

Speech by Liz O'Donnell TD

3rd July 2003

On motion re: Flood Tribunal and appointment of new Member and Chairman Dáil Éireann

A Cheann Chomhairle,

We have had tribunals of enquiry now as a constant backdrop to political and public life for more than ten years. At times it appears they operate in a parallel universe to the Dáil, who begat them.

Some say there is now tribunal fatigue. Others say tribunal costs now outweigh the benefits. But most people agree that the tribunals were very necessary. They, and particularly the Tribunal we are discussing today, have done a vital job to expose corruption and dishonesty in public life. They have done what the Dáil had failed to do successfully.

People hope, and I believe, that our public life is better off as a result of the clear light that has been cast on previously obscure and forbidden zones of political careers and private enrichment.

I wish to record the appreciation of my party for the work Mr Justice Flood has carried out since the inception of the Tribunal of enquiry into planning matters in November 1997.

The interim report which the Tribunal produced last September was a critical contribution to ensuring that wrongdoing and corruption could not remain, as before, veiled from public view and unchecked by the arms of the State, in particular in this case, by the Oireachtas.

So, rather than Tribunals bringing politics into disrepute, they have helped create a climate where basic honesty in public life is finally becoming a basic requirement that people will be held to.

What the Planning Tribunal and others have exposed is not that political life in this country is itself corrupt and dishonest, but that certain individual politicians normalized corruption and dishonesty in their political life, in their dealings with this House, and with the public.

It is vital that we do not forget the central findings of the Tribunal in its interim report. We remember how important it was to this House and to the public that the findings should have directly concerned a former Minister for Foreign Affairs who grossly misled this House.

In its interim report published last September, the Tribunal referred to its amended terms of reference. It said,

'the Tribunal was obliged to investigate the entire public life of Mr. Burke from 1967 to 1997 to see whether any substantial payments were made or benefits provided to him which, in the opinion of the Tribunal, amounted to corruption, or involved attempts to influence or compromise the disinterested performance of public duties, or were made or provided in circumstances which may give rise to the reasonable inference that the motive for making or

receiving such payments was improperly connected with any public office or position held by him, whether as Minister, Minister of State, or elected representative.'

The Tribunal said it was able 'to pronounce with finality' upon certain payments made to Mr. Burke.

So, did Mr Burke receive corrupt payments? Yes he did.

Did he act for private interests while in public office? Yes he did.

Did he lie to the Tribunal? Yes, he did.

The public, has, I believe, made up its mind about Mr Burke, about the politics he carried out, and about the political culture from which he came.

And I do believe that, the findings of the Tribunal performed a valuable service in bluntly calling a spade a spade, after the most detailed and methodical enquiry.

But it appears Mr Burke cares little for the findings of the Tribunal, for the Oireachtas or for the court of public opinion.

Is it any surprise therefore that, according to reports, the highest costs contested and sought from this Tribunal established by the Oireachtas are from a man who misled the Dáil and who has been found by the tribunal to have behaved wrongly?

The brazenness, the bluster and the bombast is familiar. We can be appalled, but what really matters is that it ought not to be allowed to work, as it did so clearly in the past.

I note newspaper reports from what are described as 'close family sources' that Mr Justice Flood based his decision to resign now as Chairman on the belief that the costs issue was likely to drag on for several years with, I quote, 'some parties likely to challenge his integrity, fitness and decision-making'.

We all know and accept that it is a normal part of our adversarial justice system that judgments are appealed on whatever grounds lawyers can bring forward, matters of law, matters of fact, due process, and even sometimes, potential conflicts a judge may have had.

But it is extremely rare that a judge's personal integrity is challenged. It would be deeply worrying if, in fact, this is part of Mr Burke's plan to be executed through his legal team. Hardly surprising though, given the tactics employed by Mr Burke in his political career over many years. These kinds of tactics cannot be allowed to succeed.

So, it is important therefore that the House approves this motion and thereby expresses its confidence and backing for the new Chairman and new member of this Tribunal for their future decisions about costs of past hearings as well as for their continuing hearings.

The truth is that the adversaries and most virulent opponents of the Tribunal are not acting in the public interest. It suits their interests that public confidence in this Tribunal and others should wane and be diminished. Their concern is not to save public monies but to close down this instrument of public enquiry and exposure.

But if we are candid it's true that the high legal costs of tribunals generally have caused a lot of public concern particularly when there are so many unmet needs across many areas of public services.

We must indeed find ways to make tribunals of enquiry more cost effective and avoid a gravy train for lawyers. The measures proposed this week by the government and my colleague, the Minister for Justice, are a very welcome addition to the tools available to the State to establish facts.

As we know from other countries, the potential for corruption is always there. While we have made progress in creating a political and legal climate that counteracts corruption, one can never rest easy. The human capacity for greed, for self enrichment and for immorality is a base but common instinct.

Against this background, the House today has the opportunity to renew our backing to the Tribunal of Enquiry into Planning Matters. My party and I strongly encourage the House to do so. We look forward to a successful conclusion to its enquiries including the critical matter of the determination of costs.

Cleaning up politics has not come cheap but it is a long term investment in our country's future.

As the Tánaiste said last October, following the publication of Mr. Justice Flood's interim report, corrupt societies are not prosperous societies. Our ability to attract job creating investment requires a clear demonstration that this is a country in which business is done fairly and openly. A country, in which the rule of law applies to all regardless of position - a country without golden circles, cosy cartels or inside tracks.