife of a man who is naturalised Irish may be naturalised without complying with residential preconditions, et cetera, and in the ordinary course an

application like this would be submitted for approval as a matter of course.

"I cannot recommend that the practice be followed in this case as I doubt the bona fides of the wife as well as the husband. She was living in England for three years before her marriage, she claims, but now she claims that she is living in Ballinteer. If she is here, she is here illegally, since there is no application for an Irish visa that I know of.

"I recommend that a Garda be sent to the address to check whether or not she is there and to examine her passport for details of landings, et cetera."

Signed "P. O'Toole", dated 25th February, 1983.

And I think there, just beside his recommendation, you have written "I support."

A. Yes.

Q. And above, on the right-hand side, you have said, "Minister, as you will see from the file, see in particular notes flagged A and B, we have severe doubts as to whether these Lebanese qualify for naturalisation."

A. Yes.

Q. And am I right in thinking, then, just before below the date, this appears to record the Minister's view:

"Minister agrees, ask Gardai to expedite". And it's dated the 3rd of March 1983, and I think it's probably

Mr. Noonan's initials?

A. Probably not, in fact; I think it's the Private Secretary,

but I don't recall who it is. Or who it was.

Q. Then I think you have written something beside that as well?

A. I have written "Mr. Goff," who was, I must assume, the Principal Officer in between Mr. O'Toole and myself at the time, but who didn't play very much of a part in all this.

But maybe Mr. O'Toole was away at the time and I wanted it to be seen to immediately.

Q. And you have said "Urgent", and dated the 3rd of it must be March, I presume?

A. Yes, the 3rd of March, the 3rd of the 3rd, yes.

Q. And then if you go over the page again to 35, there is, again, a handwritten note recording, I think, communication between Dr. O'Connell's secretary and the Aliens Section.

It's.

"Mr. O'Toole,

"Margaret Cullen, Ceann Comhairle's Office, rang to say Dr. John O'Connell is to call into the Department tomorrow re applications for naturalisation for the three children of Adnan and Leila Moubarak, naturalised Irish (Lebanese).

"She wants to have her children put on her passport. There is no mention of children on their application form."

And that is dated the 18th of April, 1983.

And I think Mr. O'Toole, in his handwriting, has added

"Children aged 11, 10 and 6. Parents here since 1974", and he has put that in parentheses.

A. Yes.

Q. And you as you say yourself in your memorandum, there is no record of whether Dr. O'Connell called or not, but applications were received on behalf of these three minors as well?

A. Yes, that is my recollection now, yes.

CHAIRMAN: Mr. Olden, could I just check with you. I think you have been in the witness box for just on two hours now, and we would normally adjourn for lunch; but I think you are very much at the latter stages of your questioning by Ms. O'Brien, and I don't think we will be more than another ten minutes, so I will follow your own preference.

A. Ten hours, if necessary.

CHAIRMAN: Well, I know, Ms. O'Brien, you are suffering a little with a virus yourself. Are you capable of

MS. O'BRIEN: Quite happy, sir.

CHAIRMAN: to soldier on?

MS. O'BRIEN: I think another ten minutes should be enough to complete Mr. Olden's evidence.

Q. Now, I think in your Memorandum of Intended Evidence you had indicated to the Tribunal that you were aware that the then Minister, Mr. Noonan, had agreed to meet with Dr. O'Connell

A. Yes.

Q. in relation to these minor children, and that I think in advance of meeting with Dr. O'Connell, Mr. Noonan asked for a resume of the applications that were pending, and also asked to have sight of the file?

A. Well, he certainly asked to have sight of the file, which of course he would have got; but I don't know that he asked for that resume, and as far as I can recall, I had nothing to do with the preparation of that resume.

Q. Yes. I don't mean the lengthy document; I actually mean I don't mean the lengthy document. I meant the short submission of Mr. O'Toole, again to you, which you then transmitted to the Minister.

A. Ah, yes.

Q. And you will find that at Divider 39. I know your note to the Minister is dated the 20th of September of 1983, and Mr. O'Toole's to you is also the same date, the 20th of September, 1983?

A. Yes.

Q. And it's addressed to Assistant Secretary:

"The Minister wishes to see this file before he speaks to Dr. O'Connell on the 21st." So presumably the meeting must have been arranged for the 21st of September?

A. Yes.

Q. "There are four separate applications on this file for naturalisation (two of which, received in May 1983, have not been examined yet). The other two have been scrutinised carefully. The first, from Mrs. Nahida Khairi, wife of a man who was naturalised in September 1982, and the second by Mrs. Leila Moubarak on behalf of three young children. She was naturalised in December 1982. In the normal course, such applications (consequential

naturalizations) are examined only cursorily and granted almost as a matter of course, but the background to these applications is far from normal and some investigation of the applicants was made.

"1. Mrs. Nahida Khairi, Lebanese, applied formally on the 23/2/83, claiming that she had lived in England from 1979 to 1982 and in Dublin in 1983. She married Mr. Khairi in London on 21/12/82. She gave 26 Beech Drive, Ballinteer, County Dublin, as her address. In view of doubts as to the bona fides of herself and her husband (see paragraph following), the statement was investigated, and it appears that neither she nor her husband had any residence at the address given. They are known to the occupants (caretakers, seemingly) but were seldom seen there. It became evident from her passport (issued London 17/12/82, around the time that she married Mr. Khairi) that she went away from Ireland to Britain shortly after and returned on the 30/3/83. Her passport was sent to the Department on the 8th April by a detective officer whose statements about the Lebanese are questionable. He said that they were coming to live at the Ballinteer address. On the 21st June, when they called to this Department to collect the passport to travel abroad, I found out that they had travelled here from London to Dublin the previous day. They were leaving shortly afterward. We have since obtained a police report that the couple were resident in London and that she was booked on a flight from London to

Malaga about a week after I saw them.

"The naturalisation of Mr. Khairi was completed by direct instruction of the Minister in September 1982, instructions which were given before the usual departmental and Garda inquiries had been completed satisfactorily. The departmental opinion at the time was that the bona fides of his application (and those of some others on file) was far from evident. See tabs X and Y 1982 on file.

"Your previous submission to the Minister dated 25 February, 1983, is tabbed Z. Garda inquiries seem to justify the misgivings of the Department about these applications. The background of several other applications on file is also unsatisfactory.

"2. Application for naturalisation of children of a married couple who have been naturalised. Earlier comment immediately hereunder. A check established that the family were not at the address stated."

And then at the top of that document, on the front page, you have added your comment: "We would urge caution in dealing with these cases." And that is dated the 20th of September.

A. Yes.

Q. Now, as you stated in your memorandum, you were not present at the meeting which Mr. Noonan had with Dr. O'Connell, but you were aware that they were meeting; and you have noted from the file that Mr. O'Toole appears to have prepared either a contemporaneous report or, alternatively, a report

based on information furnished to him by Mr. Noonan of that meeting, which is dated the 21st 28th of September?

A. Yes.

Q. And if we could just have that on the overhead projector.

And it reads: "Dr. O'Connell came to see Minister on 21 September, '83, about the children of the Moubaraks, in particular one of them who needs some kidney treatment in USA and does not have a passport. Could anything be done about an Irish passport? Senator Kennedy could get the girl into USA, but only for a specified time, and this could not be spelt out. I was present. The Minister said there were unresolved questions, including the whereabouts of the Moubarak family, who were not of the address in Ireland stated, and the odd fact that the Moubaraks declared in their naturalisation application that they had no children. Also, the children were all born in the Lebanon when the parents were supposed to be living here. Dr. O'Connell could not explain these details, but he had no doubt about the children. When asked, he did not know whether the sick child could get or had a Lebanese passport. He would find out about it. He thought there was a difficulty about Lebanon passports, but he was told that Mrs. Khairi got a Lebanese passport in London in December 1982. The Minister asked that the family call in to the Department to see Mr. O'Toole about these unresolved issues. Dr. O'Connell said that could be arranged.

Minister suggested that his Department would write to the

Moubaraks to ask them."

It's signed "Peadar O'Toole".

And just at the very top of that, Mr. O'Toole appears to have written: "I spoke to Security Section with the recent which ordered the recent Garda investigation.

Told best to let sleeping dogs lie. I agree.

Peadar O'Toole."

That is dated the 21st of November of 1984, so that appears to be sometime long after the

A. Yes, 12 months later, yes.

Q. the meeting.

Now, there is no record that Dr. O'Connell, or indeed the Moubaraks, ever came in to discuss this with Mr. O'Toole.

And as you said, the probability is that he didn't, because Mr. O'Toole was a very careful person who kept a record of all significant developments on the file that he was dealing with. And I think we know as well from the departmental file, that applications in respect of these three minors do not appear to have been proceeded with?

A. That would appear to be the case, yes.

Q. Now, there is just one last matter I want to ask you about, Mr. Olden. And I appreciate that you may have not been directly involved in the Aliens Section, but can I just refer you to a final document at Divider 41. And it's not it's not dated, but it appears, from a note on the top right-hand side, that it must have come into existence either on or before the 27th of July, 1984, so that would

be during Mr. Noonan's tenure as Minister for Justice.

And you see it's just headed "Mr. Fustok's friends". And then it lists a number of persons?

A. Yes.

Q. "The children of Adnan Moubarak." They are the three children that were the subject matter of the meeting between Dr. O'Connell and Mr. Noonan, and then Slieman Moubarak, who had been naturalised, and his daughter Faten Moubarak, in respect of whom we heard evidence before Christmas, and then two other persons who we needn't mention because they haven't featured at all in the evidence, but connected Lebanese or Palestinians associated with them.

You will see, at the top right-hand side there, it records:

"Document given by Minister to Secretary on the 27th of July, 1984."

A. Yes.

Q. And you see the document is headed "Mr. Fustok's friends"?

A. Yes.

Q. Do you remember at all, was there any association between all of these applicants, all of the Moubaraks and so forth, with Mr. Fustok?

A. No, I don't know at all.

Q. Yes.

A. The names would have meant very little to me even when I was dealing with the cases, because there is just a list of names, and that would be it.

Q. And could you just tell me, who was the who was the Secretary General in the Department in 1984?

A. Andy Ward.

Q. I see.

Thank you very much. Thank you, Mr. Olden.

A. Thank you.

CHAIRMAN: Only one matter in conclusion, briefly, Mr. Olden. We did hear quite early in your evidence this morning of some concern being expressed by Dr. O'Connell that Mr. O'Toole had been unsympathetic or unhelpful in his approach to some of the Lebanese applications. Had you any reason or concern to believe that Mr. O'Toole was doing other than properly applying his skill in vetting these applications and referring them up the line through yourself?

A. None whatsoever. Mr. O'Toole was very careful, and he was also very thorough; he would not take, you know, somebody's statement lightly if he thought it was doubtful, but beyond that, he wouldn't be discourteous.

CHAIRMAN: Yes, indeed.

I am very much obliged, Mr. Olden, for all your assistance, both today and in preparation for your evidence. We have managed to finish it now without requiring to call you back in the afternoon. So thank you very much indeed.

A. Thank you very much.

CHAIRMAN: That concludes the immediate evidence on this matter.

Ms. O'Brien, the Tribunal is making inquiries as to the feasibility of the brief remaining evidence that you referred to, and there is also another portion of unrelated evidence which the Tribunal is in the course of seeking to finalise, and an announcement will be made at the earliest possible time in the usual manner.

Thank you very much.

THE TRIBUNAL THEN ADJOURNED UNTIL FURTHER NOTICE.