

STRICTLY PRIVATE AND CONFIDENTIAL

REVIEW CONDUCTED BY THE HONOURABLE MS. JUSTICE DENHAM  
(CHIEF JUSTICE OF THE SUPREME COURT 2011-2017)

HELD AT GREEN STREET DUBLIN 7  
ON TUESDAY, 8TH SEPTEMBER 2020

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ATTENDANCES

IN ATTENDANCE: MS. JUSTICE SUSAN DENHAM - THE REVIEWER  
MR. SHANE MURPHY SC - LEGAL ADVISER  
MR. PATRICK CONBOY - RESEARCHER  
  
MR. JUSTICE SÉAMUS WOULFE  
MR. MICHAEL COLLINS SC

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1 THE MEETING COMMENCED ON TUESDAY, 8TH SEPTEMBER 2020 AS  
2 FOLLOWS:

3  
4 MS. JUSTICE DENHAM: I received a letter dated 25th  
5 August 2020 from the Chief Justice formally requesting  
6 me, on behalf of the Supreme Court, to consider certain  
7 questions arising out of the attendance of  
8 Mr. Justice Woulfe at an event in the west of Ireland on  
9 19th August 2020 and to report conclusions and  
10 recommendations to the Chief Justice.

11  
12 I am asked to consider whether Mr. Justice Woulfe  
13 should have accepted the invitation to dinner; and, in  
14 addition, whether he should, in all the circumstances,  
15 have left the hotel in light of the situation  
16 prevailing. Further, whether he should have attended  
17 the golf event without attending the dinner.

18  
19 In the context of these questions I was asked also to  
20 consider whether there was any relevant codes of  
21 practice or guidelines and to make any recommendations  
22 in that regard which I consider appropriate.

23  
24 In accordance with the terms of reference set out  
25 above, I wish to emphasise that this review is solely a  
26 review of the information provided to me and does not  
27 in any way constitute an adjudication or purported  
28 findings of fact in relation to the events referred to  
29 herein.

1           Moreover, insofar as this review contains any opinion  
2           or advice, this is provided strictly to the  
3           Chief Justice, the Honourable Mr. Justice Frank Clarke,  
4           - as an expression of opinion for the benefit of the  
5           Supreme Court.

6           MR. JUSTICE WOULFE:    Could you slow down, slightly,  
7           Judge.

8           MS. JUSTICE DENHAM:    I'm just actually -- that is just  
9           the letter from 25th August. I will go a little slower  
10          now. Sorry.

11  
12          Accordingly, for the avoidance of doubt, I will be  
13          expressing an opinion.

14  
15          This is a non-statutory review. It is not a  
16          fact-finding exercise. I propose to listen to what  
17          Mr. Justice Woulfe says and what is said and presented  
18          on his behalf and to consider and reflect upon it all.  
19          I propose to exercise fair procedures, appropriate to  
20          such a review in accordance with the law, and as  
21          recently described by the Supreme Court in  
22          Shatter -v- Guerin.

23  
24          When drafted I will send to Mr. Justice Woulfe a copy  
25          of the draft review. I will consider, if he wishes,  
26          his views on the draft. I do not intend to publish the  
27          report other than to the Chief Justice.

28          MR. COLLINS:    Thank you very much, Judge. Judge, I was  
29          proposing to make a few introductory remarks just

1 generally about the matter before you engage in your  
2 discussion and questioning with Judge Woulfe. What I  
3 was going to do is really I have a note of six general  
4 topics that I was going to try to cover.

5  
6 First of all, I was going to say something briefly just  
7 about the nature of the process that we're engaged in,  
8 as you yourself have already outlined; secondly to  
9 discuss briefly what applicable standard of conduct is  
10 it that you have to express a view on questions by  
11 reference to. So, for example, should Judge Woulfe  
12 have done this or not done this? What standard does  
13 that should imply and what are you measuring it  
14 against?; thirdly, very briefly, the question of the  
15 standard of review that you might adopt, should it  
16 become necessary; fourthly I'm going to look at what  
17 I'll call the Covid issue generally - and we'll discuss  
18 briefly what exactly is the issue; fifthly, I'm going  
19 to discuss what I might loosely call the separation of  
20 powers point, but was there any impropriety or  
21 appearance of impropriety in the fact of Judge Woulfe  
22 attending the event which was styled an Oireachtas  
23 event?; and finally I'm going to look, very briefly  
24 then at the actual questions that you've been asked and  
25 just see how I suggest that you might consider  
26 expressing a view in relation to that.

27  
28 So, firstly, on the question of the nature of the  
29 process, you've outlined what it is and it is, of

1 course, not an inquiry, it's not an adjudication, you  
2 are not determining anybody's rights in any direct  
3 sense, but I suppose in light of Shatter -v- Guerin it  
4 can't be gainsaid, I suppose, that even expressing a  
5 view on whether a Supreme Court judge should or should  
6 not have done something, in the context of whether it  
7 amounts to some degree of misconduct, however mild or  
8 serious as the case may be, that has potential  
9 consequences which are uncertain at the moment, because  
10 part of the problem with the process I suppose is we  
11 don't quite know where it's going to go. You can only  
12 do what you've been asked to do. It goes to the Chief  
13 Justice, he then has to decide what he's going to do  
14 with it and we don't know what he's going to do with  
15 it.

16  
17 If your views are, as I suggest they should be and as I  
18 think I hope to be able to outline why it should be,  
19 there may be no difficulties at all in relation to  
20 this. But nonetheless, were it to result in adverse  
21 views being expressed vis-à-vis Judge Woulfe clearly  
22 it's serious, even if they were of the mildest form  
23 it's still a serious matter for him. There's issues of  
24 reputation and good name and more broad issues as well.  
25 So I think, therefore, it is important that we have  
26 some anchor in terms of the appropriate standard that  
27 we adopt. And I'm not going to get into this today,  
28 but if you were minded to make adverse findings of some  
29 sort -- I'm sorry, I shouldn't make use the word

1 "findings" because of course that's not what you're  
2 doing and I understand that and if I stray into that  
3 language it's inadvertent. But if you were to express  
4 views that were adverse to him, certainly all of the  
5 case law on professional misconduct cases in all OF the  
6 professions is assessed by reference to the standard of  
7 beyond a reasonable doubt. And if it comes to it we  
8 can make submissions to you perhaps at a later stage in  
9 relation to that, if that should become an issue, if it  
10 should seem that you were minded to make adverse  
11 expressions of view. I'm not going to say any more  
12 about that today and I genuinely believe that I don't  
13 think that is going to arise in all the circumstances.

14  
15 So in terms of the standard of conduct. One thing that  
16 struck me was when you look at the Chief Justice's  
17 statement that was issued, he makes the point --

18 MS. JUSTICE DENHAM: You're talking about his letter of  
19 the 25th?

20 MR. COLLINS: well, there's a statement that the  
21 Supreme Court, I think, issued pointing out that they  
22 had requested you to do this.

23 MS. JUSTICE DENHAM: I have seen it.

24 MR. COLLINS: And they say at the end of it:

25  
26 "This non-... "

27  
28 Having recited the three questions:

29

1 "This non-statutory approach has been necessitated  
2 because of the fact that relevant sections of the  
3 Judicial Council Act 2019 have not yet been commenced."  
4

5 So in a sense you are being asked to fill a gap that  
6 this would normally be dealt with by the Judicial  
7 Council if the Act was up and running; it's not so  
8 you're being asked on sort of an ad hoc basis perhaps  
9 to step into that gap. But I think the significance of  
10 that is that we can look at the Act to see what is the  
11 type of standard which, for example, a judicial council  
12 would look at were it being asked to look into this  
13 matter? And there's only one small part of it I just  
14 want to draw attention to. I don't know if you have in  
15 the books the Judicial Council Act of 2019?

16 MS. JUSTICE DENHAM: I have it at home so you can just  
17 refer me to the sections.

18 MR. COLLINS: I'm sorry, we should probably have put it  
19 in the book. I can get you a copy of it. But there's  
20 only two relevant parts I want to draw attention to.  
21 Firstly, there's a definition of judicial misconduct in  
22 Section 2 of the Act and it describes as:

23  
24 "... means conduct (whether an act or omission) by a  
25 judge, whether in the execution of his or her office  
26 or otherwise..."

27  
28 So it can extend obviously to things outside actually  
29 being in court.

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"... and whether generally or on a particular occasion that..."

And then there are two requirements an (a) and a (b) and there's an "and" between them so they both have to be satisfied.

"(a) constitutes a departure from acknowledged standards of judicial conduct..."

I put emphasise on the word "acknowledged standards of judicial conduct". There must be some standards out that there are reasonably well known, reasonably well understood, reasonably clear, acknowledged standards and there has to be a departure from those standards:

"... such standards to have regard to the principles of judicial conduct referred to in Sections 7(1)(b) and 43(2)..."

I will just refer then briefly to those in a moment and then the "and":

"(b) brings the administration of justice into disrepute."

So it's not judicial misconduct even if you do depart from a standard, even an acknowledged standard. It

1 also has to be a form of conduct that brings the  
2 administration of justice into disrepute. And those  
3 are two cumulative mandatory requirements of what  
4 judicial misconduct means.

5  
6 And then there are principles of judicial conduct  
7 referred to in 7(1)(b) and 43(2). They're the same so  
8 we only need to refer to 7(1)(b) over the page - just  
9 two pages on - and this is the last thing I'm going to  
10 refer to in this Act. It says:

11  
12 "The functions of the Council shall to be promote and  
13 maintain..."

14  
15 And then (b):

16  
17 "High standards of conduct among judges, having regard  
18 to the principles of judicial conduct requiring judges  
19 to uphold and exemplify..."

20  
21 And then there's a series of criteria:

22  
23 "... judicial independence, impartiality, integrity,  
24 propriety (including the appearance of propriety),  
25 competence and diligence and to ensure quality of  
26 treatment to all persons before the courts."

27  
28 And I think the only one of those that conceivably has  
29 any relevance to the present case at all is propriety

1 and the appearance of propriety, because I mean one of  
2 the difficulties I suppose of this process is there  
3 isn't actually a case against Judge Wolfe brought by  
4 anybody that he has to answer. There is no kind of  
5 list saying 'here's what you did wrong' and it's a very  
6 dangerous thing to take one's guidelines as to what's  
7 wrong just from media sources and general social media  
8 chatter and so forth. But I suppose in a broad sense,  
9 certainly the concern that seems to have been that, if  
10 the event in question breached the Covid Guidelines,  
11 that in some way Judge Wolfe knew it breached the  
12 guidelines and was somehow disregarding that fact if  
13 that be a fact - we say it isn't a fact. That seems to  
14 be one concern. And that somehow if he thought himself  
15 above the law or didn't have to comply with regulations  
16 that that might be impropriety or the appearance of  
17 impropriety. As I say, it's a bit tricky for me to try  
18 to, if you like, define the case against him - if I can  
19 call it that - when it's never been defined. But that  
20 seems to be, insofar as if one takes one's cue from  
21 public media comments, that seems to be the Covid concern.

22  
23 Then there's a second concern expressed by some people,  
24 I suppose, to the effect that is it appropriate for a  
25 judge to attend a social event which has some  
26 connection with the Oireachtas? This one is styled an  
27 Oireachtas golf event. And that's what I might very  
28 loosely call the separation of powers point. Even  
29 though, as we know, there is of course no through

1 operation of powers point at all here because nobody  
2 was exercising any of the functions of any of the three  
3 arms of Government so we really are down to a question  
4 of appearance of propriety and whether there was  
5 anything lacking in the appearance of propriety of a  
6 Supreme Court judge attending a social golf event such  
7 as this.

8  
9 So, they seem to me to be the relevant standards, the  
10 statutory standards by which the questions you've been  
11 asked and the question of should Judge Wolfe have  
12 attended or left the hotel, or whatever, it's should by  
13 reference, I think, to that standard of judicial  
14 misconduct as so understood with the two ingredients  
15 that I've mentioned in relation to it.

16  
17 The problem of course with things like propriety and  
18 the varied ways in which people conduct themselves is  
19 that these are very nebulous concepts and it's  
20 difficult to get a handle on them. If only to show the  
21 nebulous nature of it, and not perhaps because it's of  
22 huge assistance, I was just going to draw your  
23 attention to, I think, two things in the books of  
24 background materials that we've given you. And I  
25 should say, Judge, we've given you those background  
26 materials not I think because they're hugely of  
27 assistance in answering the three questions you've been  
28 asked but, rather, you have been asked about guidelines  
29 for the future and so forth and we thought it helpful

1 to perhaps put together a pack of information and it's  
2 primarily in that context and an attempt to be helpful  
3 in relation to it.

4 MS. JUSTICE DENHAM: Thank you very much.

5 MR. COLLINS: And of course I should have said at the  
6 outset that Judge Woulfe is of course fully  
7 cooperating, he wants to be fully cooperate and be  
8 helpful and sees this as a process in which he can put  
9 forward the true facts of what actually occurred which  
10 I think when properly understood dispel any concerns at  
11 all.

12 MR. MURPHY: I wonder would it be helpful, Mr. Collins,  
13 if you were just to give a précis, even from the index,  
14 of the materials you've just referred to, just for the  
15 record?

16 MR. COLLINS: Yes, certainly. The first section are  
17 eight extracts from Guides to Judicial Conduct or Codes  
18 of Conduct for, say, United States Judges, published by  
19 various bodies throughout the world such as the  
20 Canadian Judicial Council, the Australian Institute of  
21 Judicial Administration, Incorporated Code of Conduct  
22 published by the State of Illinois Judicial Inquiry  
23 Board, and so forth. And then secondly there are six  
24 articles which are academic articles drawn from law  
25 reviews, I think almost exclusively, and one academic  
26 course provided by a body called Judicial Education  
27 Centre, it seems to be a self-learning course for  
28 judges about ethical issues.

29 MS. JUSTICE DENHAM: Is that the one in America?

1 MR. COLLINS: Yes, yes. There's the Annual Report of  
2 the Judicial Conduct Investigations Office of the  
3 United Kingdom. And there are two judicial  
4 authorities, there's Shatter -v- Guerin and  
5 O'Laoire -v- The Medical Council that goes to the  
6 standard of review in professional misconduct cases.  
7

8 The only one I want to refer to at the moment is at tab  
9 1 there's the Guide to Judicial Conduct published by  
10 the Courts and Tribunals Judiciary Office of the United  
11 Kingdom in 2020. The "Contents" is on page 2 and  
12 you'll see that part 3 of it contains "Guidance on  
13 Specific Issues" and then it has "Activities Outside  
14 the Court" and it deals with a whole range of issues  
15 outside the Court, "Political Activities, Public Debate  
16 and Media" and so. But then you see "Social  
17 Activities" on page 17. If I bring you to "Social  
18 Activities" and as I say it's not very informative, I'm  
19 afraid, it says on page 17:

20  
21 "Social activities need to be assessed in light of the  
22 judicial officer holder's duty to maintain the dignity  
23 of the office and not to permit associations with may  
24 affect adversely the office holder's ability to  
25 discharge his or her duties."  
26

27 It goes on primarily to discuss the problems of social  
28 networking, blogger and Twitter that don't arise in  
29 this case. But it is perhaps of some relevance when

1 you go through all of these documents and all the  
2 examples that are given of judges' behaviour out of  
3 court, none of them relate to the type of informal  
4 social event that Judge Wolfe attended. They all  
5 relate to things like judges contributing to funding;  
6 attending political meetings, party political meetings;  
7 expressing views on legal or political issues other  
8 than just in a purely academic sense and so forth; and  
9 social networking, blogging and Twitter obviously for  
10 judges who engage in that publicly.

11  
12 At tab 2 of the book there is the United States Code of  
13 Judicial Conduct which is expressed in the form of  
14 various canons. These are for federal courts and of  
15 course they, of course, themselves have their own  
16 codes. Again, the canons are at a very high level.  
17 You'll see Canon 2 on page 27 says:

18  
19 "A judge shall avoid impropriety and the appearance of  
20 impropriety in all activities."

21  
22 Echoing the statutory language in our jurisdiction.  
23 But unfortunately when you read through it - I'm not  
24 going to read it now - over the next couple of pages  
25 you'll see that all of the examples that they give are  
26 not referable really to the type of situation that  
27 Judge Wolfe was involved in and I think that is of  
28 some significance.

1 Canon 4, on page 37, is perhaps the closest one gets to  
2 something of relevance.

3 MS. JUSTICE DENHAM: Sorry, page?

4 MR. COLLINS: Page 37. And it's a commentary on  
5 Canon 4. And as I say Canon 4 itself, it's on page 34.  
6 It says:

7  
8 "A judge may engage in extra judicial activities that  
9 are consistent with the obligations of judicial  
10 office."

11  
12 And the commentary on that, after going through a  
13 variety of activities that a judge can engage in or  
14 cannot engage in, on page 37 it says:

15  
16 "Complete separation of a judge from extrajudicial  
17 activities is neither possible nor wise; a judge shall  
18 not become isolated from the society in which the judge  
19 lives. As a judicial officer and a person specially  
20 learned in the law, a judge is in a unique position to  
21 contribute to the law, the legal system, and the  
22 administration of justice, including revising  
23 substantive and procedural law and improving criminal  
24 and juvenile justice."

25  
26 And they say that judges are encouraged to do this  
27 through bar associations, conferences, organisations  
28 dedicated to the law and so forth. And the point that  
29 a judge is not, as it's put in one of the other guides,

1 a hermit, not expected to live other than in the real  
2 world I think is relevant here. A judge when he's on  
3 holidays is certainly entitled to go and play golf.  
4 And the question then is whether there's anything in  
5 the fact of doing so that in some way creates some  
6 appearance of an impropriety in the sense that the  
7 judge wouldn't be impartial in the discharge of his  
8 judicial functions because that's essentially what it  
9 comes down to.

10  
11 The other academic article which is not in the book but  
12 we've handed in a separate book to you, is this book  
13 that was published a year or two ago, Judicial Power in  
14 Ireland and it's a useful source and certainly has a  
15 varied variety of articles like people like Mr. Justice  
16 Fennelly, what is now Mr. Justice Brian Murray,  
17 Chief Justice Clarke, Gerry Whyte,  
18 Mr. Justice Barniville, Mr. Justice O'Donnell and as it  
19 happens myself, on the Judicial Council issue.  
20 Brian Murray (as he was), his article is about removal  
21 of judges and I think it's helpful in some respects,  
22 albeit that of course he's talking about the type of  
23 conduct that would justify a removal of a judge  
24 through, say, the constitutional process, which of  
25 course we say isn't even remotely engaged here. What's  
26 at issue here is conduct that is so far removed from  
27 that that one has to perhaps be cautious of looking at  
28 some of the way in which these matters are expressed.  
29 I'm not going to spend any time on this, I just want to

1 perhaps draw your attention to some of the pages that I  
2 think there are useful bits and in particular, I  
3 suppose, if you look at page 70 of the book there's a  
4 heading there:

5  
6 "Justiciability standard of review and fair  
7 procedures."

8  
9 And he says in the second paragraph that:

10  
11 "It should equally follow that parliament would be held  
12 to a judicially ordained definition of misbehaviour."

13  
14 Again he's making the point that there has to be  
15 clarity and precision in relation to what constitutes  
16 misbehaviour - or stated misbehaviour to use the  
17 constitutional expression - before a judge could be  
18 removed. And if I bring you on to page 75 under the  
19 heading "Misbehaviour" and he talks about what he  
20 describes as "the difficult question of what precisely  
21 constitutes misbehaviour". And on pages 76 and 77 he  
22 posits three broad approaches, the first one is that it  
23 could either be a matter for whatever Parliament says  
24 is misbehaviour, or it should be an objective standard  
25 of misbehaviour capable of review by a court. And he  
26 says it's difficult to see, following the Curtin  
27 decision how it could be anything other than an  
28 objective standard of misbehaviour capable of review by  
29 a court. And he says in the middle of the page:

1 "It seems offensive to the most basic of principles  
2 that judges could be removed for conduct deemed in a  
3 subjective and non-reviewable way to be within the  
4 terms of the article."

5  
6 Then the second view and the narrowest view is that the  
7 judge could only be removed for some form of criminal  
8 offence and again he doesn't go with that. And then  
9 thirdly, he deals here with the attempted removal of  
10 the removal of a judge of the High Court of Australia,  
11 Lionel Murphy, in 1984 and he says it's likely that the  
12 Irish courts would adopt the standards that were  
13 adopted in that case. And he discusses that case and  
14 some of the formulations again over the page on pages  
15 78 and 79. The particular allegation against  
16 Lionel Murphy was that he had interfered with the  
17 course of justice - this is the middle of page 78:

18  
19 "... by asking the Chief Stipendiary Magistrate of New  
20 South Wales to put pressure on a magistrate conducting  
21 a committal hearing against an associate of the judge.  
22 One of the commissions is a defined misbehaviour for  
23 these purposes arising whether the conduct of the judge  
24 undermine the standing of the Court or the authority of  
25 the judge; another where the conduct is morally wrong;  
26 and a third where public confidence in the judge  
27 continuing his or her duty under the Constitution is  
28 destroyed."

1 Then he talks about the All-Party Oireachtas Committee  
2 on the Constitution and that they approved a  
3 formulation by Professor (inaudible) who is a leading  
4 academic in this whole area and you probably know him  
5 from your brief work in this area. He mentions five  
6 possible instances at the top of page 79 and he thinks  
7 that might be, he says:

8  
9 "The definition and examples both overstated the proper  
10 test and fail to meaningfully elaborate upon it."

11  
12 And finally he says it's likely that ultimately the Court  
13 would adopt some of the standards that are referred to  
14 in the cases he quotes, Therion -v- Canadian Minister  
15 for Justice.

16  
17 "Before making a recommendation that a judge should be  
18 removed, the question to be asked is whether the  
19 conduct for which he is blamed is so manifestly and  
20 totally contrary to the impartiality, integrity and  
21 independence of the judiciary that the confidence of  
22 individuals appearing before the judge or of the public  
23 in its justice system would be undermined rendering the  
24 judge incapable of performing his duties of his  
25 office."

26  
27 We are clearly a million miles away from that.

28  
29 And finally, at the bottom of 80 and the top of page 81

1 he says:

2  
3 "Given the international consensus, there must be a  
4 strong likelihood that the Supreme Court would adopt a  
5 test based on unfitness, referenced in turn to a  
6 benchmark of gravity and incompatibility with the  
7 integrity and independence of the judiciary and the  
8 confidence of individuals appearing before the judge or  
9 of the public in its justice system."

10  
11 That, of course, is all in the context of conduct that  
12 might justify the removal of a judge. As I say, we are  
13 light-years away from those concepts and one can see  
14 that simply by even casually perusing any of the  
15 examples, even on possible grounds for removal that  
16 have been gone through in other jurisdictions and none  
17 of them remotely resemble the type of social  
18 interaction that we are concerned with here or the --  
19 MR. MURPHY: Just on that point very quickly, just for  
20 the sake of the record. I think page 81 that you  
21 referred to in the book in the first paragraph I think  
22 the writer, I understand Mr. Justice Murray says that:

23  
24 "... incompatibility, impartiality, integrity and  
25 independence of the judiciary and the confidence of  
26 individuals appearing before the judge..."

27  
28 But I think he goes on to say also:

1 "This will certainly reflect the analysis applied by  
2 the Court more recently to the test of objective bias  
3 and particularly the theory which deliver that  
4 consideration. "

5  
6 That's part of his analysis also.

7 MR. COLLINS: Absolutely and that ties in exactly with  
8 the fact that it has to be an objective test. It's  
9 somebody who is properly informed of the circumstances,  
10 unlike, might I say, much of the public comment that's  
11 been made on this which has been very ill-informed as  
12 to the circumstances, but somebody who is properly  
13 informed of the circumstances who then objectively  
14 considers the question as to whether the conduct in  
15 question has any appearance of impropriety. And I  
16 think that objective test is applicable whether we're  
17 talking about very minor matters which at worst are  
18 something that might say, 'look, you need to be a bit  
19 more careful about this in the future,' to conduct that  
20 justifies a removal. But on that spectrum, either way  
21 it has to be looked at objectively.

22  
23 The other, perhaps slightly useful article, out of the  
24 academic articles the only one I think I want to refer  
25 to is a useful overview, I'm not going to refer to it  
26 by Dr. Laura Cahillane in the Dublin University Law  
27 Journal, but the one I want to refer to is one from the  
28 Melbourne University Law Review by Appleby and Le Mire,  
29 who have written extensively again in this area, an

1 article called:

2  
3 "Judicial Conduct: Crafting a system that enhances  
4 institutional integrity."

5  
6 And that's at tab 11 in book 2 of those two books of  
7 background materials that we've handed in. And they go  
8 through, at great length, the whole variety of  
9 categories of judicial conduct that can attract  
10 criticism ranging from the mildest to the most severe.  
11 Professional misconduct, for example, they look at on  
12 page, it's the internal page 19 or if you're looking at  
13 the page numbers at the bottom right-hand corner of the  
14 book it's 411. And they're really talking about there  
15 professional misconduct on the Bench. They give an  
16 example of:

17  
18 "Federal Magistrate Jennifer Rimmer, who was discovered  
19 to have lifted 2,000 words from a Victorian judgment.  
20 It was later found that similar conduct had occurred in  
21 a number of her other judgments."

22  
23 She subsequently claimed her conduct was caused by  
24 illness and so forth.

25  
26 They go through abuse of judicial power, criminal  
27 conduct and so forth. Again, the nearest we come to  
28 perhaps of anything remotely relevant to the present  
29 circumstances is if you look at page 416, that's

1 internal page 94. And they say:

2  
3 "Whether reprehensible behaviour would be the bias for  
4 any form of discipline is a question not easily  
5 answered. There is a danger that if disciplinary  
6 consequences attach to this type of behaviour, a  
7 chilling effect would be created within the judiciary.  
8 Judges may become reluctant to engage fully as members  
9 of the community - an effect that has its own dangers.  
10 On the other hand, some behaviour may be considered so  
11 serious that it casts doubt on the judge's ability to  
12 fulfil the public role of a judge or impacts on the  
13 reputation of the Court as an institution."

14  
15 And then they give various examples of a judge who had  
16 frequented massage parlours employing sex workers; a  
17 judge in the Wayne County Circuit Court of Michigan who  
18 texted a shirtless photo of himself to a female bailiff  
19 and the photo found its way into the press.

20 Judge McCree boasted to the reporter saying "no shame  
21 in my game". He was reprimanded by the Michigan  
22 Supreme Court for conducting himself in a flippant  
23 manner and for not giving the interview the seriousness  
24 it should have.

25  
26 And they go on to discuss how judges shouldn't make  
27 political statements or get embroiled in an act of  
28 political controversy by expressing views on it, for  
29 the very reason that those controversial matters may

1           come before the Court and the judge shouldn't seem to  
2           have expressed some prejudgment, or something like  
3           that, on some issue that may come before him:  
4

5           And they say on page 27:

6  
7           "Extrajudicial political commentary will be more  
8           controversial when it occurs during the course of a  
9           trial before the judge."  
10

11          And they give an example of that. I suppose the common  
12          theme of all of these examples in all of these  
13          authorities - and that's all I want to refer to in that  
14          - is that the conduct to warrant any type of criticism  
15          at all, even of the mildest sort, is generally linked  
16          to some case that the judge is hearing, or is about to  
17          hear, or is likely to hear, because there's a danger of  
18          some perception being created that the persons in  
19          question are not going to get a fair hearing and it's  
20          always all about that. It's always all about something  
21          that undermines the reasonable perception of the  
22          objective observer that actually there isn't going to  
23          be a fair hearing or a fair trial on something. In  
24          circumstances where there's no connection with any  
25          hearing then the gravity of that or the seriousness of  
26          that clearly falls away. And then the further the  
27          connection between a potential trial and whatever the  
28          judge was doing in his personal life or social life,  
29          then the weaker the ground for any form of criticism

1 becomes. This is perhaps one of the most remarkable  
2 cases because the judge, although appointed a judge of  
3 a Supreme Court had never of course sat as a judge of  
4 the Supreme Court, had no cases assigned to him, hadn't  
5 even been given a salary and drawn a cheque in relation  
6 to his functions. So it's hard to conceive of a case  
7 more removed from any potential impact on some hearing  
8 or not discharging judicial functions correctly and  
9 impartially.

10  
11 So they're the broad themes, I suppose, that I just  
12 wanted to outline by way of background and standards.

13  
14 I want to now turn more specifically to what I'll call  
15 the Covid issue. And I do understand that your  
16 function is simply to, in a sense, receive the  
17 materials and the statements and express a view on the  
18 basis of those, without making formal findings of fact  
19 and so forth. But nonetheless to do that you have to  
20 form a view as to what occurred, and in particular, as  
21 to what Judge Wolfe knew in relation to these matters  
22 and the steps he took and what he did and didn't do.  
23 And I see the Covid issue, I think, therefore,  
24 primarily in terms of while in one sense saying was the  
25 event in fact conducted in accordance with the Covid  
26 Guidelines? And I say that it was and I think we can  
27 see relatively plainly that it was. But more  
28 importantly, perhaps, the real question is: Did  
29 Judge Wolfe have any legitimate reason to think that

1 it wasn't conducted in accordance with the Guidelines  
2 and the Regulations? Because if he didn't no criticism  
3 can be attached to him for attending the event from the  
4 viewpoint of Covid compliance. And it's particularly  
5 so in the context where, as I say, I'm reluctant to  
6 take the "case against him" just from a miscellaneous  
7 collection of media sources where the criticisms are  
8 expressed differently, sometimes wildly and in a most  
9 egregious manner possible, sometimes in a more  
10 restrained and considered way, but in broad terms the  
11 concern seems to be that if a judge who knew or ought  
12 to have known and had reason to think that an event was  
13 not complying with Covid Guidelines, well then he  
14 shouldn't have participated in the event. That's the  
15 essential criticism, if I can put it that way. I think  
16 you've seen his own statement and you will question him  
17 in relation to that. And I think it's crystal clear  
18 that Judge Wolfe (a) did not know that the event was  
19 not in compliance with the Covid Regulations - not  
20 least because it appears that it was in compliance -  
21 but in any event everything appeared to him to be  
22 appropriate and in compliance and he received the  
23 appropriate assurances. And secondly, when we look at  
24 the factual circumstances, and this is to a very large  
25 extent a fact matter, there's simply nothing on the  
26 facts at any point in the day at which anything  
27 occurred, to his knowledge, that would have enabled him  
28 or led him to change his mind in relation to that, or  
29 to think there's something wrong here, this is

1 different to what I thought. And we see that when you  
2 hear him, you've read his statement and I'll touch on  
3 one or two of those points. I'm not going to go  
4 through the chronology because you have the statement  
5 and you will be talking to him.

6 MS. JUSTICE DENHAM: I will go through that with him.

7 MR. COLLINS: Exactly. But there are just a couple of  
8 general points I wanted to make.

9  
10 First of all, the nature of the Oireachtas Golf Society  
11 does have the title Oireachtas but as you'll see from  
12 some of the statements it's not funded by the  
13 Oireachtas in any way. My understanding is that  
14 actually it originates from I think post the Arms Trial  
15 and a social event set up to try to get across,  
16 deliberately stand away from party politics and have  
17 something that is entirely non-political, largely made  
18 up of friends and families and so on of the Oireachtas.  
19 And as you can see, and you'll hear Judge Woulfe  
20 explain it to you, in terms of the number of active  
21 politicians who were there, a very small number. It  
22 was largely either retired politicians or friends and  
23 family. I hope I don't do it any injustice if I say  
24 it's sort of the Oireachtas equivalent of the  
25 old-fashioned factory works outing for the day for the  
26 family and friends and so forth. And Judge Woulfe will  
27 explain to you how he was invited when he was Attorney  
28 General.

29 MS. JUSTICE DENHAM: He'll go through that.

1 MR. COLLINS: He'll go through that. That's fine.

2  
3 what I would like to do is look to first of all briefly  
4 at the statutory instruments.

5 MS. JUSTICE DENHAM: You said 15 minutes.

6 MR. COLLINS: Yes.

7 MS. JUSTICE DENHAM: And I am time conscious. I don't  
8 want to run into at that lot of time in the afternoon.  
9 So if you could keep it tight, otherwise we're going to  
10 run into some considerations.

11 MR. MURPHY: I would suggest, if it would be of  
12 assistance to Judge Denham and to Judge Wolfe also,  
13 there will be no objection to it, a written submission  
14 after this meeting, if that would assist.

15 MR. COLLINS: Absolutely. I actually have, not a  
16 written submission, I forgot to bring it with me, I  
17 have a very short two or three page aide-memoire simply  
18 on the statutory instruments, just reciting them, the  
19 dates they came into force, and so forth.

20 MS. JUSTICE DENHAM: That would be very helpful.

21 MR. COLLINS: I was certain I had that with me but I  
22 think I have left that behind. We'll get it and give  
23 it to you.

24 MS. JUSTICE DENHAM: You can send that into us.

25 MR. COLLINS: There's a little bit book called  
26 legislation and guidelines and I'm only going to take a  
27 minute or two on this. What I want to look at -- if  
28 you look at, the first one is the Health Act of 1947.

29 MS. JUSTICE DENHAM: Maybe this is best in your

1 aide-memoire.

2 MR. COLLINS: Actually this point is not in the  
3 aide-memoire it's just the definition of event and it's  
4 on page --

5 MR. JUSTICE WOULFE: 77, Mr. Collins, of our internal  
6 pagination, page 60 of the legislation.

7 MR. COLLINS: Thanks.

8 MR. JUSTICE WOULFE: 60 in the middle on the bottom of  
9 the page, 77 on the far right of the page.

10 MR. COLLINS: 77. Yes, thank you.

11 MS. JUSTICE DENHAM: I have it. Thanks a million.

12 MR. COLLINS: Yes. At bottom of the page you'll see it  
13 says:

14

15 "'Event' means a gathering of persons whether for  
16 cultural entertainment, recreation, sporting..." and  
17 so on.

18

19 That's all I want to draw attention to in that. The  
20 word "a gathering of persons" is what an event is.

21

22 And then what you see is that there were Covid  
23 Regulations brought in from time to time for defined  
24 periods. The first one on tab 2 you see on page 82 of  
25 the book covers the period from 8th to 12th April 2020.  
26 The next one, 206/2020 on page 100, you'll see it  
27 covers 8th June to 29th June and then the important one  
28 is the one at tab 4 SI 234/2020 and you'll see that it  
29 says:

1 "These regulations [regulation 1 and 2] come into  
2 operation on 29th June 2020."

3  
4 And although it says they were to remain in operation  
5 until 20th July 2020 they were extended by the two  
6 subsequent SIS that you see in the book up to 31st  
7 August.

8  
9 So at the time of the event the relevant regulations  
10 were these regulations here and you'll see that the  
11 restriction on events - and you'll see now why I refer  
12 to the definition of events as being gatherings and  
13 that's relevant when we come to look at the guidelines  
14 in just a second - the restrictions on events is for  
15 indoor events that it doesn't exceed 50 persons. And  
16 that's all I want to look at in the book. So the  
17 50-person rule, if I can call it that, therefore, was  
18 the rule that was applicable at the time in question.

19  
20 Now, the system - and Judge Wolfe can elaborate on  
21 this from his own knowledge in relation to it - but it  
22 appears that when the Government decide that they'll  
23 adopt a particular regulation or indeed a decision as  
24 we now know happened on 18th August as to what they do,  
25 they agree guidelines with the relevant sector,  
26 whatever it happens to be. In the hotel area it's the  
27 Irish Hotels Federation. And the issued guidelines  
28 which usually come into effect therefore a little bit  
29 later than either a Cabinet decision, or something of

1 that sort, which are updated on a rolling basis. We  
2 didn't have -- in that book of legislation and  
3 guidelines the guidelines at the back of the book are  
4 the later guidelines post 31st August when they  
5 implemented the decision about reducing the numbers to  
6 six. But we've only now managed to get - and it just  
7 shows you the difficulty sometimes of people trying to  
8 understand what's happening because it is difficult to  
9 get them - we have now the guidelines that were  
10 operative at the time and they're the ones I've handed  
11 to you there, Judge, the coloured one.

12 MS. JUSTICE DENHAM: Let me just find them now.

13 MR. COLLINS: It's this one here.

14 MS. JUSTICE DENHAM: Yes.

15 MR. COLLINS: As Mr. Murphy pointed out earlier, you  
16 can always tell from the revision history, which is on  
17 page 2 of this booklet, as to which version you were  
18 dealing with. This is version 2.2 and it came in on  
19 6th July 2020 and it had updates to Appendix 1. And  
20 there's just three different pages of this I want to  
21 draw attention to because this has to be read in  
22 conjunction with the statutory instrument that I drew  
23 attention to about the 50 people at an event.  
24 First of all, not quite in the order of the document,  
25 because I don't think this document has been written by  
26 lawyers so it's written as a practical guideline. Can  
27 I bring you on to page 25 of that book, section 18?  
28 The page numbers are in the bottom left of the booklet,  
29 and in the middle of the page it's "Meetings and

1 Events", section 18. And if you see on the left-hand  
2 column, two-thirds of the way down the page there's a  
3 heading "Physical Distancing Protocol".

4  
5 The first bullet point is:

6  
7 "There is a limit on the number of people gathering in  
8 a venue at one time."

9  
10 And that's important because that ties in with the  
11 wording of the definition of "event" as being a  
12 gathering of people. So these guidelines are very much  
13 talking about the gatherings.

14  
15 "In line with NPHET Guidelines on indoor gatherings."

16  
17 And we know that the gatherings are limited to 50  
18 people.

19  
20 "Multiple guidelines are allowed in venue facilities  
21 provided they are in separate defined spaces and there  
22 are systems to prevent intermingling in common spaces  
23 e.g. entrances, exit and toilet facilities."

24  
25 So it's not a question that you can only have 50 people  
26 in the hotel attending events or gatherings. You can  
27 have more than -- you can have multiple events, you can  
28 have two events or gatherings of 50 people, provided  
29 that they are in separate defined spaces. And I mean

1 whether they are, let us say, from two separate golf  
2 societies or one golf society is neither here nor  
3 there. The Covid virus isn't concerned to know who the  
4 people are. It's all a question of physical distancing  
5 and health guidelines. So having two separate rooms -  
6 and you will have seen from the evidence that they are  
7 two separate rooms - so even named, the Kylemore Suite  
8 the Omey Suite, different arrowed directions and in the  
9 photographs you can see pointing in opposite directions  
10 where they were, divided by a clear wall, as you'll  
11 hear when you discuss it with Judge Wolfe. But  
12 insofar as these are concerned, the multiple gatherings  
13 were in fact allowed and it wasn't a breach. And just  
14 to reiterate that, can I bring you to section 5 - going  
15 back now in the document at page 10 - which is a  
16 section called "physical distancing". And this, on the  
17 bottom left-hand side corner you'll see a heading:

18  
19 "Hotel restaurants and bars."

20  
21 And that's talking about what they call "controlled  
22 environments" which is basically things like hotels and  
23 internal environments where somebody has control over  
24 people coming and going. It says:

25  
26 "Physical distancing of two metres should be maintained  
27 between tables. However, if this is not possible this  
28 can be reduced to one metre in controlled environments  
29 if the other risk mitigation requirements outlined in

1           Appendix 1 have been met."

2  
3           And that's to do with having the hand sanitisers and  
4           all the various things we know about. And then they  
5           say:

6  
7           "If all risk mitigation requirements have been met and  
8           physical distancing is reduced to one metre, pre-booked  
9           time slots must be in place for customers with a  
10          maximum of 105 minutes."

11  
12          That 105 minutes only applies if you put your table one  
13          metre --

14          MS. JUSTICE DENHAM: I think we don't need to go into  
15          that detail now at the moment.

16          MR. COLLINS: Okay, fine. I suppose the fundamental  
17          point I'm getting at is, if the tables were two metres  
18          approximately apart, (a) there was no time limit and  
19          secondly it was perfectly in accordance with the  
20          regulations.

21  
22          You can see that finally, Judge, and I won't weary with  
23          you with the detail of it, there was that reference to  
24          Appendix 1 and you'll see that spelled out in  
25          Appendix 1 on page 30, in particular on the right-hand  
26          column in some of those bullet points.

27  
28          So that's all I want to say in relation to the  
29          regulations, other than to point out that the

1 Regulations are of course directed to the organisers.  
2 This is designed for their assistance. It's not that  
3 people who turn up in hotels ask for a copy of the  
4 Regulations, decide they'll conduct an audit of the  
5 hotel and see are they complying with it. Or people  
6 who go to Ikea to buy their furniture ask the Ikea  
7 people, 'Could I please see what you've done?' These  
8 are directed to the organisers.

9 MR. JUSTICE WOULFE: In the Guidelines, you said  
10 Regulations.

11 MR. COLLINS: I meant guidelines. I'm sorry.

12 MR. JUSTICE WOULFE: It's an important point.

13 MR. COLLINS: Absolutely. And they are the Guidelines  
14 that were in force at the time. And in essence, as  
15 you'll hear, Judge Woulfe made inquiries once he knew  
16 there was a dinner and was given the reassurances --

17 MS. JUSTICE DENHAM: We're going to do all that.

18 MR. COLLINS: You're going to do that with him, fine.

19  
20 So, if having heard from Judge Woulfe, Judge, you are  
21 satisfied that in fact it appeared to him as if the  
22 relevant regulations and guidelines were being complied  
23 with, if he was appropriately reassured that that was  
24 so, and if there was nothing that should have made him  
25 jump up and say, 'Gosh, this isn't right, actually  
26 they're not complying with these guidelines,' if there  
27 was nothing that would have prompted him to think that,  
28 then there is simply no criticism warranted of him in  
29 relation to somehow wilfully or wantonly or

1 disregarding in any way the necessity to comply with  
2 the Covid Guidelines. So that objective observer that  
3 we were talking about a moment ago, applying that test  
4 under the Act, would never conclude that Judge Wolfe  
5 --

6 MS. JUSTICE DENHAM: That's the test, yes.  
7 Straightforward.

8 MR. COLLINS: That's the test. Would never conclude  
9 that he had engaged in either impropriety or the  
10 appearance of impropriety.

11  
12 The other aspect of the thing is the so-called --

13 MS. JUSTICE DENHAM: We are running into time problems  
14 now.

15 MR. COLLINS: I know and I'm finishing on this point,  
16 if that's all right.

17 MS. JUSTICE DENHAM: Okay.

18 MR. COLLINS: Is the separation of powers issue. I  
19 suppose the question here is was there any impropriety  
20 in terms of attending an event which was styled an  
21 Oireachtas Golf Society event and at which there were  
22 at least some politicians, albeit a minority. And  
23 there's no rule that judges can't engage with  
24 politicians or meet or socialise with politicians.  
25 It's a sort of a spectrum. At one end there are events  
26 in which it is clearly right and proper to do so and  
27 let me give you an example of which we are familiar.  
28 The Chairman of the Bar Council does an annual dinner  
29 every year, which he or she invites the Judiciary,

1 senior government ministers, non-governmental  
2 organisations and so forth, who sit and have dinner for  
3 the purpose of exploring the issues of mutual concern  
4 and just socialising so that they each see the other  
5 doesn't have horns perhaps. Frequently, politicians  
6 and ministers are invited for dinner in the King's  
7 Inns. There's no question but that that is all  
8 entirely proper and that's at one end of the spectrum.  
9 At the other end of the spectrum you might take an  
10 example of a judge who perhaps every Friday night goes  
11 up to the bar in Dáil Éireann and socialises regularly  
12 with the politicians and you would say well, that has  
13 the appearances of impropriety about it for obvious  
14 reasons. And there can be many forms of conduct than  
15 which fall on the spectrum between what is clearly  
16 acceptable and what clearly wouldn't be acceptable and  
17 in my submission, Judge, any objective observer, any  
18 fair view of the matter would say that this attendance  
19 at this event falls well within the totally acceptable  
20 range of conduct and socialisation that a judge can  
21 engage in. That is particularly so having regard to  
22 the nature of the organisation. None of the indicia  
23 you find in the authorities and the academic  
24 authorities such as engaging in fundraising, party  
25 political activity support - none of those matters  
26 apply in relation to this. Some of the cases or the  
27 academic articles discuss the regularity of the  
28 conduct. They're doing it day in day out. I gave the  
29 example of every Friday night the judge going. This

1 was an annual event, the first time he attended it. So  
2 it's a once-off in his capacity as a judge.

3  
4 And finally and the last point, Judge, there is, I  
5 think, a key issue here about the importance of  
6 judicial independence. It seems ludicrous, if I may  
7 respectfully say so, that there have been calls that  
8 Judge Wolfe should have resigned because of his  
9 attendance of this and a frenzied storm, and something  
10 of a firestorm, I suppose, was whipped up in social  
11 media and elsewhere as if this was obvious and this was  
12 terrible and this had to happen. And judges cannot be  
13 hounded out of office by ill-informed comments which  
14 create a firestorm. They have to, however fiery that  
15 firestorm, they have to stand up to it and say,  
16 'judicial independence requires that we're not going to  
17 be hounded out of office for no good reason,' because  
18 if that is case then where do we stop? A judge gives a  
19 judgment that is deeply unpopular and there is a  
20 firestorm saying he or she should resign. As happened  
21 to one judge in Canada, for example, who gave a  
22 judgment I think holding that a law prohibiting  
23 possession of child pornography was unconstitutional  
24 and there were demands all over the place that that  
25 judge should resign.

26  
27 So it's actually quite a potentially very dangerous  
28 thing. So I say that the three questions that you have  
29 to ask, Judge, perhaps awkwardly worded. I mean the

1 first one is whether he should have attended the  
2 invitation to dinner. I think you can read that as  
3 attended the event as a whole, and should he have  
4 accepted the invitation to start with to turn up?  
5 Because the third question draws a distinction between  
6 the golf event and the dinner as if it's kind of okay  
7 to go to the golf event, but did you have any concern  
8 about the dinner? It seems to draw that distinction.  
9 And then the third one or the middle one, one and three  
10 I think are related, the middle one is should he have  
11 left the hotel in light of the conditions prevailing?  
12 which I presume is a reference to the Covid situation  
13 and for the reasons he'll outline to you there was  
14 nothing that would have impaired him to leave.

15  
16 I've gone on far too long, Judge, I'm sorry.

17 MS. JUSTICE DENHAM: Thank you very much. Judge, I'm  
18 going to ask you a number of basic introductory  
19 questions just for the record and then I'm going to go  
20 through your statement.

21 MR. JUSTICE WOULFE: That's fine. Before you do, can I  
22 apologise to for interrupting you when you were making  
23 your opening? It's just because you had moved on from  
24 the letter to the procedure I just wanted to get a  
25 careful -- it's a bit early for me to become a grumpy  
26 judge. So I apologise, I didn't mean to be rude in any  
27 way.

28 MS. JUSTICE DENHAM: Don't worry, I didn't take it that  
29 way. I was speaking too quickly.

1 Judge, when were you called to the Bar?  
2 MR. JUSTICE WOULFE: 1987 with Mr. Murphy.  
3 MS. JUSTICE DENHAM: And when did you take silk?  
4 MR. JUSTICE WOULFE: March 2005.  
5 MS. JUSTICE DENHAM: And when were you appointed  
6 Attorney?  
7 MR. JUSTICE WOULFE: 14th June 2017.  
8 MS. JUSTICE DENHAM: And that, of course, the type of  
9 work involved there is advising the Government,  
10 advising the Department and having a lot of contact  
11 with politicians?  
12 MR. JUSTICE WOULFE: Absolutely. And judges sometimes.  
13 MS. JUSTICE DENHAM: When did you conclude your  
14 Attorney post?  
15 MR. JUSTICE WOULFE: The day the new Government was  
16 formed which was I think the last Saturday --  
17 MS. JUSTICE DENHAM: I think it's 22/06.  
18 MR. JUSTICE WOULFE: The last Saturday in June and I  
19 only discovered on the morning that I wasn't remaining  
20 on as Attorney General - a phone call from the outgoing  
21 Taoiseach on the Saturday morning.  
22 MS. JUSTICE DENHAM: Right. So you hadn't applied to  
23 the Appointments Board?  
24 MR. JUSTICE WOULFE: I had. After the general  
25 election, as a precaution, not knowing whether I was  
26 going back to the Bar, staying on as Attorney General,  
27 or possibly becoming a judge, I applied to JAB. I  
28 mentioned it to the Taoiseach at the time and I said  
29 that I was putting in an application but it didn't mean

1 I wasn't happy to very happy to stay on as Attorney  
2 General and my preference would be to stay on as  
3 Attorney General and help the new Government.

4 MS. JUSTICE DENHAM: Excellent. And what date did you  
5 make your Declaration before the Supreme Court?

6 MR. JUSTICE WOULFE: I think my appointment, I will  
7 just get my diary, excuse me one second. Just to be  
8 absolutely accurate and precise. So end of July,  
9 vacation coming thank God, hectic couple of months.  
10 Thursday is the 23rd so I was appointed in the Áras on  
11 the 23rd, that's the date of my appointment, and I made  
12 my Declaration on Friday, the 24th.

13 MS. JUSTICE DENHAM: So have you actually sat on the  
14 Bench as a judge?

15 MR. JUSTICE WOULFE: No, or taken part in any so-called  
16 applications for leave determinations. It was  
17 envisaged there would be some of that work in  
18 September.

19  
20 The Supreme Court, unlike the High Court and the Court  
21 of Appeal, said that it didn't need to sit in September  
22 to make up for any backlog because there was no  
23 backlog. I got a list at some point, probably in  
24 August, of possible assignments starting first or  
25 second week of October.

26 MS. JUSTICE DENHAM: Yes. Excellent. Well now let us  
27 look at your statement and let us work our way through  
28 it, rather than just have you read it.

29 MR. JUSTICE WOULFE: Yes, of course. I may be able to

1 add or clarify things.

2 MS. JUSTICE DENHAM: In fact if you'd like to start  
3 from the beginning.

4 MR. JUSTICE WOULFE: Yes. So I'm explaining really how  
5 I came about to play in the Oireachtas Golf Society. I  
6 don't know, Judge, are you a golfer, do you play golf?

7 MS. JUSTICE DENHAM: Unfortunately not.

8 MR. JUSTICE WOULFE: Do you understand -- have you been  
9 involved in a golf society or a golf classic event?

10 MS. JUSTICE DENHAM: No, I haven't but I have attended  
11 sports events. So I think they're rather similar  
12 actually.

13 MR. JUSTICE WOULFE: Okay. I don't know whether Murphy  
14 is a golfer or not? No, okay. So can I just to you,  
15 before even this golf society what I would have known  
16 about -- I play golf occasionally in my club. I've  
17 been a member of a golf club since 1992 and I've never  
18 played very much. My handicap has never managed to  
19 come down from 26 or 27, which is the starting  
20 handicap, because I don't have much time to play golf.  
21 But I would have been aware - as well as my own club  
22 where I play occasionally - that the local pubs would  
23 have a golf society. I don't want to name them because  
24 they'll give out to me for promoting one or two of  
25 them. But one or two of the two pubs where over the  
26 years I would have a social drink, I would be aware  
27 that they have, you know, a notice up sometimes about,  
28 and I won't give a name, you know the Joe Bloggs golf  
29 society. And it's not really a society that's terribly

1           closely linked with the pub, it's that a few people who  
2           socialise there begin a kind of a gathering and they  
3           invite some friends or family to go out and play golf  
4           once or twice a year. So I've never actually played in  
5           one of those pub golf societies but I would have been  
6           aware that that's roughly what a society is.

7  
8           So that brings me on to the Oireachtas Golf Society  
9           then.

10          MS. JUSTICE DENHAM: Yes. It was during your term of  
11          office that you were invited to play in the Oireachtas  
12          golf outings?

13          MR. JUSTICE WOULFE: Yes. By former  
14          Leas-Chathaoirleach, Paul Coghlan, who I would have met  
15          when we were dealing with the Bar Council who were  
16          trying to deal with politicians about the Legal Service  
17          Regulation Bill. I think I met Paul for the first time  
18          when we sent a delegation up to Leinster House to  
19          discuss the Bill. And then when I was Attorney General  
20          I met him again. And perhaps the fact that his  
21          daughter is a barrister, Mairéad Coghlan, that may have  
22          been partly why we connected.

23  
24          So, the first time I heard anything about the  
25          Oireachtas Golf Society -- sorry, the Oireachtas Golf  
26          Society achieved a bit of notoriety years ago, around  
27          2010/2011 when former Taoiseach, Brian Cowen, used to  
28          holiday in Ballyconneely, and so on.

29          MS. JUSTICE DENHAM: I remember.

1 MR. JUSTICE WOULFE: And there was an issue about the  
2 media hounding him and taking a photograph --  
3 MS. JUSTICE DENHAM: I remember.  
4 MR. JUSTICE WOULFE: -- of him in his caravan and all  
5 that kind of stuff.  
6 MS. JUSTICE DENHAM: Absolutely.  
7 MR. JUSTICE WOULFE: So I would have been vaguely aware  
8 from that that there was such a thing called the  
9 Oireachtas Golf Society.  
10 MS. JUSTICE DENHAM: But the first time you were  
11 invited was in 2018 by the former Leas-Chathaoirleach?  
12 MR. JUSTICE WOULFE: Yes. And, you know, when he  
13 invited on that occasion, you know, I knew very little  
14 about it but I wasn't able to go, whatever date, I had  
15 some other commitment, I couldn't go. So that was  
16 that.  
17 MS. JUSTICE DENHAM: So then you went -- in 2019 you  
18 were invited.  
19 MR. JUSTICE WOULFE: I was invited in 2019, yeah, and  
20 again the two people who would have mentioned to me  
21 were Paul Coghlan, who I've mentioned here, and former  
22 senator, Lorraine Higgins, would have mentioned it to  
23 me as well. Again, I had no written invitation to it  
24 so I didn't know exactly what was involved.  
25  
26 You always know there'll be some socialising  
27 afterwards. Probably some food, either by way of, as  
28 they call it, when you come in off the course or  
29 everybody trying to meet later on. When everyone tries

1 to meet later on -- I've been involved in organising  
2 one in my own club, a golf classic which is a  
3 fundraising event, in past years. A lot of people  
4 don't like eating together later on because if they  
5 played at 11 o'clock they go at three o'clock. So the  
6 numbers at these things can vary hugely, very  
7 unpredictable. That event was in Powerscourt it was  
8 during the holidays. I, on that occasion, stayed on  
9 for, there was a group dinner and I stayed on for the  
10 group dinner later on but I played late in the day so  
11 it suited to stay on.

12 MS. JUSTICE DENHAM: Yes.

13 MR. JUSTICE WOULFE: I'm not sure if you want to  
14 clarify anything else about that event. I suppose that  
15 was my introduction to -- this is I think a little bit  
16 important. The fact that the event was very highly  
17 organised and this Senator Donie Cassidy who I think  
18 you may know or have met yourself, Judge, he was very  
19 much the dominant influence in the whole thing. So he  
20 was there. When I went -- on that day in Powerscourt  
21 my post former Leas-Chathaoirleach, Paul Coghlan,  
22 wasn't able to attend at the last minute so I was kind  
23 of suddenly without a host but I was told, 'listen,  
24 Donie will look after you, just turn up everything will  
25 be fine and he's arranged for somebody for you to play  
26 with.' And from the moment I walked into that place in  
27 the lobby of the Powerscourt Golf Club there was a  
28 sense of very high organisation, extremely high  
29 organisation. Higher than I would have seen at events

1 I've been involved in organising myself, as I say, a  
2 golf classic which I sometimes help to organise in  
3 St. Anne's Golf Club, where I'm a member of. So from  
4 moment one Donie was (a) extremely organised, but also  
5 extremely friendly. It was an extremely friendly  
6 social atmosphere.

7  
8 It's a little bit of digression but I'm appalled at the  
9 kind of media treatment of the society event and the  
10 it's presented, in some way it's like a Ku Klux Klan  
11 now, because on that day and both times there was a  
12 friendly social atmosphere. And I met a number of  
13 people, mainly retired politicians. So the atmosphere  
14 of this is more likely retired teachers' association or  
15 retired judges, not active politicians. And I met  
16 former Taoiseach, Enda Kenny, that day. I played with,  
17 and this is interesting. Like I had no arrangement  
18 that day as to who I was going to play, because  
19 Paul Coghlan was the one I thought I'd be playing with,  
20 plus one or two if we were going out in threes or  
21 fours. It varies. So I was sent out with  
22 Donie Cassidy's son - who has nothing to do with  
23 politics, I don't think, I don't know is he a member of  
24 any political party, but he runs a hotel called the  
25 Belvedere Hotel, across the name from my former school.  
26 Mr. Murphy will know that I am a former Belvederean on  
27 Great Denmark Street. And also with former minister,  
28 Noel Dempsey, who I had never met. I'd never met  
29 either of them before. I met them going to the first

1           tee, or in the clubhouse before we went out.

2  
3           Now, the sort of conversations I would have had out on  
4           the course would have been of a social kind of a  
5           nature. I doubt very much -- even though I was  
6           Attorney General at the time I doubt very much if we  
7           discussed any issue of current policy or controversy  
8           and that wasn't the vibe at the event.

9  
10          It was interesting listening to Minister Dempsey saying  
11          about his time in Government and that he'd interacted  
12          with former Attorney Generals and that kind of stuff.  
13          And I also had an interesting conversation with, I  
14          think Donie Cassidy's son's name is Peter, about the  
15          hotel trade and the hotel sector and I told him that I  
16          had been in the Belvedere Hotel a couple of times  
17          across the road in recent years because I've got  
18          involved again in the school because my son is  
19          attending the school and I thought it was a very  
20          well-run and organised hotel, it used to be a little  
21          bit rundown in the 1970s when I used to go. Sorry,  
22          Judge, I may be giving you too much information

23        MS. JUSTICE DENHAM: No, we're pottering or way through  
24        it quite well.

25        MR. JUSTICE WOULFE: But can I just say this: when it  
26        came to the speeches and prize giving --

27        MS. JUSTICE DENHAM: well let's just --

28        MR. JUSTICE WOULFE: In Powerscourt I mean now.

29        MS. JUSTICE DENHAM: Oh in Powerscourt, that's okay,

1           yes.

2           MR. JUSTICE WOULFE:  There's always a bit of palaver  
3           and fuss at these things.  This they took quite  
4           seriously - again in terms of the whole event being  
5           quite organised and quite serious - and they  
6           introduced, you know, each other, who was giving --  
7           there was a few speeches, including by a man called  
8           John Flaherty and he's an important figure in all of  
9           this as well.  John Flaherty is known as, I don't know  
10          if you're familiar with the term, Judge, the Captain of  
11          the Guard.  Now before I had become Attorney General  
12          I'd seen this picture on the television of a man in  
13          uniform, escorting the new Taoiseach safely to his car  
14          to go out to Áras an Uachtaráin after he is voted in as  
15          Taoiseach.  He is the head of -- whatever his exact,  
16          you know, I can't give you chapter and verse of his  
17          exact title.  His title is Captain of the Guard but I  
18          understand him to be the head of security and logistics  
19          and operations and I understand more recently health  
20          and safety in Leinster House.  So he was introduced as  
21          either the secretary or the treasurer of this  
22          organisation and almost a second in command to  
23          Donie Cassidy.  Now, I also knew from my conversations  
24          that day that Donie Cassidy is a very successful  
25          hotelier.  That's relevant to what came later.  We  
26          weren't dealing with the local pub golf society, we  
27          were dealing with serious people.  Donie Cassidy's a  
28          former leader of the Seanad, I think for about ten  
29          years.

1 So my own impression of the event that day was that it  
2 was a very benign event, a benign society that was  
3 there to promote convivial relations between so many  
4 former politicians and friends and family and it was a  
5 purely social and recreational event.

6  
7 I'll just add that I thought that Paul Coghlan was in  
8 some way involved in the organisation but because he  
9 hadn't attended he wasn't introduced during the  
10 speeches so I wasn't clear was he an officer or --

11 MS. JUSTICE DENHAM: But it was during that it was  
12 mentioned then at Powerscourt that the 50th anniversary  
13 was going to be in 2020?

14 MR. JUSTICE WOULFE: Yes.

15 MS. JUSTICE DENHAM: And a couple of people suggested  
16 to you that you might attend that?

17 MR. JUSTICE WOULFE: It was mentioned with great pride  
18 that this was a tremendous achievement that the society  
19 had managed to foster, you know, good social relations,  
20 almost to transcend politics. I'm not saying they used  
21 those exact words, but that was the kind of atmosphere  
22 and that, you know, they were encouraging people, that  
23 even though it may be a long way away in Connemara they  
24 would really love if people would come next year.

25 MS. JUSTICE DENHAM: So that's why you made a mental  
26 note that you would try and --

27 MR. JUSTICE WOULFE: Again, not knowing would I be  
28 still Attorney General that October in a minority  
29 government, not knowing where I'd be in August 2020.

1 MS. JUSTICE DENHAM: Exactly. So no that brings us to  
2 the lead up to the August 2020 event?  
3 MR. JUSTICE WOULFE: Yes.  
4 MS. JUSTICE DENHAM: And sometime during 2020, when you  
5 were serving as Attorney, you got a verbal invitation  
6 from Paul Coghlan --  
7 MR. JUSTICE WOULFE: Yes.  
8 MS. JUSTICE DENHAM: -- to go to Ballyconneely and you  
9 said you'd get back to them. Then if you would like to  
10 continue?  
11 MR. JUSTICE WOULFE: It's a bit kind of, it's funny  
12 because of Covid and everything it's just slightly  
13 harder to place things when, you know, you stop meeting  
14 people. Presumably we stopped meeting people around,  
15 for a period at least around 12th March when the  
16 Taoiseach first, you know, announced the lockdown.  
17 MS. JUSTICE DENHAM: Yes.  
18 MR. JUSTICE WOULFE: So I'm pretty sure it had to be  
19 before 12th March then, it had to be in January or  
20 February where I would, as Attorney General I would go  
21 over to breakfast once a week to the canteen in  
22 Leinster House, (a) because I liked the big breakfast  
23 and I'd only allow myself the treat of having it once a  
24 week, or else I'd be in very bad shape, and (b) as an  
25 opportunity that I would, you know, socialise and  
26 mingle. So once a week roughly I'd go over and  
27 occasionally when I went over I would meet Paul Coghlan  
28 and that's very likely where I met him and where I got  
29 the verbal invitation. But again August seemed a long

1 way away back in January or February. My family go on  
2 holidays as a family holiday in August, like most  
3 people I suppose, and particularly now that my kids are  
4 in school. It was nice to go in September in the past  
5 but that's gone now. So if we were going abroad we'd  
6 be going in August and I might not be around, mightn't  
7 be able to go. If we weren't going abroad my family  
8 have a holiday home in Donegal and which weeks we would  
9 go depend on my sister and my mother own the house, so  
10 at that stage there was no idea.

11 MS. JUSTICE DENHAM: You have to family work it out.

12 MR. JUSTICE WOULFE: Yes. And at that stage I wouldn't  
13 have really envisaged making all the effort to drive  
14 from Donegal to Clifden, you know, if we were going to  
15 be in Donegal that week, so it was really more in my  
16 head well, if we're not in Donegal. If we go to  
17 Donegal the first two weeks and I knew vaguely it was  
18 in was in the latter part of August but I didn't have  
19 the dates.

20  
21 So Deputy Grealish then I bumped in to. I made a habit  
22 during Covid - because it was very dull in the Attorney  
23 General's office, there was nobody there hardly, except  
24 myself - of bringing in lunch, eating at the desk and  
25 going for a walk in either Merrion Square or Leinster  
26 House lawn. Leinster House lawn is not too big a  
27 distance and did a few laps of that. I didn't meet  
28 very many people but one day I bumped into  
29 Deputy Grealish, who again was a very keen supporter of

1 the society and advocate, despite recent events, and  
2 recent media coverage, and he would have you know, sort  
3 of how do I put it, raised it with me and said, 'do you  
4 think you would come?' And I would again have said,  
5 'look...' It's important to note that golf was one of  
6 the things that people were very disappointed about had  
7 to stop at all because people felt golf was one of the  
8 safest things. I remember myself thinking my handicap  
9 might come down, I'll be able to play a bit more golf.  
10 And I remember playing twice before the lockdown,  
11 immediately after 12th March whereas often I wouldn't  
12 get started that early. So then golf was restored -  
13 one of the first things that came back. So  
14 Deputy Grealish, when I met him, it was probably after  
15 the golf had been reintroduced.

16 MS. JUSTICE DENHAM: Exactly.

17 MR. JUSTICE WOULFE: And I don't think anybody at that  
18 stage was thinking about dinner or eating in groups or  
19 eating in fours or anything.

20 MS. JUSTICE DENHAM: So anyway I think we've covered  
21 your statement page 2.

22 MR. JUSTICE WOULFE: Yes.

23 MS. JUSTICE DENHAM: Then you were appointed on the  
24 23rd.

25 MR. JUSTICE WOULFE: Yes. And this reference to the  
26 Bar Golf Society and this is important --

27 MS. JUSTICE DENHAM: Yes.

28 MR. JUSTICE WOULFE: -- because I'm not sure if I've  
29 ever played in a golf society event before the Bar golf

1 one. I've played in golf classics which are similar.

2 MS. JUSTICE DENHAM: Yes.

3 MR. JUSTICE WOULFE: But I'd only a hazy awareness of  
4 golf societies.

5 MS. JUSTICE DENHAM: Yes.

6 MR. JUSTICE WOULFE: I'm open to correction now but I  
7 suspect that the Bar Golf Society -- I played in two  
8 Bar Golf things over the years only, even though I've  
9 been member of the golf club since 1992 I hadn't time.  
10 So I played in one in the early years, the Christmas  
11 one that the Bar Golf Society have and then I played  
12 last year as Attorney General last September in  
13 Donal O'Donnell's President's Prize. To the best of my  
14 knowledge that's only twice I've ever played in the Bar  
15 Golf Society. But now I was a new judge, I was told  
16 one of the great ways judges and barristers can still  
17 interact is through things like the golf and the  
18 tennis. While it's called the Bar Golf Society it's  
19 really the Bar and Bench golf society. I was invited  
20 by a barrister, a friend of mine, would I join that?  
21 And I did.

22  
23 A couple of things just that are relevant then to the  
24 Clifden event. I think when I saw Mairéad Coghlan, her  
25 car pulled into the car park in front of mine. I got a  
26 lift very kindly from Dermot Flanagan and as we pulled  
27 in Mairéad Coghlan got out of a car in front of us.  
28 She was playing in the group either before or after me  
29 so I kept seeing her around the course. And I think

1 that's what triggered the memory of the Bar Golf  
2 Society.

3 MS. JUSTICE DENHAM: Put it into your mind.

4 MR. JUSTICE WOULFE: And the other kind of important  
5 point to mention is there was a mention here about  
6 dining or dinner and that we weren't going to eat in  
7 the clubhouse altogether, as they normally do. So when  
8 we ate after the, I think Donal is the President rather  
9 than the Captain, after the President's Prize back in  
10 September 2019 in Miltown, we all ate together, the  
11 whole group, probably over 50 people. So I suspect  
12 their difficulty here was that - and I'm only surmising  
13 now, I don't know this as a definite fact - was that  
14 perhaps there's more than 50 people, there's an open  
15 restaurant bar area in Baltray and it wasn't possible  
16 for everyone to eat together, so we ate in groups of  
17 four coming in. It seemed to me that there wasn't, in  
18 principle, a difficulty with eating after a golf  
19 society event and it had been done that way in Baltray.

20 MS. JUSTICE DENHAM: Now, you say:

21  
22 "After I was appointed as a Supreme Court judge I was  
23 not familiar with internal judicial protocols."

24  
25 Now, I'll come back to the judicial protocols and  
26 guidelines, let us just go through this essentially  
27 from the Covid point of view at the moment.

28 MR. JUSTICE WOULFE: In any event, like, I didn't get  
29 any of those. They produce a very helpful document now

1 called judicial something, judicial something handbook,  
2 very helpful but it's all full of stuff about  
3 bureaucracy, getting paid.

4 MS. JUSTICE DENHAM: Pensions.

5 MR. JUSTICE WOULFE: All that stuff, yes. And I've  
6 rechecked it and to the best of my knowledge there  
7 isn't any reference to any of these issues in it.

8 MS. JUSTICE DENHAM: No, there isn't.

9 MR. JUSTICE WOULFE: So now I've played in the Bar Golf  
10 Society, I've been reminded about the Oireachtas Golf  
11 Society event and the thought's going through my head,  
12 okay will I consider playing in that? Now I'm a judge  
13 does that make any difference? I'm not Attorney  
14 General anymore. I think from the outset that my  
15 instinct is it's appropriate, perfectly appropriate and  
16 that it's like the Bar Council Chairman's dinner which  
17 I think you yourself, Judge, would have been at,  
18 possibly sitting at the same table as a serving  
19 minister, perhaps. I've a vague recollection maybe of  
20 Frances Fitzgerald at the time and yourself at the same  
21 table.

22 MS. JUSTICE DENHAM: I think there was more than one.

23 MR. JUSTICE WOULFE: Yes. And being Attorney General I  
24 knew something about the fact that there has to be  
25 interaction, there will be social interaction. And I  
26 saw this as entirely -- instinctively, I didn't think  
27 about it very long, but I saw it as being in that line  
28 of -- or to give you another example, Judge. When I  
29 was Attorney General and I was being appointed a

1 Bencher and the date was fixed for a date in note and  
2 the Taoiseach wasn't available, he was going to be away  
3 and I had raised the possibility of bringing some  
4 senior politicians to the dinner in the King's Inns and  
5 the Benchers asked me would I put back the dinner so as  
6 to ensure the Taoiseach, and as many ministers as  
7 possible, would come. And a flood of ministers came.  
8 Now, I can't see the difference between the Inns  
9 hosting a social event and politicians going there and  
10 politicians hosting a social event and judges going  
11 there. Depending on a list of special circumstances  
12 and special facts. If there was a case going on at the  
13 time about the Oireachtas and you were sitting in the  
14 case or something like that. But in principle I saw it  
15 at that level. But I decided, maybe I'd heard  
16 something about in codes there's a think about check  
17 with the President of the Court or something. I  
18 decided the safest thing, the precaution to take was  
19 raise it with the Chief Justice.

20 MS. JUSTICE DENHAM: And you did?

21 MR. JUSTICE WOULFE: And I did. Has he disclosed that  
22 to you or discussed that with you?

23 MS. JUSTICE DENHAM: Oh, no, I haven't had any  
24 discussions with any of them. I couldn't at this  
25 stage.

26 MR. JUSTICE WOULFE: Okay. So I've a very crystal  
27 clear memory of it. I know exactly where we spoke,  
28 what time we spoke roughly.

29 MS. JUSTICE DENHAM: But I think one thing that comes

1 across to me is that you didn't know there was going to  
2 be a dinner at that time so you would have asked the  
3 Chief Justice about whether it's appropriate to play in  
4 the Oireachtas Golf Society game.

5 MR. JUSTICE WOULFE: I would have known there would be  
6 dinner of some sort or eating of some sort of. I  
7 wouldn't have known whether it was going to be eating  
8 as we came in or a group dinner.

9 MS. JUSTICE DENHAM: Yes.

10 MR. JUSTICE WOULFE: And I'm not saying that I raised  
11 that with the Chief Justice. Of course I didn't. But  
12 I expect that he would have known that there would  
13 definitely be some element of eating involved. I mean  
14 I know the Chief Justice is not a golfer, I don't think  
15 he is anyway, maybe he's played a little, but he's  
16 involved in other sporting activities and I'd be amazed  
17 -- and he never -- can I tell you exactly what  
18 happened?

19  
20 we had the Judges' lunch. We went back down the stairs  
21 into the yard and I was minded... will I continue?

22 MS. JUSTICE DENHAM: Yes, please do.

23 MR. JUSTICE WOULFE: So I had it in my head, I think  
24 possibly I'd mentioned it to my wife at that stage, the  
25 possibility of all this, and maybe discussed well,  
26 check it with the Chief Justice. She's a clear memory  
27 of conversations around that time with the Chief  
28 Justice. So when the lunch -- I wasn't sitting beside  
29 him at the lunch so when we went down into the Judges'

1 yard and when you come out that side door of Áras Uí  
2 Dhálaigh I was going straight ahead to go back across  
3 to the Law Library Building. I was moving stuff at the  
4 time. The Chief Justice was going in that door in the  
5 corner where Court 6 is. Do you know where I mean?

6 MS. JUSTICE DENHAM: I do.

7 MR. JUSTICE WOULFE: Crossing the yard.

8 MS. JUSTICE DENHAM: Yes.

9 MR. JUSTICE WOULFE: And on that corner I called after  
10 him and I said, 'Frank, listen because I'm new at all  
11 this I just want to check with you something.' And I  
12 said, 'I've been invited to the Oireachtas Golf Society  
13 outing. I don't see anything, I don't think there's  
14 anything wrong with it.' I emphasised that it was a  
15 non-party political event. And he immediately said to  
16 me, 'I don't see any problem with that.' Now, in  
17 fairness to him, I didn't go into details about what  
18 socialising or whether there would be dinner or not,  
19 but I'd be amazed if he didn't know that there was  
20 likely to be some form of eating.

21 MS. JUSTICE DENHAM: I mean what you say here is:

22  
23 "I was not aware whether there would be a formal group  
24 dinner or whether participants would dine separately  
25 with their playing partners directly after their round  
26 of golf."

27  
28 MR. JUSTICE WOULFE: Where is that, Judge?

29 MS. JUSTICE DENHAM: That's on page 3 just before the

1 events on wednesday the 18th.

2 MR. JUSTICE WOULFE: Yes, exactly. That's certainly  
3 right. So I couldn't have raised the precise issue of  
4 the dinner with him at that stage because I didn't know  
5 myself was it going to be eating as we came in like  
6 Baltray or was it going to be a group dinner.

7 MS. JUSTICE DENHAM: But equally, if you go over the  
8 page then on page 4, the end of the first paragraph:

9  
10 "At this stage I was not aware what arrangements, if  
11 any, were in place for the game of golf."

12  
13 MR. JUSTICE WOULFE: Sorry, Judge, where are you  
14 reading from?

15 MS. JUSTICE DENHAM: I'm on page 4.

16 MR. JUSTICE WOULFE: Yes. No, I mean at the time I  
17 spoke to the Chief Justice I wasn't aware which of the  
18 forms of eating was going to be involved. I would have  
19 strongly suspected or knew that there would be some  
20 eating involved. Not absolutely certain but likely to  
21 be either eating as we came in in a group of four,  
22 possibly being put at the same table as other people,  
23 another two or another four. Do you follow me, Judge?

24 MS. JUSTICE DENHAM: Yes. Oh no, I'm listening to you.

25 MR. JUSTICE WOULFE: But I didn't know when talking to  
26 the Chief Justice.

27 MS. JUSTICE DENHAM: I just got the impression here  
28 that you had in mind the game of golf, that you didn't  
29 know if there was anything after the game of golf, and

1           that you weren't aware, on the top of page 4:

2  
3           "At that stage I was not aware what arrangements, if  
4           any, were in place for after the game of golf."

5  
6           You seem to be stressing that you did not know that  
7           there would be a dinner or what arrangements there  
8           would be.

9           MR. JUSTICE WOULFE: The point is the precise form of  
10          eating or dinner. I knew it was highly likely, without  
11          giving it too much thought, that there would be some  
12          form of eating, as there was at the Bar Golf Society.  
13          When you've been out on the course for four to five  
14          hours, everybody eats nearly when they come in off the  
15          course. The question is, is it eating immediately?  
16          You might shower, if you're not showered at the moment.  
17          As I say, in Baltray we more or less sat with our group  
18          of four. Now one or two might have added into a  
19          particular table. I don't know if they had enough  
20          tables to give everybody a table of four. So I  
21          didn't -- really, to be honest with you, I would have  
22          given it very little thought.

23          MS. JUSTICE DENHAM: Yes.

24          MR. JUSTICE WOULFE: But I would have known  
25          subconsciously, without giving it any degree of  
26          thought, that there's going to be some form of eating  
27          and that's either going to be, as always, eating as you  
28          come in off the course or possibly a group dinner. And  
29          a group dinner of course, in principle, was perfectly

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permissible under the Regulations.

MS. JUSTICE DENHAM: Let's look at page three.

MR. JUSTICE WOULFE: Yes.

MS. JUSTICE DENHAM: You discuss:

"I indicated to the Chief Justice that it was a non-party political event and I did not see a problem with me attending but that as a new judge I wanted to check and he indicated that he had no problem with me attending the event, or words to that effect."

MR. JUSTICE WOULFE: Yes.

MS. JUSTICE DENHAM: And then later on down:

"I was not aware whether there would be a formal group dinner or where participants would dine separately with their playing partners, their golf..."

And then at page 4, over the page:

"I left the hotel around midday..."

This is on the morning of Wednesday the 19th.

MR. JUSTICE WOULFE: Yes.

MS. JUSTICE DENHAM: "...at this stage I was not aware what arrangements, if any, were in place for the game of golf."

1 So I was under the impression that you knew you were  
2 going to play a game of golf but you had no knowledge  
3 of anything after that?

4 MR. JUSTICE WOULFE: About the precise arrangements.

5 MS. JUSTICE DENHAM: Right.

6 MR. JUSTICE WOULFE: But I would have known that  
7 broadly speaking there's going to be eating in some  
8 shape or form, but I wouldn't have known what those  
9 arrangements were. In Baltray it had been eat when we  
10 come in off the course. Other times -- in Powerscourt  
11 it was the whole group, the year before, eating  
12 together. Now I never sat down and started thinking  
13 these things out in full detail. But subconsciously I  
14 would have known there's going to be some eating. But  
15 nobody -- I wouldn't have placed any great store on the  
16 issue one way or the other and I wouldn't have been too  
17 bothered one way or the other. If there was no eating,  
18 if it was eating as we came in, or if it was eating in  
19 a formal dinner it would have been a very, very, you  
20 know, it wouldn't have been a consideration really. At  
21 that stage.

22 MS. JUSTICE DENHAM: Yes. Well let us just go back  
23 then perhaps to page 3. Events of Tuesday the 18th and  
24 Wednesday the 19th.

25 MR. JUSTICE WOULFE: Just before you do that, Judge,  
26 because it is important to say. I went back to my wife  
27 then in the light of that --

28 MS. JUSTICE DENHAM: Yes.

29 MR. JUSTICE WOULFE: -- because it was just good to

1 have got the reassurance and she also wanted just to be  
2 careful and check with the Chief Justice. And I told  
3 her, 'Chief Justice says no problem going to the  
4 outing.'

5 MS. JUSTICE DENHAM: Yes.

6 MR. JUSTICE WOULFE: And then I'd a couple of phone  
7 calls and I made, I've a note that shows that the phone  
8 calls had to be on the wednesday the 29th or the  
9 Thursday the 30th because the bottom part of the note  
10 is me contacting on the hotel on the Friday.

11 MS. JUSTICE DENHAM: Right.

12 MR. JUSTICE WOULFE: I have a habit of scribbling  
13 things on the back of compliment slips. So I clearly  
14 had a conversation with my wife and maybe one or two  
15 conversations with Paul Coghlan where I now got the  
16 exact dates.

17 MS. JUSTICE DENHAM: Yes.

18 MR. JUSTICE WOULFE: But, again, nobody is bothered  
19 about dinner one way or the other in these  
20 conversations.

21 MS. JUSTICE DENHAM: It doesn't seem to have been  
22 raised.

23 MR. JUSTICE WOULFE: It's an irrelevancy. But what I'm  
24 interested in here is what precisely are the dates?  
25 It's the 18th and 19th. I now know at this stage that  
26 we're going to Donegal week two and week three and that  
27 had only been confirmed relatively recently. Other  
28 members of my families were going week one, even though  
29 it would have suited us better to be week one and two,

1 but you know what families are like.

2 MS. JUSTICE DENHAM: Yes.

3 MR. JUSTICE WOULFE: So I now know I'm going to Donegal  
4 and initially myself I was slightly doubtful. 'It's an  
5 awful long drive, it's an awful lot to do.' But then I  
6 say, 'look, it's holidays.' And that's a factor, it's  
7 holidays, you can be more social than usual. I said to  
8 my wife, 'look, they're a very nice crowd. I know  
9 they'll appreciate me going. we'll take the two cars.'  
10 And I had a conversation with her about, it's nice to  
11 suffer a long journey in the holidays to just listen to  
12 music. And I just listen to -- I'd taken a couple of  
13 CDs that I'd got that I had no time to listen to for  
14 months.

15 MS. JUSTICE DENHAM: Yes.

16 MR. JUSTICE WOULFE: So that was the plan. But there  
17 would have been no focus of any kind on the dinner  
18 issue one way or the other - good, bad or indifferent.  
19 The whole point of going was to play in the golf and  
20 whatever social interaction happened afterwards.

21 MS. JUSTICE DENHAM: Excellent. Let us start then here  
22 events of Tuesday the 18th and 19th:  
23

24 "On Tuesday the 18th I was in the second week of a  
25 family holiday. I left there around midday. I arrived  
26 in the Station House at approximately 6:00."  
27

28 MR. JUSTICE WOULFE: Can I just mention, I found it an  
29 exhausting journey. I was regretting --

1 MS. JUSTICE DENHAM: It's a terrible drive down, yes.  
2 MR. JUSTICE WOULFE: I'd to go through -- Donegal is  
3 about two hours from -- we're in the very northeast of  
4 Donegal and of course it's always worse when you  
5 actually do it. I try to see that it was roughly five  
6 hours, it seemed to be more. I stopped at one point  
7 somewhere. Down from Sligo through Mayo, stopped where  
8 near Charlestown and then you think you're nearly there  
9 when you get to Westport because it seems like not too  
10 far, the distance, but then the road starts getting  
11 much worse.  
12 MS. JUSTICE DENHAM: It's a wonderful road.  
13 MR. JUSTICE WOULFE: So that is a slight factor in the  
14 whole thing. I arrived very tired and this was  
15 supposed to be, you know, resting during holidays  
16 having had a very tiring couple of months. Six months  
17 really since Covid started. Emergency legislation,  
18 emergency regulations, all the rest of it.  
19 MS. JUSTICE DENHAM: So you were then in contact with  
20 Paul Coghlan?  
21 MR. JUSTICE WOULFE: Yes.  
22 MS. JUSTICE DENHAM: And he invited you to dinner in  
23 another hotel in Clifden and that's the 18th.  
24 MR. JUSTICE WOULFE: Yes.  
25 MS. JUSTICE DENHAM: And you had a dinner and then you  
26 went back to the Station House?  
27 MR. JUSTICE WOULFE: Yes.  
28 MS. JUSTICE DENHAM: Were you aware that evening of any  
29 public pronouncement of new Government rules in

1 relation to public dining issued through the media that  
2 night?

3 MR. JUSTICE WOULFE: No, no, I wasn't unfortunately.  
4 Normally I'm a news addict and normally I'm always  
5 checking my phone and listening to the news on the  
6 radio. My wife would be giving out to me, you know,  
7 for doing it too much and I'd have the radio on  
8 listening. The only bit -- I allowed myself one bit of  
9 news headlines at one stage in between the music and  
10 the issue I heard about was there a row about  
11 restriction of spectators at sporting events and that  
12 would be close to my heart.

13 MS. JUSTICE DENHAM: Yes.

14 MR. JUSTICE WOULFE: And going in to that, the view  
15 seemed to be they would increase it from 200 to maybe  
16 500.

17 MS. JUSTICE DENHAM: Yes.

18 MR. JUSTICE WOULFE: And it seemed odd that you  
19 couldn't have more people in big stadia, to me.

20 MS. JUSTICE DENHAM: But you weren't aware, that  
21 evening, of the Government announcement?

22 MR. JUSTICE WOULFE: No, no, and unusually for me, you  
23 know, I didn't really check my phone for news as much.  
24 I didn't buy a newspaper the next morning that I would  
25 normally do. There wasn't one available on the  
26 reception desk. I would nearly always, when I'm  
27 staying in a hotel, you know, I'm a newspaper addict  
28 get the newspaper and read the news. But I didn't do  
29 that. And to some extent it was deliberate, I was

1 switching off.

2 MS. JUSTICE DENHAM: Yes, you were on holiday. So on  
3 the morning you had breakfast and you learned about  
4 your tee time?

5 MR. JUSTICE WOULFE: Can I just emphasise again.  
6 Breakfast on my own. I was, you know, not that closely  
7 involved in the event and I didn't know very many  
8 people playing in it.

9 MS. JUSTICE DENHAM: Yes.

10 MR. JUSTICE WOULFE: And that's kind of interesting  
11 that I didn't about with a group of four where there  
12 might have been chat about what are we doing tomorrow  
13 night? Is there a group dinner? There might have been  
14 more conversation, but I was on my own and I'd very  
15 little interaction.

16  
17 The other thing I'd say, I met the owner of the hotel,  
18 John Sweeney, when I came down for breakfast. And  
19 again I was impressed with the man. He was, you know,  
20 even though he was the owner of the hotel -- I wasn't  
21 quite sure at that stage if he was the owner or the  
22 manager. He was walking around the lobby trying to  
23 help everybody. And when you came down -- you had to  
24 book breakfast when you checked in the evening before.  
25 So when I came down and came out of the lift there  
26 seemed to be a breakfast room on my right - which  
27 ultimately turned out to be the dining room where this  
28 dinner was held - and a breakfast room on the left of  
29 the lobby, both sides of the lobby, and I asked him,

1 thinking he was maybe only the manager, 'do you know  
2 which room I'm in?' which was a stupid question and he  
3 kind of slightly laughed politely but said to me, 'oh,  
4 I wouldn't know those kind of details but let me bring  
5 me over to...' I think it was James, who is a son, who  
6 was the general manager and I went into the other  
7 dining room. But these two rooms were like dining  
8 rooms, relatively small rooms.

9  
10 So I'd met John Sweeney then but I didn't know he was  
11 going to be at the dinner later on or anything.  
12 Normally, if I was at home in Dublin and not on  
13 holidays, I'm an organised person and I'd be thinking  
14 ahead what's happening this evening? But because I'm  
15 on holidays and I don't have my wife or kids with me or  
16 anything, I'm kind of freewheeling and look, I'll go  
17 out to the golf club, I'll bring a change of clothes  
18 and whatever happens then after the golf, grand. I  
19 still don't know the precise arrangements

20 MS. JUSTICE DENHAM: Yes. Excellent. But you learnt  
21 your tee time was 1:20.

22 MR. JUSTICE WOULFE: Yes.

23 MS. JUSTICE DENHAM: And you arranged to meet one of  
24 your four-ball for a cup of tea in the golf club in  
25 Ballyconneely beforehand?

26 MR. JUSTICE WOULFE: Yes.

27 MS. JUSTICE DENHAM: And you left the hotel about  
28 midday?

29 MR. JUSTICE WOULFE: Yes.

1 MS. JUSTICE DENHAM: Again you say:  
2  
3 "At that stage I was not aware what arrangements, if  
4 any, were in place after the game of golf."  
5  
6 MR. JUSTICE WOULFE: Yes.  
7 MS. JUSTICE DENHAM: And then you arrived in  
8 Ballyconneely.  
9 MR. JUSTICE WOULFE: Yes.  
10 MS. JUSTICE DENHAM: And you went upstairs to the bar?  
11 MR. JUSTICE WOULFE: Yeah. Having played the previous  
12 year I knew what the potential drill was.  
13 MR. JUSTICE WOULFE: Yes. That they'd be in the  
14 clubhouse at a desk checking in and, you know, that's  
15 how you kind of register a check-in and telling you who  
16 you're playing with and so on.  
17 MS. JUSTICE DENHAM: Yes.  
18 MR. JUSTICE WOULFE: Last year it had been downstairs  
19 in the lobby of the golf club, this year it was  
20 upstairs at the bar.  
21 MS. JUSTICE DENHAM: Yes.  
22 MR. JUSTICE WOULFE: So as I go into the bar, on my  
23 left, Donie Cassidy and Deputy Grealish are behind the  
24 desk and they've got paperwork in front of them with a  
25 list of players and so on.  
26 MS. JUSTICE DENHAM: Yes.  
27 MR. JUSTICE WOULFE: I never saw a time sheet or a list  
28 of players so I never knew how many people were playing  
29 in the event.

1 MS. JUSTICE DENHAM: Yes.

2 MR. JUSTICE WOULFE: So what triggered off the dinner  
3 issue was, as I checked in and they took the money off  
4 me, they handed me some kind of a ticket or a docket or  
5 a voucher and they said, 'this is for dinner' and maybe  
6 I said, 'well what dinner?' And they said, 'dinner  
7 tonight in the hotel, Station House hotel at 9:00 p.m.'

8 MS. JUSTICE DENHAM: So now that's really when you  
9 first become aware that the dinner is to be held in the  
10 Station House at 9:00.

11 MR. JUSTICE WOULFE: Yes.

12 MS. JUSTICE DENHAM: Did you consider phoning the  
13 Chief, or any other member of the Court to seek  
14 guidance in relation to the dinner.

15 MR. JUSTICE WOULFE: Ah no. I think that would have  
16 been ridiculous, with respect, Judge, I really do. You  
17 know, I don't think an adult person on holidays in that  
18 kind of a sense would go bothering the Chief Justice at  
19 that stage. Particularly there was nothing to spark  
20 off bother in my mind that there was any question going  
21 back to him. As I say, I take it, and I don't know if  
22 you'll speak to him, but I take it that he would --

23 MS. JUSTICE DENHAM: I won't speak to anybody.

24 MR. JUSTICE WOULFE: Okay. well you see, it's kind of  
25 important. My assumption is that he knew, or would  
26 have known, that there would be some kind of social  
27 element to the golf. You don't just go out and play 18  
28 holes of golf. Now, he wouldn't have known precisely  
29 the details because I didn't know them myself but there

1 was no need to go checking those details with him.  
2 Either originally or subsequently on the day when I  
3 found out. And there was nothing inherently dangerous  
4 about the fact there was going to be a dinner.  
5 Gatherings of 50 people were allowed under the  
6 Regulations. And it's the Regulations that I would  
7 have been involved in the Attorney General's Office,  
8 these so-called guidelines to go back to, I've never  
9 seen a copy of them in the Attorney General's Office.  
10 I doubt if one ever came in the door. And there's a  
11 load of different guidelines for different sectors but  
12 we can come back to those issues.

13 MR. COLLINS: Could I ask a question, Judge? If not  
14 it's fine.

15 MS. JUSTICE DENHAM: Of course.

16 MR. COLLINS: When you did first contact the Chief  
17 Justice, was your concern about judges going to an  
18 Oireachtas event, what I will call the separation of  
19 powers point issues or was it a Covid thing in your  
20 mind?

21 MR. JUSTICE WOULFE: A hundred percent separation of  
22 powers. The Covid issue never came into it - good, bad  
23 or indifferent. I had no basis to have a fear about  
24 Covid because I didn't know the details and I had no  
25 general fear about Covid. And I had gone --

26 MR. COLLINS: Then was there anything -- when you  
27 learned about the dinner, was there anything that  
28 sparked any concern in your mind from a separation of  
29 powers perspective about having the dinner?

1 MR. JUSTICE WOULFE: Absolutely not. I don't see how  
2 it could.

3 MR. COLLINS: Sorry, Judge.

4 MR. JUSTICE WOULFE: Thanks, Mr. Collins. Can I say  
5 this to you as well: I mean in the background, while I  
6 wasn't sitting down on my own in the clubhouse and  
7 suddenly start to think about all the detail, I was  
8 aware that the Regulations, such as the Regulation for  
9 50 persons, I would have been aware in a very general  
10 hazy way that there were detailed guidelines and rules  
11 about all of that but that the whole point was to  
12 reopen up the country. That changed unfortunately.  
13 This was around the exact very unfortunate  
14 circumstances, it was almost on the cusp of that. But  
15 the Government policy was for people to go and support  
16 hotels and go to events. And I knew that the  
17 guidelines in a broad way, the guidelines were designed  
18 to liberalise, as much as possible, what was in the  
19 Regulations. So if the Regulations said 50, the  
20 Government policy was the hotels would say, 'we can't  
21 function with 50 people on the premises.' And I knew,  
22 in broad terms, the Government had agreed to provide 50  
23 people on the premises. And when I went to the local  
24 hotel in the village in Donegal I was in, you go in --  
25 I wasn't thinking this through at the time, but  
26 thinking back on it, you go in the lobby of the hotel -  
27 and I gather this is the same over the country. This  
28 is not unusual, this event, in that sense. You go in  
29 the door of the hotel, the bar is on the left with an

1 open door and there's maybe up to 50 people in there.  
2 The sitting room, if you want to call it or another  
3 room is on the right where we were one of the nights in  
4 the bar, with an open door, and there was up to 50  
5 people in there, and the restaurant behind the sitting  
6 room on the right-hand side is operating bar food with  
7 possibly up to 50 people in there. So the hotels, and  
8 I knew, broadly speaking, that was the case all over  
9 the country. So there was no panic about there's a  
10 dinner. And there was no reason to be. I'd been in  
11 Donegal eating out dinner two or three times in the  
12 local hotel. When we talk about, Judge, in the  
13 Guidelines, we'll come back to the separate defined  
14 spaces. In the hotel in Donegal --

15 MS. JUSTICE DENHAM: Let's leave that for a moment.

16 MR. JUSTICE WOULFE: Okay.

17 MS. JUSTICE DENHAM: I'm still on page 4, okay.

18 MR. JUSTICE WOULFE: My attitude when the dinner was  
19 mentioned, there was some caution by me. So it  
20 registered with me that this was a group dinner as  
21 opposed to us eating when we come in.

22 MS. JUSTICE DENHAM: Yes.

23 MR. JUSTICE WOULFE: So I've a flicker of a question or  
24 hesitation and I ask Paul Coghlan, because he's my host  
25 and I think he's part of the organising committee so I  
26 don't have to ask Donie Cassidy directly or  
27 Noel Grealish, who are still registering people and are  
28 busy over to my left. I got an extremely strong  
29 reassurance from him, as I said in my statement, that

1 Donie and the organising committee had consulted  
2 extensively with the authorities and ensured that  
3 everything would be in compliance with the rules and  
4 the public health guidelines. And it was said to me in  
5 emphatic terms that that was the case. Do you see,  
6 Judge, where I'm at in the middle of page 4?

7 MS. JUSTICE DENHAM: Oh, yes, I do. So you're saying  
8 that it's the conversation with Paul Coghlan that  
9 reassures that Covid is being --

10 MR. JUSTICE WOULFE: Absolutely. And the kind of  
11 people that I know implicitly he's giving the assurance  
12 on behalf of, Donie Cassidy and I mentioned Captain of  
13 the Guard, what's his name again? John Flaherty. So I  
14 instinctively have a good basis for relying upon that  
15 reassurance.

16 MS. JUSTICE DENHAM: Did you actually discuss 50 people  
17 or any details like that?

18 MR. JUSTICE WOULFE: No. No. And I don't think people  
19 generally would. I think it's artificial, with  
20 respect, that people would. And, you know, and did I  
21 immediately in my brain call up the number 50? It's  
22 hard to know in retrospect. I would have been aware  
23 there was a 50 but at that split second, what I would  
24 have been aware was that there's a numbers restriction  
25 but there's loads of guidelines with flexibility about  
26 the numbers restriction.

27 MS. JUSTICE DENHAM: Yes.

28 MR. JUSTICE WOULFE: I would have known that and I  
29 would have seen it, without thinking too much about it.

1 And I would have been told of people in very famous and  
2 prominent hotels in Wexford and Kerry, their holiday  
3 experience, and one or two friends had mentioned to me  
4 that there was, you know, no large numbers eating at  
5 night in a couple of very prominent hotels in Ireland.

6 MS. JUSTICE DENHAM: Absolutely. I will turn over to  
7 page 5 and it's really a continuation of the same  
8 thing.

9 MR. JUSTICE WOULFE: Can I just add, sorry to interrupt  
10 you.

11 MS. JUSTICE DENHAM: Yes.

12 MR. JUSTICE WOULFE: It's useful. What I wasn't sure  
13 about when this maelstrom exploded, what I wasn't sure  
14 about was just a conversation with Paul Coghlan but  
15 helpfully it appears that the conversation took place  
16 as we sat down at a table. So let's say the reception  
17 desk is --

18 MS. JUSTICE DENHAM: And which table are we talking  
19 about?

20 MR. JUSTICE WOULFE: That's what I'm going to. So the  
21 reception desk case is where Mr. Conboy is, we'll say,  
22 right?

23 MS. JUSTICE DENHAM: Yes.

24 MR. JUSTICE WOULFE: Okay. And then you turn right  
25 into the bar.

26 MS. JUSTICE DENHAM: Yes.

27 MR. JUSTICE WOULFE: And I think it was the first table  
28 beside the bar. So the side of the bar was here so I  
29 think we went straight from there, about this kind of

1 distance (indicating), I think slightly -- to a table  
2 where my three playing partners were sitting.

3 MS. JUSTICE DENHAM: Now, this is in Ballyconneely, is  
4 it?

5 MR. JUSTICE WOULFE: Ballyconneely Golf Club, in the  
6 golf club. So I wasn't sure did I have the  
7 conversation with Paul out of hearing with those people  
8 but I've been able to check, and you'll have seen the  
9 statement of Lorraine Higgins that Lorraine heard the  
10 conversation and she's a very clear memory of me, you  
11 know, raising it and looking for assurance.

12 MS. JUSTICE DENHAM: So you raised your concern with  
13 him about the event.

14 MR. JUSTICE WOULFE: Yes.

15 MS. JUSTICE DENHAM: And he is a person that you are  
16 satisfied --

17 MR. JUSTICE WOULFE: Concern might be putting it too  
18 strongly.

19 MS. JUSTICE DENHAM: Yes.

20 MR. JUSTICE WOULFE: Just a slight query about the fact  
21 that unlike at Baltray, where we ate when we came in,  
22 this was now a group dinner. And I just queried it.  
23 But I got a very, very strong reassurance from Paul and  
24 was like, look, Donie and the committee have -- and  
25 that was the kind of phrase, they have consulted  
26 extensively with the authorities to ensure that  
27 everything complies.

28  
29 what kind of put the extra tin hat on it was somebody

1 said. 'Séamus, the event was going to be in the golf  
2 club, the dinner, but it's been moved to the hotel to  
3 ensure compliance with the guidelines.'

4 MS. JUSTICE DENHAM: Yes.

5 MR. JUSTICE WOULFE: And you see that was probably the  
6 same issue as in Baltray. I didn't think about it  
7 deeply at the time, but the clubhouse upstairs was one  
8 room and I didn't know there was going to be more than  
9 50 people, but that was presumably the issue.

10  
11 Now I understand the organisers themselves weren't sure  
12 whether there would be 50 people or not and it was  
13 moved to the hotel in case there would be 50. You see  
14 the weather forecast is another important issue I must  
15 mention, Judge. The weather forecast was dreadful  
16 leading up to that Wednesday and as of Saturday and  
17 Sundays I was checking it every day and I wasn't to go  
18 at all if it was clear it was going to be raining all  
19 day. And it looked like it was. And if that had  
20 happened none of this maelstrom would have happened  
21 because a lot of people wouldn't have played on the  
22 Wednesday at all and there couldn't have been any  
23 dinner for more than 50 people.

24 MS. JUSTICE DENHAM: You have a reply from Paul Coghlan  
25 about how it's been well run and Donie Cassidy.

26 MR. JUSTICE WOULFE: Yes.

27 MS. JUSTICE DENHAM: And you're satisfied with that and  
28 was there no discussion about the fact that there had  
29 been, the night before, new guidelines, the Government

1 announcement?

2 MR. JUSTICE WOULFE: No.

3 MS. JUSTICE DENHAM: No discussion at all about that?

4 MR. JUSTICE WOULFE: No. I found out retrospectively,  
5 and you'll have see it in the engineer's report that  
6 Donie Cassidy -- Noel Grealish heard something about  
7 it, raised it with Donie Cassidy and Donie Cassidy did  
8 the correct thing and contacted the Irish Hotels  
9 Federation. You see there's a chain in the way these  
10 worked, these guidelines.

11 MS. JUSTICE DENHAM: Oh, I understand, yes.

12 MR. JUSTICE WOULFE: And the chain was very, very  
13 importantly because it's in a way hypocritical, the  
14 Government of Ireland are at the top of the chain.

15 MS. JUSTICE DENHAM: They announce it.

16 MR. JUSTICE WOULFE: And then Fáilte Ireland and then  
17 the actual board representative body.

18 MS. JUSTICE DENHAM: Yes.

19 MR. JUSTICE WOULFE: But the sector consult in the  
20 first instance with the representative body. If  
21 they've any doubt about it, they ask the next leg up on  
22 the chain. But in my experience as Attorney General in  
23 a number of these cases, when there was a query, I just  
24 heard this, I wasn't in direct experience of it. Those  
25 queries ended up at the highest level in the Department  
26 of An Taoiseach. So when we see this e-mail later on  
27 about the Department of Tourism confirming that there  
28 were no new guidelines in place on the wednesday, that  
29 was probably cleared with the Department of An

1 Taoiseach, but that's perhaps not for you to have to  
2 deal with, Judge, thankfully.

3 MS. JUSTICE DENHAM: I don't have to deal with that,  
4 thank goodness. That's one thing I don't have to deal  
5 with.

6 MR. JUSTICE WOULFE: One thing, Judge, that I do have  
7 to emphasise, if I hadn't any experience with  
8 Donie Cassidy or John Flaherty I mightn't have had such  
9 close to complete confidence in them, to be honest with  
10 you. Once I got those assurances I really didn't think  
11 much after that moment again about there being any risk  
12 about breach of guidelines.

13 MS. JUSTICE DENHAM: You said already that you talked  
14 to Enda Kenny.

15 MR. JUSTICE WOULFE: No, I met him in Powerscourt the  
16 previous year.

17 MS. JUSTICE DENHAM: Oh, you met him in Powerscourt.  
18 You didn't meet him at Ballyconneely?

19 MR. JUSTICE WOULFE: No, he only played on the Tuesday,  
20 I understand.

21 MS. JUSTICE DENHAM: Ah, he didn't play on the  
22 wednesday?

23 MR. JUSTICE WOULFE: No, but contrary to media reports  
24 my information is that he told people, on Tuesday - his  
25 playing partners - that he couldn't go to the dinner on  
26 the wednesday night because he had another commitment.

27 MS. JUSTICE DENHAM: All right. And what about  
28 Dick Spring, who is the other name?

29 MR. JUSTICE WOULFE: My understanding is Dick Spring

1 played on the wednesday but my understanding from the  
2 organisers is that a family dinner because of a 70th  
3 birthday, but that's just what I've been told.

4 MR. COLLINS: Did you meet him on the day?

5 MR. JUSTICE WOULFE: No. I didn't me Dick Spring. I  
6 never saw a time sheet, so I don't know --

7 MS. JUSTICE DENHAM: You didn't Dick Spring?

8 MR. JUSTICE WOULFE: I never saw him but I never even  
9 saw a list of who was playing, so I don't know did they  
10 start playing at 10 o'clock or 11 o'clock and was I one  
11 of the last or was I one of the first?

12 MS. JUSTICE DENHAM: You've been talking about the  
13 maelstrom.

14 MR. JUSTICE WOULFE: Yes.

15 MS. JUSTICE DENHAM: And the reason I asked you about  
16 Enda Kenny is because we have The Independent, I'll  
17 hand it over to you in a minute.

18 MR. JUSTICE WOULFE: Yes.

19 MS. JUSTICE DENHAM: "Enda Kenny refused invite to  
20 Golfgate dinner and was very unhappy about it going  
21 ahead."

22  
23 And then:

24  
25 "Former Taoiseach refused a dinner invitation to the  
26 Station House from the Oireachtas Golf Society and was  
27 very unhappy about it going ahead. He played golf on  
28 the Tuesday but then made it clear he would not attend  
29 the dinner and did not think it was a good idea. He

1 believed it would send out the wrong signal to the  
2 general public."

3  
4 MR. JUSTICE WOULFE: May I see that? (SAME HANDED)  
5 Thank you. [REDACTED]

6 [REDACTED] I  
7 obviously wasn't talking to Enda Kenny. But I'm told  
8 that Enda Kenny said to his playing partners on the  
9 Tuesday that he'd another commitment on the Wednesday  
10 night and couldn't attend the dinner. Now, I knew none  
11 of that at the time.

12 MS. JUSTICE DENHAM: I don't have to decide that.

13 MR. JUSTICE WOULFE: I didn't know that at the time one  
14 way or the other. Can I say this: The previous  
15 year -- Enda Kenny's been at a lot of dinners in the  
16 last or 10 or 15 years and the previous year in  
17 Powerscourt I had a drink with him when we went  
18 upstairs, along with Noel Dempsey and a serving judge  
19 who was a relative of Noel Dempsey. They were the four  
20 I had a drink with before the dinner. And Enda Kenny  
21 didn't stick around for the dinner that year either, he  
22 went to meet his son in Dublin and go for dinner with  
23 him. So I would say he's probably very sick of going  
24 to dinners, Judge, as you probably were, when you were  
25 finished as Chief Justice.

26 MS. JUSTICE DENHAM: So tell me, I think to some extent  
27 you might have answered it, but did Enda Kenny speak to  
28 you at all?

29 MR. JUSTICE WOULFE: Enda Kenny?

1 MS. JUSTICE DENHAM: Yes.

2 MR. JUSTICE WOULFE: No, I never met him on this event.

3 As far as I know he was there on the Tuesday. I

4 arrived --

5 MS. JUSTICE DENHAM: You never met him in

6 Ballyconneely?

7 MR. JUSTICE WOULFE: No, I arrived on Tuesday at six

8 o'clock and I presume he left the golf club. Of

9 course, don't forget Enda Kenny lives in Castlebar.

10 MS. JUSTICE DENHAM: Oh, I know.

11 MR. JUSTICE WOULFE: So he can go home. As some people

12 did, I think. They played golf and went home and never

13 stayed for any dinner.

14 MS. JUSTICE DENHAM: Yes.

15 MR. JUSTICE WOULFE: And sorry, the dinner could have

16 been on the Tuesday or the Wednesday night.

17 MS. JUSTICE DENHAM: Yes.

18 MR. JUSTICE WOULFE: They had it on the Wednesday

19 night.

20 MS. JUSTICE DENHAM: They had it on the Wednesday

21 night, exactly.

22 MR. JUSTICE WOULFE: Can I emphasise: My knowledge

23 about Donie Cassidy from in a general way and then when

24 the golf happened and playing with his son the previous

25 year that I regarded him as a person of high integrity,

26 high ability, high organisation and as a hotelier

27 businessman. Whatever about relying upon, again I can

28 make the point, a pub golf society where the person in

29 charge knows nothing about the hospitality trade, this

1 is the man who himself in his daily basis is dealing  
2 with the Guidelines.

3 MS. JUSTICE DENHAM: Yes.

4 MR. JUSTICE WOULFE: And that's an important factor,  
5 allied to John Flaherty who I would just have huge  
6 trust and faith and confidence in.

7 MS. JUSTICE DENHAM: Now I think there's nothing there  
8 until we get to the night of Wednesday the 19th. I  
9 mean I have your statement there about who were in your  
10 four-ball and the weather and you had a drink in the  
11 Station House before dinner and then you went and had a  
12 rest. So that brings us then to the night of --

13 MR. JUSTICE WOULFE: Judge, just to correct. Did you  
14 say we had a drink in the Station House? We arranged  
15 to meet for a drink in the Station House, we had a  
16 drink in the golf club.

17 MS. JUSTICE DENHAM: Yes.

18 MR. JUSTICE WOULFE: And had some lunch.

19 MS. JUSTICE DENHAM: Yes.

20  
21 "Three of us arranged to meet for a drink in the  
22 Station House before dinner."

23  
24 MR. JUSTICE WOULFE: A very casual kind of arrangement.

25 MS. JUSTICE DENHAM: Yes.

26 MR. JUSTICE WOULFE: You know, 'we might have a drink  
27 at 8:00 or 8:15', something like that.

28 MS. JUSTICE DENHAM: Yes. Then that brings us to the  
29 night of the 19th. You went downstairs at 8:15 and you

1 met your playing partners for a drink?

2 MR. JUSTICE WOULFE: Can I just say something here  
3 perhaps to give a sense of reality to this. Having got  
4 those assurances I wasn't going around, you know, with  
5 a sort of a reserved suspicion that they mightn't  
6 comply with the guidelines or anything. I had placed  
7 my truth and faith with them, on the basis of those  
8 assurances, and I was very reassured and I was relaxed  
9 going downstairs and going to dinner. So I wasn't on  
10 guard, or snooping around or should I print out a copy  
11 of the guidelines and check them, or anything.

12 MS. JUSTICE DENHAM: So when I came downstairs.

13 MR. JUSTICE WOULFE: Yes.

14 MS. JUSTICE DENHAM: You didn't ask anybody any more  
15 about whether or not the Covid --

16 MR. JUSTICE WOULFE: No. There was no sense of a big  
17 crowd. This is the funny thing. Why I was astonished  
18 on the Friday morning when the bomb went off to hear  
19 the media suggesting there were 80 people at the  
20 dinner. When I went into the bar there seemed to be a  
21 relatively small number of people around. Now, there  
22 were also some people sitting - you'll have seen the  
23 engineer's photographs - in the chairs in the lobby  
24 outside the bar. But of course I wouldn't have known  
25 if those people were guests in the hotel. There were a  
26 lot of other people staying in the hotel other than the  
27 golf people staying in the hotel. So there was no  
28 sense to me, in the way there often is at functions  
29 when you've a pre-dinner drink, that there's a big

1 crowd. In fact the opposite. I would only have seen  
2 in the bar six or seven or eight people that I knew  
3 were involved in the golf.

4 MS. JUSTICE DENHAM: So at that time did you know that  
5 some people had left the golf and were not coming to  
6 the dinner?

7 MR. JUSTICE WOULFE: Yes, I did.

8 MS. JUSTICE DENHAM: And was there any discussion or  
9 did anybody have a discussion with you about the reason  
10 for not going to the dinner was a concern?

11 MR. JUSTICE WOULFE: Discussion I would have would be  
12 they weren't going to dinner for logistical reasons.

13 MS. JUSTICE DENHAM: Right.

14 MR. JUSTICE WOULFE: Not a single person raised a  
15 concern about Covid issues. So one person that I know,  
16 he had come on the Monday, his wife had come with him,  
17 they'd broken off from their family holiday with their  
18 kids, somebody else was minding their kids, and having  
19 stayed Monday night, played in the golf Tuesday, his  
20 wife tempted to play, though she doesn't normally play  
21 golf, and that seems to have survived, the marriage  
22 seems to have survived that day, and he went -- so he  
23 played on Wednesday then but didn't stick around  
24 afterwards. So the two of them drove away on the  
25 Wednesday.

26 MS. JUSTICE DENHAM: Yes. So you had no sense of  
27 people being concerned and refusing to go to the  
28 dinner?

29 MR. JUSTICE WOULFE: Zero. Zero sense.

1 MS. JUSTICE DENHAM: Excellent. well then let us move  
2 on. You entered the dining room. Just looking at the  
3 photographs you gave to us.  
4 MR. JUSTICE WOULFE: Yes.  
5 MS. JUSTICE DENHAM: When you went into the dining room  
6 I think you went past a table with two chairs?  
7 MR. JUSTICE WOULFE: If you go to, it may be of  
8 assistance to go to them, it's tab 5 in my book of  
9 photographs and if you look at image 4 maybe is where  
10 I'm starting. I'm in the bar there, if you can read  
11 the sign above "The Library"?  
12 MS. JUSTICE DENHAM: So we're at --  
13 MR. JUSTICE WOULFE: I'm at image 4 on page 6. So,  
14 Judge, I'm just starting back with being in the bar and  
15 coming out of the bar.  
16 MS. JUSTICE DENHAM: The Library is the bar.  
17 MR. JUSTICE WOULFE: The Library is the bar and I was  
18 with Lorraine Higgins and one or two other people  
19 having a drink. My memory is that I didn't even get my  
20 pint finished and Paul Coghlan came in and said. 'will  
21 you come all inside now,' and I think he said, 'there's  
22 Prosecco and stuff inside. So I come out, I turn left  
23 through that door, do you see the door the other side  
24 where there's a bit of wall to the right of The Library  
25 entrance, do you see that, Judge?  
26 MS. JUSTICE DENHAM: Yes.  
27 MR. JUSTICE WOULFE: So I turn right and then let's go  
28 to image 6 maybe, I turn left rather, turn left into  
29 that corridor.

1 MS. JUSTICE DENHAM: You turn left into that door, yes.  
2 MR. JUSTICE WOULFE: Into that corridor, yes.  
3 MR. MURPHY: I wonder, Judge, just for the record,  
4 could you to name the photographs.  
5 MR. JUSTICE WOULFE: I'm going to image 6 now, the  
6 access hall into the suite. I was walking in a group  
7 of at least two other people, Lorraine Higgins and the  
8 Moroccan Ambassador, and I was chatting. I never  
9 noticed that table. I see it now in the photograph.  
10 MS. JUSTICE DENHAM: So that table we're looking at is  
11 in image 6 and it has a chair on either side.  
12 MR. JUSTICE WOULFE: Yes.  
13 MS. JUSTICE DENHAM: And I understand that there was a  
14 table plan on top of it?  
15 MR. JUSTICE WOULFE: I've seen that said but I've also  
16 seen references that Noel Grealish was walking around  
17 holding the table plan outside in the lobby. And he  
18 was stopping anybody who wasn't -- I didn't know any of  
19 this at the time, but he was stopping anybody who  
20 wasn't in the Omeiy Suite going into that corridor you  
21 see in image 6 and he was diverting them off to a  
22 different corridor which leads to the other suite.  
23 MS. JUSTICE DENHAM: So what you're saying is you  
24 didn't see that?  
25 MR. JUSTICE WOULFE: No.  
26 MS. JUSTICE DENHAM: You didn't see that?  
27 MR. JUSTICE WOULFE: No. But, what was I going to say  
28 to you? Normally at events - and I'm sure you've had  
29 the same experience - if I'd gone into the room I would

1 expect the table plan to be inside the room probably.  
2 As soon as I arrived at the door of the room, somebody  
3 I think Paul Coghlan said, 'Séamus you're at table 5.'  
4 So I never needed to look for a table plan.  
5 MS. JUSTICE DENHAM: And you sat down.  
6 MR. JUSTICE WOULFE: No, I didn't sit down immediately.  
7 MS. JUSTICE DENHAM: Right.  
8 MR. JUSTICE WOULFE: I stood at the table for a few  
9 minutes and. At that stage I was, I think, the second  
10 person to arrive at the table and there was a lady on  
11 my left, this is slightly important, a lady on my left  
12 who I'd never met before, I didn't know who she was.  
13 She turned out to be the Lady President or Lady Captain  
14 of the golf club and she'd been invited. They always  
15 usually do that at these golf things. You know,  
16 whatever club the place is hosted in somebody gets  
17 invited to dinner and is thanked for offering the  
18 facilities. So at that point I was able to engage in  
19 conversation with her. But it's important in this  
20 regard. Later on most of the time I was directing my  
21 head and my body to the right to Lorraine Higgins and  
22 the Ambassador. I didn't speak with that lady very  
23 much after the early part of the dinner because she  
24 knew the people on the her left, which were the hotel  
25 owner's wife and the hotel owner, Mr. Sweeney. So I  
26 had a chat with her, introduced myself for, you know,  
27 what would have been five minutes perhaps before the  
28 other people came and we all sat down.  
29 MR. MURPHY: Judge, I wonder if it might be appropriate

1 to take a very short comfort break for just two  
2 minutes?

3 MS. JUSTICE DENHAM: Of course.  
4

5 THE MEETING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:  
6

7 MR. JUSTICE WOULFE: I appreciate and I will try and  
8 keep the answers a little bit shorter, if I can. Can I  
9 just go back on one point I need to clarify, because it  
10 might be helpful? This idea of the make up of the  
11 society and the volume of politicians as opposed to the  
12 volume of other people and family and friends. I  
13 managed to get information last night from one of the  
14 organisers that the figures for the Wednesday were,  
15 just bear with me a sec, please, Judge, that there was  
16 one sitting TD on the Wednesday played, six sitting  
17 senators - so seven active politicians - 16 former  
18 members of the Oireachtas, so we're now up to 23, 7 and  
19 16 either active or former members of the Oireachtas  
20 and that that represented approximately 50% of the  
21 total number of playing, probably slightly less. I  
22 wasn't able to get an absolute figure for total who  
23 played in the end but it was in the high 40s I was  
24 told. Of course I had played the first year with one  
25 former politician and one relative of at that stage a  
26 former politician and this year I played with one  
27 former senator, one former TD who I surprised when he  
28 told me he had left the Dáil in 2002, it didn't seem  
29 like so long, Gerry Reynolds, and the fourth person

1 was -- I'll give you an example of how informal this  
2 whole business was, I think. The fourth person, my  
3 understanding is a man called Tony walsh. I know his  
4 face, I play squash in Fitzwilliam, squash is my main  
5 sport. So when I saw this man sitting at the table  
6 with a cup of tea, I thought, 'God, I know that guy,  
7 what's he doing here?' So it seems that he holidays in  
8 Ballyconneely and he drops up to the golf club  
9 regularly and he got roped in at the last minute to  
10 play. And when Paul Coghlan didn't feel like going out  
11 a second day and playing the Tuesday -- sorry, correct  
12 that. Tony walsh himself played on the Tuesday just  
13 because he was in Ballyconneely and he was down around  
14 the golf club and there must have been a spare slot or  
15 something.

16 MS. JUSTICE DENHAM: Yes.

17 MR. JUSTICE WOULFE: And then on the wednesday he ended  
18 up in my group, and I don't know what background  
19 Mr. walsh is from but that -- now he then ended up at  
20 the dinner I think. I think I saw him when I came in  
21 at the first table on the right at Paul Coghlan's  
22 table. I presume he knew nothing about the dinner  
23 until the Tuesday or the wednesday.

24 MS. JUSTICE DENHAM: Just thinking about that, there's  
25 one other thing I'd like to go back. As you say,  
26 there's been a maelstrom of media about all of this.  
27 If I could take image 9 in your book.

28 MR. JUSTICE WOULFE: Yes.

29 MS. JUSTICE DENHAM: You have here the table in the

1 hallway which contained the table plan.

2 MR. JUSTICE WOULFE: Yes.

3 MS. JUSTICE DENHAM: So that's a public area.

4 MR. JUSTICE WOULFE: Yes.

5 MS. JUSTICE DENHAM: And people could go by --

6 MR. JUSTICE WOULFE: Yes.

7 MS. JUSTICE DENHAM: -- and they would see your name on

8 the table plan?

9 MR. JUSTICE WOULFE: Yes, if they saw it or read it

10 which I doubt many people did.

11 MS. JUSTICE DENHAM: Yes. But it was there on the --

12 MS. JUSTICE DENHAM: And you said that. I accept that

13 you didn't see it but the point is that it is a

14 document in a public place.

15 MR. JUSTICE WOULFE: well it is, except I've been told

16 that Deputy Grealish picked it up and was walking

17 around with it. That's what I've been told. I don't

18 know if that's true or not.

19 MS. JUSTICE DENHAM: well, it was there for part of the

20 evening anyway.

21 MR. JUSTICE WOULFE: well, the engineer must have got

22 instructions from the hotel owner that it was there.

23 MS. JUSTICE DENHAM: Yes.

24 MR. JUSTICE WOULFE: So that's the basis for that

25 reference. That's, I don't think, coming from any

26 player at the event might have seen it.

27 MS. JUSTICE DENHAM: Yes.

28 MR. JUSTICE WOULFE: That's my assumption that at

29 the -- the only people, the only place the engineer

1 could have got that is from my solicitor or the hotel  
2 owner. So the hotel owner must think it was put there.  
3 But Deputy Grealish is maybe the only one who could  
4 answer that question, based upon what the organisers  
5 have told me. Because he had to be outside that area  
6 if he was going to be directing people to the other  
7 suite and he had to know who was at what table to  
8 direct them. So it couldn't have been there if he was  
9 doing what he was supposed to be doing.

10 MS. JUSTICE DENHAM: Unless he had a second copy.

11 MR. JUSTICE WOULFE: That's possible and we can  
12 speculate endlessly.

13 MR. COLLINS: Or he could have picked it up, I suppose,  
14 from the table and taken it away.

15 MS. JUSTICE DENHAM: He could. It could be either.

16 MR. JUSTICE WOULFE: What I've been told is that he had  
17 the table plan.

18 MS. JUSTICE DENHAM: Right.

19 MR. JUSTICE WOULFE: I haven't been told there's any  
20 suggestion -- and I doubt very much for a society golf  
21 outing they would bother printing too many.

22 MR. MURPHY: I am just concerned. There is information  
23 which I've referred to Mr. Collins, of a framed table  
24 plan. If you wish we can put that to you and show you  
25 the information, but I just have a concern that it is  
26 part of the narrative and --

27 MR. JUSTICE WOULFE: One way or the other I never saw  
28 it so I know nothing about the table plan.

29 MR. MURPHY: But if an issue is being raised as to

1           whether one existed in the frame...

2           MR. COLLINS: I think as far as the issues really are  
3           are to do with what Judge Woulfe knew and was aware of  
4           and the judgements that he made based on the knowledge  
5           that he had, I'm not sure it's really necessary to go  
6           into extraneous sources that we don't know really the  
7           provenance of them at all.

8           MR. MURPHY: No, but I just want to be clear. Is there  
9           a dispute being made that there was a table plan on the  
10          table?

11          MR. JUSTICE WOULFE: I never saw it is the point. So I  
12          don't know what it said. I've never seen it, even now.

13          MR. MURPHY: I think that's a separate issue. Insofar  
14          as you could see it but is there dispute that one  
15          existed at all?

16          MR. COLLINS: No. We can't say there was no table  
17          plan. Neither can we say for certain that there was a  
18          table plan. Judge Woulfe never saw a table plan. If  
19          somebody else says there was a table plan that may well  
20          be correct. We're not in a position to say that was  
21          not so. So we're not disputing it in that sense, it's  
22          simply that we have no information about it one way or  
23          the other.

24          MR. MURPHY: Again, just for the purposes, there is a  
25          recording which we are in a position to show to you,  
26          unless you have an objection, if there is any dispute  
27          that there was in existence a table plan.

28          MR. JUSTICE WOULFE: My answer is (a) I never saw is  
29          but (b) that that my information, and it may be correct

1 or incorrect, from one of the organisers is that the  
2 organiser, Noel Grealish, was holding the table plan  
3 and was diverting people outside where, if you go back  
4 to image 4. Do you see image 4, Judge?  
5 MS. JUSTICE DENHAM: Yes, I have it.  
6 MR. JUSTICE WOULFE: You see some people, I knew none  
7 of this at the time of course. Some people had to  
8 go -- do you see the doors there to the right, there's  
9 The Library doors, there's the doors I went through and  
10 if you go keep going across the doors on the right,  
11 that's the corridor down to the other suite.  
12 MS. JUSTICE DENHAM: Right.  
13 MR. JUSTICE WOULFE: So Noel Grealish had to be out  
14 there somewhere in the lobby in order to divert people  
15 that way or into the corridor I was in. So he had to  
16 know, I didn't know at the time, he had to know whether  
17 a person was going to one dining room or the other  
18 dining room.  
19 MS. JUSTICE DENHAM: I think a concern is that there  
20 appears to have been a table plan and I must consider  
21 whether there was a table plan, but most the important  
22 thing is did you see a table plan?  
23 MR. COLLINS: Does it really matter if he didn't see  
24 it?  
25 MR. JUSTICE WOULFE: Didn't see it, was never aware of  
26 it and have never seen it.  
27 MS. JUSTICE DENHAM: That answers the concern from that  
28 point of view in the sense that we have discussed that  
29 there was a table plan, we understand but that you

1           didn't see it.

2           MR. JUSTICE WOULFE:   No.

3           MS. JUSTICE DENHAM:   Because we have had a maelstrom of  
4           media and I anticipate we might have one later on so we  
5           must address the issues. I think that's it.

6           MR. JUSTICE WOULFE:   I understand.

7           MR. COLLINS:   All right.

8           MS. JUSTICE DENHAM:   So that brings us down to the end  
9           of page 5 I think.

10          MR. JUSTICE WOULFE:   Just bear with me a moment, Judge,  
11          just to get my bearings again. Right, I think I was  
12          discussing the start of the dinner and, you know, going  
13          to the table and I said in the statement it wasn't a  
14          particularly big room, it was a dining room rather than  
15          what I would normally consider a function room. I had  
16          seen it, I had glanced at it in the morning where it  
17          appeared to be an overflow breakfast room or an  
18          alternative breakfast room on the right. And I wasn't  
19          struck by anything when I went in that it was a big  
20          room or it was a particularly big crowd. You'll note I  
21          said on page 5, I'm at the second last full paragraph,  
22          that my recollection is there were between six and  
23          eight tables in it. So I couldn't remember initially  
24          when I was doing this statement how many tables there  
25          were in it and it turns out there were six. This idea,  
26          I wasn't in any way on guard and I didn't count the  
27          number of people in the room, although I now understand  
28          there were apparently 45 people there.

29          MS. JUSTICE DENHAM:   well, just looking at the room.

1 I'm looking at image 30.

2 MR. JUSTICE WOULFE: Yes.

3 MS. JUSTICE DENHAM: And it appears that there's three  
4 tables in the front, one on the left, so two and three,  
5 and then three tables at the back.

6 MR. JUSTICE WOULFE: Yes.

7 MS. JUSTICE DENHAM: Four and five in the middle which  
8 appears to be your table.

9 MR. JUSTICE WOULFE: Yes. And sometimes it's  
10 difficult, as we know from doing cases, personal injury  
11 cases, with angles and stuff but I think that my table  
12 is slightly forward from the two tables to the side.  
13 I'm not quite sure why that is, but that was for a  
14 social distancing reason and it doesn't come out very  
15 clearly in that photograph. But I don't think the --  
16 no, I don't think the three tables were in an exact  
17 line.

18 MS. JUSTICE DENHAM: Page 16. I was just trying to  
19 find that myself because I think you're right if you  
20 look at it.

21 MR. JUSTICE WOULFE: Sorry, Mr. Murphy, is it page 16  
22 of the --

23 MR. MURPHY: Of the engineer's report.

24 MR. JUSTICE WOULFE: The report, thank you. Yes,  
25 that's exactly my point. I hadn't noticed that before.

26 MS. JUSTICE DENHAM: So your table was a little bit  
27 forward and not in line with six and four. Now the  
28 only thing that occurs to me there is when you look at  
29 your table, immediately behind you there is an open

1 partition, if you look at image 29?  
2 MR. JUSTICE WOULFE: Yes. I think that's probably,  
3 with respect, the wrong photograph to start with. My  
4 understanding is that opening only came during the  
5 speeches. So I think you're probably better to go to  
6 image 14, which shows my seat and shows the retractible  
7 wall fully closed behind me.  
8 MS. JUSTICE DENHAM: Okay.  
9 MR. JUSTICE WOULFE: Do you see it there, image 14,  
10 Judge?  
11 MS. JUSTICE DENHAM: I do.  
12 MR. JUSTICE WOULFE: And do you see me with the seat  
13 square on facing forward.  
14 MS. JUSTICE DENHAM: Yes.  
15 MR. JUSTICE WOULFE: And with my back square on to the  
16 retractible wall.  
17 MS. JUSTICE DENHAM: Yes. And there must have been  
18 service people coming in and out even when the wall is,  
19 as you say?  
20 MR. JUSTICE WOULFE: What the engineer's report brings  
21 out is that if you go to a different photograph there  
22 was a gap at the end of the retractible wall. If you  
23 go to image 25 on page 19?  
24 MS. JUSTICE DENHAM: Yes.  
25 MR. JUSTICE WOULFE: I'm just trying to see now.  
26 Actually it's better if you go to image 19 please,  
27 which is, we are the Omeys Suite, I think, aren't we?  
28 Go to image 19. You'll see at the end of the wall, in  
29 other words from my seat if I was looking across to the

1 left, while I couldn't actually see the gap but there  
2 was a gap there for service people to go to and from  
3 the kitchen, I understand.

4 MS. JUSTICE DENHAM: Let's have a look at 13.

5 MR. JUSTICE WOULFE: Exactly. Image 13. If you were  
6 sitting in one of the front tables, maybe two or three,  
7 you could have seen that gap. I never saw it or was  
8 conscious of.

9 MS. JUSTICE DENHAM: And you weren't conscious of  
10 people walking by, by you that they weren't walking  
11 directly behind you?

12 MR. JUSTICE WOULFE: Do you mean staff?

13 MS. JUSTICE DENHAM: Yes.

14 MR. JUSTICE WOULFE: I was conscious of staff serving  
15 meals at times, yes.

16 MS. JUSTICE DENHAM: But you weren't conscious of them  
17 entering or leaving close by you?

18 MR. JUSTICE WOULFE: No, no. I never noticed that they  
19 were coming specifically through a gap, but I wasn't  
20 aware of there being anything in the room behind me so  
21 that could have been the kitchen for all I knew,  
22 immediately behind me. I didn't know what was behind  
23 the wall. I didn't know there was a second function  
24 room behind the wall.

25 MS. JUSTICE DENHAM: You didn't?

26 MR. JUSTICE WOULFE: No, at any stage. And also, can I  
27 just make the point, from my seat, this is why I was  
28 making the point about image 19, you know, I'm not sure  
29 even if I had tried to turn around that I could have

1 seen much of that gap. I would have seen maybe the  
2 section of -- you see the way when the wall is  
3 retracted a bit of it then bends out into the wall  
4 behind.

5 MS. JUSTICE DENHAM: Yes.

6 MR. JUSTICE WOULFE: So I could see that but I'm not  
7 sure -- I don't know because I never did look over in  
8 that corner but I'm not sure that I would have seen  
9 much of a gap. And I'm not sure if the people even --  
10 do you see the chairs there on that table in image 19?

11 MS. JUSTICE DENHAM: Yes.

12 MR. JUSTICE WOULFE: I'm not sure if those people could  
13 see the people on the other side of the wall. I don't  
14 think so because in one photograph it suggests they  
15 couldn't. I'll try and find it.

16 MR. COLLINS: Image 20, for example.

17 MR. JUSTICE WOULFE: Yes. If you go to image 20,  
18 Judge. Do you see image 20? That's a very good photo  
19 of the person in the best position to assess that gap  
20 if they noticed it. Do you see the chair --

21 MS. JUSTICE DENHAM: Yes.

22 MR. JUSTICE WOULFE: -- furthest to the centre of the  
23 photograph.

24 MS. JUSTICE DENHAM: Yes.

25 MR. JUSTICE WOULFE: Now on that view they can see a  
26 tiny, tiny flicker of a chair through the gap. That's  
27 all they can see.

28 MR. MURPHY: That's the service hatch.

29 MS. JUSTICE DENHAM: That's the service hatch.

1 MR. JUSTICE WOULFE: That's the service hatch or gap or  
2 whatever you want to call it. And the kitchen is that  
3 way (indicating) so you have to come through to get to  
4 the kitchen it seems. I wasn't anyway aware or  
5 conscious of thinking where they were bringing the food  
6 from.

7 MS. JUSTICE DENHAM: Yes. Now, we then get to the  
8 prizing giving.

9 MR. JUSTICE WOULFE: Yes.

10 MS. JUSTICE DENHAM: And they opened the partition.

11 MR. JUSTICE WOULFE: A couple of points about this. If  
12 you see me, if you go to image 31, that's table 5 on  
13 the left and I think my chair is supposed to be the  
14 first photograph going in from the left edge.

15 MS. JUSTICE DENHAM: Or the second? One or the other.

16 MR. JUSTICE WOULFE: I think the first, I think that's  
17 the most square on to the wall.

18 MS. JUSTICE DENHAM: Oh, yes, from the left. Yes, I  
19 see. Yes.

20 MR. JUSTICE WOULFE: And I never knew the gap was  
21 opened until media coverage later. But it wasn't -- do  
22 you see the size of the panels? It was only open to a  
23 small degree. I mean it wasn't --

24 MS. JUSTICE DENHAM: It was -- it appears, when you  
25 look at it, it appears to be immediately behind you.

26 MR. JUSTICE WOULFE: Or very slightly maybe over my  
27 left shoulder, maybe, depending again on the angle.

28 MS. JUSTICE DENHAM: Were you aware when it was open?

29 MR. JUSTICE WOULFE: No, no. Can I say something,

1 Judge?

2 MS. JUSTICE DENHAM: Yes.

3 MR. JUSTICE WOULFE: I have a pet hate life about  
4 people that don't pay respect to speeches at functions.

5 MS. JUSTICE DENHAM: Yes.

6 MR. JUSTICE WOULFE: As Attorney General I had this  
7 myself and it irritated me a lot. If people make an  
8 effort to organise things or make a speech I believe in  
9 watching the speech and keeping quiet until the end of  
10 the speech. And I spoke one sentence during the whole  
11 of the speeches to Lorraine Higgins on my right and  
12 again, if anything I was slightly angled towards the  
13 right and I made some joke about the speeches dragging  
14 on a bit. And nothing unusual in that. The only thing  
15 that happened was I have a vague recollection of a  
16 fella called Gerry Brady won a prize and he seems to be  
17 the guy who, I think he's a husband of a former TD is  
18 it Áine Kitt or Anne Kitt? She went by Brady, I think,  
19 when she was a TD. I don't know if you know her,  
20 Judge?

21 MS. JUSTICE DENHAM: No.

22 MR. JUSTICE WOULFE: Or have come across her? She was  
23 from Kildare. But this fella Gerry Brady I think is  
24 the husband. And as far as I know, I'd a vague  
25 recollection of him coming to get a prize but I didn't  
26 see him coming behind me coming, I saw him just on my  
27 left, left and in front going up to get a prize.

28 MS. JUSTICE DENHAM: I mean did you or do you accept  
29 that because this partition is opened there's a change

1 in the physical configuration of the room?  
2 MR. JUSTICE WOULFE: The guideline is separate defined  
3 spaces. It's very arguable whether or not opening it  
4 for a few moments is a breach of the guideline. If it  
5 is it's a very, very miniscule breach by the  
6 organisers. And how can a guest be responsible for  
7 that happening?  
8 MS. JUSTICE DENHAM: You didn't notice it?  
9 MR. JUSTICE WOULFE: I didn't notice it. I never saw  
10 it. And I was tired and, you know, I was chatting, I'd  
11 a few glasses of wine and it's the end of the night, I  
12 hope, or close to it. And, I mean, Judge, could I  
13 posit the question: what was I supposed to do if I had  
14 noticed it?  
15 MS. JUSTICE DENHAM: well, I suppose that comes back to  
16 whether there were a few times that you maybe should  
17 have considered whether you should have gone to the  
18 dinner. I mean, first of all, when you're told about  
19 it, should you have had concern about going to the  
20 dinner then?  
21 MR. JUSTICE WOULFE: Despite the reassurances?  
22 MS. JUSTICE DENHAM: That's your answer, of course.  
23 Then when you go into the dinner and you look around,  
24 should you have reconsidered and left?  
25 MR. JUSTICE WOULFE: In circumstances where there was  
26 45 people within the Regulations?  
27 MS. JUSTICE DENHAM: That's your answer. And then  
28 thirdly when the door opened, the partition was opened  
29 to another room where there were people and somebody

1 was coming in for a prize, should you have concern at  
2 that stage?

3 MR. JUSTICE WOULFE: Okay, can I partly answer that  
4 question, the last one. If you go to image 30 on page  
5 22.

6 MS. JUSTICE DENHAM: Yes.

7 MR. JUSTICE WOULFE: If I had seen it, it looks as if I  
8 would only have been able to see three seats, three  
9 extra diners in there, if I'd seen it. That's one  
10 point. Was I then supposed to jump up from the table  
11 and try and go in and possibly breach the Guidelines  
12 myself by breaking the separate defined spaces and  
13 examine what was going on in the other room? And where  
14 does this notion stop? Was I then to jump over to the  
15 organisers and say, 'hang on a moment, are these people  
16 in the other room all part of this function?'

17 MS. JUSTICE DENHAM: Even forget all about all the  
18 other people. I mean you are an honoured guest, you're  
19 a judge.

20 MR. JUSTICE WOULFE: Yes.

21 MS. JUSTICE DENHAM: And having, we'll come back to  
22 this in a minute, but with that position should you not  
23 have had a concern when, as I say, these three separate  
24 events occurred, or any other time during the time from  
25 when you were told about the dinner until the dinner  
26 was over?

27 MR. JUSTICE WOULFE: Well, if it could be sort of more  
28 specified to me why I should have a concern or what the  
29 concern should have been? I can't see that that's the

1 case. And even if I'd seen it, I think it's totally  
2 artificial and ridiculous almost to suggest that a  
3 guest, who's never seen the Guidelines, doesn't know  
4 exactly what they say, any guest - whether he's a judge  
5 or not - should suddenly take on the role of policeman  
6 towards the end of a function that they're a guest at,  
7 risk extreme discourtesy to your host. And where does  
8 it stop? Jump in there.

9 MR. COLLINS: Isn't it hypothetical?

10 MR. JUSTICE WOULFE: Yes, it is.

11 MR. COLLINS: I mean the key point is he didn't see it.  
12 So the occasion for him engaging in that type of  
13 reevaluation never arose because he never actually saw  
14 it.

15 MS. JUSTICE DENHAM: well, I think, you know, with the  
16 benefit of hindsight, which is of course 20/20, would  
17 you accept that you could have been vigilant in  
18 relation to the evolving circumstances of the evening,  
19 in particular the removal of the panel and the prize  
20 giving, in which the communal doors were opened?

21 MR. JUSTICE WOULFE: So my understanding, with the  
22 benefit of hindsight, is knowing the facts you knew  
23 there and now thinking back. So it's very difficult to  
24 see how benefit of hindsight avails me as regards the  
25 small opening up of a gap where I never saw it. So I  
26 can't see with the benefit of hindsight.

27  
28 Could I deal with that hindsight point, just while  
29 we're on it, generally?

1 MS. JUSTICE DENHAM: Yes.  
2 MR. JUSTICE WOULFE: The three points. With the  
3 benefit of hindsight should I have attended the event  
4 at all? There's nothing I've learnt since to suggest  
5 that this was other than the purely social and  
6 recreational event, similar to the Bar Council  
7 Chairman's dinner, or a benching when judges and  
8 politicians mix socially. So the one thing, if I  
9 hadn't have checked with the Chief Justice, with the  
10 benefit of hindsight I would say that I ought to have  
11 taken that precaution. But seeing as I did, I don't  
12 think the benefit of hindsight will hope me. And I  
13 hope that when the Judicial Council looks at this - and  
14 they will be the ones who will have to decide it - I  
15 hope they still allow for the possibility of people  
16 going and playing in the Oireachtas Golf Society  
17 dinner. I'll be an advocate for that position, but  
18 there'll be contrary views. Some people may think it's  
19 not appropriate and we'll have to argue it out.

20  
21 But where does that stop? Where does that stop? Is  
22 that the end of the Chairman's dinners, the end of  
23 benchings? Is it the end of a person -- what's the  
24 difference between a member of Royal Dublin Golf Club  
25 being in a four-ball with a politician in his club?  
26 You know? But anyway, that's another day's work,  
27 Judge, I think. That's not my immediate problem what  
28 the future --

29 MS. JUSTICE DENHAM: well that, I mean what -- we're

1 discussing hindsight now and so the first thing is  
2 should you have attended the event? And you've said  
3 well I got the CJ's agreement, consent.

4 MR. JUSTICE WOULFE: Not just that. If I hadn't done  
5 that, with the benefit of hindsight I would say perhaps  
6 I should have. But I don't think there's anything  
7 overall with the benefit of hindsight -- I'll slow down  
8 a little bit, sorry. I mean, I don't know can anybody  
9 point me to something that has emerged since that says  
10 that this was, you know, a political event? You know,  
11 judges go to conferences at times and there are  
12 platforms where political events -- a judge might write  
13 a book which trespasses a little bit into the political  
14 arena and not just politics. As Attorney General a  
15 judge asked me about the propriety of that and I think  
16 he may have discussed it with you as well, Judge. So  
17 I'm conscious of lines and spectrums. I think this is  
18 -- I personally think this is on the side of the social  
19 and recreational and not the political.

20 MS. JUSTICE DENHAM: And bearing all of that in mind,  
21 you don't think -- do you think it would have been  
22 prudent to have left the dinner, at any stage,  
23 especially when the panel was removed.

24 MR. JUSTICE WOULFE: I'll just take them in sequence.

25 MS. JUSTICE DENHAM: Yes.

26 MR. JUSTICE WOULFE: The second one, with the benefit  
27 of hindsight should I have accepted the invitation to  
28 dinner? Again, what does the benefit of hindsight  
29 throw up? What valid reason does it throw up that I

1 should not have accepted the invitation, other than I  
2 think the extreme position that going to any event,  
3 since Ireland sought to reopen, brings some risk that  
4 the organisers might not fully comply with the  
5 Regulations and the Guidelines. But (a), it looks  
6 like, and you don't have to make a conclusive  
7 determination on this, but all of the evidence suggests  
8 that they did and all the lies in the media, the first  
9 paragraph, that people knowingly attended, too many  
10 people, is one of the biggest lies we've ever had in  
11 these kind of, whatever phrase you want to use, you  
12 know, somebody called it a national act of  
13 self-destruction, one commentator said last Friday.

14  
15 But going back to the point about some risk, with the  
16 benefit of hindsight there might be some risk that you  
17 put yourself in that the organisers may not fully  
18 comply. I had very good reasons for relying upon the  
19 organisers of this society because of their positions  
20 and experience and experience in the trade.  
21 Donie Cassidy is a very successful hotelier and  
22 businessman. And if people now, as they have done in  
23 the media I think, take up that position that you  
24 shouldn't go to anything because of that risk, that  
25 would be contrary to Government policy at the time, the  
26 national mood and the economic imperative of hotels  
27 getting business.

28 MS. JUSTICE DENHAM: And what about as a judge?

29 MR. JUSTICE WOULFE: The same as a judge. In this

1 sense you're an ordinary citizen going to a social and  
2 recreational event.

3 MS. JUSTICE DENHAM: well, are you an ordinary citizen?  
4 we'll come back maybe to that?

5 MR. JUSTICE WOULFE: Because of the nature of the event  
6 I think you are.

7 MS. JUSTICE DENHAM: Yes.

8 MR. JUSTICE WOULFE: If everybody suddenly decided that  
9 day they weren't going to go, there's some extreme,  
10 there's some slight risk, does the hotel give the money  
11 back and lay off people? Does the hotel keep the money  
12 for the dinner? Like what's --

13 MS. JUSTICE DENHAM: well, do you accept that you were  
14 free to leave the dinner at any time, if anything had  
15 concerned you, for example, you saw staff moving in and  
16 out of an opening or the panel being opened?

17 MR. JUSTICE WOULFE: well, I don't see how seeing staff  
18 moving in and out of an opening would have sparked off  
19 concern. You have to know where they were coming from  
20 and what was behind the opening.

21 MS. JUSTICE DENHAM: And what about the panel behind  
22 you?

23 MR. JUSTICE WOULFE: Never saw it. So can I address  
24 that, about what is there with the benefit of hindsight  
25 that I should have left the hotel in the light of the  
26 situation prevailing? Now, the situation prevailing  
27 appears to be the big lie that there were 80 people at  
28 the dinner and that I and others knew that. How does  
29 the benefit of hindsight help me or any other guest

1 there where I never saw the panel being pulled back?  
2 So it's difficult to see how the benefit of hindsight  
3 can operate. You can only have the benefit of  
4 hindsight based upon the facts as you knew them at the  
5 time.

6 MS. JUSTICE DENHAM: Well --

7 MR. JUSTICE WOULFE: Can I just make --

8 MS. JUSTICE DENHAM: Yes. No, go ahead, finish.

9 MR. JUSTICE WOULFE: Can I make another point? I'll  
10 try and stay came about it, because this is upsetting.  
11 With the benefit of hindsight of course I would not  
12 have gone to the dinner because of the vilification  
13 that I have suffered in the media since and the  
14 complete lack of fair procedures by the media and  
15 numerous politicians, including [REDACTED].

16 And I would not have inflicted that unjust attack on my  
17 good name, on myself, my family, my friends, my  
18 colleagues, and the judiciary. And this prejudgment by  
19 media and politicians that don't know any of the facts  
20 and they have shown no interest in knowing them. And  
21 other than this forum, Judge, I'm grateful to you --  
22 can I just make this comment. As a judge I don't  
23 regard myself as a part of a elite, the way the media  
24 describe it, that is above the law or above guidelines?

25 MS. JUSTICE DENHAM: I don't think most judges do  
26 either.

27 MR. JUSTICE WOULFE: No. But what I do insist upon is  
28 that judges have no less constitutional rights than  
29 anybody else and have a right to fair procedures and

1 have a right to their good name. And if not, Judge --  
2 I did a lot of work as Attorney General trying to  
3 persuade people to become judges and I think people  
4 have said I've had some success getting good quality of  
5 people, if not nobody would become a judge ever again  
6 if there's not a fair and reasonable assessment of what  
7 went on here.

8 MS. JUSTICE DENHAM: Yes.

9 MR. JUSTICE WOULFE: And I am relying on you, Judge.  
10 The Constitution says the State will vindicate your own  
11 good name and unfortunately, even though you've retired  
12 I'm relying upon you, Judge, to vindicate my good name.

13 MS. JUSTICE DENHAM: Well now, let's just keep going.

14 MR. JUSTICE WOULFE: Yes.

15 MS. JUSTICE DENHAM: The next thing I just wanted to  
16 just confirm was your apology --

17 MR. JUSTICE WOULFE: Yes.

18 MS. JUSTICE DENHAM: -- which you made on 21st August.

19 MR. JUSTICE WOULFE: Yes.

20 MS. JUSTICE DENHAM: Now I have it before me, there's  
21 no reason to read it out. But you apologised for your  
22 unintentional breach of the new guidelines on my  
23 behalf.

24 MR. JUSTICE WOULFE: Could I stop you for one minute,  
25 Judge. I found it difficult getting yesterday with my  
26 solicitor getting the exact text. I have a draft but  
27 could we just have an exact final text? A copy of  
28 that. I just want to be careful, Judge, that we're  
29 reading the same document.

1 MR. MURPHY: Perhaps, Judge, I could show this to  
2 Mr. Collins first. This is a typed version, if I show  
3 it to Mr. Collins first.  
4 MR. JUSTICE WOULFE: I have what I think was the final  
5 draft.  
6 MR. COLLINS: That's fine.  
7 MR. MURPHY: Please take a minute.  
8 MR. JUSTICE WOULFE: Can you just give me a moment?  
9 MR. MURPHY: If you want two minutes or five minutes.  
10 MR. JUSTICE WOULFE: No, I'll be quick. Thanks.  
11 Sorry, Judge. Can I explain to you the background to  
12 it?  
13 MS. JUSTICE DENHAM: Yes, do.  
14 MR. JUSTICE WOULFE: So going to bed on Thursday night  
15 I had driven back, another very long drive back up to  
16 northeast Donegal and before I went to bed that night I  
17 was back to my news addiction and I flicked on the news  
18 headlines on, I know I shouldn't, on The Examiner  
19 newspaper and I was astonished to see that they had as  
20 a lead story something about Dara Calleary attending a  
21 golf dinner and I said, 'this is the greatest load of  
22 rubbish ever now.' I don't know, on the Thursday night  
23 had they mentioned my attendance or anybody else, but  
24 they had a breaking story that Dara Calleary attended a  
25 dinner. I thought nothing of. I thought, 'Jesus,  
26 they're really scraping the barrel here during the  
27 silly season in August.' But then I woke up the next  
28 morning and I think the phrase is, I was absolutely  
29 dumbfounded to hear that Minister Calleary had resigned

1 or been forced to resign by the Taoiseach, on account  
2 of him having attending the dinner. And it was a  
3 summary dismissal kind of atmosphere that he had done  
4 something terribly wrong. And I was absolutely  
5 dumbfounded and shocked. So I hadn't been aware of any  
6 breaches of the Regulations or Guidelines at that  
7 stage. I still hadn't when I saw the news of  
8 Dara Calleary resigning and I was astonished. I tried  
9 to rack my brain, you know, 'God, was there something  
10 here that I've missed? What are they talking about?'

11  
12 I think the key thing in the media that the media were  
13 pressing was that there had been a new rule that the  
14 number had gone from 50 to six and I was astonished by  
15 that. I was amazed at it. If I had time to think  
16 clearly, I can go through it in a moment, I would have  
17 known that that couldn't really happen. Can I just  
18 explain how this works?

19  
20 NPHEC come up with recommendations - and I was at  
21 Cabinet for some of this. So NPHEC produce  
22 recommendations. The recommendations then usually go  
23 to a Cabinet committee which consider them. Some of  
24 the recommendations can end up as statutory instrument  
25 rule, say the rule about 50, far more end up as  
26 guidelines, guidance, protocol, advice, whatever you  
27 want to call it. And these are not unique. So there  
28 would be similar guidelines or whatever for big stores  
29 like Ikea opening up, for the building trade opening

1 up, right. We'd have no involvement in those, we'd  
2 have involvement in just the statutory instrument. But  
3 the Cabinet decide we're going to adopt these  
4 restrictions. The restrictions cannot come into effect  
5 immediately because they have to be translated into what  
6 bit of it is in SI, what bit of it is in guidelines and  
7 what bit of it is in neither, that it's just kind of a  
8 good idea by NPHE? For instance, the social  
9 distancing thing about two metres was largely only ever  
10 advice because it was regarded as being too impossible  
11 of, you know, enforcement.

12 MS. JUSTICE DENHAM: So what you have first of all is a  
13 Government announcement.

14 MR. JUSTICE WOULFE: No, we'll go back a little bit.

15 MS. JUSTICE DENHAM: Right, okay.

16 MR. JUSTICE WOULFE: This is the way it works and I was  
17 part of previous ones. We used to meet on a Friday.  
18 So earlier in the week in NPHE, perhaps as late as  
19 Thursday, and there were a lot of complaints about  
20 things being done in too much of a hurry and staff very  
21 unhappy about the pressures and all of that. But maybe  
22 the NPHE thing would only come out on a Tuesday.  
23 There would be a Cabinet committee meeting to filter  
24 that before it went to Cabinet. There'd have to be a  
25 memo for Government, like any Government decision,  
26 which explains what it is the Government want to do.  
27 And the memo for the Government in the first paragraph  
28 would set out the proposed Government decision that  
29 either the Minister or the Taoiseach was asking the

1 Government to do this. My understanding is now, and  
2 from what I've heard and everything that I've read,  
3 there was mass confusion, if not chaos in Government  
4 this week. And you've got to factor in August, people  
5 on holidays, the Attorney General perhaps in Kerry or  
6 wherever on holidays. The other key man in the whole  
7 thing is the Secretary General to the Department of An  
8 Taoiseach. The only two people that go to Cabinet that  
9 are not elected ministers are the Secretary General to  
10 the Taoiseach, who writes up the minutes and records  
11 what the decision is, sat to my right, he sat next to  
12 the Taoiseach and I sat two places from the Taoiseach  
13 as Attorney General. Now, when the Government  
14 decision, if they made one - I haven't seen the text of  
15 the Government decision - I doubt if the memo for  
16 Government asked them for such a rule to come in with  
17 immediate effect because that would have been treated  
18 with shock, if they had circulated the memo. So the  
19 proper procedure is the memo should go in on a Friday,  
20 be circulated, another department can go back and say,  
21 if something like that was in it, 'this is crazy, it  
22 can't happen, it's never been done before.' That would  
23 have been the reaction, I think, of my officials, if it  
24 had been done properly. But I understand, you'll  
25 recall the Taoiseach's phrase, or the Tánaiste's phrase  
26 - everybody falls into that mistake now - "if we keep  
27 on governing like this we won't be governing very  
28 long." I did pick up that in the general news  
29 headlines that they had failed to filter it through the

1 Cabinet committee, they had gone straight to Cabinet on  
2 Tuesday. I suspect, although I can't prove this, that  
3 they only got it on the table, it wasn't circulated, or  
4 they'd no time for their officials to brief them and I  
5 suspect what may have happened is that it's a new  
6 Taoiseach, it's a new Minister for Health, that this  
7 thing about immediate was effect was said the press  
8 conference, I can't be sure of this now but I suspect  
9 it was said at the press conference -- usually the  
10 Taoiseach and maybe the Tánaiste and maybe the Chief  
11 Medical Officer give a press conference after the  
12 Cabinet meeting.

13 MS. JUSTICE DENHAM: But I mean from the point of view  
14 of the public, the public and we've actually touched on  
15 this with Mr. Collins, I mean the public hear about it  
16 on the 18th. The Government announcement.

17 MR. JUSTICE WOULFE: Yes, on the Tuesday night.

18 MS. JUSTICE DENHAM: On the Tuesday night.

19 MR. JUSTICE WOULFE: Yes. The Government normally  
20 issue an actual announcement, I don't know, you can  
21 maybe get a copy of that on the website. I haven't  
22 been able to find it. I don't know if that said  
23 anything about immediate effect, but can I make the  
24 point, Judge, they had to withdraw from that on  
25 Wednesday morning and you have those documents in the  
26 engineer's report, because it's not capable of coming  
27 into operation with immediate effect. Some of it has  
28 to go into an SI. For instance and don't forget this,  
29 like, it shows the chaos and confusion, even if they

1 wanted to bring in a rule about six with immediate  
2 effect, they couldn't do it until the minister amended  
3 the statutory instrument and signed it. So there was  
4 no hope of that.

5 MS. JUSTICE DENHAM: Yes.

6 MR. JUSTICE WOULFE: And those statutory instruments  
7 were done in the Attorney General's Office. Those  
8 were. Many aren't. So after the Tuesday night there  
9 had to be a process. And like you've seen these  
10 guidelines, where are they? Like they're not just, you  
11 know, on the back of a cigarette packet, there are  
12 several pages of it.

13 MS. JUSTICE DENHAM: Yes.

14 MR. JUSTICE WOULFE: So these had to be changed.

15 MS. JUSTICE DENHAM: Yes.

16 MR. JUSTICE WOULFE: No matter what was said and even  
17 if was reported, and I didn't hear the reports, even if  
18 it was reported that they were changing the rules from  
19 50 to six it couldn't happen automatically.

20 MS. JUSTICE DENHAM: But unfortunately for everybody,  
21 the impression was that Tuesday night Government  
22 announces 50 to six and then everything takes off.

23 MR. JUSTICE WOULFE: And perhaps Minister Calleary was  
24 forced out on a false premise on the Thursday morning,  
25 it may well have been. Unless they feel that it's  
26 enough -- look, we won't speculate.

27 MS. JUSTICE DENHAM: No.

28 MR. COLLINS: You were asked about the apology, Séamus,  
29 why did you make the apology, as you did?

1 MR. JUSTICE WOULFE: Okay. But all this is relevant  
2 because there's a keyword -- sorry, I'll just say first  
3 of all I was dumbfounded. What did I do? I couldn't  
4 think of any breaches by me except I thought, look,  
5 like anybody, maybe I didn't social distance a hundred  
6 percent perfectly all through the night, which I think  
7 probably applies to us all if we go to any gathering or  
8 family event. And that's all I could think of  
9 initially.

10  
11 However, I spoke to one or two people and I decided I  
12 would make an apology because one or two other people  
13 had apologies, for any unintentional breach of any  
14 guidelines on my part. Now, I was a bit hesitant about  
15 doing it because I wasn't sure what I was apologising  
16 for, but if there was any unintentional breach, for  
17 instance, if the number was six and I hadn't known it,  
18 as was being presented. And I think what's very  
19 interesting is - and I've only noticed this yesterday  
20 when I went back to the apology - the fact that I said  
21 "do apologise for any unintentional breach of any of  
22 the new guidelines on my part."

23 MS. JUSTICE DENHAM: That's right. I picked that up,  
24 absolutely.

25 MR. JUSTICE WOULFE: I didn't notice that, Judge. And  
26 of course, if I thought it through -- again, I was  
27 getting journalists ringing me texting me, people  
28 calling for me to resign before they knew any of the  
29 facts on that Friday morning. Of course if I thought

1 it through I would have known that the Guidelines, it's  
2 the Regulation that, you know, that applies. And of  
3 course in a way -- the Regulation, as you probably  
4 know, it took them two weeks to change it then so. It  
5 was only on 31st August that they changed it. And the  
6 impression that it was a tight six of course is not  
7 correct either. It's groups of six. So it could still  
8 be 50 but groups of six.

9 MS. JUSTICE DENHAM: Yes.

10 MR. JUSTICE WOULFE: So there's so much  
11 misrepresentation and false reporting all around.

12 MS. JUSTICE DENHAM: No, I understand your apology and  
13 it's for unintentional breach of any of the new  
14 guidelines on your part and you expressed regret and  
15 you unreservedly apologised. So I mean that's an  
16 important part of the picture.

17 MR. JUSTICE WOULFE: Can I just say, Judge, you know I  
18 maintain that position. If it still is the case that  
19 there was intentional breach on my part I obviously  
20 apologise, still apologise and apologise again. But it  
21 is fair to say that it appears now, objectively, that  
22 there was no breach by the organisers, let alone by me.

23 MS. JUSTICE DENHAM: But there's no harm in an apology.

24 MR. JUSTICE WOULFE: No, of course. And it was  
25 sincerely meant at the time. I was shocked and  
26 appalled, and absolutely appalled that I might have  
27 been, even you want to call it an innocent partaker or  
28 participant, or present at a breach by somebody else.

29 MS. JUSTICE DENHAM: Yes.

1 MR. JUSTICE WOULFE: And I was probably to some extent  
2 in a state of shock on that Friday morning. But the  
3 apology was genuine and I repeat it here again, for the  
4 record, for the transcript that if there was any  
5 unintentional breach on my part, which I'm not clear if  
6 there was.

7 MS. JUSTICE DENHAM: No, no. Well I understand that.  
8 So now let me just retrace back just to cover another  
9 area.

10  
11 You took the Declaration before the Supreme Court  
12 before the Chief Justice which is of course a very  
13 solemn declaration, and you became a judge of the  
14 Supreme Court?

15 MR. JUSTICE WOULFE: Yes.

16 MS. JUSTICE DENHAM: Now, you have talked about the  
17 documents you were given by the Court Service?

18 MR. JUSTICE WOULFE: Yes.

19 MS. JUSTICE DENHAM: Were you given any documents  
20 regarding judicial conducts and ethics by the Court?

21 MR. JUSTICE WOULFE: No.

22 MS. JUSTICE DENHAM: Or by AJI?

23 MR. JUSTICE WOULFE: No.

24 MS. JUSTICE DENHAM: Have you ever read a judicial code  
25 of conduct or a guide to judicial ethics?

26 MR. JUSTICE WOULFE: You know, parts of some of the  
27 documents that Mr. Collins has handed up.

28 MS. JUSTICE DENHAM: Before, I'm talking about on your  
29 Declaration day --

1 MR. JUSTICE WOULFE: No.

2 MS. JUSTICE DENHAM: -- or immediately afterwards.

3 MR. JUSTICE WOULFE: No. Like I was in the mindset  
4 that August/September I was going to have time,  
5 September really to read some of that and stuff about  
6 the Supreme Court generally and procedure and all of  
7 that. I was going to spend time. I wasn't going to  
8 have any reserved judgments to do in September but I  
9 had offered -- the Chief Justice asked me would I sit  
10 in the Court of Appeal in September to help clear the  
11 backlog and Judge Birmingham had asked me before this,  
12 and I had said to the Chief Justice more than that, I  
13 would be happy to drop down and sit as a High Court  
14 Judge for three weeks to help clear the Covid backlog  
15 in the Judicial Review/Non-Jury List and unfortunately  
16 this has prevent me from doing that. And I did notice  
17 in the newspapers some student had wanted to bring a  
18 case and Judge Meenan said there was no judges.

19 MS. JUSTICE DENHAM: Oh, yes, it's a problem. Were you  
20 told of any introductory programme for new judges?

21 MR. JUSTICE WOULFE: No.

22 MS. JUSTICE DENHAM: Now, as an eminent lawyer you must  
23 have realised that there are restrictions on judges?

24 MR. JUSTICE WOULFE: In a broad sense, yes.

25 MS. JUSTICE DENHAM: In a broad sense. I mean they can  
26 be -- originally they were much, much more strict than  
27 they are now.

28 MR. JUSTICE WOULFE: Yes.

29 MS. JUSTICE DENHAM: I mean originally the idea was

1 that essentially you couldn't communicate, go to  
2 community events at all and we have some wonderful  
3 quotes which I won't put on the record here, in a  
4 document about what in the 1920s was the position of  
5 judges. Today a judge's conduct is still subject to  
6 scrutiny, for example, I'm just looking at the Canadian  
7 Ethics where they say:

8  
9 "A judge's conduct (both in and out of court) is bound  
10 to be the subject of public scrutiny and comment.  
11 Judges must therefore accept some restriction on their  
12 activities, even activities that would not elicit at  
13 first notice if carried out by other members of the  
14 community. Judges need to strike a delicate balance  
15 and the requirements of judicial office and the  
16 legitimate plans of a judge's personal life,  
17 development and family."

18  
19 Bearing that kind of code in mind, if you had been told  
20 about it, would you have had any second thoughts about  
21 asking the Chief Justice could you go to the golf  
22 classic?

23 MR. JUSTICE WOULFE: I think if I'd read that or  
24 thought about it would have encouraged me to ask the  
25 Chief Justice to check, but I would have felt it was on  
26 the right side of the line for the reasons I've already  
27 state and I won't repeat them all. Can I make this  
28 point?

29 MS. JUSTICE DENHAM: Yes.

1 MR. JUSTICE WOULFE: That perhaps I was even better  
2 placed than, you were very kind to say eminent lawyer,  
3 but we'll say experienced lawyer than most, having been  
4 Attorney General and having been, you know, in the  
5 middle and see, you know, both sides in a way. And I  
6 mentioned earlier an experience which I think we maybe  
7 both had with a judge who was considering was what he  
8 was doing on the right side of the line or not and he  
9 came to me I think after speaking to you as to what was  
10 appropriate or not. And my answer to him was I  
11 couldn't give him a complete answer. If the book stuck  
12 to legal matters fine, but if it ventured into  
13 political arena or policy matters, he was endangering  
14 his territory.

15 MS. JUSTICE DENHAM: Yes.

16 MR. JUSTICE WOULFE: The book has come out since.

17 MS. JUSTICE DENHAM: Yes, it has indeed. Just in this  
18 general idea of, I'm looking at the Guide to Judicial  
19 Conduct from the Australian Institute of Judicial  
20 Administration Incorporated, it's one of the leading  
21 exams around the world and under 6.10 "Social and  
22 Recreational Activities":

23  
24 "There is such a wide range of social and recreational  
25 activities in which a judge may wish to engage that it  
26 is not possible to do more than suggest some  
27 guidelines. Judges should themselves assess whether  
28 the community may regard a judge's participation in  
29 certain activities inappropriate. In cases of doubt it

1 is better to err on the side of caution and judges  
2 generally will be anxious and careful to guard their  
3 own reputation."

4  
5 And then they give a whole list of, some of which  
6 Mr. Collins referred to.

7 MR. JUSTICE WOULFE: Yes.

8 MS. JUSTICE DENHAM: Now, if you had had the benefit of  
9 reading the Australian, would that have made any  
10 difference to your decision to first of all ask the  
11 Chief Justice?

12 MR. JUSTICE WOULFE: I don't think so. I think in  
13 cases of doubt, and I had some small doubt and that was  
14 the reason for asking the Chief Justice.

15 MS. JUSTICE DENHAM: Perception is so important, as  
16 Mr. Collins said.

17 MR. JUSTICE WOULFE: Of course.

18 MS. JUSTICE DENHAM: It's often not the act it's the  
19 perception of the consequences from being at a  
20 particular place.

21 MR. JUSTICE WOULFE: Can I just say something else?

22 MS. JUSTICE DENHAM: Yes.

23 MR. JUSTICE WOULFE: The fact that last year at the  
24 event I played with a particular former politician and  
25 then I met a serving judge who was at the event, I  
26 think that had some impact on me that this seemed to  
27 be, there was some precedent for it. I didn't think  
28 deeply about it but I think subconsciously that made  
29 they made me think this is probably -- a serving judge

1 and a retired judge were both at it and I've since  
2 learned that several judges have played over the years.  
3 And I got a message from one over the weekend saying  
4 nobody batted an eyelid and he thinks the separation of  
5 powers argument is ridiculous is the only way I can  
6 describe it. That it's a purely social and  
7 recreational event. I don't want to name people and  
8 get people into trouble here --

9 MS. JUSTICE DENHAM: Oh, no, don't.

10 MR. JUSTICE WOULFE: -- to encounter what I have  
11 encountered, but I'm talking about now several judges  
12 apparently have played in it. The organisers have told  
13 me. And some of the judges themselves have volunteered  
14 the fact that they played in it. So that says a  
15 certain amount, even though I didn't know it at the  
16 time, but it goes to the understanding that this was a  
17 social and recreational event and it was very much at  
18 the bottom of the tree, in the same place as the  
19 Chairman's dinner and the benchings.

20 MR. COLLINS: Can I add something to that, Judge, if I  
21 might?

22 MS. JUSTICE DENHAM: Yes.

23 MR. COLLINS: I'm reading from that document I handed  
24 in from the Canadian Judicial Council and just on page  
25 21 under the heading "Adopt an irreproachable conduct  
26 outside the courtroom", and they say:

27  
28 "Judges must show respect for the law in their private  
29 life. As well, a judge must behave in public in a

1 manner that fosters respect for the judiciary. Judges  
2 are not expected to be hermits and are entitled to  
3 enjoy life with their friends and families. However,  
4 they must be wary of socialising or associating with  
5 anyone connected with the cases that come before them."

6  
7 I suppose it's really I point I've made before, there  
8 had to be some level of connection --

9 MS. JUSTICE DENHAM: Oh yes.

10 MR. COLLINS: -- with the potential to exercise the  
11 judicial function for even to trigger this level of  
12 scrutiny or some level of scrutiny. That's all I  
13 wanted to add.

14 MS. JUSTICE DENHAM: I think probably, as we have  
15 touched on before, a factor has been the media coverage  
16 and then the events like Dara Calleary apologising and  
17 resigning and Jerry Buttimer apologising and resigning  
18 and the whip being removed from a series of senators,  
19 and Donie Cassidy resigning from Vice-President of  
20 Fianna Fáil, that has put a sort of prism on the event  
21 which has brought up a great deal of press media at the  
22 time. In other words the reaction immediately  
23 afterwards.

24 MR. JUSTICE WOULFE: Yes. It seems to have been the,  
25 what I would describe as the throwing a tank of petrol  
26 on a small flame by forcing Dara Calleary to resign  
27 summarily without any chance to check the facts on  
28 Thursday morning that seems to have ignited the whole  
29 maelstrom. You know, if he'd have been given -- I

1 can't understand for the life of me, okay, you can't  
2 solve this, Judge, and I can't, but why that poor man  
3 was not given at least 24 hours. Does our Constitution  
4 not mean anything? Are politicians totally devoid of  
5 constitutional rights? I made this point to a few  
6 people, Judge, and it's a bit rhetorical, but if you  
7 don't mind indulging me for a couple of minutes.

8  
9 In my first lecture ever - I remember it very clearly -  
10 in Trinity College, Dublin, October 1980,  
11 constitutional law, Prof. Robert Heuston and it stuck  
12 with me forever as a student and a lawyer and now a  
13 judge hopefully, he said to us in whatever theatre it  
14 was, 60 of us, he said: "The most important principles  
15 that you're going to hear in the next four years are  
16 rule of law." He said: "The rule of law consists of  
17 two factors, one is nemo iudex in causa, cauda sui and  
18 the second one, even more important is audi alteram  
19 partem." You do not prejudge people. You always, in  
20 any dispute -- in dealings with people, if you ever  
21 become a lawyer, you wait and you hear the other side.  
22 I'm lucky that I've had this process to do that. Now,  
23 it's... look, what can I say?

24 MR. COLLINS: Can I just add two things about the media  
25 impact. One is that much of it was sparked by the  
26 notion that 80 people were in a room having dinner  
27 together which, if it were true, would have been an  
28 obvious breach of the guidelines and people said,  
29 'well, how can people in positions of responsibility

1 stand over doing that?' And hence the calls for  
2 resignation, including Judge Woulfe's resignation. And  
3 that just wasn't the factually correct thing. But the  
4 other point is, in terms of assessing - and I've made  
5 this point earlier - in terms of assessing  
6 Judge Woulfe's conduct the one thing we can't do, and I  
7 may respectfully say your views cannot be informed by  
8 the feeling of the populist view, particularly one  
9 based on an incorrect premise, as to why politicians  
10 should resign. I mean politicians frequently will bend  
11 with the wind because they have a political electorate,  
12 they want to get elected, they want to keep a  
13 popularity, stakes and so on. Judges aren't in the  
14 popularity business because they're not elected in this  
15 jurisdiction, and it is really important that they are  
16 not assessed or judged by reference to the way  
17 politicians see their own self-interest in why they  
18 have to take certain steps in a political maelstrom  
19 when, affecting a judge and his or her position is a  
20 totally different position and with huge constitutional  
21 dimensions.

22 MS. JUSTICE DENHAM: Absolutely. I understand.

23 MR. JUSTICE WOULFE: Just for completeness, I know  
24 we're probably finished, can I just add that I feel  
25 terribly sorry for the people who organised this event.  
26 They did it in good faith, they meant no harm and  
27 they've been absolutely pilloried as if they're  
28 responsible for something appalling and dreadful. I  
29 also feel sorry for some of the unfortunate politicians

1 who feel the need to confess to a crime they may not  
2 have committed, or don't know whether they committed or  
3 not, but feel that the media torture and the opprobrium  
4 from their community resulting from it is too great to  
5 fight their corner in any way, or bother trying to  
6 establish the true facts. And one of those individuals  
7 sent me a text yesterday wishing me well but saying  
8 "I'm broken".

9 MS. JUSTICE DENHAM: Just a couple of little points, a  
10 couple of points.

11  
12 Do you accept, from your assessment of the media, which  
13 we've been discussing, that we have a huge public  
14 controversy that has arisen in this area?

15 MR. JUSTICE WOULFE: Yes, it but it looks objectively  
16 to be completely fake, overblown. Every paragraph  
17 starts off "attended a dinner of 80 people". Virtually  
18 every paragraph of media coverage says that. If  
19 they're having an interview with Joe Duffy about his  
20 life they throw in a question, 'isn't it appalling what  
21 those people did in Clifden?' virtually every article  
22 I've read, I've gone back to the Sunday newspapers.

23 MS. JUSTICE DENHAM: Stop reading them. I mean the  
24 reality is we have a huge public controversy.

25 MR. JUSTICE WOULFE: Yes.

26 MS. JUSTICE DENHAM: And do you accept that your  
27 presence at the dinner may have created a public  
28 controversy which could have adversely affected the  
29 Supreme Court?

1 MR. JUSTICE WOULFE: Can you ask that question again?

2 MS. JUSTICE DENHAM: well, it's really -- you accept  
3 that there is a huge public controversy --

4 MR. JUSTICE WOULFE: Yes.

5 MS. JUSTICE DENHAM: -- which has arisen from the  
6 dinner and do you accept that your presence at the  
7 dinner may have created a public controversy which  
8 could adversely affected the Supreme Court?

9 MR. JUSTICE WOULFE: Okay, that's a difficult question.

10 In one sense I suppose that is so, that for the media  
11 to also have the chance to bring down a judge adds an  
12 extra fuel to the fire and it did add to the  
13 controversy that I was there. Even if objectively  
14 there was no valid reason why I shouldn't have been  
15 there. But taking the world we live in in the more  
16 subjective sense and in that sense could be seen as,  
17 you know, bringing the Supreme Court into controversy.  
18 But objectively I think it's more damaging to the  
19 Supreme Court if they allow some sort of theoretical  
20 damage to the institution prevail over hounding a judge  
21 out of office for no valid reason. And I would hope  
22 that the Supreme Court didn't prejudge the matter in  
23 the way that so many other people did. I would hope  
24 they didn't and they'll have your report to actually  
25 outline the true facts.

26  
27 Unfortunately I think even judges are not above  
28 prejudging, Judge, and in this mood of hysteria I can't  
29 be sure that even some of my colleagues have prejudged

1 me.

2 MS. JUSTICE DENHAM: I think also, do you accept the  
3 context and the context is the pandemic, where you have  
4 six months of not going to christenings, not holding  
5 weddings, not being able to go to your family's  
6 funerals.

7 MR. JUSTICE WOULFE: Of course.

8 MS. JUSTICE DENHAM: And a pent-up session in the  
9 country.

10 MR. JUSTICE WOULFE: Of course. This was a very  
11 unfortunate set of circumstances and unfortunate  
12 timing. And for those people to be presented by the  
13 media with what appeared to be a flagrant breach of the  
14 Regulations and the Guidelines was like letting off a  
15 bomb.

16 MR. COLLINS: Isn't that key point? Because it's  
17 perfectly understandable how people reacted the way  
18 they did when it was painted in the way that it was.  
19 It wasn't really Judge Woulfe's presence at the dinner  
20 in itself that was the problem, because if the matter  
21 had been explained properly and factually correctly and  
22 so on there would be unlikely to be anything like the  
23 same reaction to it. The problem was that people got  
24 understandably immensely annoyed at a version of events  
25 as if people in positions of responsibility were  
26 disregarding their public obligations to both obey the  
27 law and follow guidance and so forth at a time of  
28 public crisis and understandably people would be  
29 extremely angry if they thought that other responsible

1 people weren't doing that. But that's not actually a  
2 fair criticism to make of Judge Woulfe and he had no  
3 reason to think, when he was attending, or decided to  
4 go to the golf event and attend the dinner, that  
5 anything like this was going to happen. So it's very  
6 unfortunate insofar as it adversely affects the Supreme  
7 Court, but it is actually hard to think to attribute  
8 some sort of responsibility, let alone any misconduct  
9 to Judge Woulfe in a decision to go to the dinner.

10 MS. JUSTICE DENHAM: Let me just --

11 MR. JUSTICE WOULFE: Have I answered that enough about  
12 adversely affecting the judiciary? I mean I can't do  
13 anything about completely false reporting that fails to  
14 check out the facts and that boasts about the fact that  
15 they had a scoop and they got rid of the Minister and  
16 says the next is the commissioner and the next is the  
17 judge and everybody's got to resign. And along the way  
18 makes no effort. Donie Cassidy, one of the organisers  
19 who I had to check some details with, he told me that  
20 nobody in a senior position has ever asked him for the  
21 facts. Nobody in Government. The Taoiseach never  
22 asked him for an account of the facts. And one thing  
23 that worries me is my understanding is that as of last  
24 week one of the organisers told me that the Tánaiste at  
25 a meeting was insisting that the relevant rule was six  
26 people on that Wednesday night and that's why  
27 Minister Calleary was forced to resign. I mean if the  
28 Governments themselves don't understand, or if the  
29 Attorney General can't explain it to them, I'm sure

1 he's trying hard, what hope have we got?

2 MS. JUSTICE DENHAM: Just to go back to my first  
3 questions in relation to this section of our  
4 discussion. would you agree that guidelines would be  
5 desirable?

6 MR. JUSTICE WOULFE: Absolutely. And I wish there was  
7 a process and I'll take part in the Judicial Council if  
8 I'm let, trying to work out guidance and so on. It's  
9 very important, I think, for a judge, if anybody faces  
10 the kind of queries I faced and will do that there's  
11 some process where somebody can give a ruling for them  
12 in advance.

13 MS. JUSTICE DENHAM: And also I touched upon were you  
14 told that you would do a week's course introduction?

15 MR. JUSTICE WOULFE: No, nothing, zero.

16 MS. JUSTICE DENHAM: That's something you find in other  
17 jurisdictions.

18 MR. JUSTICE WOULFE: It sounds like a great idea. I  
19 had that week fairly free at the end of July so it's a  
20 pity there wasn't, other than all the bureaucracy  
21 you've to go through when you become judge to try and  
22 get paid.

23 MS. JUSTICE DENHAM: Absolutely. Is there anything  
24 else you wish to add?

25 MR. MURPHY: would it be helpful to you to have five  
26 minutes to have a discussion to see if there is  
27 anything else you want to say and we'll leave the room.  
28 I think it would be appropriate to do that.

29 MR. COLLINS: we will take five minutes.

1 MR. MURPHY: Or ten, if you wish.

2 MR. COLLINS: Fine.

3  
4 THE MEETING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

5  
6 MR. COLLINS: Thank you very much, Judge. I think  
7 we've said everything really that we need to say in  
8 relation to it. I suppose the only point I'd make at  
9 the very end is where I started, which is you've got  
10 that statutory test in the Act. That's a test for  
11 misconduct and that can be misconduct, whether it leads  
12 to, at the most serious level a removal of a judge or  
13 misconduct that leads to a quiet word with a judge  
14 saying you should do this, that or the other. Either  
15 way, no matter how trivial or serious it is, it still  
16 has to meet those requirements in the Act. Those  
17 requirements in the Act in turn I think devolve around,  
18 in this, case appearance of propriety and it's hard to  
19 put an analytical framework on that. Lord Goff once  
20 epitomised the judicial function as an educated reflex  
21 to facts and there's a bit of that about assessing the  
22 propriety of a judge. But I think in circumstances  
23 where you look at each stage of the day, where  
24 certainly from the separation of powers point nothing  
25 changed during the day. I mean whether he's playing  
26 golf or he decides he's going to eat with four people  
27 over a sandwich or sit at a table to have dinner with  
28 them, the separation of powers point is common to all  
29 of that. Nothing changes in the calculus of how you

1 assess the separation of powers issue. Either it's  
2 fine to go to the event or it's not fine to go to the  
3 event but I don't think that changes during the day.  
4

5 And from a Covid perspective, again he made the  
6 appropriate enquiries. He did what you would expect  
7 him to do. He can't be expected to become a Department  
8 of Health watchdog armed with inch tapes and walking  
9 around the hotel and measuring distances, and so forth.  
10 It does seem that the only question mark you might have  
11 over the event is the opening of the gap at the end, I  
12 think to allow the loud speakers, in effect, to be  
13 heard in the other room. The reality is he didn't see  
14 that that was so. He was sitting with his back  
15 immediately behind it. And even if he had seen it what  
16 should he have done? Got up and left? Let's assume  
17 so, which would have meant he would have left ten  
18 minutes later perhaps, or some minutes earlier than he  
19 actually did because he was the end of the evening  
20 anyhow. So it reason is a de minimis point.  
21

22 So overall I do genuinely think that the answers to the  
23 questions that have been posed to you, cannot be framed  
24 in a way that is in any way critical of his conduct.  
25 There may be case or is a case for guidelines and  
26 introductory courses and so forth, and you've touched  
27 on some of those, Judge, and some of that material is  
28 discussed in some of the academic articles and in some  
29 of the articles in the book.

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So that's all I think I wanted to say.

MR. JUSTICE WOULFE: One final comment, Mr. Collins, I'm very lucky to have his assistance. I know they were done in a mad rush, the statement and the questions on a Monday but it's a funny kind of way in a way to put it should he have? I mean what does that mean? In a way I think the true question seems to be is there a clear and very clear and valid reason why he should not have? That seems to me a fairer way to put it because it sort of seems to just hang loose in the air, the idea of should he have attended the golf event without attending the dinner? That third one seems very ambiguous. Is it that it's accepted it was okay to go but not to attend the dinner or is it that it's a separation of powers question? Is there a question that he should not have attended at all, leaving out the dinner completely? The first and the third seem to, with respect, be ambiguous and overlapping. Is that only one question number one and number three? Number two is clear, should he have left the hotel, but number one, should he have accepted the invitation to dinner? Is that the same as number three? I'm taking it number three is the general separation of powers point.

MS. JUSTICE DENHAM: In a way I think I may well approach is it chronologically in time. Invitation to the golf.

MR. JUSTICE WOULFE: Separation of powers point if

1           there is one.

2           MS. JUSTICE DENHAM: Yes. Invitation to the dinner and  
3           then the business. So I think it is probably more  
4           logical to take it chronologically.

5           MR. JUSTICE WOULFE: That's the way I have done it.

6           MS. JUSTICE DENHAM: Yes, exactly you have.

7           MR. COLLINS: As regards from here on, we'll give you  
8           that little aide-memoire just we had on the statutory  
9           instrument.

10          MS. JUSTICE DENHAM: That would be lovely.

11          MR. COLLINS: And I might just add in a little bit  
12          about the guidelines and the appendix and so forth.

13          MS. JUSTICE DENHAM: Great.

14          MR. COLLINS: And beyond that I don't know how you see  
15          it progressing from here?

16          MR. MURPHY: I think the position is that the judge and  
17          I will have to reflect on all that has been said today,  
18          there's been a lot said and that will have to be gone  
19          through. I think previous correspondence has indicated  
20          when the Judge comes to write and prepare a draft  
21          report that will be circulated to you and we will just  
22          if anything else needs to be dealt with.

23          MR. JUSTICE WOULFE: If there was any indication of  
24          timetable because I am in a sense now the Chief Justice  
25          felt it better I didn't sit and I'd like to help my  
26          colleagues as soon as I could. Have you any idea about  
27          timetable?

28          MS. JUSTICE DENHAM: This is very tentative because I  
29          have some other things to do as well. But I would hope

1 at the end of next week to be framing a draft and so  
2 three weeks -- I think, subject to everything, say  
3 three weeks from now I would hope to circulate a draft  
4 to you and then if you wish you can either reply in a  
5 statement or letter or we can have another meeting in  
6 relation to it. And that would therefore be in the  
7 fourth week and therefore we'd hope to finalise the  
8 whole thing by the fifth week, subject to problems.

9 MR. JUSTICE WOULFE: Sorry, Judge, when you say three  
10 weeks' time, this is the week of the 7th, do you mean  
11 that would be the week of the 28th?

12 MS. JUSTICE DENHAM: Let me now just think. I'm  
13 fitting a few things in.

14 MR. MURPHY: It might be possible for the Judge to come  
15 back.

16 MR. JUSTICE WOULFE: Maybe if we go off the transcript.  
17 It's important to me because I'm trying --

18 MR. MURPHY: I just think it would be important for the  
19 Judge to have even a few minutes to think about that.  
20 Even if we came back to you tomorrow with that.

21 MR. JUSTICE WOULFE: If it were at all possible, Judge,  
22 and I totally appreciate you taking on this task in  
23 retirement with lots of other nicer things to do, but  
24 the first day of term is Monday October 5th and it  
25 would be very important for me to have this behind me  
26 and be back fully at work with my colleagues on Monday,  
27 5th October.

28 MS. JUSTICE DENHAM: How many weeks is that from now?

29 MR. JUSTICE WOULFE: That is four weeks from yesterday.

1 And if it were at all possible for you to get the draft  
2 report to us sooner we will turn it round by return  
3 virtually, very, very quickly. And then, you know, the  
4 Chief Justice gets it and I would like this to be done  
5 and dusted and in a position to resume work on that  
6 first week of term where I have been provisionally  
7 listed to deal with a case. Even if I can't help my  
8 High Court colleagues during September so be it. But  
9 also it's quite difficult in the sort of limbo  
10 situation, I totally understand the pressures on you  
11 and other commitments.

12 MS. JUSTICE DENHAM: You can rest assured that I'm  
13 going to move it on as fast as I can. I have a couple  
14 of technical problems as well as a couple of events  
15 that I have to deal with that I can't put off and I put  
16 off a lot of them --

17 MR. JUSTICE WOULFE: I understand.

18 MS. JUSTICE DENHAM: -- to give time to this. So I  
19 think the most I could tell you at this stage is I will  
20 do my very best to get it in a week before the 5th, to  
21 get it to you a week before that.

22 MR. JUSTICE WOULFE: That's the week starting Monday  
23 28th September then?

24 MS. JUSTICE DENHAM: I can't give you --

25 MR. JUSTICE WOULFE: I understand, we won't hold you to  
26 it.

27 MS. JUSTICE DENHAM: I'll do my very best.

28 MR. JUSTICE WOULFE: And that is still technically the  
29 vacation all the way up to the following Monday, so

1 perhaps everything could be completed that week.

2 MS. JUSTICE DENHAM: If we can get to that with any  
3 luck we could complete it quickly and we will certainly  
4 all be trying to complete it quickly.

5 MR. MURPHY: I do think the Judge has to take the time,  
6 as is necessary, to consider the very large amount --

7 MR. JUSTICE WOULFE: Of course. Could I ask one other  
8 question on procedure? Are you now basing your view  
9 upon solely the materials that you received from us and  
10 today or are you proposing to contact anybody else?

11 MS. JUSTICE DENHAM: I am basing it solely on the  
12 materials that have been before us today and some of  
13 your books, you haven't opened the material but the  
14 authorities and things like that. I am talking to  
15 absolutely nobody else. Absolutely nobody else.

16 MR. JUSTICE WOULFE: That's clear, thank you.

17 MS. JUSTICE DENHAM: So there is no question of anybody  
18 else. Thank you very much indeed.

19 MR. JUSTICE WOULFE: Thanks very much.

20 MR. COLLINS: Thanks very much.

21  
22 THE MEETING THEN CONCLUDED