

THE TRIBUNAL RESUMED AS FOLLOWS ON

1ST APRIL 2004 AT 10.30AM.

CHAIRMAN: Good morning. Mr. Cush, do you want to say something?

MR. CUSH: Yes, thank you, Chairman and members of the Tribunal. Firstly, sir, I have an application for limited representation on behalf of Mr. Albert Reynolds.

CHAIRMAN: Very good. That's an order. That's granted.

MR. CUSH: Thank you very much, sir. The second thing is then that so far as the current witness is concerned, I intend simply whenever it is appropriate, putting one very simple proposition to him for the record, as it were, and I imagine it will take me all of 30 seconds to do that.

CHAIRMAN: Well, if Mr. Lawlor doesn't object --

MR. CUSH: I did ask Mr. Lawlor.

MR LAWLOR : Not at all, Chairman, no.

CHAIRMAN: That's fine then, you can go ahead Mr. Cush.

MR THOMAS GILMARTIN, HAVING BEEN SWORN, WAS EXAMINED BY MR. CUSH:

MR. CUSH: I'll do it now then. I am much obliged.

Q 1 Mr. Gilmartin, I appear on behalf of Mr. Albert Reynolds and I just want to put to you for the record that Mr. Reynolds has no recollection of the meeting you describe as having taken place on or about 1 or 2 February 1989, and it's his

10:40:26 1 firm belief that if he had attended such a meeting he would recollect it.

2 A Well, Mr. Reynolds was present at the meeting.

3

4 MR. CUSH: Thank you very much.

10:40:40 5

6 CHAIRMAN: Now, Mr. Lawlor.

7

8 **THE WITNESS WAS THEN EXAMINED BY MR. LAWLOR:**

9

10:40:42 10 MR LAWLOR : Thank you, sir

11 Q 2 If I could have page 1142, please. The lower paragraph, please. Good morning,
12 Mr. Gilmartin.

13 A Good morning.

14 Q 3 Mr. Gilmartin, you have repeatedly outlined the -- page 1142 please -- you have
10:41:30 15 repeatedly expressed your view on the ineffectiveness of the Balgaddy town
16 centre site and its unsuitability, et cetera, et cetera, and you decided on the
17 site of Palmerstown. Could I just take you to -- I'll just read it:

18

19 "When offered the Clondalkin site by the corporation I went out with the chief
10:41:52 20 valuer and he showed me the site and told me the price of the site. I said "I

21 would not touch it". I worked out the figures to see if it was commercial. I

22 checked around and came back, could not make it work. The development was in

23 the wrong place. I said I would not do a development here as it was only a

24 slum, and would add and not take from it. I decided to have a look around to

10:42:18 25 see where I would pick. I decided on a site in Palmerstown. It would have to

26 be something big and special, and I put out feelers in London and

27 internationally and was amazed at the response."

28

29 Could you clear up how, when and where you identified the Quarryvale lands and

10:42:43 30 I think -- did you desist from the suggestion that the chief valuer showed you

10:42:48 1 the site?

2 A No, I did not. He did show me the site. I have said that. I am talking about

3 the Neilstown site.

4 Q 4 So was that your first time in the area?

10:43:01 5 A No, it wasn't my first time in the area. I said yesterday that I had been --

6 Mr. Davin had showed me land at the Galway Road, near the Deadman's Inn, some

7 two years before or something about that.

8 Q 5 And you decided then or later what your ideas were?

9 A No, after Mr. McLoone showed me the site -- at the time Mr. McLoone and the

10:43:40 10 Dublin Corporation suggested that I do something for Clondalkin. As a matter

11 of fact they asked me for Tallaght as well at the time and Mr. McLoone took

12 us -- myself and Richard Foreman to the Neilstown site, so we walked the site

13 and all the rest of it and I came to the view that that site wasn't the right

14 area for a shopping centre.

10:44:10 15 Q 6 And it's your evidence to the Tribunal that Mr. McLoone -- that was after May,

16 was it, in 1988?

17 A It was some time around -- it was earlier than that.

18 Q 7 How earlier, please?

19 A I'm not quite sure. I think it was probably -- maybe in the spring.

10:44:31 20 Q 8 Of '88? So you were only asking me in '88 who owned the land, so you didn't

21 give any impression that you had any knowledge of it; you were just looking for

22 the ownership of the lands on the Galway Road?

23 A On the Galway Road, yes.

24 Q 9 But you said earlier that you had spoken to Mr. Sean Davin in 1986 and he had

10:44:56 25 shown you land --

26 A Yes, he had offered me land but I discovered that the land he was showing me

27 was under CPO from -- actually I think it was -- is it Curtis Stream, which was

28 the 18 acres along -- somewhere near the Font Hill Road that he was showing me,

29 but the area actually came to mind when -- at that time I was not interested in

10:45:28 30 actually buying land out there at all.

10:45:31 1 Q 10 So you're saying that the land Mr. Davin was showing you was under compulsory
2 purchase order; is that right?

3 A I discovered -- well, I'm not quite sure of the piece of land he was showing
4 me, but the corporation seemingly had some hold or had a compulsory purchase
10:45:48 5 order on quite a lot of the land in the area.

6 Q 11 Mr. Gilmartin, was that land eventually in the 180 acre package?

7 A It might have been. I don't know. I can't remember exactly whose land
8 Mr. Davin was showing me because it was directly opposite -- more or less
9 opposite the Deadman's Inn and incidentally the Lucan bypass wasn't done. It
10:46:21 10 was the old Galway Road.

11 Q 12 So I think that might explain the CPO, Mr. Gilmartin, that they were probably
12 acquiring portions of land that you were looking at for the construction. I
13 think that might explain the compulsory purchase point you're making.

14 A Possibly, yes.

10:46:36 15 Q 13 Mr. Davin would say, as we say, because you raised his name here in session
16 yourself and he's not on the list, et cetera -- but he would say that he
17 introduced you to the Sharpe lands.

18 A Well, that may be possible later. I'm not quite sure who introduced me to it.

19 Q 14 Yes, okay. But we'll go back to the point -- we have this chief city and
10:47:00 20 county valuer showing you the Balgaddy town centre lands, in the spring of
21 1988. Is that right?

22 A That's correct, in or around that time.

23 Q 15 Ok. If we could have 1468, please. Now, you see that letter is dated the 20th
24 of November 1987 and it's the Dublin Corporation writing to an estate agent on
10:47:36 25 behalf of Mr. Albert Gubay or his related companies. If we could have page 2,
26 please, which is obviously 1469.

27

28 Could I just draw your attention to the fact that the chief valuer, Mr. Michael
29 McLoone, has signed a letter offering the town centre lands on behalf of the
10:48:07 30 Dublin Corporation to Mr. Gubay. Is it your evidence now that the chief valuer

10:48:13 1 is showing you lands that he has already, as part of his function, suggested
2 contracting to another town centre developer?

3 A Mr. McLoone, on the instructions -- because there was a number of people in the
4 corporation at the meeting when I was asked -- Mr. Haughey, Mr. Morrissey,
10:48:38 5 Mr. Hegarty and others, when I was asked whether I could do something for the
6 Clondalkin area, and following that, Mr. McLoone took us in his car to the
7 Neilstown site. I'm not 100 per cent sure how early it was, but I think it was
8 the spring of '88.

9 Q 16 Well, your --

10:49:09 10 A I assume that he didn't have any agreement with Mr. Gubay or anybody else at
11 the time.

12 Q 17 Well, your loyal and trusted adviser Mr. Richard Foreman, on page 931 -- and
13 I'll just read it -- sorry, Mr. McLoone's statement:
14

10:49:28 15 "I can recall showing the lands to him (which is Mr. Gilmartin) and his valuer
16 Richard Foreman in late 1988." You've gone back to the spring now, is it?

17 A Pardon?

18 Q 18 You've gone back in your recollection to the spring of '88?

19 A It was the spring -- it was before I ever looked at any -- just before I looked
10:49:49 20 at any site on the Galway Road or Quarryvale.

21 Q 19 Yes, but I have to put the question --

22 A It was my first visit actually to that area.

23 Q 20 But I thought you said in 1986 Mr. Davin had shown you land there?

24 A Mr. Davin had shown me land in 1986 but it was my first visit to the Neilstown
10:50:12 25 site in any connection with doing a development on it.

26 Q 21 Mr. Davin would say that you shook hands with the then owner Mr. Frank Sharpe
27 on the site of the Galway Road around that period of time. That's not my
28 question. My question is does it come as a surprise to you that on page 1496,
29 if we could have it again, please -- sorry, my apologies, 1469.

10:50:53 30

10:50:53 1 I'll put the question again. I know you referred to the corporation meeting
2 but without the signature at the end of the letter, please. Mr. McLoone, the
3 chief valuer, has signed a letter of offer to the Albert Gubay Group of
4 companies in November, and that matter was legally ongoing, so you're telling
10:51:13 5 the Tribunal it's your evidence that the chief valuer was offering the Balgaddy
6 town centre lands when it was already in the process of being sold to another
7 town centre developer; is that right?

8 A Well, they took me out to the site. I don't know what deals -- either that or
9 Mr. Gubay had announced he was pulling out of it. I don't know. But Mr. Gubay
10:51:41 10 had from the very beginning said that he was not going ahead with the site,
11 despite the fact that he had an agreement on it.

12 Q 22 And did Mr. McLoone refer to the fact that he had --

13 A No, he did not tell me that there was nobody else or any other offers of any
14 kind. He showed us the site. We walked the site and on that particular day he
10:52:03 15 parked his car close by and when we were walking the site he ran back to move
16 his car because he thought the wheels would be taken off it.

17 Q 23 Five minutes down the road, that wouldn't be the case in Quarryvale, no?

18 A Pardon?

19 Q 24 If that's your -- if your evidence is that the Balgaddy site was in the middle
10:52:27 20 of a danger zone but the Quarryvale lands was not; is that what you're
21 claiming?

22 A No, I never said that at all. I didn't say anything about that. I only made
23 the statement that Mr. McLoone ran back to move his car so that he kept it in
24 sight. I'm not saying anything about the area or the people in the area.

10:52:42 25 Q 25 I'm just quoting what you said to Inspector Sreenan. You said:
26
27 "I said I would not do a development here as it was only a slum."
28
29 Do you recall saying that?

10:52:51 30 A No, I said it would only become a slum.

10:52:55 1 Q 26 If you built a town centre in Balgaddy; is that right?

2 A Yes.

3 Q 27 If we could have page 1541, please. This is the formalising of Mr. McLoone's
4 letter, sent out in November. We're now into January and the Dublin
10:53:19 5 Corporation have now concluded the negotiations and on the second page, please,
6 1542, do you see the last sentence there:

7

8 The proposal was approved at the corporation's meeting held on the 12th of

9 January 1988. The approval is dated the 20th of January 1988.

10:53:45 10

11 So now, Mr. Gilmartin, we have a situation where you're being shown the town
12 centre site in Balgaddy and the elected members of the Dublin Corporation, on
13 the recommendation of the management, have contracted to dispose of the
14 Balgaddy town centre site. Now, appreciate these are questions really for

10:54:05 15 Mr. McLoone, but I just want you to note that that was the circumstances
16 legally of the Balgaddy town centre lands and it is a matter of some bafflement
17 that Mr. McLoone would have been offering to another competing developer the
18 Balgaddy lands, but we'll obviously come to that again. You have stated on
19 page 1143, in the top section there, down a bit, it says:

10:54:56 20

21 Keane and Conways came in and I bought Conway's from him and got the land.

22 That's something about stud farms. And then it goes on to say "Sharpe was in
23 trouble over two houses and was under pressure from the bank. He agreed a deal
24 and I bought his 60 acres. I started to assemble the site."

10:55:11 25

26 Now, is that -- Mr. Davin would say -- I spoke to him by phone this morning and

27 I have known him for many many years, he said that he introduced you to the

28 Sharpe lands and you shook hands on the side of the Galway Road in his presence

29 with Frank Sharpe and took an option on the land. Is that your first

10:55:30 30 recollection that that's your first forte into assembling your site?

10:55:37 1 A I'm not -- I'm not 100 per cent sure of which land Mr. Davin was showing me,
2 but Mr. Sharpe was not present.

3 Q 28 So you don't recall shaking hands with Mr. Sharpe --

4 A No, I did not meet Mr. Sharpe at all with Mr. Davin, and as a matter of fact,
10:55:55 5 as far as I remember, I possibly met Mr. Sharpe once and it was after I had
6 bought the lands and it was in connection with the court case which he had
7 taken out against the County Council for blocking his access. I believe I only
8 met Mr. Sharpe once -- Mr. Sharpe junior, Paul Sharpe -- and as far as I'm
9 aware, the actual negotiation took place by Vinton Gunne.

10:56:39 10 Q 29 Could I just put it to you that it's my information -- it's not trivial but it
11 might sound so at the outset -- you had a Jaguar car in those days, had you Mr.
12 Gilmartin?

13 A Yes, I probably did, yes, I had a Daimler.

14 Q 30 It's just Mr. Davin says he recalls your car and he recalls you shaking hands
10:56:58 15 with Frank Sharpe on the side of the Galway Road. Industrial residential land
16 prices were very seriously depressed at that time, particularly industrial
17 land, and that having given a handshake, they asked you what you proposed to do
18 with the land and you said you proposed to build a shopping centre on it and,
19 having been 20 or 30 years in the business, they were quite perplexed that you
10:57:21 20 could suggest that that is what you were going to do --

21
22 MR. O'NEILL: Mr Chairman, I'm a little concerned that Mr. Lawlor seems to be
23 introducing by way of question evidence of Mr. Davin, who -- I'm not sure if
24 he's going to be called to the Tribunal but if he is, he will give his own
10:57:35 25 evidence rather than Mr. Lawlor giving the evidence.

26
27 CHAIRMAN: Mr. Lawlor, you're not entitled to put to Mr. Gilmartin something
28 that -- some information that you've discovered as a result of a phone call
29 with Mr. Davin or someone else.

10:57:50 30

10:57:50 1 MR LAWLOR : I appreciate that, Chairman, fine.

2 Q 31 We'll just move on to the question I intended to raise with you, Mr. Gilmartin:

3

4 "Alan Gubay then bought the Clondalkin site from the corporation. Gubay

10:58:10 5 realised he could not make it work. He was pulling out and O'Callaghan of Cork

6 came in and he had plenty of problems with that too."

7

8 That's your understanding of the situation, is it?

9 A That's my understanding, yes.

10:58:21 10 Q 32 Could you tell the Tribunal what you know about Mr. Gubay as a commercial

11 business person or property developer or operator?

12 A Absolutely nothing.

13 Q 33 Could I put it to you, Mr. Gilmartin, that he has successfully developed a

14 large network of shopping centres throughout the United Kingdom. He came here

10:58:47 15 to this country in the '70s and set up a chain of shopping centres and then

16 disposed of them to Tesco. He also set up a net work of shopping centres in

17 New Zealand --

18

19 MR. O'NEILL: Mr. Lawlor is giving evidence. He can certainly ask --

10:59:02 20

21 MR LAWLOR : I'm asking Mr. Gilmartin did he know Mr. Gubay and he doesn't, so

22 I'm trying to put it in context that Mr. Gubay, according to Mr. Gilmartin --

23

24 CHAIRMAN: Mr. Lawlor, Mr. Gilmartin has said that he knows nothing about

10:59:14 25 Mr. Gubay, so there's little point in putting to him --

26

27 MR LAWLOR : Okay. I'll frame it differently.

28 Q 34 The purchaser of the Balgaddy town centre lands from the Dublin Corporation was

29 a very well-known international successful shopping centre developer,

10:59:30 30 Mr. Gilmartin, but you don't know anything about him. I appreciate that. The

10:59:37 1 only reason I'm putting that to you is I don't believe you would have entered
2 into a contractual situation to acquire the Balgaddy town centre lands for 3
3 million pounds, with fairly favourable terms of deferral and planning, and so
4 he didn't really have to expend his 3 million pounds and that's the deal that
10:59:56 5 Mr. McLoone had negotiated for the Balgaddy lands. O'Callaghan Properties then
6 were stepping in and taking over the contract, as you may know, and also have a
7 fairly successful track record --

8
9 MR. O'NEILL: I'm not sure if this is a question or a statement, Mr. Chairman.

11:00:15 10
11 CHAIRMAN: Mr. Lawlor, you're supposed to be cross-examining.

12
13 MR LAWLOR : I appreciate that, Chairman. I'll make it succinct.

14
11:00:17 15 CHAIRMAN: It's unsatisfactory that we have to intervene every few minutes.
16 You're supposed to be asking questions. You'll have an opportunity to give
17 evidence.

18
19 MR LAWLOR : Yes, I will

11:00:26 20 Q 35 Mr. Gilmartin, what do you know of O'Callaghan Properties' track record as
21 property developers?

22 A Not a lot, other than hearsay.

23 Q 36 We'll have page 2292, please. As this letter refers to yourself,
24 Mr. Gilmartin, I think it's better I read it out. There's a number of
11:00:56 25 important questions arise from it. It's from the law agent in the Dublin
26 Corporation to Mr. Derek Brady in the development section. It's really to do
27 with the point raised earlier which is quite confusing, in that the Dublin
28 Corporation is legally contracted to sell the town centre site which you were
29 being asked to view with a view to acquisition. It goes on:

11:01:20 30

11:01:21 1 "I refer to your memorandum of the 23rd enclosing copy letter dated the 14th
2 from Messrs Deane & co, solicitors."

3

4 Who I think represent the O'Callaghan property company:

11:01:31 5

6 "The existing contract dated the 21st of November 1988 provides that Merrygrove
7 should apply for planning permission for the development within two months of
8 the date of the contract. The contract also provides that in the event of a
9 planning permission being granted at any time prior to the payment of the
11:01:50 10 monies referred to in this contract for a retail development greater than a
11 neighbourhood centre having a retail floor area of 25,000 square feet within
12 the areas ..."

13

14 That's just protection against the terms of the contract and other developers
11:02:08 15 coming in. So where you're referred to here, Mr. Gilmartin is:

16

17 "In view of the present discussions between the Dublin County Council and
18 Mr. Gilmartin I feel that it would be only reasonable to give an extension of
19 time to Merrygrove Estates as to insist on the preparation and lodgment of a
11:02:24 20 planning application at this stage will involve substantial outlay by the
21 company at this stage. There is provision in the existing contract for an
22 extension of time, the extent of such an extension will be governed by the
23 length of time it will take to reach a decision on Mr. Gilmartin's
24 application."

11:02:43 25

26 Now, what's your reaction to the fact that the Dublin Corporation were
27 internally writing about the town centre lands in Balgaddy and, because of your
28 presence in Quarryvale, you were frustrating that process?

29 A It's my understanding and it's from Owen O'Callaghan's own mouth that he had no
11:03:10 30 intention of going ahead with Balgaddy, and you know that, Mr. Lawlor.

11:03:14 1 Q 37 You don't know what I know or don't know. I know a lot, and you claim to know
2 more, but we'll see how we get on as the process goes on. So I'm just asking
3 you: Is it your view that your name is referred to in internal documents in
4 the Dublin Corporation, suggesting that your presence in the north Clondalkin
11:03:34 5 area is frustrating the Balgaddy town centre development?
6 A I had no input to what they thought.
7 Q 38 Okay.
8 A Or neither had I any knowledge of what their internal memos were.
9 Q 39 Could I have day 457, please, page 66. It is line 17, question 394. Just to
11:04:28 10 pick it up, it's a question about Blanchardstown. I think it's probably
11 Mr. Gallagher's -- I'm not sure:
12
13 "And what was the position in relation to Blanchardstown at that stage, the
14 town centre --
11:04:41 15 A I don't know.
16 Q 40 You went on to say:
17
18 "That didn't concern me at all."
19 Fine, okay. We go on then to the question:
11:04:48 20
21 "But what happened in relation to Tallaght at that time?"
22
23 Now, is it your evidence that you were shown the Tallaght town centre lands as
24 well by Mr. McLoone?
11:04:58 25 A No -- well, I was asked to look at Tallaght, which I did. Mr. McLoone was not
26 with me. I looked at Tallaght. I discovered that Mr. Monaghan --
27 Q 41 But who asked you to look at Tallaght, Mr. Gilmartin.
28 A Paddy Morrissey actually.
29 Q 42 So this is the Assistant City and County Manager asking you to look at another
11:05:20 30 town centre site that has been contracted some three or four years to another

11:05:24 1 Irish property developer.

2 A I don't -- it had been and nothing had been done on it and their submission was

3 that they didn't know whether he was going to go ahead with it or not, and they

4 asked me to have a look at it; I did. I discovered Mr. Monaghan had some

11:05:40 5 interest in it so it was not my policy to interfere in anybody else's --

6 Q 43 We'll go on to give your answer --

7 A So I did not -- I rejected -- I told them straight that I would not interfere

8 with somebody else's --

9 Q 44 We'll just put it on the record exactly what your attitude was:

11:06:01 10

11 "At Tallaght, Mr. McLoone asked me to take a look at Tallaght, as I did.

12 Mr. Morrissey --

13

14 CHAIRMAN: "Mr. McLoone asked me to take a look at Tallaght as did

11:06:16 15 Mr. Morrissey".

16

17 MR LAWLOR : "to see whether I could bring some investment into Tallaght and I

18 did have a look at Tallaght, and it had the potential of doing a reasonably

19 decent shopping centre because of the numbers of people in the area, so after

11:06:31 20 further investigation ..."

21

22 Are you saying that Mr. McLoone -- that you had to go off and investigate what

23 the Dublin Corporation already had contracted to Monarch Properties?

24 A They were of the opinion at the time that whatever went on between Mr. Monaghan

11:06:50 25 and Mr.-- and the Dublin Corporation, they were of the opinion that he was not

26 doing anything on it and, as far as I know, he had some loose arrangement with

27 them. But when I discovered that, I would not interfere at all, although I

28 knew that I could have done something for Tallaght if it was free to do it.

29 Q 45 Well, you are obviously aware that Monarch Properties went on and developed a

11:07:15 30 very successful project, are you?

11:07:18 1 A Of course, and I quite understood that that was possible. But I would not
2 interfere in somebody else's property or site that they were -- that someone
3 else was involved in.

4 Q 46 Can I go back to 2292, please. Can you understand, Mr. Gilmartin, the
11:07:59 5 contradiction in your evidence that here you are interfering in the Balgaddy
6 situation, whereas contracted to the Gubay group of companies. How do you
7 reconcile that with your evidence as to what your attitude was towards
8 Tallaght? Is there not a direct contradiction?

9 A No, that's a different site --

11:08:17 10

11 CHAIRMAN: Sorry, Mr. Lawlor, you said you put it to Mr. Gilmartin that he was
12 interfering in the Balgaddy site. There's no evidence to suggest that. The
13 only evidence from Mr. Gilmartin is that he was approached and that he'd looked
14 at the site, as he did in relation to Tallaght as well. There's no suggestion
11:08:34 15 that he was interfering.

16

17 MR LAWLOR : The letter suggests that they can't -- they would only give
18 extension to the contracted party on letter 2292, because of Mr. Gilmartin's
19 presence in the area. I'm just putting it to Mr. Gilmartin that on the two
11:08:49 20 town centre sites, that the Dublin Corporation is offering to him, they're
21 already legally bound to other developers.

22

23 CHAIRMAN: But he says he knows nothing about that. These are issues which
24 should more properly be put to the corporation witnesses. I agree it is
11:09:07 25 puzzling that on the one hand they were writing these letters and on the other
26 hand they were approaching someone like Mr. Gilmartin. But Mr. Gilmartin says
27 he knows nothing about what was going on internally. He was just taking up
28 invitations from officials in the corporation to look at sites.

29

11:09:28 30 MR LAWLOR : I appreciate that, Chairman. It's equally puzzling that

11:09:34 1 Mr. Gilmartin's evidence is incorrect. That's the point I'm testing. Here
2 Mr. Gilmartin knows nothing about Monarch Properties. He has to go and
3 investigate it. He knows nothing about the Balgaddy contractual situation, and
4 the man responsible is showing him the land, so it is puzzling and we'll have
11:09:50 5 to maybe revisit it with the other parties. Could I have day 457, please, page
6 23.

7
8 MR. O'NEILL: It should be pointed out, Mr Chairman -- in fact the page has
9 just gone off the screen that the contract with Merrygrove was in fact dated
11:10:05 10 the 21st of November 1988, which appears to be after the date in which
11 Mr. McLoone says that Mr. Gilmartin was shown around the lands in question.

12
13 MR. LAWLOR: Sorry, it's 2649. It's 2629. Now, Mr. Gilmartin, that's a
14 planning application for the Balgaddy lands and you I think have had some very
11:11:50 15 costly comments about this application. That it was a stunt or that it was
16 whatever, breaking the agreement that you had with O'Callaghan Properties; is
17 that correct?

18 A That's correct.

19 Q 47 Well, would you not agree that because of the contractual situation that the
11:12:08 20 company had entered with the Dublin Corporation, that they had a legal
21 liability or responsibility under the terms of the contract to lodge for a
22 planning application?

23 A He had sold the land to me.

24 Q 48 Yes, but it was his --

11:12:23 25 A And with the expressed statement that there was no way he could build on that
26 site, as you well know, Mr. Lawlor, because it was you -- he sent you -- he
27 sent you to gatecrash a meeting in the -- as was the second time you done it --
28 to gatecrash a meeting I had with my architects in the Trust House Forte Hotel
29 in Dublin airport in November to tell me that I had to deal with
11:12:57 30 Mr. O'Callaghan and I said nobody would build on that site and your statement

11:13:05 1 was, "But that doesn't matter. It's got the zoning and you'll have to deal
2 with him". So it was you, Mr. Lawlor, who Mr. O'Callaghan said to me to hold
3 me to ransom.

4 Q 49 That's a mini speech now, is it, Mr. Gilmartin, to a question that you weren't
11:13:22 5 asked.

6 A A statement of fact.

7 Q 50 We'll deal with the statement. Do you have any collaboration of that? Did any
8 of your professional advisors --

9 A Yes, I have -- well, I assume, but I cannot or will not ask somebody to come
11:13:33 10 here who is reluctant to come here, but my architects were present when you
11 came in and pulled up a chair uninvited in the Trust House Forte Hotel where I
12 was having a meeting with the architects.

13 Q 51 And what's their reluctance, Mr. Gilmartin?

14 A Pardon?

11:13:48 15 Q 52 What's their reluctance to cooperate?

16 A They're in Northern Ireland and I don't know, I haven't asked them. It would
17 be up to the Tribunal to ask them to come here so --

18 Q 53 So it's your evidence that while you expressed this view, there's no
19 collaboration of it that I attended or gatecrashed or whatever your terminology
11:14:10 20 --

21 A I have corroboration of it, but -- and they stated openly not that long ago to
22 me about your coming in and just pulling up a chair and joining the meeting
23 that you weren't invited to.

24 Q 54 So you have evidence of that, have you?

11:14:28 25

26 CHAIRMAN: Mr. Lawlor, are you putting it to --

27 A It's up to the Tribunal. I will not ask anybody --

28

29 CHAIRMAN: Are you putting it that you didn't attend?

11:14:36 30

11:14:36 1 MR LAWLOR : No, I didn't attend ever. It's one of the many mythical meetings
2 that Mr. Gilmartin has had with a variety of people, including half the cabinet
3 --

11:14:45 5 CHAIRMAN: Are you putting to him that you didn't attend a meeting in that
6 hotel in circumstances roughly similar to those stated by Mr. Gilmartin,
7 invited or uninvited?

8
9 MR LAWLOR : It's not my recollection that I ever attended a meeting in the
11:15:00 10 Trust House Forte Hotel. And if I could recall, I would be delighted to
11 confirm to it the Tribunal. I would have no difficulty in giving rhyme and
12 verse if I had a recollection.

13 Q 55 So I'll just go to page -- finally, I'm just stating, Mr. Gilmartin, that
14 despite your contention, the application for planning permission on the
11:15:19 15 Balgaddy town centre lands was a contractual requirement of the arrangements
16 the Dublin Corporation had entered into with a third party developer.

17
18 You desist and disagree and whatever, so we'll just move on. Page 2148.
19 Again, you don't want to rain on any other developer's parade as you told us
11:15:48 20 about Tallaght, but under heading 3 you will read -- it's not something you
21 would have had a copy of but it's in the brief so you obviously would be aware
22 of it if you had a chance to study it:

23
24 "O'Callaghan claims his problem was caused by another proposal in the area and
11:16:03 25 that he has to alter his plans to complete."

26
27 You're not aware of that, are you?

28 A Pardon?

29 Q 56 Are you aware that your presence in assembling the Quarryvale lands was
11:16:13 30 frustrating the Dublin County Council plan to develop a town centre at

11:16:19 1 Balgaddy?

2 A No, I saw that it was there for 25 years and nobody touched it, and

3 incidentally I think Mr. O'Callaghan arrived on the site at your and Hanrahan's

4 invitation.

11:16:34 5 Q 57 Yes, but Mr. --

6 A After --

7 Q 58 You can make your speeches outside. I just want you to now understand and put

8 to you that the 25 years that it was supposedly there, according to you --

9 A Well, from '72 I understand, but I'm not quite sure. It had been there --

11:16:57 10 Q 59 How do you suggest how long it should take to develop a satellite town from a

11 country village?

12 A Well, you know, over the 20-year period, I would expect somebody to put a hole

13 in the ground somewhere to start.

14 Q 60 But, you see, if the infrastructure --

11:17:13 15 A And it hasn't happened yet.

16 Q 61 Sorry?

17 A As far as I'm aware, the site hasn't been developed. It may have been started

18 now, but even in the 15 years since I was there, nothing has been done on that

19 site.

11:17:28 20 Q 62 But are you suggesting now that because you came with your idea and now there's

21 a much different size centre on the location which was your original idea, that

22 there should now be another town centre in the same area; is that your

23 criticism now?

24 A No, I'm just saying that that site hasn't been developed for any purpose as far

11:17:49 25 as I know. I haven't been out there in 10 or 15 years, but as far as I know,

26 for any purpose.

27 Q 63 The position at the moment, if I could put it to you, Mr. Gilmartin, is that

28 the lands now are proposed under the current review of the South Dublin County

29 Council plan to put residential and office and industry because of the spoiling

11:18:12 30 of the area by your intrusion at the time?

11:18:15 1 A Well, Mr. Lawlor, you were very enthusiastic about it all and I think there's
2 evidence here, even from Mr. Owen O'Callaghan --

3 Q 64 We'll come to my enthusiasm for it and we'll ask you questions when we get to
4 that. We're now dealing with a situation where you're claiming that until you
11:18:33 5 rode in to the rescue, nothing was being done there; is that right?

6 A Nothing was being done on Balgaddy and Neilstown, as I knew it.

7 Q 65 But, Mr. Gilmartin, we've just had evidence here that there was a developer had
8 lodged a planning application --

9 A Your dates are different. It was after he had accepted a 3.5 million pound
11:19:00 10 deal for me to purchase that, and actually I had already paid in 2.5 million of
11 the contract when he applied for planning permission, despite the fact he had
12 sold it to me. So what was the purpose of that?

13 Q 66 The purpose of that was to try to rectify the uncertainty that you had created
14 by assembling a land bank in Quarryvale and producing the West Park brochure
11:19:23 15 with 1.5 million square feet --

16 A No, it was --

17 Q 67 -- and every retailer in the country and abroad were querying why would they
18 sign up for one centre when there was another large centre looming in the same
19 town land?

11:19:41 20 A That application for planning permission was a deliberate act of sabotage of my
21 scheme so that he could force his way in on me. As you well know, Mr. Lawlor,
22 you were part of it.

23 Q 68 I have no knowledge of your contractual agreements with Mr. O'Callaghan,
24 Mr. Gilmartin, so you can say it as often as you like and you'll know I'm not
11:20:00 25 asking you, as I well know --

26 A He sent you, Mr. Lawlor, to tell me that I had to deal with him.

27 Q 69 No, I'll put it to you, Mr. Gilmartin, very frankly: If I had any priority in
28 public life it was to see something built in north Clondalkin and there was
29 some enthusiasm when the Balgaddy site was eventually sold and there was an
11:20:26 30 expectation that things were going to progress, Mr. Gilmartin.

11:20:29 1 A Your only purpose was to line your own pockets, Mr. Lawlor; nothing to do with
2 getting development in any area.

3 Q 70 Would you tell the Tribunal what you did to line my pockets? Did you give me
4 one penny --

11:20:41 5 A No, I did not.

6 Q 71 Did you give me one penny?

7 A No, I did not.

8 Q 72 No, you didn't. Well, that's the answer to the question. You want to make
9 allegations --

11:20:49 10
11 CHAIRMAN: Mr. Lawlor, you've asked him did he give you one penny, and let
12 Mr. Gilmartin answer that.

13
14 MR LAWLOR : Chairman, I have to interrupt here now and ask you the following.
11:20:58 15 You have allowed Mr. Gilmartin make a statement that I was only there to line
16 my pockets. Now, that's totally irrelevant to my line of questioning. If you
17 want to continually interrupt my questioning, would you ever address the
18 witness in the box and ask him to succinctly answer my questions. Now, what
19 lining my pockets has got to do with any question I asked --

11:21:20 20
21 CHAIRMAN: But he said that you then asked him had he lined your pockets, and
22 we can't allow that to remain unanswered in your own interests. So
23 Mr. Gilmartin, if he wants to answer that question, he can answer it.

11:21:35 25 MR LAWLOR : Is it acceptable that he's able to make these comments?

26
27 CHAIRMAN: The fact is he's made a comment and you've then asked him the
28 question and he must be allowed to answer it.

29
11:21:46 30 MR LAWLOR : Well, it was appropriate for -- okay, we'll leave it. We'll move

11:21:50 1 on.
2
3 CHAIRMAN: No, no, Mr. Lawlor, we won't move on. You have asked him --
4
11:21:55 5 MR LAWLOR : Yes, I've asked him and he's answered it, he never gave me a
6 penny; is that correct?
7
8 CHAIRMAN: Is that your answer, Mr. Gilmartin?
9 A Other than reluctantly paid him because he hustled his way in on Arlington, on
11:22:10 10 Bachelors Walk, so other than that, there was no way I would pay any corruption
11 or bribery money to anybody.
12
13 MR LAWLOR :
14 Q 73 Mr. Gilmartin, we'll prove that in time now as we go through your presence here
11:22:23 15 in your cross-examination. We have a situation, Mr. Gilmartin, that we are now
16 on page 2011. Could I put a question to you, Mr. Gilmartin. I was just about
17 to put it to you actually that the frustration that developed -- and I was
18 outlining the priority, not just for myself but the late Deputy Mitchell,
19 Lenihan, every public representative. Top of the priority list was to try to
11:22:56 20 see some form of centre built in north Clondalkin. It was a universal lobby
21 for us all. For you to be suggesting otherwise is wholly inaccurate.
22
23 We were optimistic that when the Balgaddy site was sold, we were going to see
24 progress. We had one major impediment which you have identified and which I
11:23:19 25 agree with fully, the lack of central government monies for the Font Hill Road;
26 isn't that right?
27 A The Nangar Road was the big problem as far as I'm aware. I know Mr. Redmond
28 referred to the Balgaddy Road, but it was the Nangar Road, as I understand it,
29 was the main problem. The Font Hill Road was already up to -- up to near the
11:23:48 30 Neilstown site was already done, in place. It was quite a substantial piece of

11:23:56 1 road. From there on, the problem arose on what I believe is the Nangar Road,
2 which would have entailed building a ago flyover to get over the railway line.
3 The proposed new Naas Road, then the railway line and then the canal, which
4 probably would have taken around 20 million pound or something, apart from the
11:24:20 5 fact that Mr.-- I was told that the government was not proposing to do anything
6 on the Nangar Road and that it would be up to me to do so it, so I rejected it
7 out of hand.

8 Q 74 Now that you're on that, could I have the coloured map we had up yesterday
9 which identifies the Balgaddy and Quarryvale lands, please. I'm sorry, I don't
11:24:45 10 know the number.

11

12 MR. GALLAGHER: 3704.

13

14 MR LAWLOR : Thank you, Mr. Gallagher.

11:25:29 15

16 MR LAWLOR : That's fine, thank you very much, Mr. Gallagher. That's it
17 exactly.

18 Q 75 Mr. Gilmartin, you're well aware of the location. The blue line is the M50 and
19 the line under Quarryvale is the Galway Road. As you come to the end of the
11:25:44 20 pink line on the Quarryvale lands, that's the spine road running through to the
21 front of the Neilstown site and goes over to the Nangar Road. That's the Font
22 Hill Road. I'm not making an issue. I have a much greater knowledge of the
23 area, it's been my constituency for 20-odd years, but the section at Neilstown
24 terminated and went back into a small link road to the village of Clondalkin,
11:26:13 25 which you might just see heading down to the letter C. There lied the
26 deficiency of the road network to open up the Balgaddy lines, just that section
27 from the top of the Neilstown (pink site) over to the Nangar Road, which is to
28 the left of Clondalkin.

29

11:26:34 30 Now, we were repeatedly seeking funds from the central government -- you see

11:26:39 1 where it just deflects above Neilstown there on to the old Clondalkin link and
2 we didn't have that section and you're right, there's a canal and there's the
3 railway line that had to be bridged. You have introduced on a number of
4 occasions a Naas motorway, which is a 50-year intention to create a junction
11:26:57 5 down where Clondalkin, red line, dissects the motorway.

6
7 Now, that was the link of deficiency, and only that link, to allow the Balgaddy
8 lands to be opened. It was in the terms of the contract of O'Callaghan
9 Properties that they were conditioned to make a substantial contribution, if
11:27:16 10 not construct that section of road. That being done, the Balgaddy site,
11 Mr. Gilmartin, was ideal as the town centre between Clondalkin and Lucan, and
12 your Quarryvale vision is quite off centre, quite unsuitable for the intentions
13 of the planners since 1972 and I would put it to you that Balgaddy would be a
14 fine thriving half a million square feet town centre today if you didn't come
11:27:49 15 in with your idea.

16 A Well, funny, Mr. Lawlor, it's amazing how people's attitudes change with time.
17 You said it would never be built on at the time, Mr. Lawlor. "It was totally
18 unsuitable." That was your statement.

19 Q 76 That was one of your recollections, just like yesterday it was 20 per cent
11:28:14 20 once, then it was 20 per cent twice, and now it's I said it would never be
21 built. What I said to you and to Mr. O'Callaghan in fairly unparliamentary
22 language was, "Would you please get together and get something built in north
23 Clondalkin". That was my driving -- and you and Mr. O'Callaghan or Albert
24 Gubay or whoever didn't really matter if we could get something constructed in
11:28:39 25 north Clondalkin which, tragically, was the only area in this country that was
26 the basis of a task force on urban crime, and you now are coming in and
27 creating a dilemma, however desirable or undesirable, to build a town centre.
28 You don't accept that, but that was the facts and the truth --

29 A I don't accept that. I introduced hope to the area.

11:29:02 30 Q 77 You can't eat hope, Mr. Gilmartin.

11:29:09 1 A I would have carried it out, given the level playing field.

2 Q 78 Okay. We'll revert to what you would have carried out later. 2011, please.

3 Mr. Gilmartin, this is your letter to O'Callaghan Properties and could I just

4 go to the third paragraph and ask you to try and put some flesh on the bones.

11:29:37 5 "You will appreciate in respect of the joint venture proposal that while I have

6 my finances arranged in principal, the details of these arrangements could be

7 placed in danger should an agreement such as you suggest be entered into by

8 me".

9

11:29:58 10 Who had the finance arranged? With the passage of time, can you now announce

11 who you couldn't then?

12

13 A I had a number of investors who had expressed interest in investing in the

14 site.

11:30:16 15 Q 79 This is much more specific, Mr. Gilmartin. This is "I have my finances

16 arranged".

17 Could you tell the Tribunal who you had the finance arranged with?

18 A In 1988, at that particular time, I didn't need any finance. I was using my

19 own money.

11:30:36 20 Q 80 But that wouldn't be adequate to finance the development, Mr. Gilmartin, would

21 it?

22 A Well, I stated here that my whole object of the exercise was to bring in

23 investment to Ireland, and that I'd done.

24 Q 81 And line your pockets and run?

11:30:51 25 A No, no.

26 Q 82 Oh, yes.

27 A No, no.

28 Q 83 Yes, Mr. Gilmartin.

29 A No, no.

11:30:55 30 Q 84 Your 78 million pound valuation for Mr. Foreman; isn't that what you were

11:31:00 1 doing? You never put a brick on a brick. You never built anything. Isn't
2 that what you told the Tribunal?
3 A That's correct.
4 Q 85 And you weren't going to build a brick on a brick and give hope, the saviour of
11:31:11 5 north Clondalkin, Mr. Gilmartin; isn't that right?
6 A No, I brought in the investment.
7 Q 86 Could you tell us where or who was the investors you were bringing in, please?
8 A Well, the people that funded it, that did fund it after I was fraudulently
9 forced out of it --
11:31:28 10 Q 87 That's --
11 A Grosvenor Developments was one of the people I had lined up and they funded it.
12 Q 88 But why didn't you get them to fund it?
13 A No, I couldn't get --
14 Q 89 Why didn't you get them to fund it?
11:31:42 15 A Because of you, Mr. Lawlor --
16 Q 90 Because of me.
17 A Yes, you, and a number of your co County Councillors, together with the
18 gentleman who was questioning me yesterday that made certain, along with others
19 who blackmailed me and held me to ransom.
11:32:00 20 Q 91 Mr. Gilmartin, you better be specific and tell the Tribunal -- be specific. So
21 what happened that caused this 78 million dollar scheme to slip away from your
22 pockets? What caused it, exactly?
23 A No, it didn't matter to me whether I made anything out of it or not. My
24 intention was bringing investment into Ireland, which I did, and, Mr. Lawlor,
11:32:25 25 you and a number of your people tried to cash in on the thing, and when you
26 didn't get your way, you set about with others to make certain I didn't get it
27 off the ground, and in the next module, I'm reasonably certain I'll prove it.
28 Q 92 We'll deal with this module. We look forward to the next one in due course.
29 I'm asking you again: Can you tell the Tribunal on the 20th of December 1988,
11:32:55 30 you're making a complete fabricated claim that you have your finances arranged

11:33:01 1 in principle --

2 A Oh, yes, Mr. Lawlor. Just the same as I brought -- just the same as Arlington

3 came in, put in substantial investment and eventually lost quite a bit of

4 money. But that's a different matter. And you hustled in on that too,

11:33:25 5 Mr. Lawlor. You didn't get your way or Mr. Redmond. You set about making

6 certain that some sucker like me would never get off the ground.

7 Q 93 You were a development sucker because you didn't even know how to go about it.

8 You never built anything before. You were in here on a whim. You were the

9 biggest hustler, fraudster, that ever came to the country.

11:33:53 10 A No, no, no, Mr.-- don't tag me with your thing because that's nobody --

11 Q 94 You've just told the Tribunal --

12 A You don't know me, Mr. Lawlor, and nobody that does know me will ever make a

13 statement like that.

14 Q 95 We're only at the beginning, Mr. Gilmartin. There's a lot more to come, I can

11:34:11 15 tell you, because I've listened to your threats for 14 years. Now it's

16 answerable back time from you. You're there making comments to the media over

17 the last 15 or 20 years. Now it's accountability time --

18 A No, I didn't, Mr. Lawlor --

19 Q 96 It's accountability time, Mr. Gilmartin.

11:34:27 20 A No, I didn't talk to the media --

21 Q 97 Could I have page --

22 A I did not talk to the media, Mr. Lawlor, until I was blackened by people like

23 you.

24 Q 98 I wouldn't have time for it, Mr. Gilmartin.

11:34:39 25 A Of course you wouldn't. You were too busy --

26 Q 99 We'll go on to page 2801, please.

27 A -- hustling.

28 Q 100 Oh, God. Anyway. Mr. Gilmartin, you came here to do a very laudable project

29 and not to make money. Could I refer you to line -- there's not a line number.

11:35:05 30 I'll pick it up here:

11:35:06 1
2 "I believe in the country and I would like to do what I can. I am in the
3 business of trying to make money but apart from that, I would like to do
4 something to help stem the flow of young people. I visited my sister in the
11:35:24 5 village of Dromahair ..."
6 And you saw what you saw:
7
8 "Soon all that will be left will be old people and children. To have this
9 continue will ruin the country."
11:35:36 10
11 So you've just said you weren't in it to make money --
12
13 MR. O'NEILL: To be fair to Mr. Gilmartin, the document should be identified. I
14 think it's the statement of Detective Garda Burns.
11:35:45 15
16 CHAIRMAN: Just in general, Mr. Lawlor, if you're introducing a document, not
17 just for the witness's sake but for our sake, if you just identify the
18 document.
19
11:35:56 20 MR LAWLOR : Certainly, Chairman, I appreciate that.
21
22 CHAIRMAN: This is Mr. Burns' --
23
24 MR LAWLOR : Garda Burns -- well, it's notes obviously. I think it's Inspector
11:36:07 25 Burns. Garda Burns never met Mr. Gilmartin or spoke to him; is that correct
26 A That's correct, that I'm aware.
27 Q 101 So do you recall making those comments that you were in the business to make
28 money?
29 A Everybody is in the business to make a living.
11:36:25 30 Q 102 That's fine. I appreciate that. Thanks, Mr. Gilmartin. We still haven't

- 11:36:30 1 resolved the fact that you had your finances arranged in principle. Are you
2 not able to outline who you were exactly --
- 3 A When I started Bachelors Walk, Mr. Lawlor, I said the same thing; I had the
4 finances arranged, and I proved it, as I would have proved it in Quarryvale.
- 11:36:50 5 Q 103 Well, could you just --
- 6 A And you were concentrating on the shopping centre. You're forgetting the
7 overall picture, Mr. Lawlor --
- 8 Q 104 No, we'll come to that with your brochure. We'll go to your brochure in detail
9 because it's a very vital document in the whole considerations of the Tribunal.
11:37:05 10 While I'm on that, Mr Chairman, last evening I asked were these other brochures
11 available and I think Mr. Gallagher was going to look at it overnight.
12
13 CHAIRMAN: Mr. Gallagher, do we know were there other brochures available?
14
- 11:37:21 15 MR. GALLAGHER: I know the Tribunal has one brochure. Whether it has others or
16 not I don't know. I'm instructed there are two.
17
18 MR LAWLOR : This is a letter from O'Callaghan Properties, dated 2679. I take
19 it's your evidence -- I don't want to be delaying unduly -- that this was
11:37:54 20 another stunt, is that right, to the Minister?
21 A That's correct.
- 22 Q 105 Could you just -- the stunt was on the basis of what wrong situation that you
23 perceive.
- 24 A The stunt was on the basis, the review of the Dublin plan was supposed to take
11:38:11 25 place and the three western towns was number one priority on the review and as
26 it was announced that they were going to review, that Mr. O'Callaghan wrote a
27 letter to Mr. Flynn to create confusion, pretending while he had collected his
28 money from me, pretending that he was going to do something on Neilstown, which
29 he had no intention of doing.
- 11:38:36 30 Q 106 But, Mr. Gilmartin, I'll read the letter to you so that you can comment on the

11:38:41 1 content:
2
3 "As you are aware, Tom Gilmartin and I had an agreement whereby I would not
4 proceed with proposal for my site at Clondalkin, to enable Tom to proceed with
11:38:52 5 the development of his lands at Palmerston. This agreement expired on the 31st
6 of October last."
7
8 You dispute that date and I'm not going to waste time on this. But I'll
9 continue:
11:39:04 10
11 "However, I am preparing to reinstate this agreement and withdraw the present
12 planning application made to Dublin County Council, provided Tom completes his
13 side of the agreement this week. This he has confirmed he will do."
14
11:39:16 15 A So this is November and, according to you, my agreement with Mr. O'Callaghan
16 was the -- the final part of the payment to Mr. O'Callaghan was October, and
17 he's talking about withdrawing his planning application. So he applied for
18 planning while his agreement or, should I say, in default of the agreement he
19 had with me to sell me the Neilstown site. You are actually now proving -- you
11:39:51 20 have actually proven what the game was --
21 Q 107 I'll put the questions to you now. The game is very straightforward, but you
22 have a great capacity to muddle and complicate it. The situation, could I put
23 it to you --
24 A You are the master of that.
11:40:06 25
26 CHAIRMAN: Let Mr. Lawlor ask his question, Mr. Gilmartin.
27
28 MR LAWLOR : The question is was there a contractual liability on O'Callaghan
29 Properties with the Dublin Corporation to stay with the agreement that had been
11:40:19 30 reached on the sale of the Balgaddy lands, and it was to keep that agreement in

11:40:26 1 place and to assist you in achieving your ambitions and nothing else. Would
2 you accept that?

3 A Well then, how could the review of the Dublin plan take place with regard to my
4 site while Mr. O'Callaghan had a phoney application in for planning? Explain
11:40:48 5 that, Mr. Lawlor --

6 Q 108 I'll ask you the question.

7 A You were part of it.

8 Q 109 Could it have been a contractual requirement of O'Callaghan Properties to
9 comply with the agreement as per the sale of the Balgaddy lands, could it be
11:41:01 10 that?

11 A No, no. At that particular time, Dublin Corporation and the County Council was
12 well aware that Mr. O'Callaghan had done a deal with me to sell me the site, so
13 any contractual obligation would have been taken over by me.

14 Q 110 Mr. Gilmartin --

11:41:17 15 A So any discussion with regard to Neilstown would have been with me, not
16 Mr. O'Callaghan.

17 Q 111 You see, Mr. Gilmartin, Mr. Deloigan's letter to Mr. Brady at page 2292 and the
18 contractual documentation sent out by the Dublin Corporation, Mr. McLoone, your
19 friend, Mr. McLoone, had put in certain conditions and in the contractual
11:41:42 20 responsibilities of the purchasing company, so the lodging of a planning
21 application, I suggest to you, was to comply with a legal requirement and to
22 give you more time to resolve your business as per the letter I've just read
23 out; nothing more --

24 A That obligation was on me, not O'Callaghan --

11:42:01 25 Q 112 But you hadn't closed the sale. You haven't produced the funds --

26 A They were quite happy because --

27 Q 113 No, you have to be specific. There's nobody quite happy. There's fact and
28 fiction. The facts are, that the Dublin Corporation were pushing to get a town
29 centre built and they didn't really mind where. It wasn't their
11:42:23 30 responsibility.

11:42:23 1 A And they were quite happy I was doing it.

2 Q 114 But there had to be formal procedures put in place as well.

3 A They were quite happy I was doing it, and that's why I was advised by both the

4 corporation, the government and others that it would be adopted in the review

11:42:37 5 of the Dublin plan.

6 Q 115 So now you're talking about bodies and governments that have nothing to do with

7 the decision making process; is that right?

8 A I don't know. You know --

9 Q 116 You don't know? You're the 500 million dollar man. You're going to build the

11:42:53 10 world and all and you don't know --

11 A Yes, and I would have proved it.

12 Q 117 You would have, but you didn't, unfortunately, because you weren't able to --

13 A No, I met you, Mr. Lawlor.

14 Q 118 Do I understand, Mr. Gilmartin --

11:43:04 15

16 CHAIRMAN: Mr. Gilmartin and Mr. Lawlor, it doesn't help if we have a shouting

17 match. Perhaps we should really try and have Mr. Lawlor asking the questions

18 and Mr. Gilmartin giving answers and being allowed to give an answer.

19

11:43:21 20 MR LAWLOR : If the questions are answered, I won't be interrupting, Chairman,

21 and I will assure you I'll make a very sincere effort not to.

22 Q 119 Mr. Gilmartin, could I ask you about the first payment which you stated in

23 evidence was from your own resources to O'Callaghan Properties for I think

24 800,000 pounds; isn't that correct?

11:43:42 25 A That's correct.

26 Q 120 And it's -- well, I'll just read it. I don't know what page it is:

27

28 "Question: At the time you signed the agreement you had to pay 800,000 pounds

29 as an initial deposit?

11:43:55 30 Answer: That's correct, and I did it upfront.

11:43:58 1 Question: And you did it out of your own funds?
2 Answer: Yes, I did.
3 Question: In January 1989 had you any borrowings in relation to Quarryvale?
4 Answer: Very little.
11:44:07 5 Question: Did you borrow?
6 Answer: If I did, I had the funds to back it up.
7 Question: Did you borrow 1 million pounds from the Bank of Ireland at some
8 stage?
9 Answer: Yes, I did."
11:44:18 10
11 So you paid the 800 -- you had 1 million pounds borrowed from the Bank of
12 Ireland; is that right?
13 A At one stage, yes.
14 Q 121 And did you have other borrowings from them?
11:44:28 15 A No, I had deposits with them as well.
16 Q 122 I see. So this was 800,000 pounds out of your own funds --
17 A With IBI incidentally and 800,000 came out of my funds that I had deposited in
18 IBI.
19 Q 123 So your evidence to date is you had been facilitated by Bank of Ireland with
11:44:51 20 the borrowing of 1 million pounds; isn't that correct?
21 A I borrowed money from time to time, from various banks.
22 Q 124 I'm asking a specific question, Mr. Gilmartin, about this particular matter.
23 A No, you had asked me about 800,000. I came out of my own cash.
24 Q 125 You have said in evidence that you also had a facility that you possibly had
11:45:06 25 used all or part of from Bank of Ireland; isn't that right?
26 A That's correct.
27 Q 126 Okay. Could I have page 2259, please. It's a bridging loan from the Bank of
28 Ireland. Mr. Gilmartin, this is a bridging loan that you haven't referred to
29 at all. It's a second bridging loan from the Bank of Ireland. By peculiar
11:45:36 30 coincidence it's for 800,000 pounds.

11:45:40 1 A Yes, it was repaid by my monies that I deposited in IBI.

2 Q 127 Why did you need to borrow it if you had the monies and just pay it out?

3 You've stated you paid it from your own resources, now we have it borrowed from

4 the Bank of Ireland.

11:45:55 5 A I had no problem if -- I had no problem -- the Bank of Ireland was quite happy

6 because I had about 4 million pounds deposited in IBI.

7 Q 128 Could I have page 2685, please. This, Mr. Gilmartin, is a letter from William

8 Fry solicitors to your solicitor, Mr. Maguire, and it deals with the Stewarts

9 Hospital, Allied Irish Banks and Tom Gilmartin. That deposit -- on heading 3:

11:46:32 10

11 "That the deposit forfeit under the original contract being validly forfeit is

12 now not part of this sale and accordingly a new deposit must be furnished."

13

14 How much did you lose on the deposit?

11:46:44 15 A On what deposit?

16 Q 129 You gave a deposit to buy lands from St. Patrick's institution. You weren't in

17 a position financially to close the agreement you had entered into --

18 A No, I had an option. I had no agreement. I had an agreement to purchase at

19 the end of a period of time, but I had an option, a temporary option, which I

11:47:07 20 honoured, with St. Patrick's trust land.

21 Q 130 So are you saying you didn't forfeit an option?

22 A Pardon?

23 Q 131 You didn't forfeit option monies?

24 A I forfeited the option monies when --

11:47:19 25 Q 132 How much was that?

26 A When -- about 150,000.

27 Q 133 And why did you do that?

28 A I done it when I was forced out of the scheme.

29 Q 134 So who are you giving credit for that now?

11:47:33 30 A That's a different matter, Mr.-- we'll deal with that in the next module.

- 11:47:37 1 Q 135 No, we'll deal with it now, Mr. Gilmartin?
- 2 A No, we went deal with it now because it belongs to the next module and if you
- 3 want to be here until Christmas, please yourself, but that's part of the
- 4 evidence in the next module.
- 11:47:51 5 Q 136 Mr. Gilmartin, page 2685 is in the briefing documents of this module and I'm
- 6 just asking you the question: Why did you have to forfeit what you have now
- 7 told the Tribunal is 150,000 pounds --
- 8 A That's part of a bigger story, which is coming up in the next module.
- 9 Q 137 But tell us all about it today.
- 11:48:16 10 A No, I won't tell you about it.
- 11 Q 138 We couldn't wait. We'd love to hear it now, Mr. Gilmartin.
- 12 A No, you won't hear it now, except if the honourable judges ask me to answer the
- 13 question, but I doubt if they want to go into that.
- 14
- 11:48:25 15 CHAIRMAN: Mr. Gallagher --
- 16 A At this juncture.
- 17
- 18 CHAIRMAN: Can you enlighten us as to whether his answer would bring us into
- 19 matters more properly to be dealt with in phase 2?
- 11:48:40 20
- 21 MR. GALLAGHER: Well, in so far as the agreement -- the option agreement is
- 22 concerned, it was entered, as I recall, into in the period we're dealing with,
- 23 but it wasn't to be exercised I think until after 1990. I'd have to check the
- 24 dates on that and the documentation. I'll do that if the Tribunal wishes.
- 11:49:04 25
- 26 CHAIRMAN: We can return to it, Mr. Lawlor. We'll have to check the position
- 27 on that.
- 28
- 29 MR LAWLOR : That's fine, I appreciate that.
- 11:49:11 30 Q 139 If we could go to 2565, please. This, Mr. Gilmartin, is a letter again from

11:49:22 1 William Fry, by coincidence on a totally unrelated matter. And it's to do
2 with Grace Finnegan to Thomas and Vera Gilmartin, Ennismore Road, King Edward
3 Road, Bray. Why did you forfeit that deposit?

4 A That's in connection with the house. This is again part of the next module.

11:49:45 5 Q 140 Can I put it to you, Mr. Gilmartin, that Grace Finegan would say that you
6 telephoned the day before and said you couldn't come across from London and
7 left the unfortunate party --

8

9 CHAIRMAN: Who is Grace Finnegan?

11:50:02 10

11 MR LAWLOR : Grace Finnegan had contracted to sell a house to Mr. Gilmartin.
12 He had paid a deposit. The lady had gone on to entering into other
13 commitments. The day before the closing Mr. Gilmartin telephoned to say he
14 couldn't close the deal --

11:50:13 15

16 CHAIRMAN: Where are you getting this information?

17

18 MR LAWLOR : I have it on the screen here, "Grace Finnegan is selling a house,
19 and we now wish to inform you as a matter of courtesy that your client has now
11:50:25 20 forfeited your client's deposit without prejudice to any rights or remedies
21 available to our client at law or in equity and our client now intends to
22 resell the above property".

23

24 I'm putting it to Mr. Gilmartin that your fabrication of your 500 million
11:50:44 25 didn't come down to 3 or 400,000 to close the sale on a house that you
26 contracted to, and the whole financial fraud that you are visiting on this
27 Tribunal with your 500 million is as fantasy as Walt Disney. That's what I'm
28 putting to you. You didn't have the money to close those two sales, and you're
29 telling us you have millions and millions and millions. Now, why did you not
11:51:07 30 close the sale? Did you not have the money?

11:51:10 1 A That's part of the next module in the Tribunal. As I said, this will also be
2 explained in that. As a matter of fact, the only --

3 Q 141 Mr. Gilmartin, in 1989 -- This is a 1990 module. Now, if you want to try to
4 give me credit for the fact that you couldn't close the sale of a house in
11:51:32 5 1989; is that what you're now leading on to?

6 A That house sale was closed actually and was bought and paid for.

7 Q 142 So where's the evidence of that in your discovery?

8 A Well, that house was bought and paid for.

9 Q 143 By who?

11:51:49 10 A And the only forfeit came later in the next module, which the reasons behind
11 it, Mr. Lawlor, you had a big hand to play in it.
12

13 CHAIRMAN: Just one thing, Mr. Gilmartin, as it does arise in 1989, are you
14 saying that the purchase of the Bray house did go ahead subsequently?

11:52:12 15 A It did, yes. It was completed.
16

17 CHAIRMAN: And were you or one of your family the purchaser

18 A I was the purchaser, yes. I don't quite know where this letter came from, but
19 I did complete --

11:52:28 20

21 MR LAWLOR : Seamus Maguire's office I presume under discovery. What's TG 9/6.
22 Maybe Mr. Gallagher can help us?
23

24 CHAIRMAN: This particular letter suggests that the vendor had forfeited the
11:52:44 25 deposit.

26 A That's not possible because actually I had a mortgage and the Bank of Ireland
27 completed the purchase of that.

28 Q 144 Did you lose the deposit --

29 A No, I lost the house eventually with what happened later, which we'll come to
11:53:03 30 in the next module.

11:53:06 1
2 MR LAWLOR : So you entered into a new contract after '89, did you?
3 A No, I didn't enter into any new contract. I completed the purchase of the
4 house.
11:53:17 5 Q 145 On foot of this letter, you got back into negotiations and resolved the matter;
6 is that your evidence?
7 A Yes, I -- I completed the purchase of the house.
8 Q 146 Having failed to conform with the original contractual arrangements and they
9 were threatening to take the deposit; is that the implication here?
11:53:35 10 A Well, if -- that was up to the -- I'm not quite sure what the reasons behind it
11 were because I was in England and it was either due to illness or something
12 that I didn't get over on the day or on the time, but I completed -- when I got
13 over, I completed the purchase.
14 Q 147 Okay, Mr. Gilmartin. We'll just go on to --
11:53:57 15
16 CHAIRMAN: We might take a break, Mr. Lawlor.
17
18 MR LAWLOR : Sure.
19
11:54:02 20 CHAIRMAN: About 10 minutes.
21
22 MR LAWLOR : Thank you.
23
24 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
12:12:24 25 **AND RESUMED AS FOLLOWS:**
26
27 MR LAWLOR : Thank you, Chairman
28 Q 148 In an effort to try to be of assistance, the file I have compiled which I want
29 to move on to -- I've had the Balgaddy debate now -- it's Quarryvale, the land
12:12:34 30 acquisition, land valuation and the finance, Mr. Gilmartin. I just wanted to

12:12:39 1 take you through the process. I'm not going to for one minute get into the
2 minutiae of contracts with the corporation, as we spent so much time on
3 yesterday. I want to call up your letter to the then Assistant County Manager,
4 Mr. Redmond, numbered 1774.

12:13:09 5
6 This was the meeting that was discussed at great length yesterday where I
7 contacted the manager and asked him would he meet Mr. Gilmartin. I didn't say
8 about what, I recall. Maybe I did, I don't know. Something about my
9 constituency and he wanted to meet. That was arranged. Now, your version of
12:13:34 10 that is that again it was all driven by me, drove to the airport, picked you
11 up, brought you to where you didn't know where you were going, et cetera. But
12 the upshot of it was you had a meeting with the then manager in O'Connell
13 street who had responsibility for administration, finance and engineering, and
14 so forth.

12:13:54 15
16 The alleged map that you got, Mr. Gilmartin, I requested overnight by letter
17 from the Tribunal to find had Allied Irish Banks discovered the map, and that's
18 not possible. Who did you give the map to in Allied Irish Banks?

19 A On the night that I signed the shareholders' agreement on the 15th or 16th of
12:14:16 20 September 1991, the map was among the documents I handed over to the bank.

21 Q 149 And what AIB executives were there at that signing?

22 A Mr. Dave McGrath, Eddie Kay, Mr. Burn of William Fry, Owen O'Callaghan, John
23 Deane.

24 Q 150 Okay, thank you. Okay, we'll --

12:14:43 25 A And Mr. Maguire, Seamus Maguire.

26 Q 151 Okay. Well, I just put it, Chairman, that I would have thought if Allied Irish
27 Banks' record keeping would be adequate enough and as it's still a live project
28 the still is the basis of extensions and that, that a more detailed inquiry
29 could be made of Allied Irish Banks to see if the file is intact in their
12:15:05 30 records and if the map is within the file or could Mr. Gallagher tell us has

12:15:09 1 all AIB's documentation been discovered by discovery order?

2

3

CHAIRMAN: We'll take note of that.

4

12:15:17 5 MR. GALLAGHER: Yes, the answer is yes. Orders have been made against AIB.

6

The document has not been produced. It apparently is not available, according

7

to AIB.

8

9

MR LAWLOR : Is there ever any record that it was at one time --

12:15:33 10

11

MR. GALLAGHER: I don't have the documentation here before me, but I note that

12

an attempt has been made to locate the map and it has been unsuccessful to

13

date.

14

12:15:42 15 MR LAWLOR : Chairman, it's a very vital piece of evidence, as we can all

16

appreciate.

17

18

CHAIRMAN: We understand why you are making -- we can look into it between now

19

and 2 o'clock.

12:15:57 20

21

MR LAWLOR : Fine. Thank you, Chairman.

22

23

MR. GALLAGHER: I should say to a search is ongoing elsewhere at the moment.

24

12:16:04 25 CHAIRMAN: We can deal with that later.

26

27

MR LAWLOR : Thank you

28

Q 152 Your letter, Mr. Gilmartin, was -- you were very pleased to have the

29

opportunity of meeting and:

12:16:14 30

12:16:14 1 "I would like to thank you for your advice and assistance. I have instructed
2 the consulting engineers to liaise with the UK ... we are compiling a selection
3 of aerial and photographic views to outline specific examples of the
4 appropriate entrance and exit designs. The construction engineers will prepare
12:16:33 5 a sketch layout showing our suggestion for consideration by yourself and your
6 road engineering colleagues in the council to further the explore the
7 discussions. We fully accept and note that the point raised that your council
8 acts as a agent for the Department of the Environment, Roads Division, on
9 overseeing the construction of the motorway and national primary road schemes.

12:16:51 10
11 We believe if agreement can be reached, that our proposal for a business park
12 and motorway service at Palmerstown/Rowlagh location would bring much needed
13 investment to the area. We hope to be in a position to seek a further meeting
14 with yourself and your colleagues in the roads department to discuss our
12:17:07 15 proposal further. I will contact your secretary in due course to arrange a
16 date and time suitable to your itinerary."
17
18 You dictated that letter, did you, Mr. Gilmartin?
19 A Possibly, yes.

12:17:23 20 Q 153 Possibly.
21 A Yes.
22 Q 154 Are you on the possible or the probable team now?
23 A Well, if the letter came from me, I dictated it.
24 Q 155 Okay. And based on the tone of the letter, would you not have felt it
12:17:40 25 appropriate to at least put in a little few words thanking the Assistant
26 Manager for the wonderful map that he had given you?
27 A The map was on a previous meeting, Mr. Lawlor, in May. This one -- this is
28 July. And I'm reasonably certain that I had somebody with me at that meeting
29 and I believe Mr. Richard Foreman.

12:18:05 30 Q 156 Now, is it your evidence that I brought you to two meetings in May and -- and

12:18:13 1 this letter is 6th of July, which would have been some days after the meeting.
2 Is it your evidence now that there was a meeting some time before this meeting?
3 A That was always my evidence. A week after you appeared at Arlington, a few
4 days after, quite frankly, you picked me up at the airport and you took me to
12:18:34 5 Mr. Redmond's office.
6 Q 157 We'll come to the meetings because I think that I am supposed to be with
7 Arlington. I think you were with the Minister for the Environment. But that's
8 a file I have on meetings which we'll deal with separately. This was raised
9 yesterday and I'd like you to tell the Tribunal because if I could recall a
12:18:50 10 previous meeting or a meeting after, I would willingly volunteer the
11 information, I have no basis for not. Your evidence is that there was an
12 earlier meeting and I'm just telling Mr. Gilmartin that that was the one and
13 only meeting I ever recollect and Mr. Hartnett, the senior administrative
14 officer, on page 1795, replied on behalf of the manager, as he was senior
12:19:21 15 administrative officer in the roads area, responsibility for roads. So you're
16 saying that:
17
18 "I was very pleased to have the opportunity of meeting you."
19
12:19:35 20 That to me, Mr. Gilmartin, is your first meeting and it's worded accordingly --
21 A No, it was not my first meeting, as you well know, Mr. Lawlor. You picked me
22 up at the airport --
23 Q 158 I don't know. If I knew I'd tell the Tribunal, no problem. I'm here and the
24 only reason I'm absolutely definite is there's two pieces of paperwork that
12:19:52 25 confirm the information that the Tribunal is interested in. One is that
26 Mr. Hartnett kindly referred to me as:
27
28 "As stated to you at a recent meeting with myself and Deputy Liam Lawlor who
29 organised the meeting ..."
12:20:09 30

12:20:09 1 Now, why did you not write after the first meeting?

2 A Because it was not an official meeting of any kind. When I arrived at the

3 airport, I had no intention or no meeting or appointment with Mr. Redmond. You

4 took me there, Mr. Lawlor. It was not an official meeting. So consequently,

12:20:29 5 there was no obligation on me to write in connection with that because there

6 was nothing discussed other than Mr. Redmond gave me the map identifying the

7 ownership of all the site. A question which I asked you at the Deadman's Inn

8 on our first meeting as to who owned the sites and there was a ready-made map

9 which was given to me in May.

12:20:57 10 Q 159 The only land you expressed an interest in in your own words was along the

11 Galway Road?

12 A That's correct.

13 Q 160 So how could somebody produce this massive map for a lot of land that wasn't on

14 the Galway Road; it ran all the way to the Coldcut Road on the motorway which

12:21:16 15 is something you hadn't expressed any interest in.

16 A As I understand it, the zonings of all the land was already on the map and the

17 ownerships of who they are because there was compulsory purchase orders for

18 roads, et cetera, and Mr. Redmond had the map in his desk and handed it to me

19 in your presence, Mr. Lawlor.

12:21:40 20 Q 161 I'm just putting it back to you, Mr. Gilmartin. The question I asked you was:

21 You had explained to me you were interested and I can't recall but I would have

22 said that Des Bruton owned the land across, we were just across the road in the

23 Deadman's Inn and I would have known that possibly Frank Sharpe had lands and

24 then I probably would have had there was a lot of local authority land because

12:22:03 25 it was predominantly a local authority owned area. But the map is so extensive

26 as was said yesterday -- and I'm not going to waste too much time on it -- but

27 I just want to put it to you:

28

29 I arranged a meeting in discussions with you by phone before you came, I

12:22:21 30 brought you in to meet the manager, the rest is history, the differences are

12:22:27 1 there. We're not going to get agreement on different views. But Mr. Hartnett
2 has put it down and I think there's evidence from the manager's diary that that
3 meeting was arranged. If there was any other meeting, I don't have any
4 recollection of it. And I don't have any recollection of any map being handed
12:22:49 5 over, and that's why I'm asking AIB, who I would have thought would still have
6 the totality of the file, to try and establish if this map was provided to you
7 because it appears most complicated that such a detailed map -- and further I
8 would put to you that to produce that map, Mr. Gilmartin, the manager would
9 probably have to write an instruction to the mapping department and have time
12:23:10 10 allocated to some architect or land surveyor to go out and do the work
11 necessary, and as the meeting had no pre-agenda of what the interests were,
12 it's very, very difficult to reconcile your view, the map you got and the
13 truth.

14 A The -- my visit with Mr. Richard Foreman to your house --

12:23:37 15 Q 162 No, we're talking now, Mr. Gilmartin --

16 A No, I'm just telling you you had --

17 Q 163 No, Mr. Gilmartin, you'll just have to stay with the questions. We'll come to
18 my house and Richard Foreman later. I have a statement and I'll take you
19 through it meticulously. Just stay with the question.

12:23:52 20

21 CHAIRMAN: What is the question?

22

23 MR LAWLOR : The question is that Mr. Gilmartin inquired of me of lands along
24 the Galway Road. The map that was produced out of the blue without any request
12:24:04 25 for it from any party, myself or Mr. Gilmartin, was a very comprehensive work
26 of mapping, and to think that it could be just produced when there was no
27 pre-knowledge of a request for it just goes beyond belief.

28

29 CHAIRMAN: Yes, but what's the question? What is the question? That's your --

12:24:26 30

12:24:26 1 MR LAWLOR : The question is that Mr. Gilmartin is lying. Mr. Gilmartin got no
2 map from the manager in my presence.

3 A Yes, I did. It's not me that's lying.

4 Q 164 You'll believe that until the day you die, but there's others that might have
12:24:42 5 different views and they might be proven differently before we finished. But
6 you are lying about suggesting that you were handed this comprehensive work of
7 art of a map when nobody looked for it, nobody had it for you and you received
8 it, and you're further lying by suggesting now -- and we'll get to the bottom
9 of it, if AIB have the file and they'll prove you're lying. But we'll move on.
12:25:05 10 I'm not going to spend any more time on it.
11

12 CHAIRMAN: Mr. Lawlor, you've put it to Mr. Gilmartin that he's lying, so you
13 must allow him to respond to it.

14 A I am not lying. Mr. Lawlor is lying. Mr. Redmond handed me the map,
12:25:17 15 colour-coded map, with the names of every ownership, plus the zoning, on it,
16 coloured. I assume it was the appropriate colour for the zoning in the area.
17

18 MR LAWLOR : All the colours of the rainbow. I think we should go to 1744
19 please.

12:25:34 20

21 JUDGE KEYS: Mr. Lawlor, I think it also should be fair to Mr. Gilmartin that
22 you stated that you had no recollection of a map being handed over when you
23 referred to a meeting. If you had no recollection you don't know. You can't
24 say --

12:25:47 25

26 MR LAWLOR : I'm saying the map was not handed over, full stop.
27

28 JUDGE KEYS: Well, you said prior to that, putting it to Mr. Gilmartin, that
29 you had no recollection --
12:25:56 30

12:25:56 1 MR LAWLOR : Delighted to correct it, judge.
2
3 JUDGE KEYS: Do I take it then that you are going back and say you do have a
4 recollection of the meeting and that no map was handed over?
12:26:04 5
6 MR LAWLOR : There was no map handed over and there was no two meetings.
7
8 JUDGE KEYS: Are you then withdrawing your reference to having no recollection,
9 if that is the case, which you said earlier on?
12:26:13 10
11 MR LAWLOR : I'm strengthening it to say there was no map handed over and
12 that's what I intended to say, and if I said "recollection" I now want to
13 correct it and will do under oath.
14
12:26:23 15 JUDGE KEYS: Okay. It's just for clarification.
16
17 MR LAWLOR : I appreciate that.
18
19 MR. GALLAGHER: Can I also suggest that the allegation that was made by
12:26:32 20 Mr. Gilmartin about what he says was said to him by Mr. Lawlor at that meeting
21 should be put by Mr. Lawlor so that Mr. Gilmartin can have an opportunity of
22 knowing what Mr. Gilmartin says about the alleged demand for 100,000 pounds,
23 plus 100,000 pounds --
24
12:26:51 25 MR LAWLOR : I'll deal with that in due course, Mr. Gallagher.
26 Q 165 1774, please. Mr. Gilmartin, this is a letter. Isn't the heading on that
27 letter a complete fabrication of yours, "Re, motorway facilities?"
28 A Why would that be?
29 Q 166 Is that what you intended to do?
12:27:23 30 A Pardon.

- 12:27:24 1 Q 167 Is that what you intended to do on the land?
- 2 A I don't quite know what your question is.
- 3 Q 168 My question is, Mr. Gilmartin, that you're lying there. You had no intention
- 4 of attempting to provide a motorway facility. You were on a trawl. You were
- 12:27:42 5 lying to the manager when you said you were interested in motorway facilities.
- 6 All the whole evidence coming up for the next month is that you never, ever
- 7 intended to put motorway facilities there. It's a lie.
- 8 A What do you regard as motorway facilities?
- 9 Q 169 Well, Granada and all those facilities along the motorways in the United
- 12:28:01 10 Kingdom where there's petrol, diesel, washing facilities, et cetera.
- 11 A We had a service station which we planned on the site, so that would be what we
- 12 would regard as a facility.
- 13 Q 170 But your plans are telling us for as long as people have been listening to you
- 14 that you were going to build a massive regional shopping centre; isn't that
- 12:28:26 15 right?
- 16 A That's correct.
- 17 Q 171 So here you were trawling around and lying to me and to the manager and anyone
- 18 else who would listen to you to get you the information on the lands, with the
- 19 big machiavellian plan to plank a big regional centre there. And the
- 12:28:42 20 legislation which we will deal with with your consulting engineers didn't allow
- 21 motorway facilities to be provided.
- 22 A That's not absolutely correct. We explored the possibility of including a
- 23 service station on the site, on one or the other side of the site, either on
- 24 the M50 end of it, the Irishtown Road, or on the Font Hill Road end of the
- 12:29:11 25 site. That was all that was part of the inclusion in the overall scheme.
- 26 Q 172 Mr. Gilmartin, a motorway facility, I'm only guesstimating, would be about 5
- 27 acres. You've got 36 motorway facilities on the land of 180 acres.
- 28 A No, sorry, you're referring -- you're trying to confuse the whole issue. There
- 29 was --
- 12:29:37 30 Q 173 No, I'm only asking you, you tell the Tribunal motorway facilities. What did

12:29:42 1 you mean by motorway facilities?

2 A A motorway facility was on the site with the shopping centre, plus other things

3 we had planned for the area. The motorway facility was just one small element

4 of it.

12:29:59 5 Q 174 Why not refer to it it in your letter then?

6 A We were talking about the roads. Our negotiation was the access, egress and

7 the access on to the various motorways, both at the Font Hill Road end and the

8 Irishtown Road end.

9 Q 175 Okay. So --

12:30:21 10 A Normal -- absolutely normal practice.

11 Q 176 Your letter is highly defective then. It didn't elaborate the great plans that

12 you had. Could we agree on that, that the letter is very, very sketchy --

13 A No, it's in connection with the roads. It's nothing to do with that.

14

12:30:38 15 JUDGE FAHERTY: In fairness to Mr. Lawlor, since you are on the issue of the

16 letter, perhaps the penultimate paragraph ought to be put to Mr. Gilmartin.

17 There's a reference to a business park and he should be asked to what that

18 reference was meant to refer to. There is reference to something other than

19 motorway facilities in the letter, albeit the letter is headed "motorway

12:31:02 20 facilities".

21

22 MR LAWLOR : You go on to say: "We believe if agreement can be reached, that

23 our proposal for a business park and motorway service at the

24 Palmerstown/Rowlagh location would bring much needed investment to the area."

12:31:14 25

26 There's still no mention of your West Park, so was that your initial intentions

27 or was it always your intentions as with the handshake on the Galway Road

28 between Mr. Sharpe and Davin that you were going to put a shopping centre on it

29 A I have already dealt with Mr. Sharpe and Davin. Mr. Sharpe was not present on

12:31:35 30 the Galway Road with Mr. Davin. Mr. Davin was on his own and it was a long

12:31:39 1 time before I had any meetings or negotiating with Mr. Sharpe.

2 Q 177 Okay. I'm just asking you, Mr. Gilmartin --

3 A So I reiterate that once again.

4 Q 178 In your letter at no time on the 6th of July 1988 had you any intention to

12:31:53 5 bring forward a West Park proposal; is that your evidence?

6 A No, my whole intention was from -- I was shown the Clondalkin site, the

7 Neilstown site, was that that was the appropriate site for a shopping centre.

8 Q 179 Well, it's just -- okay, I'll finish on the point. Your letter then is you

9 know --

12:32:15 10 A No, I also planned a business park on it.

11 Q 180 Yes, I appreciate that. I know you did. We have it here and we'll come to it

12 in due course when we get to your brochure. We'll conclude on that point that

13 you were speaking with the manager, you restricted your letter to motorway

14 facilities and a business park --

12:32:32 15 A And that's what we were talking about --

16 Q 181 But that wasn't the truth, surely it wasn't?

17 A That was the truth. The discussion was in connection with access and egress

18 from the site.

19 Q 182 Okay. I just want to go on to the -- without getting into the detail, on the

12:32:53 20 land acquisition from both the two local authorities. We come in on this with

21 obviously where you made your arrangements and you met -- Mr. McLoone's

22 statement sets it out on page 924. Just while it's coming up, you'll be

23 familiar with it, it's well trawled out:

24

12:33:18 25 I first met Mr. Gilmartin in 1988 but cannot be definite as to the precise

26 date.

27 And then "Mr. Gilmartin attempted to assemble the parcels of land and I recall

28 Mr.Gilmartin and Arlington running into difficulty with British Aerospace and

29 so forth. It would appear that ...

12:33:34 30

12:33:34 1 Around this time, I had brought Mr. Gilmartin to see the lands at Balgaddy (and
2 we have dealt with that this morning) and Mr. McLoone's recollection is it was
3 late 1988. You have placed it earlier in 1988. Isn't that so?

4 A That's correct. I was prior to meeting you, Mr. Lawlor, in May. It had
12:33:57 5 already -- probably some month or two before that.

6 Q 183 Fine. Now, we go on down the -- the valuer is -- there's various -- well, on
7 page 926, Mr. Gilmartin, under heading 7, Mr. McLoone sets up as one of his
8 responsibilities among many:

9
12:34:19 10 "To advise the corporation on the development of shopping and commercial
11 centres."

12 Are you familiar that that was a brief that Mr. McLoone held in his position?

13 A No.

14 Q 184 I see. If we could have page 3272:

12:34:47 15
16 "To the best of my recollection I recall being summoned..."

17
18 And that's when he met you with those senior members of the corporation. We go
19 on to page 928, please. Mr. McLoone in his statement, Mr. Gilmartin, is
12:35:05 20 stating that:

21 "Mr. Gilmartin in relation to the lands at Quarryvale, I recall, would complain
22 about many things which I believe he saw as delaying his development plans. I
23 cannot say whether or not he was justified in his complaints. He may have been
24 highly critical, in fact he was, in relation to advancing his Quarryvale plans
12:35:27 25 but also, he may have had unreasonable expectations as to the speed with which
26 development plans could be altered in a local authority context."

27
28 Then he went on to complain about councillor's lack of cooperation and
29 commitment and he's perceived they were unwilling to help or assist in
12:35:45 30 achieving his goal. Do you recall complaining regularly to Mr. McLoone?

12:35:52 1 A Yes, as he did to me on numerous occasions.

2 Q 185 And what did he complain to you about?

3 A You and Mr. Redmond.

4 Q 186 So what --

12:36:02 5 A And your activities.

6 Q 187 What did Mr. McLoone have to complain about me? Could you be specific now.

7 Try and be specific if you could.

8 A I'm not -- at this point -- I went into it with Mr. Redmond yesterday and until

9 Mr. McLoone is here to give his evidence, and ask whatever questions -- I'm not

12:36:21 10 prepared to pre-empt --

11 Q 188 Don't worry -- I'm not asking you to pre-empt. I'm just asking for your --

12 you've made a statement and that Mr. McLoone complained about me. Now, would

13 you just tell the Tribunal what complaint Mr. McLoone had about or against me?

14 A As I told Mr. Redmond yesterday, you and Mr. Redmond interfered in the land

12:36:43 15 deal and started pointing the finger and accusing them, as you seem to be

16 intimating with my great friend, as you refer to Mr. McLoone. Mr. McLoone to

17 me was an honourable man, honest in his dealings and honest in everything he

18 done.

19 Q 189 We're not here talking about Mr. McLoone's reputation --

12:37:05 20 A That's correct --

21 Q 190 I'm asking you to tell the Tribunal -- be specific. You're making allegations.

22 Help the members to come to conclusions that your allegations have validity.

23 Tell the Tribunal what complaint I interfered in the land sale; is that your

24 allegation?

12:37:21 25 A That's correct.

26 Q 191 Right. Now, let's be specific about that.

27 A Amongst other things.

28 Q 192 We'll deal with them one at a time, Mr. Gilmartin. You have made an allegation

29 yesterday -- and I'm not sure whether Mr. Gallagher can help us -- but that I

12:37:36 30 had suggested that you could have got the lands for 20,000 pounds an acre; is

12:37:39 1 that right?

2 A You did, Mr. Lawlor, if I had taken you and George on board.

3 Q 193 No, just -- you, and where in your allegations --

4

12:37:49 5 CHAIRMAN: Just before we get to that, Mr. Gilmartin was answering a question

6 from you as to what Mr. McLoone told him about complaints that Mr. McLoone had

7 about you. So these aren't allegations that Mr. Gilmartin was making.

8 Mr. Gilmartin's relating to the Tribunal what Mr. McLoone said to him about

9 yourself, so could you tell the Tribunal and Mr. Lawlor what complaints

12:38:22 10 Mr. McLoone was making to you about Mr. Lawlor and Mr. Redmond?

11 A That Mr. Lawlor and Mr. Redmond was interfering in the land deal and accusing

12 them of cosy deals when they were the two culprits and they were incensed at

13 the thought -- at the idea that those two were accusing them of improper

14 dealings.

12:38:51 15

16 CHAIRMAN: But did he give you any further detail about -- those complaints

17 that Mr. McLoone was making to you about Mr. Lawlor and Mr. Redmond? Did he go

18 into any more detail than what you've just stated?

19 A On several occasions, even after the tender went in, both of them interfered

12:39:14 20 and tried to stop, even after they had accepted my tender, tried to stop it.

21

22 CHAIRMAN: But did he give you any more detail than what you've just stated?

23 Did he give you any instances as examples of complaints he had about Mr. Lawlor

24 A Well, the first warning I got came from, as it happened, Mr. O'Callaghan, who

12:39:41 25 rang me to tell me the site was being withdrawn.

26

27 CHAIRMAN: But just in relation to --

28 A No, coming on Mr. McLoone, I went in to Mr. McLoone to inquire what was going

29 on and Mr. McLoone told me that the interference by Redmond and Lawlor and

12:39:56 30 others --

12:40:01 1
2 CHAIRMAN: But did he go into any more detail? If he didn't --
3 A The detail he went into was that they were trying to accuse Paddy Morrissey and
4 him of improper dealing, et cetera, and he was incensed at the thought of the
12:40:17 5 two people who were accusing them.
6
7 MR LAWLOR : It's as clear as mud, Mr. Gilmartin, what your allegations are.
8 You can't substantiate what you've claimed -- anybody said by way of complaint.
9 Is that what you're saying? Mr. McLoone said that I interfered or I -- in some
12:40:40 10 way I'd love to know how, but can you tell me -- can you be specific and tell
11 me -- we'll deal with Mr. McLoone in time. Mr. McLoone will be giving evidence
12 and so forth and we all have to give evidence and be cross-examined. But
13 you're not in a position to be more specific. Is that your evidence to the
14 Tribunal?
12:40:57 15 A We'll wait for another day for any further --
16 Q 194 We'll wait for another 10 seconds. Until you answer the question?
17 A I've just given the answer that --
18 Q 195 That you don't know, that there's none, they're vague, there's nothing
19 specific?
12:41:16 20 A There's nothing vague at all. It's up to Mr. McLoone to confirm or deny what
21 I'm saying, but if he's as honest or as honourable as I think he is, he would
22 probably tell the truth.
23 Q 196 So we don't have any record of a phone call, of interference, like "Lawlor
24 rang yesterday and said don't sell the land to Gilmartin", or is there anything
12:41:38 25 you can help the Tribunal with that would give these three people who have to
26 make a report on the proceedings and they have to be specific about addressing
27 allegations that you're making. If you're making allegations which you make
28 with rapidity, can you not be more specific, and if you can't, are they real at
29 all?
12:41:59 30 A They're definitely real.

- 12:42:01 1 Q 197 Well make them real for us.
- 2 A Any back-up evidence that I would have would be in the form of Mr. Morrissey
- 3 and Mr. McLoone, so it's up to them whether they give the back-up evidence.
- 4 Q 198 And you'll generously come back to the Tribunal and withdraw your allegations
- 12:42:23 5 if they won't stand up for you?
- 6 A No, I won't withdraw my allegations.
- 7 Q 199 No, if they don't --
- 8 A I will not withdraw my allegations because I know them to be true.
- 9 Q 200 You might suggest you won't but it might be stuck down your neck that you have
- 12:42:36 10 to --
- 11 A I won't under any circumstances withdraw my allegations because I know them to
- 12 be true.
- 13 Q 201 We'll leave it for another day, Mr. Gilmartin. Mr. Gilmartin, did you feel it
- 14 odd that you got letters of offer from the chief valuer before putting his
- 12:42:52 15 offers to you to his principals?
- 16 A I did not get letters of offer. I got a letter from him suggesting that he
- 17 would put forward the offer I had made. It was a courtesy letter saying that
- 18 he had received my offer and that it was being put forward to the principles
- 19 for consideration. It was just a courtesy letter.
- 12:43:20 20 Q 202 Mr. Gilmartin, you have a problem with official meetings and courtesy meetings.
- 21 The chief valuer wrote you a letter on behalf of the Dublin Corporation, so
- 22 there's nothing courteous about it. It's a firm suggestion to you that if you
- 23 are to accept 40 or 41,000 pounds, he would put it to his superiors. Isn't
- 24 that correct?
- 12:43:43 25 A That's what I had negotiated and he wrote back to me, outlining what I had the
- 26 offer -- I had made and telling me that he would forward it to the superiors.
- 27 There was no commitment. It was subject to contract or without prejudice,
- 28 whatever. It was a courtesy letter from our meeting and negotiations.
- 29 Q 203 Could you tell the Tribunal --
- 12:44:08 30 A Nothing sinister at all, Mr. Lawlor.

12:44:10 1 Q 204 We'll leave it for others to judge that. Could I put it to you that you have
2 repeatedly said that there was other lands in the area sold I think for --
3 well, you said that Balgaddy was worth 10,000 an acre and Mr. Gubay gave 97,000
4 pounds, so there's quite a difference in values there.

12:44:27 5 A Yes, no, you're trying to --

6 Q 205 Where's the other valuation of land sales for 20,000 pounds that you've
7 regularly referred to? Could you be specific about that?

8 A Actually I think it was around 20,000 or 25,000 an acre that the lands to Abbey
9 and to Tudor Homes was sold around that time on the Font Hill Road.

12:44:53 10 Q 206 You think.

11 A As I understood it. And as a matter of fact Abbey -- Mr. Gallagher -- I think
12 it was Charlie Gallagher, whom I never met, contacted a friend of mine,
13 Mr. Connolly, to see if I'd take it off his hands because he thought the fellow
14 that bought it on his behalf was drunk when he bought it.

12:45:16 15 Q 207 Okay. We won't get into that now. It's complicated enough.

16 A 70 acres.

17 Q 208 We may revisit -- if we can get some factual information as to your claims,
18 that that was the certain numbers that were negotiated and we'll see if we can.
19 But it's back to the point that you now have these suggested offers in or
12:45:39 20 around 40, 41,000 pounds --

21 A On your previous question, I just want to add one thing.

22 Q 209 Certainly, yes.

23 A Just in your evidence there, just a while back, you said yourself that the
24 price of land was so depressed, it wasn't selling at the time. I think you
12:46:01 25 made that reference earlier.

26 Q 210 Yes, I did: I'll tell you exactly -- maybe not exactly, but the lands in north
27 Clondalkin in those days, because of the very concentrated corporation housing
28 program which Mr. Morrissey had responsibility for, was to try and solve a
29 12,000 couple waiting list in the city and the only way the corporation could
12:46:24 30 build substantial numbers was to go out to west Tallaght, north Clondalkin and

12:46:30 1 west Blanchardstown, so we had a very high concentrate of local authority
2 housing in bad economic times. The Galway Road, as you mentioned yourself,
3 Mr. Gilmartin, hadn't been constructed and the motorway. So the lands were in
4 a pretty poor state in those days, awaiting that massive investment. So for
12:46:48 5 you to suggest that it was hanging around for 20 years with nobody interested
6 in it, you wouldn't have been interested in it either. But as all these
7 infrastructure investments came on stream, anybody would then get interested in
8 it, so it's not a reasonable view to be putting forward to the Tribunal that
9 you were the saviour coming in to rescue these areas because, Mr. Gilmartin,
12:47:12 10 I'll be brief, Blanchardstown was the very same. Until the Navan Road bypass
11 was built, the town centre couldn't be built. Until the Blessington Road was
12 built, the Tallaght town centre couldn't be built. So the defects in the
13 progress was the lack of central government investment in the back-up
14 facilities in the satellite towns.

12:47:32 15
16 CHAIRMAN: Mr. Lawlor, this is all very interesting, but could you put a
17 question to him.

18
19 MR LAWLOR : Yes, but just to set the scene that Mr. Gilmartin is buying land
12:47:42 20 now when the infrastructure is beginning to come on stream, and to be
21 suggesting that it could have happened five or ten years earlier is not a
22 proposition. He has mentioned on several times about that it was lying there
23 for years and nothing was happening. So I'll move on, Chairman, I'm sorry.

24 Q 211 The situation, Mr. Gilmartin, now, is that you have this offer, you accept it,
12:48:11 25 and then it's rejected by Mr. McLoone's superiors; isn't that right?

26 A That would seem to be the case.

27 Q 212 And you're suggesting that the reason that it was refused was because of
28 interference; isn't that right?

29 A That's correct.

12:48:23 30 Q 213 Okay. So Mr. Morrissey will deal with that when he comes to the Tribunal. The

12:48:32 1 assembly of the land was approved by managers to negotiate, et cetera, et
2 cetera, and eventually the land was bought in the circumstances with which we
3 are aware. Now, whoever mentioned to whoever, is it your evidence to the
4 Tribunal that Mr. John Corcoran, the managing director of the Green Property
12:48:57 5 PLC, with a town centre in Blanchardstown for about 12, 15 years, wasn't
6 watching your every move. Would he need anybody to tell him, a very
7 experienced property developer with a track record of 20 years, and you were
8 going around telling anybody that would listen to you about your massive
9 scheme, and giving credit to various people for telling Mr. Corcoran, should
12:49:27 10 Mr. Corcoran had every politician damned looking for the same that you were
11 looking for.

12 A Well, the site was there for the last 20 years. Mr. Corcoran was there, and he
13 didn't seem to see it until I appeared.

14 Q 214 No, he saw his own site and was very, very concerned when you arrived on the
12:49:48 15 scene that the scale and size of your project was going to have a massive
16 detrimental effect to the potential for Blanchardstown. Isn't that right?

17 A No, it wouldn't have had a bit of defect on it because if Mr. Corcoran didn't
18 build it, I would have got someone that would have built Blanchardstown. It
19 would be no problem.

12:50:10 20 Q 215 But, Mr. Gilmartin, would you agree with me that Green Property --

21 A Yes, but --

22 Q 216 Would you agree with me that Green Property couldn't start until the roads were
23 built around their site, just like the Quarryvale site?

24 A Any decision made by Green Property on whether they started or not was not
12:50:27 25 anything to do with me, so I can't answer for Green Property.

26 Q 217 Well, could I ask you: Have you any understanding of Dail Deputies attending
27 public meetings in Blanchardstown having direct questions put, as to what our
28 views were on West Park and if we were going to prepared to support it or
29 object to it? Do you have any understanding that that could have happened?

12:50:55 30 A Well, it may well have done. I'm not aware of it.

12:50:58 1 Q 218 Both these satellite towns were in my constituency. And there was two
2 priorities. The main priority for my point of view, because it was my
3 political area, was to get north Clondalkin developed in whatever guise --
4 O'Callaghan, Gilmartin, Monaghan, Corcoran. It didn't matter, as long as
12:51:19 5 somebody did something. Over in Blanchardstown the same lobby and the same
6 concerns were there, as was over in Tallaght. Do you appreciate that your
7 project could have had some little bearing on the considerations of others?
8 A Well, if you're -- I don't know what you want me to answer to that question --
9 Q 219 I tell you what --
12:51:38 10 A My answer to that question -- I'm surprised that you would ask it, Mr. Lawlor,
11 since you were trying to hustle in on it.
12 Q 220 I'll ask you the question succinctly, Mr. Gilmartin. Are you aware of the
13 concerns of the residents of Blanchardstown and Tallaght and the developers and
14 the traders and everybody else interested in this subject about your project?
12:52:05 15 Have you any understanding of their views about your project?
16 A Well, it's a funny thing that most of the councillors in that area voted when
17 it did come up for its own and, eventually they voted for it, so if it was that
18 big concern, it wouldn't have created some kind of a --
19 Q 221 Wait now, Mr. Gilmartin. What was voted and what you have in this magnificent
12:52:31 20 brochure --
21 A No, I --
22 Q 222 Mr. Gilmartin, I'll put the question very -- what was voted through and what
23 you wanted to do were two totally different projects.
24 A No, no, wrong again. It was voted on the 16th of May on my --
12:52:47 25 Q 223 I know what was voted on.
26 A On my brochure. On nothing else or nobody else's scheme. It was voted, and
27 most of the councillors in that area are the ones that did vote for it. A
28 number of them came from the Blanchardstown area. So if there was that big an
29 outcry, Mr. Lawlor, why did they vote for it?
12:53:14 30

12:53:14 1 MR LAWLOR : I'll tell you now exactly -- or we'll put it to you for you to
2 decide why. I'll come back to it. I'll deal with it in great detail. Before
3 going off it, Mr. Gilmartin, you have stated that you got a handsome majority.
4 Isn't that right?

12:53:33 5 A I --

6 Q 224 Whatever. It doesn't matter?

7 A I don't recollect, but the majority was it was voted that it be zoned for the
8 purposes presented on my brochure.

9 Q 225 I'll deal with the detail later. I suppose it comes as a massive shock to you
12:53:49 10 that, having looked for percentages and monies and all of that, and not having
11 succeeded in any of those claims on you, that I happened to vote for it too.

12 A I didn't say whether you did or not --

13 Q 226 I'm asking you, are you aware that I voted for a rezoning on the 16th of May?
14 Yes or no? Are you aware of that?

12:54:11 15 A I'm not aware whether you voted for it or against it until -- perhaps the
16 Tribunal will show me --

17 Q 227 To give you that earth shattering news, I voted for it, and not alone did I
18 vote for it, but I would suggest in further questioning, that I played a big
19 part in ensuring that it went through the council --

12:54:33 20
21 CHAIRMAN: Mr. Lawlor, that's evidence which you're entitled to give when
22 you're giving it --

23

24 MR LAWLOR : I'm just asking Mr. Gilmartin --

12:54:41 25

26 CHAIRMAN: He says he doesn't know or he's not aware that you had voted one way
27 or the other, and so there's no point in discussing that further at this stage.

28

29 MR LAWLOR : Mr. Gilmartin, after all your allegations, it must come as an
12:54:59 30 amazing shock to you then that I voted for it, is it?

12:55:02 1 A I don't know.

2 Q 228 You don't know.

3 A I don't know --

4 Q 229 You don't know what.

12:55:06 5 A I don't know whether you voted -- I did not solicit anybody to vote for it or
6 against it.

7 Q 230 That's a blatant lie, Mr. Gilmartin. You lobbied and lobbied and lobbied and
8 your evidence is that you never lobbied anybody.

9 A I challenge this Tribunal -- there were 78 Councillors and I here and now,
12:55:25 10 challenge this Tribunal to canvass the 78 Councillors and see who I lobbied
11 because I did not. Only people like you who tried to hustle in on it.

12 Q 231 Your evidence is that you lobbied 8 or 12, Mr. Gilmartin. You're lying now
13 under oath.

14 A No, I didn't. They arrived like you on my doorstep.

12:55:45 15 Q 232 I didn't invite you to my doorstep. Your Bank of Ireland manager got a
16 constituent to ring me and you sought me out. I didn't look to meet you.

17 A No, I did not solicit my bank. I did not solicit my bank --

18 Q 233 Answer the question.

19 A I'll answer the question.

12:56:04 20

21 CHAIRMAN: Let Mr. Gilmartin deal with the answer.

22

23

24 A I did not solicit anybody from the Bank of Ireland manager to contact you. I
12:56:12 25 asked a question of him if he knew -- I asked him the question did he know who
26 owned land on the Galway Road and he said he hadn't got a clue. And there was
27 a man standing beside him and he said, "This man might know". So he just asked
28 him -- he asked him.

29

12:56:31 30

- 12:56:31 1 Q 234 MR LAWLOR : The inquiry came from your side, Mr. Gilmartin, who, why --
- 2 A No, I just asked a question, a casual question, of a friend of mind who happens
- 3 to be a long-time friend of mine, Paul Sherwin, and still is today.
- 4 Q 235 I just want to put it to you, Mr. Gilmartin, that Mr. Corcoran's knowledge of
- 12:56:49 5 your perceived claim that he interfered on information provided to the Dublin
- 6 Corporation is wholly without foundation. The man would have been very
- 7 familiar because it was well-known what you wanted to try and achieve. There
- 8 were people trying to have an understanding of it, Mr. Gilmartin. There were
- 9 brochures out there. There were meetings called. I'm just putting it to you
- 12:57:15 10 that Mr. Corcoran would have been fully aware of what your intentions were,
- 11 just as you would have had no difficulty finding out what his intentions were.
- 12 A He wasn't aware until -- he may have been well aware of my presence but he was
- 13 not aware of my negotiations with Dublin Corporation for land, and that
- 14 Mr. Redmond went from a meeting straight to Mr. Corcoran and he then interfered
- 12:57:41 15 in the land purchase.
- 16 Q 236 You have a situation where -- I'll come back to it. I want to move on to page
- 17 2568, please. This is Mr. Maguire setting out for you, Mr. Gilmartin, the
- 18 various financial liabilities that you have incurred or will have coming up by
- 19 way of closing of contracts and so forth. I'm not going to get too bogged down
- 12:58:22 20 in it and I don't want you to confirm other than in a general sense. It's my
- 21 understanding, studying the content of the letter, that under six headings you
- 22 had spent 4.3 million and you owed 8.4 million at that particular juncture.
- 23 I'm not making any comment other than to say that they are the liabilities
- 24 arising from that layout. Would you agree?
- 12:58:53 25 A No, they are the list of which I had to keep a record of the purchases and the
- 26 commitments.
- 27 Q 237 I'm saying to you that when you total up what you have actually invested --
- 28 A I always kept a record of what deals or purchases we had done.
- 29 Q 238 Of course, but all I'm saying, Mr. Gilmartin is that if you analyse the figures
- 12:59:18 30 you had spent 4.3 million pounds in actual spend and you had various dates

12:59:23 1 which to meet various contracts totalling 8.4 and if you complied with all of
2 the financial liabilities on that letter, you would have had a total spend of
3 12.7 million pounds.

4 A That's possible, yes.

12:59:40 5 Q 239 Now, your own input of funds from your sale of the shopping centre that went on
6 fire in the north was what? What proceeds did you receive from that particular
7 --

8 A Well, I don't know if it's any of your business but I had 4 million pound
9 roughly and amongst other monies.

13:00:02 10 Q 240 Was getting paid twice -- paid by the insurance company and paid by the
11 acquisition company; is that right?

12 A Pardon?

13 Q 241 Well --

14 A I sold --

13:00:11 15 Q 242 I'm not making any implication other than you have given evidence that the
16 centre was burnt down and I presume it was covered by insurance, and then I
17 think your evidence was that another developer wanted to acquire the site --

18 A That's correct. Acquired the company, he wanted to buy the company.

19 Q 243 There's no implications. There's no trap question. I'm only saying that you
20 were in funds to the tune of about 4 million pounds; is that right?

21 A Yes, plus a few million from England.

22 Q 244 Okay, so you have now discharged 4.3 million pounds and you're going to have
23 liabilities of 8.4 -- to I presume that would have assembled the totality of
24 the site. So you now need additional funding of 8.4 million, plus the
25 liability to O'Callaghan Properties. So if you put that on there, you're just
26 over 16 million pounds of funding required to complete the assembly of the
27 site.

13:00:59 28 A That may be.

29 Q 245 Because, you see, as you will recall, if you go on to the funding you received
13:01:21 30 by approval from Allied Irish Banks, I think they approved you 9 million pounds

13:01:27 1 but then they were withholding a roll-up of interest and various other fees,
2 the normal commercial practice, but the dilemma was that it was leaving a
3 shortfall in the completion of the assembly of the site when you take
4 solicitors' fees and other outgoings and stamp duty. So it looked like you had
13:01:44 5 a deficiency in the financing at the site assembly time. Would that be
6 correct?
7 A At the site assembly time perhaps, but I had assets to cover any surplus.
8 Q 246 But the assets were pretty well committed on the 9 million pounds loan --
9 A No, they were not committed. They were in England.
13:02:03 10 Q 247 But AIB, if you want to go to the loan approval, which we can do, you will see
11 the commitments that they have stipulated.
12 A Yes, and they were quite satisfied with the asset cover they had.
13 Q 248 Well, you see -- could I put it to you this way, can you really say that --
14 A If you put up the notes -- if you want to put my liabilities up, put up the
13:02:30 15 bank credit assessment.
16 Q 249 Yes, the bank credit assessment and the letter we have of 3575. It's Mr. Kay
17 putting the facility letter to you.
18 A No, no, the credit assessment from the bank, Mr. Lawlor.
19 Q 250 We'll come to that now. It's there. I'm not so aware that there's an
13:02:50 20 actual -- there's loan approval documentation.
21 A I know, you use what suits you.
22 Q 251 No, I don't. If it's there I would be delighted to put it up, Mr. Gilmartin. I
23 have no axe to grind.
24 A You seem to be worried about the bank's money, Mr. Lawlor, so let's see what
13:03:04 25 their worries were.
26 Q 252 No, all I'm trying to do is explore for you and the Tribunal, Mr. Gilmartin,
27 how you were going to be successful in your ambitious plans, that's all, and
28 was there anybody frustrating it.
29 A Yes, there was.
13:03:16 30

13:03:16 1 CHAIRMAN: Alright, Mr. Lawlor, we'll come back to it at 2 o'clock and we can
2 put up the document that Mr. Gilmartin wants at 2 o'clock.

3

4

MR LAWLOR : Thank you, Chairman.

13:03:39 5

6

THE TRIBUNAL THEN ADJOURNED FOR LUNCH:

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13:03:40 10

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THE TRIBUNAL RESUMED AS FOLLOWS AT 2.00P.M.

13:03:40 1
2
3 MR. GALLAGHER: Good afternoon, sir. I understand that the document
4 Mr. Gilmartin had asked to have put on screen before lunch is 2647 in the
14:11:53 5 brief. That's the document on screen now, Mr. Gilmartin. Is that the document
6 that you had asked to see?
7 A Yes.
8
9 CHAIRMAN: Just explain to the Tribunal the point you wish to make in relation
10 to this document.
14:12:07 10
11 A I refer to the final paragraph of that document.
12
13 MR LAWLOR : I'll read it, Mr. Gilmartin, for you, if you like:
14
14:12:24 15 "Tom Gilmartin is an experienced developer who has displayed a flare for
16 identifying and assembling sites. The general consensus is that the
17 Palmerstown site is exceptionally well located and will attract leading
18 developers and tenants (including Marks & Spencers). We are reliably informed
19 that the government is strongly in favour of this project and will grant
14:12:48 20 designation status later this month.
21
22 We consider that in the event of designating planning permission not coming
23 through, the land would retain significant adequate to cover our debt, due to
24 its excellence strategic location and we believe it would sell. The proposed
14:13:12 25 facility would generate a contribution of a half a million pounds over a six
26 month period."
27
28 Mr. Gilmartin, the last -- did that happen, the proposed facility would
29 generate a contribution of a half a million pounds over a six-month period?
14:13:29 30 A I'm not quite sure what you're referring to.

14:13:33 1 Q 253 It's just a statement from your bankers saying that if they decide to lend you
2 the monies --

3 A No, this is their assessment. I don't quite know what they're talking about.

4 Q 254 Maybe I can help you. The facility letter --

14:13:51 5 A No, your first question -- that this is answering -- was indicating the fact
6 that I had a debt to the bank that I was not able to cover. This here -- I'm
7 answering that question now, Mr. Lawlor, before you go on to any other one.
8 This here clearly states that this was an excellent site and had adequate cover
9 for their debt. So that's answering your questions before lunch.

14:14:24 10 Q 255 Okay, we'll explore that now that you've raised that, Mr. Gilmartin. We're
11 back on 2004 this morning and it's just back to where you are stating in '88
12 that -- the letter is the third paragraph, and you're write O'Callaghan
13 Properties and you're suggesting back in 1988:
14

14:14:51 15 "You will appreciate in respect of the joint venture proposal that while I have
16 my finances arranged in principle, the details of these arrangements could be
17 placed in danger should an agreement such as you suggest be entered into by
18 me."
19

14:15:03 20 That's not correct, Mr. Gilmartin, is it?

21 A It is correct in terms of the institutions which I had lined up to invest in
22 it.

23 Q 256 But now that you've raised, which you regularly do, institutional money, Mr.
24 Gilmartin, would normally come in when a scheme had been fully built out, less
14:15:24 25 rent roll, shell of building sold to the bigger operators. In other words, it
26 was financially cash-flow rich. But there's a very major quantum, financial --

27 A That's totally inaccurate, Mr. Lawlor. Your statement is totally inaccurate.
28 And as proved, when the Grosvenor Developments took over the scheme, it was not
29 built. It hadn't started. As a matter of fact, even 50 per cent of the
14:15:57 30 tenants were not in place, so the institutions take over and they put in their

- 14:16:04 1 own team to build it in accordance with their requirements, as happened in this
2 case.
- 3 Q 257 Mr. Gilmartin, you're not telling the Tribunal, are you, that Grosvenor is an
4 institution, are you?
- 14:16:20 5 A Grosvenor is a developer. I said developers and institutions, which I had a
6 number of lined up, to bring investment into Ireland.
- 7 Q 258 You're making my very point, that Grosvenor is a developer and Grosvenor would
8 have had to, with O'Callaghan in whatever partnership they eventually worked
9 out -- both sides would have had to put in substantial equity and get project
10 finance.
- 11 A You're splitting hairs. I brought in Arlington Securities, their developers.
12 I also brought in various other -- as well as institutional investors.
- 13 Q 259 There's no point in bringing in Arlington, that the horse wasn't able to finish
14 the race. The bringing in was a disaster, they lost a fortune of money, and
15 because of financial constraints -- and we're not going back there -- Grosvenor
16 Developments, Monarch Properties, Green Properties, O'Callaghan Properties,
17 Gilmartin developer, any of those parties embarking on the project that you had
18 in mind would have had to have a substantial amount of equity risk investment.
19 Do you agree with that?
- 14:17:32 20 A No, I don't agree with that at all. I didn't need to have one single pound,
21 share or penny in it. My only role was to set up the scheme and to sell it to
22 institutional investors who were prepared to back the scheme that I set up. So
23 I didn't actually need to put a single penny, only in this case they were
24 operating in Ireland, who was an economic disaster at the time, and their
14:18:10 25 minimum requirement was that it had zoning or planning, otherwise I wouldn't
26 have needed to use a penny of my money -- not one penny.
- 27 Q 260 Doesn't it make the very point of the whole risk aspect of you going out trying
28 to assemble a 180 --
- 29 A That was not your concern, Mr. Lawlor.
- 14:18:28 30 Q 261 It's a concern of the Tribunal to try to establish while you failed and was

14:18:32 1 there skulduggery, was there gangsterism, was there corruption, was there
2 roadblocks. We're here to establish and identify all of those things
3 specifically and beyond all reproach, and when we find out all those answers,
4 the Tribunal will be able to conclude this module of its business. I am
14:18:49 5 putting it to you, you're repeatedly claiming that there was no risk money
6 needed to build a 200 million pound project at Quarryvale.
7 A No, there was no risk money whatsoever. We had actually more tenants than
8 would have filled what I was planning. That's assuming always that the
9 planners allowed us to build it. There was no risk whatsoever for any investor
14:19:15 10 coming in, and they knew it. That's why Grosvenor Developments invested in it.
11 Q 262 But they're risk developers. That's what they do. They're one of the most
12 successful in the world, I would suggest to you.
13 A I only said I would bring the investment into Ireland, which I did, and I had a
14 pretty fair job in persuading people that they should invest in Ireland at the
14:19:39 15 time when it was in an economic disaster, so --
16 Q 263 Building -- go ahead, sorry.
17 A Yes?
18 Q 264 No, I thought you were going to finish. Building a retail centre of the
19 proportionality that you were proposing and listing down a wish list of
14:20:00 20 tenants. Tenants don't tend to start paying rent until the complete project is
21 fitted out, Mr. Gilmartin, and that would be two years possibly from the date
22 of breaking ground. So somebody had to be paying the bills in the interim to
23 the building contractor, to the professional --
24 A That was up to the investors who was investing in the project, not -- they
14:20:23 25 based their assessment on their risk on the basis of the ingredients that had
26 been put in place prior to them coming there, and I had all the ingredients in
27 place; hence, that turned out to be my own undoing because the golden circle
28 decided otherwise, that this wasn't going to get off the ground without their
29 involvement. And that included you, Mr. Lawlor.
14:20:56 30 Q 265 Well, tell the Tribunal who your golden circle was that was causing you all

14:21:01 1 this grief, will you? You name me. Who else would you suggest?

2 A The men that hired you and paid you.

3 Q 266 Well, you tell us who hired me?

4 A Well, Owen O'Callaghan did for a start.

14:21:13 5 Q 267 Never in his life.

6 A He did and paid you 40,000 of my money, as it happened, stolen from my account.

7 On one occasion 40,000 was taken from my account and paid to you, Mr. Lawlor,

8 in Mr. Dunlop's office.

9 Q 268 So have you produced evidence to that effect?

14:21:30 10 A I'm sure the evidence would be supplied.

11 Q 269 Where is it now?

12 A That's a matter for the Tribunal.

13 Q 270 No, it's a matter for you to tell the Tribunal.

14 A No, I --

14:21:42 15 Q 271 Do you think you can sit there and lie through your teeth.

16 A I'm not lying. I'm making a statement of fact.

17 Q 272 And you have produced this evidence to the Tribunal, have you?

18 A The Tribunal I would safely say has got the evidence in their possession.

19 Q 273 You're not aware that they do or they don't, is it?

14:21:59 20 A That's a matter for the Tribunal.

21 Q 274 No, but you assume they have the evidence, do you?

22 A I assume they have the evidence. I'm reasonably sure they have that evidence.

23 Q 275 Should it be in the brief if they have it?

24 A As a matter of fact, like I said earlier, you're intruding into the next

14:22:20 25 module. This is going up to 1990 --

26 Q 276 You are the one introducing the next module if that's your so-called answer.

27 A No, you asked me who the golden circle were. In your case, Mr. Lawlor -- in my

28 case, when I was defrauded out of the scheme, you were one of the king pins

29 involved and was paid, hired and paid for.

14:22:40 30 Q 277 You didn't even know when I asked you this morning that I supported your

14:22:45 1 scheme, that you were pleased and proud to announce to the Tribunal yesterday
2 that you got zoning, you got 120 acres of retail development, et cetera, et
3 cetera, et cetera. Isn't that right?

4 A That's correct. That's a matter of record.

14:22:58 5 Q 278 So if I was frustrating and golden circling around you and tripping you up and
6 skulduggering you and all of that, why would I be supporting you if I was up to
7 all those activities?

8 A That's a new question. Who were you supporting? That's a longer story.

9 Q 279 But you're the only one that I knew that was promoting the project in May 1991,
14:23:22 10 was yourself, Mr. Gilmartin. I wasn't aware of any commercial linkages you had
11 with any third party, and when we discussed the matter in the Fianna Fail
12 group, as the other groups discussed, we concluded that in order to try and
13 make progress in north Clondalkin that we would allow your proposal with
14 limitations and amendments -- not your proposals?

14:23:44 15 A I was not involved in any Fianna Fail group discussing my project.

16 Q 280 Well, who voted it for you then? Who put it through the council to go on
17 display for you, will you tell the Tribunal, if it wasn't the Fianna Fail and
18 other parties? Who voted for the scheme if you are so expert --

19 A But you said a discussion, a discussion group.

14:24:06 20 Q 281 Yes, a discussion group.

21 A No, that was a council meeting which I think is a normal council procedure.

22 Q 282 Could I explain to you -- because you were very proud to announce what you
23 achieved yesterday. I put it to you: Do you know the reason why you secured
24 the discussion you had in May 1991? Do you have any idea why?

14:24:29 25 A I assumed that it was on the scheme that I had put forward.

26 Q 283 You assumed it was on the scheme that you put forward.

27 A That's correct. That's what they voted on. I had nothing else or I didn't do
28 any lobbying or anything like that of anybody.

29 Q 284 Would it come as a shock if I told you, Mr. Gilmartin, that two Councillors
14:24:56 30 that you have accused of seeking funding from you played the lead role in

14:25:02 1 securing your wishes on the 16th of May 1991?

2 A That may well be the case, but there's a bit of a story attached to all that,

3 Mr. Lawlor.

4 Q 285 There always is with you, Mr. Gilmartin. But I'll explain. It's a very simple

14:25:22 5 story. Two elected Councillors from Lucan, Councillor Hanrahan and myself, not

6 Councillor McGrath, he was in the adjoining old village of Lucan electoral

7 area, we wanted to get a project started badly in north Clondalkin, so we put

8 it to our colleagues from other parts of the country because it was our patch

9 would they please support a restricted size town centre --

14:25:51 10 A No, correction, correction. There was no restricted town centre involved in

11 that --

12 Q 286 Mr. Gilmartin, we'll come to that. We'll come to that just at a later stage.

13 A I'm just correcting you on that. There was no restriction on the proposal --

14 the proposition that was put before the council and there was no restriction

14:26:11 15 discussed at the council meeting on what was being voted on. It was voted on

16 on its entirety.

17 Q 287 Mr. Gilmartin --

18 A Without restriction.

19 Q 288 Okay. I'll revisit it for you. I wasn't intending to go into that just yet

14:26:27 20 now so I'll come back to you on that and give you an opportunity to pass

21 detailed comment on the actions that we took on your behalf. If I can just ask

22 you on that page, you haven't been able to elaborate on the suggestion, to put

23 it no stronger, that you had your finances arranged in 1988. So you can't

24 advance any more detail on the availability of the finances?

14:26:51 25 A Only the fact that the proof is there, the people they had lined up did fund

26 what's there now --

27 Q 289 Okay, you didn't have it there. But we'll leave it --

28 A No, I had there and I brought it in, despite the fact that I had been defrauded

29 out of it, and even after that, and other little strokes that was done to me

14:27:16 30 and my family, despite all that, I still honoured my commitment to the bank

14:27:22 1 when they asked me.

2 Q 290 Who defrauded you, please?

3 A Pardon?

4 Q 291 Who defrauded you?

14:27:31 5 A Mr. Lawlor, you should be able to explain that --

6 Q 292 No, no, this is answer question time, Mr. Gilmartin.

7 A I was defrauded out of that --

8 Q 293 By whom?

9 A In the scheme --

14:27:41 10 Q 294 You said that three times. Just tell the Tribunal -- the Tribunal wants to

11 know these things.

12 A By Mr. Owen O'Callaghan, you, Mr. Lawlor, Mr. Hanrahan, Mr. Gilbride,

13 Mr. McGrath and others who were hired and paid to defraud me out of it.

14 Q 295 And you produced evidence to this effect, have you?

14:28:02 15 A Yes, I did. I say the Tribunal has got evidence of that.

16

17 CHAIRMAN: Mr. Lawlor, we're now drifting into the second phase of the inquiry,

18 which won't arise for some months so we'd prefer if we could stay in this

19 phase. There will be no conclusions or anything made by the Tribunal until

14:28:27 20 both phases have been fully dealt with at public hearing, so we're not saying

21 you can't cross-examine him on this, but we're saying you must await the second

22 phase.

23

24 MR LAWLOR : I appreciate the difficult task to try to keep cohesion. I

14:28:46 25 understand that. Mr. Gilmartin has the drift and maybe I'm asking him

26 questions that are taking him into that area.

27 Q 296 I just go back, Mr. Gilmartin, to the acquisition of the lands at 932, please.

28 Just in the last paragraph, Mr. Gilmartin, Mr. McLoone, I think, said in his

29 statement:

14:29:20 30

14:29:20 1 "I then made a recommendation to Mr. Derek Brady, principal officer,
2 development department, on the 2nd of February 1989 and advised Mr. Gilmartin
3 of this. However, on the 7th of March 1989 a facsimile was received from
4 Richard Foreman, surveyor of Messrs Connell Wilson on behalf of Mr. Gilmartin
14:29:39 5 requesting an "option" on the lands and this I believe was a result of
6 discussions held between Mr. Gilmartin and Mr. Haughey. On receipt of this
7 letter, which sought totally new terms and conditions, I passed a copy to
8 Mr. Brady on the 10th of March 1989 for his instructions."
9

14:30:02 10 Now, why were you looking for totally new terms, Mr. Gilmartin?

11 A I didn't look for totally new terms. I was quite satisfied with the terms I
12 got, but Mr. Haughey, Mr. Morrissey, had advised me that you and Mr. Redmond,
13 et cetera, had accused them of defrauding the Dublin Corporation by selling off
14 land cheap to me in a cosy deal, in other words you were accusing me of fraud
14:30:36 15 and accusing them as well of fraud. In the mean time, Mr. Corcoran phoned to
16 say that he was prepared to pay silly money for the site if it had zoning for
17 shopping. He mentioned 12 million or 14 million, or I don't know, some silly
18 money anyway, for their piece of land if it had zoning. Since Dublin
19 Corporation was under instructions to sell land by the Government, Mr. Haughey
14:31:06 20 and the tighten your belt era, Dublin Corporation short of money, they were
21 ordered to sell land, they were selling the land normally. They sold the land.
22 They done a deal at what I believe was a very good price for them and enter you
23 and Mr. Redmond. So because of this, I gave the Dublin Corporation, as I
24 explained to Mr. Redmond yesterday, the opportunity of getting full value for
14:31:33 25 the land if it was zoned -- full value. If it was 100 an acre or if it was
26 200,000 an acre, they would have got it.

27 Q 297 But this is your property adviser suggesting --

28 A This was my -- that was on my instructions after I was being notified by
29 Mr. Haughey and Mr.-- of the carry-on between you and Mr. Redmond.

14:32:00 30 Q 298 Could I put it to you, Mr. Gilmartin, that you're suggesting that two assistant

14:32:07 1 city managers and the chief valuer were colluding with you to ensure that you
2 got land --

3 A No, they were not colluding with me. They notified me that they had to
4 withdraw the negotiated offer which I had with them, that they had to withdraw
14:32:25 5 it because of the false accusations by you and Mr. Redmond and people like you.

6 Q 299 But it was -- they were manipulating to sell the land to you --

7 A No, no, Mr. Lawlor. You don't accuse honest people of your skulduggery.

8 Q 300 You answer my questions.

9 A I am answering your questions.

14:32:42 10 Q 301 You're not and I'll tell you why you're not. Are you telling this Tribunal
11 that you were put in possession of confidential commercial sensitive
12 information --

13 A No, I was notified --

14 Q 302 Let me finish the question. You're suggesting to this Tribunal that you were
14:32:58 15 being told what a competitor was bidding, were you?

16 A No, I was not.

17 Q 303 How did you know then?

18 A I was told why they had to withdraw --

19 Q 304 How did you know what another company was --

14:33:09 20

21 CHAIRMAN: Mr. Lawlor, let Mr. Gilmartin complete his answer.

22 A I was told why they had to withdraw from the negotiated deal that I had with
23 them, why they had to withdraw it.

24

14:33:24 25 MR LAWLOR : What exactly were you told, Mr. Gilmartin? Could you just now be
26 specific if you could, please.

27 A I was told that there was interference from you and Mr. Redmond. He wanted
28 Mr. Corcoran -- he even said to Mr. Corcoran -- and you and him tried to
29 scuttle the deal I had with them, not for any reason of the corporation getting
14:33:46 30 any extra money or anything; but for your own skulduggery because I didn't take

14:33:51 1 you on board, Mr. Lawlor, or would not --

2 Q 305 I wouldn't want to be within 1,000 miles of you, Mr. Gilmartin. Don't worry

3 about that.

4 A Ditto, Mr. Lawlor, ditto.

14:34:01 5 Q 306 Is it not a free country, Mr. Gilmartin, that Mr. Corcoran can write to the

6 Dublin Corporation, who he had actually bought part of the Blanchardstown town

7 centre lands from --

8 A In this instance --

9 Q 307 Had he no right to write to the corporation --

14:34:15 10 A Every right but the site was there and until they done a deal with me, he had

11 never even looked at the site, and he only looked at it when Mr. Redmond went

12 to him and advised him that I had got -- that I had negotiated the deal, and he

13 took the private and confidential information to another developer for his own

14 purposes.

14:34:37 15 Q 308 And they told you all about --

16 A As did you, Mr. Lawlor.

17 Q 309 And the managers told you about that, did they?

18 A They told me about your interference.

19 Q 310 They told you that Green Properties were giving prices and the details. Is

14:34:50 20 that why you wrote this letter?

21 A I was aware of what -- I was saying that Mr. Corcoran wouldn't buy the land;

22 why didn't he buy it before that. I was told he had a much higher offer in. I

23 asked them was it unconditional and they said no, it was not unconditional. It

24 was conditional on it getting zoning. So they had to withdraw the site on a

14:35:14 25 false accusation by you and Mr. Redmond.

26 Q 311 You did say Mr. Morrissey's responsibility was to sell land and get money in,

27 so he was successful in his task on behalf of the instructions from the

28 government.

29 A No, he was --

14:35:31 30 Q 312 It was your cosy sweetheart deal of 40,000 pounds which was found out --

14:35:37 1 A But you would have sold it to me for 20 if I had --

2 Q 313 I've glad you raised that. Could you explain to the Tribunal -- explain what I

3 said or how did I say it or when did I say it?

4 A You found out that I had agreed a deal with Mr. McLoone and the Dublin

14:35:52 5 Corporation at around 40,000 an acre, and you told me what an idiot I was, and

6 had I have listened to you and George I could have had it for 20,000 an acre.

7 Q 314 How, knowing the complexity of the process of contracts, the legal and elected

8 members of the city council and lawyers all having to process the project of

9 sale of land which we have been through that you could remotely suggest that I

14:36:22 10 or any other party could manipulate that situation? Could you just explain how

11 you come to that illogical conclusion?

12 A Well, Mr. Lawlor, you know --

13 Q 315 I don't. I'd love to know.

14 A You were there, you were there.

14:36:37 15 Q 316 I've love to know. I'm asking you how I could have organised that you could

16 have bought the lands from the Dublin Corporation for 20,000 pounds an acre?

17 It's a very simple question.

18 A The same as you manipulated the Carrickmines site and others.

19 Q 317 Well, you better put on record your evidence on that now.

14:36:55 20 A I have no evidence on that, other than what I have heard, or what I've listened

21 to.

22 Q 318 Maybe -- well, Mr Chairman, I don't mind -- if it's okay for Mr. Gilmartin to

23 indulge, I can indulge, if we're going to get into an allegation contest here.

24 I can --

14:37:12 25

26 JUDGE FAHERTY: Mr. Gilmartin, I think it's not appropriate that you refer to

27 other matters, and those matters are --

28 A Okay. Well, he's asking me a question as to how I knew that he was involved.

29

14:37:24 30 MR LAWLOR : Tell us, Mr. Gilmartin, will you -- tell the Tribunal, you're

14:37:29 1 making these allegations. Try to stand them up or give us some credible
2 reasoning because I'm as perplexed as everybody else here as to how I could
3 have interfered in this most complicated public process. So will you tell the
4 Tribunal how I could have arranged for you to buy the lands at Quarryvale from
14:37:50 5 the Dublin Corporation for 20,000 pounds an acre? Will you please tell the
6 Tribunal?
7 A That's your words, Mr. Lawlor.
8 Q 319 No, no I'm asking you --
9 A I don't know how you could have arranged it but you told me I could have had it
14:38:03 10 for 20 grand an acre. As a matter of fact, you told me that Mr. Hegarty had
11 advised Mr. McLoone to sell the land at 20,000 an acre.
12 Q 320 I told you.
13 A Yes.
14 Q 321 You're lying through your teeth?
14:38:15 15 A I'm not lying through my teeth.
16 Q 322 You're lying and perjuring yourself through your teeth?
17 A I'm not lying and perjuring myself. Mr. Lawlor.
18 Q 323 You are and you better prove it before this Tribunal concludes. I'm asking you
19 again, can you tell the Tribunal, tell the members of this Tribunal how I could
14:38:33 20 have organised this. You're the expert, you're the sites assembler according
21 to the brief there, so tell me now after all the torture you were through with
22 lawyers, tendering processes, that in any way you tell the Tribunal how I could
23 have interfered in the process?
24 A You interfered, Mr. Lawlor --
14:38:48 25 Q 324 Tell the Tribunal how.
26 A Not only did you interfere with the corporation. You interfered even with the
27 bank, and you were at the meetings -- you were in the bank with Frank Dunlop
28 and Owen O'Callaghan for private meetings that I had arranged. You were there
29 with Mr. O'Callaghan and Mr. Dunlop, even before I got there, and it had
14:39:11 30 nothing whatsoever to do with them. You interfered, Mr. Lawlor, in any way you

14:39:17 1 could possibly do to defraud me of that scheme that I set up.

2 Q 325 You're down in Ballsbridge now but I'm back in City Hall and I'm still asking

3 you the same question and I'll stay asking it until you give an answer or say

4 you don't know.

14:39:36 5 A Well, you have the answer to that particular one.

6 Q 326 No, I don't.

7 A I'm only --

8 Q 327 Mr. Gilmartin, Mr. Gilmartin, please. Your gentleman here will be able to

9 question me in the same way and put all your questions to me to explain my

10 activities and my responsibilities and my actions. I am asking you for the

11 44th time, tell the Tribunal how you believed I could have influenced the sale

12 of corporation land in Quarryvale?

13 A I don't know, you told me if I had you and George on board I could have had it

14 for 20,000.

14:40:08 15 Q 328 You don't know but you're making the allegation?

16 A No, I didn't know how you could sell it to me. There was no danger of me --

17 sorry?

18

19 CHAIRMAN: Mr. Gilmartin, Mr. Lawlor is asking you can you give instances or

14:40:23 20 examples of where there was interference by Mr. Lawlor, such as suggested by

21 you. Now, if you can't give examples, you can state that. If your evidence is

22 based on a mere suspicion that you had, then that should be stated.

23 A No, it's not on a mere suspicion. I was told by the officials that Mr. Lawlor

24 and Mr. Redmond were interfering. So how would they have interfered? Let him

14:40:59 25 answer.

26

27 CHAIRMAN: Were you given any more -- Other than being told that Mr. Lawlor and

28 Mr. Redmond were interfering, which is a mere statement in itself. Were you

29 given any detail by these officials or examples of how either or both of these

14:41:17 30 men were in fact interfering?

14:41:19 1 A According to them, Mr. Lawlor and Mr. Redmond were interfering with other
2 officials and telling them that there was this cosy deal where I was trying to
3 defraud or buy land for nothing from -- in some form of cosy deal, and the
4 innuendo was that McLoone, Mr. Morrissey and co were in cahoots with me to
14:41:51 5 defraud or steal land from Dublin Corporation, and they left no stone unturned
6 because they went to a number of people, over even Mr. Haughey's head.
7
8 MR LAWLOR : Could you name them please?
9
14:42:09 10 CHAIRMAN: Were there any names given to you? When you say that they went to
11 people over Mr Haughey -- that's Mr. Sean Haughey.
12 A Well, when I say over -- I don't know. I'm not quite sure who the real
13 authority was.
14
14:42:23 15 CHAIRMAN: But were you given names of people to whom they had gone over
16 Mr. Haughey's head?
17 A No.
18
19 MR LAWLOR : Okay, thank you, Chairman
14:42:30 20 Q 329 Could I have 1021, please. This is Mr. Morrissey's statement, Mr. Gilmartin,
21 and he's asked:
22
23 "So far as meetings with various individuals are concerned, I have no
24 recollections of meetings with Frank Dunlop, Owen O'Callaghan, advisers to Owen
14:43:01 25 O'Callaghan or any persons on Owen O'Callaghan's behalf, Ambrose Kelly, Liam
26 Lawlor."
27
28 So do you accept Mr. Morrissey's statement or not?
29 A I can't account for Mr. Morrissey's --
14:43:15 30 Q 330 Do you accept it or reject it? Are you saying he's lying here.

14:43:18 1 A I accept that's probably his statement.

2 Q 331 Well you see, it's either you do or you don't. The probability business is not
3 on direct evidence.
4

14:43:26 5 CHAIRMAN: Mr. Lawlor, the letter simply states that he has no recollection of
6 meetings with the people named and you're asking Mr. Gilmartin does he accept
7 that that is Mr. Morrissey's statement as to what he said. Mr. Gilmartin says
8 he accepts it's his statement. He presumably --
9

14:43:45 10 MR LAWLOR : No, he said probably.
11

12 CHAIRMAN: He presumably can't comment on his recollection.
13

14 MR LAWLOR : We'll have Mr. McLoone's on 922, please.

14:43:55 15 Q 332 There is Mr. McLoone there. When it comes to 5, Liam Lawlor, he is stating
16 that:
17
18 "I have no record or recollection of attending any meetings with Liam Lawlor
19 with regard to the Quarryvale lands."
20

14:44:11 21 Do you accept Mr. McLoone's statement that he never had any contact -- well, I
22 could have had telephone contact or I could have -- he never attended any
23 meetings with me.

24 A Not in my presence.

14:44:22 25 Q 333 No, no, he's not saying about you. We'll come to your presence now in one
26 minute. My presence with Mr. McLoone -- he is saying he never had any meetings
27 with me. Now, that's not to say he couldn't have discussed by telephone or
28 whatever. But do you accept what he's stating in that?
29

29 A Well, I accept that he has said this.

14:44:38 30 Q 334 Okay. So we now have a situation where Mr. McLoone had recommended 40,000 an

14:44:50 1 acre. Mr. Morrissey had rejected it. He had renegotiated it. It was then
2 your complaints which put it beyond any negotiated conclusion because by making
3 the complaint way in advance of the decision to tender for the land, which is
4 what your allegations were, that there was interference, that the only
14:45:12 5 interference that brought about the circumstances of having to go to tender was
6 your own actions?
7 A No, sir.
8 Q 335 You don't believe that, no?
9 A No, sir.
14:45:20 10 Q 336 So do you think Mr. Feeley, the city manager, could go on and negotiate and
11 sell you the land based on your false statement to him?
12 A You went even further because Mr. Redmond -- and it's quoted in the Times at
13 the time if we can get that article, as saying about the cosy deal and that
14 these lands were so valuable and he played all sorts of games, and you were in
14:45:48 15 toe, Mr. Lawlor.
16 Q 337 Chairman is this evidence of the Irish Times in the brief?
17
18 CHAIRMAN: I don't know what evidence is this --
19
14:45:57 20 MR LAWLOR : Mr. Gilmartin is referring to an article in the Irish Times. He
21 has referred to it earlier. I don't recall the article but it seems to be a
22 very major crossroads for Mr. Gilmartin.
23 A Yes, it is in the Irish Times and Mr. Redmond is quoted in the Irish Times.
24
14:46:11 25 CHAIRMAN: Can you say approximately when --
26 A Practically accusing Mr. Morrissey and Mr. McLoone of --
27
28 CHAIRMAN: Yes, but can you identify the date approximately.
29 A It must have been around 19 -- if you give me a second --
14:46:26 30

14:46:26 1 MR LAWLOR : Chairman, Mr. Gilmartin, we can look for it. It's not essential
2 that we try and get it --
3
4 CHAIRMAN: I just want to find out if he can identify an approximate --
14:46:37 5 A It was 1990, some time around May. In May 1990 I would say.
6
7 CHAIRMAN: Alright. We'll conduct a search.
8
9 MR LAWLOR : Okay. Thank you
14:46:50 10 Q 338 Mr. Gilmartin, we had a disappointment of your two -- now, is it your
11 understanding that the Dublin County Council lands were sold to you by
12 negotiation without any tendering; is that right?
13 A It was sold to me on the same basis and it was understood as the same basis as
14 the corporation land. It was only a little strip along the end of it and it
14:47:18 15 was neither here nor there.
16 Q 339 You would never know that if it wasn't advertised, Mr. Gilmartin?
17 A Well, as far as I'm aware, the tender was advertised.
18 Q 340 As far as you were aware.
19 A Yes.
14:47:32 20 Q 341 You're not clear in your knowledge as to whether it was or it wasn't?
21 A The tender was put out and advertised and, as far as I'm aware, in the normal
22 procedure --
23 Q 342 Sorry, I'm dealing with the County Council lands.
24 A I don't know.
14:47:46 25 Q 343 Okay. We'll --
26 A The understanding at all times in the negotiations was whatever price I paid
27 per acre for the corporation land, that I would pay the same price for the
28 council piece of land along the motorway.
29 Q 344 And it's your contention that if Mr. Corcoran of Green Property hadn't pursued
14:48:09 30 it for whatever information he had, that you would have got your deal at 40,

14:48:13 1 41,000 an acre; isn't that your contention?

2 A That's my contention, yes.

3 Q 345 And how did you arrive at the value, at your first bid, at 40,000? Sorry, I'll

4 put it another way to you. You paid Mr. Bruton that figure; is that right?

14:48:27 5 A That's correct. And he was advised by his property advisers, Jackson Stops,

6 and they had -- that was the prime site in that whole area, Mr. Bruton's 33

7 acres, corner site, was the prime site and the most valuable in it, and I paid

8 at that time over the top for it.

9 Q 346 Well, maybe -- could we have that map back just for one moment, please. I'm

14:48:55 10 sorry, Mr. Gallagher, I know you helped me this morning.

11

12 MR. GALLAGHER: 3704, I believe.

13

14 MR LAWLOR : Thank you

14:49:06 15 Q 347 Right there in the corner -- Mr. Bruton was right under the V there on the

16 junction.

17 A That's correct, on the roundabout, 33 acres.

18 Q 348 He might have had the best view of the motorway --

19 A No, he had the best site actually. His and Sharpe's were the two best sites on

14:49:25 20 the whole thing. Both of them were bought for 40 grand an acre.

21

22 MR. GALLAGHER: Sorry, there's perhaps a better map that may be of better

23 assistance at 3574.

24

14:49:36 25 MR LAWLOR : Thank you

26 Q 349 It's that green site there in the corner. Mr. Gilmartin, would you agree with

27 me that a development site is as good as the access you can get into it.

28 A Well, he already had access, as is actually shown on that map.

29 Q 350 Could you show us where it is?

14:50:08 30 A If you look at the side of his house, he had a farm yard in there, and he had

14:50:14 1 the access which was granted to him actually in the -- before the construction
2 of the motorway. It was part of the negotiations. So there is access --

3 Q 351 There's a farm yard gate --

4 A It's actually indicating it on the map, if you look closely.

14:50:29 5 Q 352 Yes, the farm yard gate?

6 A The outline of the house and the farmyard, you can see the road going straight
7 out on to the Lucan bypass.

8 Q 353 And it's your engineering roads expertise that you could put commercial traffic
9 out there at that roundabout, could you?

14:50:47 10 A No, that wouldn't be my --

11 Q 354 Where would you access the lands for development?

12 A That had its own access.

13 Q 355 Where is it, please?

14 A It's indicated there -- the farmyard there, it's actually showing the access
14:51:02 15 going straight out on --

16 Q 356 I know that. I'm asking you that you would put commercial vehicles and
17 commuters and shoppers out through that farm gate; is that what you're saying?

18 A No, because Sharpe got the access to his site and I already dismissed it when
19 he went to court.

14:51:17 20 Q 357 No, we're -- we have just finished with Mr. Bruton's land, Mr. Gilmartin.
21 You're saying it was the best site and what turns on it the Chairman can
22 quickly ask me. But it was the most land-locked piece of land the whole of the
23 180 acres I suggest to you.

24 A Yes, but that wasn't my intention.

14:51:37 25 Q 358 You agreed it is land-locked, do you?

26 A No, it's not land-locked: It has access.

27 Q 359 But Mr. Gilmartin, you're not trying to convince the Tribunal that you can put
28 commercial or --

29 A No, but I never intended to. You were trying to put up a smokescreen. They
14:51:55 30 are the two best sites. They have the whole frontage --

14:52:01 1 Q 360 We have banned all the smokescreening in this country in the last three or four
2 days. That has to be done outdoors now. This is land-locked, okay. We won't
3 argue about it. I want to turn to page 925, please. Mr. McLoone's statement,
4 I believe. If we could have page 3, please.

14:52:29 5
6 If I could just ask you to comment there on the last line of the top paragraph
7 there. This is a statement of the city and council valuer, who was negotiating
8 with you for the sale of local authority properties. It's amazing that he
9 suggests in his statement:

14:52:51 10
11 "I would have advised Mr. Gilmartin on valuations from time to time."

12 A I'm not aware of any advice he gave me from time to time.

13 Q 361 So --

14 A He certainly had no role or advice on any valuations with regard to the
14:53:12 15 Quarryvale project.

16 Q 362 You're not suggesting --

17 A I had my own valuers.

18 Q 363 Okay. So you never paid Mr. McLoone for any valuation advice?

19 A No, at no time.

14:53:27 20 Q 364 Okay. We'll leave the question to Mr. McLoone when he appears.

21 A Well, the answer will be the same, at no time.

22 Q 365 We'll let Mr. McLoone answer for himself?

23 A -- did I pay or hire Mr. McLoone in any capacity to do any valuations for me.
24 I had Vinton Gunne, Irwin Druker and Lisneys were available to me. And as a
14:53:52 25 matter of fact I also had negotiations with HOK.

26 Q 366 We'll come to that in a moment, Mr. Gilmartin. But Mr. McLoone states
27 something that you dissent from, and I'm not wishing to pursue Mr. McLoone's
28 evidence. We'll pass on from there. Your evidence is Mr. McLoone never
29 provided you with what he's claiming he did in his statement?

14:54:13 30 A He never provided me anything to do with Quarryvale and I don't think, for that

14:54:19 1 matter, on any property in Dublin whatsoever. From time to time he offered me
2 or suggested pieces of property that was for sale in particular areas, asked me
3 whether I was interested.
4

14:54:37 5 MR. O'NEILL: Sorry to interrupt, I think it's important to go back to page 924
6 to see the context in which Mr. McLoone says he was providing advices on
7 valuations to Mr. Gilmartin. It's not in relation to Quarryvale. It's in
8 relation to Arlington, or to Bachelors Walk I should say.
9

14:54:51 10 MR LAWLOR : So we see here at the bottom of the previous page, is that what
11 you're saying, Mr. O'Neill:
12

13 "Mr. Gilmartin said Arlington was going to purchase the properties and he was
14 to act on a consultancy basis and to be ..."

14:55:11 15
16 No, that's not what we're talking about. I'm sorry, Chairman. My apologies.
17 What is the point you're making, Mr. O'Neill?
18

19 MR. O'NEILL: Mr Chairman, if you look at the last paragraph starting page 924
14:55:27 20 you'll see --
21

22 CHAIRMAN: It's a reference to Arlington or Bachelors Walk.
23

24 MR LAWLOR : I didn't say Quarryvale. I'm only asking did Mr.-- why would he
14:55:37 25 be giving Mr. Gilmartin valuations on Arlington?

26 A He never gave me. If there was a purchase of Dublin Corporation interest in
27 that area, he put a price on it for Dublin Corporation, not for me. He had an
28 asking price.

29 Q 367 I can only quote what Mr. McLoone has said and Mr. McLoone is saying --

14:56:00 30 A Well, he'll have to clarify that, but he at no time advised me on any

14:56:05 1 valuations other than his asking price for a particular property in Bachelors
2 Walk.

3 Q 368 You just said he'd given you prices and advice about lands for sale --

4 A Yes, that was his role, was put an asking price on any particular piece of
14:56:25 5 property owned by Dublin Corporation in that area.

6 Q 369 Well, Mr. Gilmartin, to be fair to you and Mr. McLoone, we'll pass on because
7 it's not -- we'll deal with it when Mr. McLoone -- it's his statement and we'll
8 let him answer for his statement, thank you. I just wanted to get back to
9 where we left before lunch. You've just stated, Mr. Gilmartin, there, which
14:56:45 10 came out of the blue like a lot of your allegations, that I attended meetings
11 at the bank.

12 A No, you didn't attend meetings. You were there at the bank with Mr. Dunlop and
13 Mr. Owen O'Callaghan when I had private meetings with the bank. You were
14 there. When I arrived for the meeting, you were there with the same people who
14:57:06 15 I was about to meet, and it had nothing to do, I'm quite certain, with anything
16 other than my arrival.

17 Q 370 Sorry? With your arrival?

18 A Yes.

19 Q 371 So we were the AIB's welcoming party for you; is that what you're saying?

14:57:22 20 A Well, you done that quite often.

21

22 CHAIRMAN: Mr. Lawlor, are you putting it to Mr. Gilmartin that you were never
23 there in circumstances as described by him?

24

14:57:32 25 MR LAWLOR : No, I'm just putting to you, Mr. Gilmartin, that it's my
26 recollection I never, ever, ever saw you in AIB bank centre in my life.

27 A That's not true, Mr. Lawlor. At least on two occasions when I had a meeting
28 with the bank chauffeured Mr. O'Callaghan and Mr. Dunlop there, as you were
29 there on the night I was forced into the shareholders' agreement.

14:57:55 30 Q 372 I was there?

14:57:57 1 A On the following morning, sorry with Mr. Dunlop. And you waited in the waiting
2 room until we were finished with our meeting, the following morning on the 16th
3 of September, you waited downstairs in the waiting room and you went into the
4 Deadman's -- not the Deadman's Inn but the Harshaw House(?) or whatever it's
14:58:25 5 called next to the bank with Dunlop, Deane, O'Callaghan, et cetera.

6 Q 373 And is it your evidence --

7 A So what your role was there --

8 Q 374 Would it be your evidence that some of the bank executives could collaborate
9 your views on this matter?

14:58:41 10 A I'm quite sure they can do, as that particular day I was asked to go into the
11 Dail to meet members of the government to show that myself and Mr. O'Callaghan
12 were in unison, that we had now finally reached an agreement, and I was taken
13 by Mr. O'Callaghan and Mr. Dunlop into the Dail, and that's the 16th of
14 September, and instead of being taken to meet anybody, I was taken to your
14:59:11 15 office, Mr. Lawlor, and Marion McGennis was in your office at the time.

16
17 CHAIRMAN: I think -- Mr. Lawlor, I think we're drifting again into the second
18 part of the inquiry, but as it's been raised, and in fairness to yourself, do
19 you want to put it to Mr. Gilmartin that you were never there as described, or
14:59:33 20 do you accept that you might have been there?

21
22 MR LAWLOR : No, it's just make it up as he goes along. I was never there in
23 the circumstances that Mr. Gilmartin outlines --

14:59:47 25 CHAIRMAN: Mr. Lawlor, this has been raised and it's appropriate that you would
26 put to Mr. Gilmartin about what you say about whether or not you were there.
27 We're not asking for any detail. It's been suggested that you were there in a
28 a certain capacity on more than one occasion. Now, if you say meetings or
29 attendances in the bank as suggested by Mr. Gilmartin never occurred as far as
15:00:14 30 you were involved, then that should be put to Mr. Gilmartin. Otherwise it's

15:00:18 1 left out there and --
2
3 MR LAWLOR : Yes, Chairman, but that's not my fault. Mr. Gilmartin is making
4 statements --
15:00:25 5
6 CHAIRMAN: But you're asking --
7
8 MR LAWLOR : No, I don't have to start pursuing it. Mr Chairman, from your
9 point of view, to allow Mr. Gilmartin to be raising AIB meetings that we know
10 nothing about, has never been notified to the Tribunal, there's interjections
11 from Mr. Gallagher and Ms. Dillon about extraneous matters. This is wholly out
12 of order that Mr. Gilmartin is raising meetings in Allied Irish Banks in
13 Ballsbridge which I know nothing about --
14 A You were asking the questions, Mr. Lawlor.
15:00:53 15
16 CHAIRMAN: We agree with that.
17
18 MR LAWLOR : Why don't you tell him then to start answering the questions and
19 stop raising these matters.
15:00:59 20
21 CHAIRMAN: You asked him does he have any proof that you were there.
22
23 MR LAWLOR : But --
24
15:01:06 25 CHAIRMAN: Wait now. We take that as another way of you saying that you were
26 not there. If you want to leave it at that, leave it at that.
27
28 MR LAWLOR : No, I want it clear that these matters shouldn't be raised by Mr.
29 Gilmartin -- I'm now defending whether I was or wasn't. I'm questioning
15:01:25 30 Mr. Gilmartin. I have no problem in getting into these matters and dealing

15:01:29 1 with them as they arise. I'm just putting it to you, that it's inappropriate
2 for Mr. Gilmartin to be raising meetings in Allied Irish Banks which I have no
3 notice of. I can deal with it. I never met Mr. Gilmartin in bank centre AIB.
4

15:01:43 5 CHAIRMAN: Well we agree, it is not appropriate but at the same time we are
6 extending an invitation to you, because you've asked him where is the proof of
7 these meetings -- we're extending an invitation to you which you can take up if
8 you wish to put it to him that you weren't at such a meeting.
9

15:01:59 10 MR LAWLOR : I'd prefer if it was ruled out at the beginning and not allowed.
11

12 Q 375 I'm putting it to you, Mr. Gilmartin, that it's another make it up as you go
13 along situation, that the night of the long knives, or something happened with
14 your commercial dealings with banks and partners and now I'm a party to that
15:02:22 15 and I was in bank centre. I was never, ever in bank centre in your presence
16 ever.

17 A You were never at a meeting with me in the bank because I would not allow you
18 to be there for a start. I'd walk out first. That's number one. Number two,
19 you were in the bank on a number of occasions as I arrived for meetings. You
15:02:43 20 were talking to the same people with Owen O'Callaghan and with Frank Dunlop,
21 and I'm clarifying that so --

22
23 MR. GEARY: Mr Chairman, might I interject, just to echo again that these are
24 not matters that we would say are appropriate at the moment. They're not
15:03:03 25 matters dealt with in the brief, our counsel is not present at this time and
26 they are matters that certainly have to be dealt with by our counsel and in
27 those circumstances perhaps if we could move on to matters in the brief up to
28 1990, which is that this module is dealing with, Mr Chairman.

29
15:03:17 30 CHAIRMAN: For the moment we'll pass over -- we may have to review the basis in

15:03:27 1 which it came into evidence.
2
3 MR LAWLOR : Just before moving on, there wasn't anybody there with five
4 million pounds or looking for five million pounds in the bank; no?
15:03:39 5 A That happened in the Dail, Mr.
6 Q 376 We'll move on. 2687, please. Mr. Gilmartin, this is a memo pencilled by
7 Mr. Kay. So we are back now at Ballsbridge again, on my bringing you there.
8 We have a situation here that in the third paragraph -- maybe we just take it
9 from the top so you can see the content of it: Mr. Kay is doing a file note
15:04:23 10 and he says:
11
12 "He (which I presume is Mr. Gilmartin) told me he had held some further
13 conversation with Paddy Morrissey of Dublin Corporation who has indicated that
14 the corporation will need to be paid for the site within the next week. It
15:04:41 15 appears they are prepared to settle for 4.6 million pounds and will put this in
16 writing and are willing to defer their rights to the interest to a later date.
17 He also told me that he would like to complete the van Hool deal within the
18 next few days. In relation to the letter of Touche Ross he has asked me to
19 write to Mr. John Drury in their London office formally requesting a letter
15:05:03 20 indicating Gilmartin's property deal since the 1980s and I said I would do this
21 and fax it immediately.
22
23 In relation to the Lisney report prepared for AIB, they have now authorised
24 Lisney's to proceed to give a report which should be to hand in the near
15:05:20 25 future. Tom Gilmartin told me he was negotiating hard with Arlington in
26 relation to the Bachelors Walk deal. He's hoping to achieve 2 million pounds
27 at an early date. To date Arlington have offered 1.5 million pounds but want
28 him to retain some residual interest in the development."
29
15:05:42 30 What sort residual interest did they want you to retain at that time could you

15:05:47 1 tell the Tribunal?

2 A They wanted me to retain a percentage.

3 Q 377 That would have added to the offer --

4 A As well as my services to carry on what I was doing for them.

15:05:57 5 Q 378 So that would have added to the value of your 1.5 million offer; would that be

6 correct?

7 A It would have left me with -- instead of the -- in the initial thing was 3.5

8 million actually. But at that particular time -- at that particular time they

9 were negotiating at 2 million and they wanted me to maintain -- they'd give me

15:06:24 10 1.5 million and I would maintain an interest in the site.

11 Q 379 I see.

12 A Or a share of the profits, as it happened, was the exact --

13 Q 380 So that's the 13th of February 1990.

14 A Yes.

15:06:38 15 Q 381 And would you recollect a date that you finalised the negotiations? Would it

16 have been five or six days later?

17 A It was the 19th of February I think.

18 Q 382 So what happened at 200,000 that went walkabout?

19 A What 200,000.

15:07:02 20 Q 383 How much did you accept?

21 A 1.34 million.

22 Q 384 So what happened to the balance?

23 A Because by then I realised that Arlington would not succeed because they were

24 being held to ransom for the remaining parts of the site.

15:07:19 25 Q 385 So out of generosity --

26 A So actually it was done on a phone call. I accepted the 1.5 million and got

27 out.

28 Q 386 Do you know what the truth is, Mr. Gilmartin? You were lying to Eddie Kay in

29 the bank?

15:07:36 30 A No, I was not --

15:07:37 1 Q 387 You were lying to him that you had the offer of 1.5 million. You had no offer
2 for 1.5 million --
3 A I had an offer --
4 Q 388 You dropped --
15:07:46 5 A Well, Mr. Dadley here has confirmed that they were prepared to pay me 3.5
6 million just a month or two before that.
7 Q 389 Well, it's lucky that you eventually decided --
8 A Actually I halved the amount of money that Arlington had offered to me, I
9 halved it, not exaggerated it.
15:08:05 10 Q 390 But you're stating here that you told Mr. Kay that you would offer -- you had
11 been offered by the company 1.5 million pounds.
12 A I was offered 3.5 million prior.
13 Q 391 We'll leave the prior bit out. This is now days before you --
14 A No, you're trying to make -- you're trying to make something appear different
15:08:28 15 than what it actually is. Actually I gave Eddie Kay half of what I was being
16 offered. I wasn't misleading him. It was just to make sure that if anything
17 went wrong along the way, that I was reasonably sure of getting 1.5 million,
18 which was actually half of what they were offering me.
19 Q 392 Why didn't you take the double figure?
15:08:50 20 A Because at that time I didn't particularly -- I wasn't of a mind at that time
21 to sell because I had still the hope that the scheme would go ahead.
22 Q 393 But your evidence is that six days later you accepted a reduced figure from the
23 information you gave to your banker, who was pressing you for his financial
24 responsibilities?
15:09:20 25 A Yes, by that time, because the pieces of land in the meantime went up from --
26 in one particular case from 200 and some thousand, 270,000, to 1.3 million,
27 practically overnight. I was aware then that Arlington's scheme was a dead
28 duck.
29 Q 394 I just want you to explain why on the 13th, lucky for some, you were offered
15:09:53 30 1.5 million and you accepted 1.32 something six days later? It's just a matter

15:09:59 1 of --

2 A It was a matter of prudence.

3

4 CHAIRMAN: Mr. Lawlor, I think Mr. Gilmartin needs a break.

15:10:06 5

6 MR LAWLOR : Okay, thank you.

7

8 CHAIRMAN: We'll just rise for a few minutes.

9

15:10:09 10 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

11 **AND RESUMED AS FOLLOWS:**

12

13 MR LAWLOR : Thank you, Chairman

14 Q 395 Mr. Gilmartin, just before the short recess there, we were just dealing with

15:26:19 15 the agreement that you reached with Arlington. Do you see any coincidence in

16 the urgent necessity for 1.3 million pounds to keep your Balgaddy deal together

17 and the amount you accepted from Arlington?

18 A No, that wasn't the purpose at all. The purpose was Arlington was merging with

19 the ASDA Property Group and it was they who wanted to clean up the deal they

15:26:49 20 had on Bachelors Walk.

21 Q 396 Is it fair to ask you that you did use that 1.3 million to make a payment as

22 per your agreement with the O'Callaghan Property Group; is that right?

23 A That's correct.

24 Q 397 So it was just coincidence that the figure and the timing came together?

15:27:06 25 A Just a coincidence. Just a pure coincidence.

26 Q 398 Okay. Allied Irish Banks provided you with the 9 million pounds facility on

27 the 2nd of February. You had received an earlier offer of 6 million pounds of

28 funding from Irish -- IBI I think it was, but obviously that wouldn't have been

29 adequate to meet your needs; is that correct?

15:27:28 30 A Well, it was in the normal course of events -- the extra money was handy.

15:27:36 1 Q 399 When the facility was provided, Mr. Gilmartin, were you concerned at the time
2 about the short term of the facility?

3 A Yes, I was, because actually I started off for two years, two-year money, and
4 it was gradually cut down for some reason or other to six months.

15:27:58 5 Q 400 Have you any explanation why the bank did that?

6 A No.

7 Q 401 I see. Did conditions that they set out to you -- sorry, it's 2646, I'm sorry.

8 The conditions, Mr. Gilmartin, which they have advanced, registered solicitor's
9 undertaking over the land costing 8.3 million pounds --

15:29:15 10

11 MR. GALLAGHER: Sorry, there is some misunderstanding in relation to this
12 document. This is what is known as a mark-up, as I understand it, which was
13 effectively a report from -- perhaps it's Mr. Donagh, I can't see the signature
14 at the bottom, to the credit committee, where a recommendation or proposal is
15 put forward, he is making recommendations and he's suggesting conditions, but
16 it is only a proposal internally within the bank and does not reflect the
17 conditions that were actually imposed by the bank. Not necessarily. They may
18 have been accepted in their entirety, but that is not the concluded or final
19 document that Mr. Gilmartin would have got and I want to clear that up.

15:29:56 20

21 MR LAWLOR : Fine, thanks, Mr. Gallagher. We'll have 2678 which I think
22 Mr. Gallagher would probably agree is the heads of terms. Is that the more
23 appropriate document?

24 Q 402 Is that your understanding of what you were offered by AIB, Mr. Gilmartin?

15:30:17 25 A That would seem to be correct.

26 Q 403 Okay. So the purpose was to -- under that heading purpose to clear out all
27 these debts from the various acquisitions and so forth and the loan repayable
28 in full by 31st of August 1990, or such other date as may be agreed:

29
30 "However, should the site not be designated by the end of February 1990 it is

15:30:44 1 expected that discussions would be finalised with Arlington."
2
3 Now, just on the designation, Mr. Gilmartin, that was in the gift of the
4 government of the day, and I know you've said you didn't want it and it wasn't
15:30:59 5 worth building if you need it and that, but why was it such an important item
6 and did you believe that, that it could be available by February 1990?
7 A I didn't believe it. I was told it would be granted designation, that all
8 three towns would be granted designation.
9 Q 404 And who told you that, Mr. Gilmartin?
15:31:17 10 A I was told it by a number of people from Mr. Lenihan, Mr. McSharry initially,
11 Mr. Ahern and Mr. Flynn. All of them said that all three towns would be
12 granted designation.
13 Q 405 I think, Mr. Gilmartin, that's the first time you've given that evidence, and
14 it's quite staggering to suggest that that list of government Ministers would
15:31:48 15 be giving anybody that type of sensitive information in advance of cabinet
16 decision and budgets and Finance Bills.
17 A Dublin Corporation also said that all three towns -- that the indications to
18 them was that all three towns would get designation. That's Tallaght,
19 Blanchardstown and Clondalkin. And it was not a requirement of mine. The bank
15:32:21 20 themselves got confirmation from somebody in the government or high places and
21 that is something the bank has put in there, but it was not necessary for the
22 success of Quarryvale. I stated that quite openly to the bank and to the
23 council and to everybody else.
24 Q 406 I appreciate that you're outlining here that the Minister for Finance, the
15:32:52 25 Environment, Labour, and I know you mentioned one other Minister, they had all
26 confirmed to you that this site was going to get designation for urban renewal,
27 which was the scheme --
28 A And that was your opinion as well at the time, Mr. Lawlor.
29 Q 407 Oh, I see. Why do you think the bank were putting it in if, A, you didn't want
15:33:22 30 it and it was irrelevant to the potential of the development?

15:33:25 1 A The bank done their own searches on the possibilities for the site, as would be
2 normal practice in due diligence, and they volunteered that information, as
3 well as the fact that this site would be adopted as the new town centre.

4 Q 408 Now, the bank made their own inquiries and they on, sort of a whim, put it in
15:33:55 5 here. Is that your evidence now? You're not telling the bank --

6 A No, I think there was evidence before the Tribunal from the bank itself that
7 they had confirmation that that was the case. But it was not a request by me
8 or a requirement by me. It was a bonus. There was no question of that. To
9 the site it would have been a tremendous bonus but it was not necessary.

15:34:22 10 Q 409 Okay. Could I ask for Mr. Eddie Kay's statement to be put up. I didn't expect
11 that point to be made by Mr. Gilmartin. If I could have assistance from
12 Mr. Gallagher, please.

13
14 MR. O'NEILL: I think it's 3941.

15:34:57 15
16 MR LAWLOR : Thank you. Could I have page 2, please, the next page. If you go
17 down to heading 5:

18
19 "Mr. Gilmartin informed me that I would be contacted by the Minister of the
15:35:26 20 Environment and it was for this reason that condition 3 was contained in the
21 bank's application. The credit committee considered that it would be
22 inappropriate to make this a condition of sanction and it was not included in
23 the eventual approval. The Minister of the Environment, personally or
24 otherwise, did not contact the bank."

15:35:48 25
26 That doesn't sit quite with your recent evidence there that the bank had --
27 A I think there's another one you're missing, Mr. Lawlor, where the bank had said
28 they had confirmation, not by me. They wouldn't take confirmation from me in
29 any due diligence search. There's no way they would take my word for anything.

15:36:12 30 Q 410 I was going to go back -- we'll finish and go back to the point I was making.

15:36:20 1 Regarding the specific question contained in your letter of the 5th of January
2 2004, who are we writing to here?

3

4 CHAIRMAN: Paragraph 1. Yes, this is Mr. Kay's statement.

15:36:38 5

6 MR LAWLOR :

7 "My understanding that the government was in favour of the project came from a

8 number of sources as follows: Primarily Mr. Tom Gilmartin, who stated that he

9 had held a number of meetings with government Ministers and other senior

15:36:50 10 officials who had signified their support for the proposal; I had been

11 separately told by Owen O'Callaghan in 1989 in the course of our separate

12 dealings with him that he understood that the government was favourably

13 disposed towards the project; there was a lot of press and market speculation

14 that further areas were to be designated to encourage investment; and I believe

15:37:10 15 that I would, in the normal course, have informally contacted one or more

16 estate agents who broadly stated that they understood the site to be the

17 obvious one to receive support in Dublin west. The use of the term "reliably

18 informed" in the mark-up would have reflected the combination of the

19 foregoings."

15:37:26 20

21 So would you agree with me, Mr. Gilmartin, that all these people got it

22 absolutely wrong?

23 A No, they didn't. That was the expressed opinion of the government and --

24 Q 411 No, no, they got it wrong; it never happened, Mr. Gilmartin.

15:37:41 25 A There's a good reason for that. That's part of another story, Mr. Lawlor,

26 which if you want to ask --

27 Q 412 Am I credited for that or blame now?

28 A Pardon?

29 Q 413 Are you going to give me the credit for it or the blame?

15:37:55 30 A Well, we'll see.

- 15:37:56 1 Q 414 No, I'm dealing with it now. I want to go to the bottom of the last page,
2 then. Do you deny that you informed Mr. Kay that the Minister would call him?
3 A I may have done. Mr. Kay and the bank -- Mr. Donagh -- informed me that they
4 had done their own inquiries into it and they were expecting a call from the
15:38:26 5 Minister or someone else. I think it may be in a document here. They were
6 expecting a call from the Minister, and I would have said to them that if I was
7 aware at the time, that the Minister was going to call them, that I would have
8 said so.
- 9 Q 415 Well we'll conclude on that point 6. The Minister never called. Isn't that
15:38:52 10 right?
11 A I don't know.
- 12 Q 416 It's there "the Minister of the Environment, personally or otherwise ..."
13 A They were quite happy without the designation with the cover they had. Their
14 credit assessment said they were adequately covered in the event of it never
15:39:06 15 getting designation, or even zoning.
- 16 Q 417 Well, that's fine, but for the largest bank in the country --
17 A I don't know what your point is.
- 18 Q 418 I'll tell you what exactly the point is, that the advance for six months was a
19 very, very short fuse in a three-or four-year project, so the banks --
15:39:24 20 A And one came in very handy for other people to use when they -- the opportunity
21 arose.
- 22 Q 419 Well, that's for you to try and explain. I don't know what you're talking
23 about whatsoever. But we'll go on anyway and just go through how you complied
24 with the conditions of this loan agreement because you're on a six-months short
15:39:46 25 fuse, you're hoping or the bank is hoping you're going to get designation which
26 never happened --
- 27 A Not just designation, zoning, which was imminent, even long before -- I should
28 have had the zoning before I even went to the bank, or needed to go to the
29 bank.
- 15:40:03 30 Q 420 Well, Mr. Gilmartin, this letter, I think it's 1990, is that correct? Early

15:40:07 1 1990?

2 A That's correct, and I was assured that under the view of the Dublin plan, that

3 the site would be zoned long before that.

4 Q 421 And who assured you of that, Mr. Gilmartin?

15:40:21 5 A The government and others.

6 Q 422 No, no, be specific. The government is made up of persons.

7 A The government and others. They said it would be adopted under the review of

8 the Dublin plan back in 1988 when the scheme started. Actually before the

9 scheme started, before I bought a site there, I was given an absolute assurance

15:40:41 10 that if I could bring in this investment, that in the review of the Dublin

11 plan, since the other site had failed, they would have it adopted.

12 Q 423 So it's your evidence that the government -- you mean a cabinet meeting saying

13 the government decided that the lands would be designated and zoned; is that

14 your evidence?

15:41:04 15 A That's correct and they had some meetings. There was a meeting with the

16 various managers by the Taoiseach on various other Ministers and that was the

17 purpose of the meeting.

18 Q 424 But can you be specific as to -- the collective cabinet didn't call you in and

19 tell you you were getting zoning. Could you tell the Tribunal who --

15:41:26 20 A No, but they individually, with Mr. Lenihan, Mr.-- the current Taoiseach,

21 Mr. Ahern, Mr. Flynn, all of them, they wanted this investment by hook or by

22 crook.

23

24 MR. GALLAGHER: I should point out that the individuals who are named by

15:41:52 25 Mr. Gilmartin are not represented now and no doubt they will want to question

26 him on the remarks that he has just made and the evidence he has just given

27 because it is, to the best of my recollection, the first time that he has given

28 this evidence to the Tribunal.

29 A I think I may have mentioned it before, that I was assured by the Ministers

15:42:19 30 previously.

15:42:20 1

2 CHAIRMAN: I think it was mentioned.

3 A Previously I think I have already stated it. I may not have been specific with

4 the various names, but there was a meeting called by the Taoiseach with the

15:42:33 5 various managers, including Tom Boland who was Chairman of the Council and the

6 instruction was more or less that all roadblocks would be removed to get this

7 investment into Ireland.

8

9 MR LAWLOR : Mr. Gilmartin, I don't have the page number but you've introduced

15:42:58 10 a subject matter. And if I could just put it to you:

11

12 It is my understanding that the Taoiseach of the day, Charles Haughey, and a

13 number of other government Ministers, Minister Flynn with responsibility for

14 the Department of the Environment and some other Dublin-based Ministers,

15:43:10 15 possibly Minister McSharry, met with the city manager, Mr. Feeley, and his

16 assistant city manager Mr. Morrissey, Mr. Haughey, and I'm not sure,

17 Mr. Redmond and so forth, and they discussed the necessity for the Dublin local

18 authorities, corporation, County Council, to be as flexible and as progressive

19 as they could in hearing applications for development. I don't think there's

15:43:38 20 the slightest suggestion at the meeting --

21 A No, it was triggered by this scheme, that all roadblocks would be removed.

22 They were their words, not mine. So that meeting was triggered by Quarryvale

23 and nothing else.

24 Q 425 I know there's some note on the meeting, and it's my understanding that they

15:44:04 25 asked the management to -- and the management related their -- if you like,

26 feeling that they were being somewhat criticised by the Taoiseach and the other

27 Ministers, that they pointed out that they had to comply with the Planning Acts

28 and that the Planning Acts spelt out in great detail the limitations and the

29 flexibility within the Planning Acts and that of course if there was projects

15:44:29 30 and schemes that could benefit from decisions in the positive and Mr. Feeley,

15:44:33 1 as he wrote back to the Taoiseach and thanked him for the meeting and explained
2 some areas of the city that he felt would benefit for redevelopment from the
3 urban renewal scheme.
4

15:44:43 5 But I think it's a step very far forward for you to be making suggestions that
6 Taoiseach and other Ministers conveyed to the management of the Dublin city and
7 County that this scheme was to get approval because it would fly completely in
8 the face of local democracy. The plan wasn't finally reviewed until 1993. It
9 was a matter for the 78 members of the then Dublin County Council, and for you
10 to be making those -- I put it to you, Mr. Gilmartin, it never happened; a
11 meeting that you're speaking about in the context of how you're explaining the
12 meeting never, ever happened?

13 A The meeting happened and I was told they were going to arrange it. I was not
14 aware of the meeting itself, or when it was took place I was notified or let
15:45:15 15 know afterwards that the meeting did take place, and it was triggered by my
16 arrival with investment into Ireland. And they wanted all roadblocks removed
17 and they called that meeting, specifically triggered by my suggestion that I
18 could bring in this investment.

19 Q 426 Well, could you tell the Tribunal --

15:46:03 20 A And incidentally you're inaccurate there. You said '93 was the review of the
21 Dublin plan. That's not true -- it's not correct actually, because the review
22 of the Dublin plan was due to start back in early '88 and actually I think at
23 that particular meeting it was more or less ordered to review the --
24 particularly the western towns, review the plan for that, and, in particular,
15:46:38 25 Neilstown because they considered that a failure. It was given number one
26 priority according to what I was told by Ministers and others. Number one, the
27 western town -- the reason it didn't take place until '93 is that it kept
28 getting stalled for some reason. They went north, they done Swords,
29 Balbriggan; they went south, and the bypass, what was regarded as number one
15:47:12 30 priority to three western towns, deliberately. But who organised that now is

- 15:47:15 1 another question.
- 2 Q 427 So '93 doesn't relate as having any function in what -- I was wrong and you
3 were right, were you?
- 4 A You were wrong in so far as the review of the Dublin plan in '93, it if looked
15:47:32 5 at the west in '93, it was only allowed after I was out of the way. It was
6 supposed to have happened in '98. Had it happened, then there would have been
7 no problem whatsoever.
- 8 Q 428 Well I'll just put it to you this way, Mr. Mr. Gilmartin. The first plan
9 contradicting your support for the Miles Wright report of 1966. You were
10 totally wrong about that.
- 11 A No, I'm not. I'm absolutely correct in what I was told, otherwise the
12 Ministers were lying to me.
- 13 Q 429 What did they tell you --
- 14 A And so were others, including Tom Boland who was then Chairman of the council,
15:48:16 15 who they were under strict instructions that all roadblocks had to be removed
16 and a review of the Dublin plan had to start immediately. That was in '88 and
17 it didn't happen until '93 and I was out of the way. And who was behind that
18 is another question.
- 19 Q 430 Well, now that you've raised this matter and wish to help the Tribunal in
15:48:37 20 deciding why there was roadblocks or not roadblocks, Miles Wright was an
21 international planner that advised the then Minister for local government in
22 1966 about the options as to where population placement should go in the future
23 for the 20-year period forward, and you were following the Miles Wright Bible,
24 were you?
- 15:48:59 25 A No, I was not. I knew nothing about it.
- 26 Q 431 Your evidence -- your statement says that you were.
- 27 A No, I was not following the Miles Wright Bible. If I was, I probably tried to
28 do something on Neilstown, but I didn't, and I don't know anything and have
29 never read the Miles Wright report.
- 15:49:19 30 Q 432 You referred to it --

15:49:21 1 A To me it was irrelevant.

2 Q 433 Well, I won't dwell on it. Some people we called it the Miles Wrong report at
3 certain times when we were having difficulty with the growth of County Dublin.
4 I'll be very specific with you. The first plan, Mr. Gilmartin, was adopted in
15:49:39 5 1972 and it dramatically changed -- one of the most prominent recommendations
6 in the Miles Wright Report, and it's concerning our discussion here and what
7 the Tribunal is investigating.
8
9 Miles Wright recommended four satellite towns. The planners in their wisdom,
15:49:58 10 probably with the heavy hand of City Hall, decided to merge Clondalkin and
11 Lucan into one satellite town, so we ended up adopting a plan, the first ever
12 county plan, in 1972. Neilstown was created in the middle, between Clondalkin
13 and Lucan, as we've seen on the map. Now, there's five-year reviews, which
14 Gallagher referred to the other day, and we started the first review in 1977.
15:50:25 15 It took six long years unfortunately to review the plan, which went to 1983.
16 Five years later we started the second review in 1988, and we concluded it in
17 1993 --
18
19 CHAIRMAN: Mr. Lawlor, this is drifting into giving evidence.

15:50:46 20
21 MR LAWLOR : Well, I was trying to help Mr. Gilmartin understand the questions
22 I'm putting to him. I appreciate that. Okay, I accept your point, Chairman.

23 Q 434 Mr. Gilmartin, in 1990, to be suggesting to anybody that you could forecast
24 what was to happen in the review of the county development plan for County
15:51:07 25 Dublin was highly inappropriate and irresponsible?

26 A Well, you must ask your own government that. You were a member of that
27 government. And you yourself was talking along the same lines, Mr. Lawlor.

28 Q 435 I just want to put a question to you. You mentioned there about the maps --
29 A You were adamant actually that it was going to take place.

15:51:26 30 Q 436 I was using all my best endeavours to assist you, but we'll park that. I just

15:51:32 1 want to tell you that we started in Balbriggan on map number 1, and on the
2 direction of the planning manager, Mr. Prendergast, who will be giving evidence
3 here, that we worked through the plan in a numbering sequence, and your
4 evidence of five minutes ago was wholly wrong and there was no missing out one
15:51:51 5 area or the other.

6 A No, I was repeating exactly what I was told by the government of this country,
7 or those Ministers involved. So I was repeating what I was told. I did not
8 give any wholly wrong information. I'm telling you absolute facts.

9 Q 437 I think you should really make an amended statement to the Tribunal spelling
10 out what Ministers made these incredible promises to you.

11 A I've already told the Tribunal back in 1988 and if I was to fill in my
12 statement about it, we would be here until doomsday. I would have about 300 or
13 400 pages of everything I know, Mr. Lawlor.

14 Q 438 Well, I'm just putting it to you, Mr. Gilmartin. It's highly irresponsible and
15 it's factually incorrect for you to be making the suggestions you are about
16 government policy which just --

17 A I'm making no suggestion about government policy. I know very little about
18 government policy. I only reiterate or relay exactly what was told to me. I
19 have no inside knowledge, no input whatsoever, to government policy and far be
15:53:00 20 it from me to make any decision for a government that I had very little contact
21 or interest in until I arrived in Dublin.

22 Q 439 But the decision that you're talking about is a government policy,
23 Mr. Gilmartin.

24 A That's what I'm relaying exactly, and I believe that there is a letter from
15:53:25 25 Mr. Kay in there saying that he was to get confirmation from the Minister or
26 someone else that he was expecting confirmation of what I had relayed to him.

27 Q 440 We won't dwell on it any longer but I want to put to you that what you're
28 outlining is factually -- I just

29 A It is factually correct in accordance with what I was told.

15:53:52 30 Q 441 I want to not interrupt you if I can at all, but there is a minute of the

15:54:00 1 meeting -- I don't know where it is, and we'll get it and revisit, as to what
2 the discussion was and what it entailed. I think you'll find when you read it
3 that the suggestions you're making are not in that note but we'll pass on --
4 A It was triggered by my arrival in Dublin with bringing in the investment.

15:54:20 5 Q 442 I think Roy Rogers had a horse called Trigger but -- Written confirmation of an
6 offer of the sale of 50 per cent of the company for 20 million pounds and the
7 confirmation of offer for 50 per cent of equity for the 40 million pound
8 subject to designated status being obtained. So now this is one of the
9 conditions in your loan, Mr. Gilmartin?

15:54:37 10 A That's the bank -- they done the due diligence and if they included it in the
11 conditions, I had very little input to that.

12 Q 443 Now, would you --

13 A It wasn't on my instructions because they would not take my word for it, no
14 more than they would take anybody's word. When they're lending money, they do
15 their own due diligence.

16 Q 444 Well, did it come down then -- one of the major planks of the government's or
17 the AIB's dealings with you, Mr. Gilmartin, was the potential to sell the
18 project on.

19 A That's correct. I actually had an expressed interest from any number of
15:55:21 20 people, all of whom went to the trouble of coming over here and had meetings on
21 it.

22 Q 445 Yes, the bank at that time -- I'm not going to dwell too long because it was
23 opened in previous cross-examination, but we're back to the one particular --
24 there's two sets of paperwork that were given to the bank to show some form of
15:55:44 25 comfort to --

26 A They didn't need comfort. They were quite satisfied with the cover they had
27 already, as is stated in their credit assessment.

28 Q 446 Well, at 9 million pounds for a six-month period, Mr. Gilmartin, and them
29 wanting all these conditions built in, it wasn't exactly showing great comfort
15:56:02 30 or confidence?

15:56:02 1 A They have stated in their credit assessment that they were quite satisfied with
2 the cover they had.

3 Q 447 And --

4 A And that was on the Quarryvale site on its own.

15:56:17 5 Q 448 Okay. We'll just go to -- well, we'll just deal --

6 A And I had my strings to my bow than that.

7 Q 449 Well, one of the strings you had without reason was the offer from Arlington;
8 isn't that right?

9 A I also had an office block in Milton Keynes and not only that I have --

15:56:37 10 Q 450 We know that.

11 A I had an extension to the shopping centre site in Milton Keynes that could have
12 brought in 20 million and taken the whole thing out anyway.

13 Q 451 Why didn't you do it then? What was stopping you doing all these things and
14 why were you allowing yourself to get into the cul-de-sac with the AIB if you
15 could do all that?

15:56:55 15 A You and your lot, Mr. Lawlor, made certain I got into the cul-de-sac.

16 Q 452 So I was able to block the Milton Keynes money coming in now?

17 A No, no.

18 Q 453 Well, look, we'll stick to the --

15:57:07 19 A In view of the Dublin plan and all the other ingredients, you were well paid,
20 Mr. Lawlor, to make certain that I didn't get very far with it.

21 Q 454 You'll get a great chance to justify these --

22 A I will, and prove it as well.

23 Q 455 Good man, you regularly say that but you never do. You regularly said I'll
24 prove --

15:57:29 25 A It's not under discussion in module. It will be the next.

26 Q 456 We'll wait for the next one. We'll go to 2640. This, Mr. Gilmartin, is a
27 response to your letter of the 21st of December 1989 to your good pal,
28 Mr. Dadley. Mr. Dadley is writing back to you, telling you that he would be
29 delighted to be part of the joint venture, the initial payment of 10 million

15:58:06 30

15:58:12 1 pounds, a further top-up payment of another 10 million pounds, with planning
2 permission when the development has been obtained. Now, you put that forward
3 and that was part of the conditions which the bank were prepared to allow that
4 monies be loaned. Isn't that right?

15:58:31 5 A No, that was another string to my bow.

6 Q 457 Written confirmation from Tom Gilmartin that he will accept 20 million pounds
7 for the sale of 50 per cent of the company should designation not be
8 forthcoming and this these funds would be utilised to repay the bridging loan.
9 Now, that's a condition there, condition 2, Mr. Gilmartin.

15:58:51 10 A Yes.

11 Q 458 And you agree with that, that that is a condition?

12 A Yes.

13 Q 459 Okay. And then you wrote to Mr. Dadley by coincidence, suggesting 20 million
14 pounds, and then he wrote back on the 16th of January 1990; isn't that right?

15:59:07 15 A That's correct.

16 Q 460 And you passed that on to AIB as a form of comfort that you had that firm offer
17 on the table?

18 A They didn't need it. They had done the assessment. I gave them that as an
19 extra string to my bow.

15:59:21 20 Q 461 It's a condition of your loan, Mr. Gilmartin.

21 A Well, the bank decided to write it in. It was another method of taking them
22 out.

23 Q 462 Day 466, page 48. (pause).

24

16:00:47 25 CHAIRMAN: Mr. Lawlor, what is the document you're looking for?

26

27 MR LAWLOR : It's Mr. Dadley's evidence on, I believe day 466. It's question
28 174. The question was "was this offer approved by the Arlington board?

29 Answer: to be honest with you, it's not worth the paper it's written on".

16:02:07 30 Now, would that have come as a mild or major shock to Mr. Kay, do you think?

16:02:12 1 A No, because Mr. Kay seen the document himself. It was subject to contract and
2 negotiation and he was well aware that it was just an offer.

3 Q 463 But Mr. Gilmartin --

4 A If you think the bank is that stupid that they would accept something as a
16:02:31 5 contract or something like that, that was subject to contract.

6 Q 464 It was a con, not a contract. It was just a con.

7 A No, it was not --

8 Q 465 It was just you and Mr. Dadley giddy up the situation for the bank.

9 A No, I told the bank.

16:02:46 10 Q 466 It was a con, did you? Did you tell the bank that Mr. Dadley said --

11 A I'm not into your games.

12 Q 467 You will be in and out of it before you are finished here.

13 A No, I won't. I made the bank aware that Arlington had made an offer to me to
14 get involved in Quarryvale. They asked me if I had any confirmation of it, and
16:03:13 15 I gave them that letter.

16 Q 468 So designation wasn't required. The Arlington condition was for whatever
17 purpose --

18 A No, the site didn't need designation.

19 Q 469 Didn't you know, Mr. Gilmartin, that the state of Arlington's financial
16:03:27 20 situation, et cetera, et cetera, et cetera, meant that there was no way that
21 they were going to invest a further 20 million pounds in this country when they
22 were withdrawing from one project --

23 A No, they withdrew from one project because it became unviable.

24 Q 470 Okay.

16:03:42 25 A And even more so after they stopped paying you.

26 Q 471 Well, at least I did nothing for it, which you've admitted, which is more than
27 you could achieve for them. But we'll go on down, if that's the case to 3269
28 --

29 A Then if you got nothing for it, why were you paid, Mr. Lawlor, if it was --

16:04:01 30 Q 472 Because they gave political donations and they didn't want to regulate it so

16:04:06 1 they used you.

2 A An English company expected me to believe --

3

4 CHAIRMAN: Mr. Lawlor, you need to ask questions. You can deal with your own

16:04:14 5 evidence at a later stage.

6

7 MR LAWLOR : If Mr. Gilmartin wants to make comments about Arlington and

8 monies, I have no difficulty mixing it with him. But it's up to you, Chairman.

9

16:04:26 10 CHAIRMAN: That's one of the restrictions on anyone cross-examining. You're

11 required simply to ask questions. If as a result of answers you get there's

12 some explanation that you want to give as a witness, then you have to wait

13 until you're -- unless you want to put that to the --

14

16:04:44 15 MR LAWLOR : But if Mr. Gilmartin wants to introduce matters that are not part

16 of cross-examination, and that's allowable, then we're into all sorts of

17 cross-chat. I'm dealing with a specific issue here. I'm dealing with a loan

18 from Allied Irish Banks. I'm dealing with the conditions of the loan. And

19 Mr. Gilmartin wants to drift off into other areas and that leads to chat or

16:05:06 20 talk or speeches

21 Q 473 Take my point and tell Mr. Gilmartin the same censure and we'll both try and

22 get finished as quickly as possible. Page 3269, please. I will read this

23 letter now. We're into West Park documentation now from yourself. You're

24 writing to Mr. Donagh in the bank. Now this is 5th of September, so whether

16:05:39 25 you believe it or accept it, Mr. Gilmartin, would you believe you were in

26 default of the conditions of your loan at this stage?

27 A I was not in default. I don't think on the 6th of September. But probably by

28 the end of September the time limit would be up.

29 Q 474 Well, six months from the 19th of January was the document where we have been

16:06:00 30 discussing the terms of the loan. So we won't split hairs. We'll go on to

16:06:04 1 say:
2
3 "Further to our recent telephone conversations, I am writing to bring you
4 up-to-date on the progress in our various negotiations with the interested
16:06:12 5 parties in the proposed development of lands at Palmerstown. In addition to
6 the joint venture discussions outlined in the enclosed Connell Wilson letter, I
7 am involved in direct discussions with a major investor who has agreed to fund
8 the project to enable us to take it through to planning."
9
16:06:31 10 Could you tell the Tribunal who that was now because the confidentiality that
11 you have in here is probably well passed?
12 A Well, there was a number of people, but one in particular was director of SK
13 Computer Company, a friend of mine, a Mr. Peter Kearns, who had 8 million pound
14 or more to take out of the bank and was prepared to give it to me.
16:07:03 15 Q 475 And why did you not accept it?
16 A Because the bank told him -- when they had the meeting with the bank, the bank
17 told him that it was unnecessary, that they had adequate cover, and I didn't
18 need any help. Unfortunately the man died about three weeks ago. But I did
19 give his name to the Tribunal back in '88, Mr. Peter Kearns.
16:07:30 20 Q 476 I'm sorry to hear that. The point here is that AIB now are -- it appears that
21 they're going to have a lot to answer for, in that here is a support or a
22 finance friend of yours prepared to take you out of a dilemma, and the bank
23 didn't want their loan called in, they didn't want somebody taking the loan
24 out; is that right?
16:07:55 25
26 MR. GALLAGHER: I think it's inappropriate to make a comment such as Mr. Lawlor
27 has made about somebody who is not present and who is not involved in this
28 module.
29
16:08:06 30 CHAIRMAN: I take it, Mr. Lawlor, you're not going to finish this afternoon.

16:08:10 1
2 MR LAWLOR : No, but just in response, Mr. Gilmartin is saying AIB. I didn't
3 introduce the issue. Are you saying that AIB aren't a part of the module?
4

16:08:25 5 MR. GALLAGHER: No, they're not represented here and they're not involved in
6 this module.
7

8 MR LAWLOR : That's not my fault, is it? They're up to their neck in the
9 module.

16:08:34 10
11 CHAIRMAN: What's the question?
12

13 MR LAWLOR : Okay, I'll read the letter. That will explain it all:
14

16:08:41 15 "The project to enable us to take it through to planning, the terms of this
16 agreement are that he will provide any funds necessary to complete all
17 outstanding contracts and also to repay all monies owed to Allied Irish Bank.
18 In return he will receive a substantial stake in the project (40 per cent) and
19 as security will be given the first charge on the site.

16:09:04 20
21 I am sorry that I am unable to give his name to you at the moment but he has
22 assured me that I will have his permission to do so in the next few days.
23 These negotiations have only taken place over the last two weeks and the legal
24 formalities are not in place yet. We are confident that everything will be
16:09:20 25 completed and in place before the end of the month. Owen O'Callaghan has also
26 expressed a keen interest in negotiations regarding a joint venture or some
27 involvement in the project, but, of course, he wants the final payment on my
28 contract with him first."
29

16:09:40 30 So did you not have the money to make that payment, Mr. Gilmartin?

16:09:42 1 A No, there was a condition written in the bank's arrangement which you haven't
2 shown here that I did not pay Mr. O'Callaghan because, as I understood it,
3 Mr. O'Callaghan's contract was subject to zoning or the anniversary of -- of
4 the anniversary of the second payment.

16:10:00 5 Q 477 We won't go back into that. We'll pass on that, Mr. Gilmartin. I appreciate
6 that, I just want to go through this and not be getting unduly delayed. As you
7 were aware, we were approached Hamilton Osborne King on behalf of some clients
8 of theirs who are interested in buying industrial land near the Western
9 Parkway. We have agreed to offer for sale some 30 acres at the Coldcut Road
16:10:27 10 end of the site which is surplus to our requirements for the shopping centre.
11 The asking price for this land is 200 thousand pounds per acre."
12
13 If we could just pause there, 41 or 71,000 pounds an acre to the Dublin
14 Corporation is looking a bit sick now, isn't it?

16:10:45 15 A Well, the time moved on and I had created something worthwhile in the area. So
16 the actual interest was exactly the same as those who expressed interest in
17 getting retail space in it. It was under totally different conditions.

18 Q 478 We'll be back to valuations tomorrow, Mr. Gilmartin. With regard to the
19 political situation on page 2, please. It's 3270:
16:11:20 20
21 "With regard to the political situation, we have had in the past firm promises
22 from various Ministers that the site will be granted tax designation status."
23
24 This is in September. We're now a full year on from previous references in
16:11:36 25 this matter:
26
27 "And we were led to believe that it would be granted before now. For reasons
28 best known to themselves they have advised us that we will have to apply for
29 planning permission first before they can consider designation."
16:11:49 30 Who would have spelt that out to you, Mr. Gilmartin?

- 16:11:51 1 A Whoever I was talking to at the time. I think it was Mr. Flynn actually.
- 2 Q 479 So you believe the Minister for the Environment was still promising you tax
3 designation only on the basis that you applied for planning; is that your
4 evidence?
- 16:12:05 5 A That's correct. How that came about was Green Property had not started and he
6 was kicking up a stink because I think it was applied to Tallaght and not to
7 his site, and he was kicking up a stink about it.
- 8 Q 480 That is absolutely for sure because I represented Blanchardstown and he was
9 kicking up one hell of a stink.
- 16:12:29 10 A That's right, and the government wanted to see him because he had been there
11 talking about it for ten years before that or more, about building
12 Blanchardstown, so they wanted to see it started.
- 13 Q 481 Well, Mr. Gilmartin, the reason that the government broke with the urban
14 renewal scheme and granted it to Tallaght was because of the socioeconomic
16:12:51 15 profile of Tallaght and the exceptionally high unemployment, and that's why it
16 was granted to Tallaght.
- 17 A And that didn't apply to Clondalkin.
- 18 Q 482 Clondalkin, Lucan -- no, well -- north Clondalkin was in a difficult situation,
19 of course it was, and I was trying to get any government action for north
16:13:09 20 Clondalkin, anything that would help the situation. But I don't want to be
21 deflected. I'm just pointing out to you about this tax designation. For
22 reasons best known to themselves and -- and you have to apply for planning.
23 Were you in a position to do that?
- 24 A I would have been under normal circumstances.
- 16:13:29 25 Q 483 What's normal circumstances, tell me?
- 26 A Normal circumstances, that if everything had been that I was told would be in
27 place would be in place, we would have been in a position to apply for
28 planning, but the zoning didn't happen and it kept getting stalled for some
29 reasons best known to themselves, as I've stated there.
- 16:13:52 30 Q 484 But Mr. Gilmartin, I just have to put it to you --

16:13:55 1 A Best known to you, Mr. Lawlor --

2 Q 485 Let me explain it to you. I was party to two reviews in my responsibilities as
3 an elected member?

4 A I know you were.

16:14:04 5 Q 486 We managed to review the '83 plan in five years and it took six years to do it
6 previously, so your suggestion of machiavellian delaying of the development
7 plan can be explained by the manager who had a day-to-day responsibility when
8 that opportunity arises. I will just finish this.
9

16:14:22 10 "This has been a bit of a disappointment to us at this point. We can only
11 apologise for the initial assurances that we were given in good faith. We are
12 hopeful that they will grant it eventually. I apologise that we have not been
13 able to make better progress before now. We are very confident that given a
14 little more time, we will be successful. Thank you very much for your patience
16:14:43 15 in this matter".
16

17 Are you trying to tell the Tribunal that you didn't have a very tight,
18 difficult financial situation at that time, Mr. Gilmartin?

19 A Well, I had 8 million pound in the scheme -- 7 or 8 million pound in the
16:14:58 20 scheme -- and also, against the assets of it, in all there was about 16 million
21 invested in the scheme. It would be for anybody a tight financial situation in
22 light of the fact that all the promises that had been made over the period for
23 me to bring in the investment was thwarted.

24 Q 487 I see.

16:15:26 25 A And you were hired and paid as one of those doing that.

26 Q 488 Well, you better elaborate or withdraw it because you can't make these
27 allegations from the witness box, so if you want to make that allegation you
28 better substantiate it.

29 A It has been already substantiated. Mr. Dunlop has done that.

16:15:44 30 Q 489 Well now, you better -- Chairman, it's up to you. I will get into this

16:15:50 1 discussion with Mr. Gilmartin if you want me to.

2

3 CHAIRMAN: We're drifting into another phrase of the inquiry. This might be an
4 appropriate time to adjourn until tomorrow at 10.30 a.m.

16:16:01 5

6 MR LAWLOR : Thank you.

7

8 CHAIRMAN: I understand the --

9

16:16:06 10 MR. GALLAGHER: I just wonder how much longer Mr. Lawlor anticipates --

11

12 CHAIRMAN: Can you indicate how much longer?

13

14 MR LAWLOR : Possibly tomorrow, Chairman.

16:16:16 15

16 CHAIRMAN: You said yesterday you might be today.

17

18 MR LAWLOR : I'm at the stage where Mr. Gilmartin is agreeing he has financial

19 difficulties, and to go into the whole concept of the planning debate with him,

16:16:26 20 going forward, so it's very relevant to this inquiry and I intend to put these

21 questions. I've listened to Mr. Gilmartin for 14 years making allegations and

22 he's going to have to stand them up.

23

24 MR. GALLAGHER: Sir, the planning debate, I have to say, doesn't seem to arise

16:16:46 25 in this particular module. There is certainly a situation where planning will

26 be dealt with in considerable detail in the next module, but it doesn't appear

27 to me that it arises in this module.

28

29 CHAIRMAN: That is the case, Mr. Lawlor.

16:17:03 30

16:17:03 1 MR LAWLOR : When I become irrelevant in my questioning, no doubt you'll tell
2 me, Chairman.

3
4 CHAIRMAN: Well, I think you're aware, Mr. Lawlor, as to where the approximate
16:17:14 5 demarcation is between the two phases.

6
7 MR LAWLOR : I wondered why there was any demarcation, why we didn't start and
8 finish it, but that was a decision made by whoever. The situation I want to
9 look into with Mr. Gilmartin now in great detail is the project that he
16:17:32 10 proposed and the planning comes -- when I say the planning aspects, I mean the
11 policy of shopping and the size and the discussion around that, not per se
12 planning application, if that's the understanding Mr. Gallagher might take of
13 what I'm saying. What I want to do tomorrow is to deal with Mr. Gilmartin's
14 project, which is strewn all over this module.

16:17:57 15
16 CHAIRMAN: But isn't that what we've been dealing with?

17
18 MR LAWLOR : We've been dealing with the financial spin that Mr. Gilmartin has
19 been putting on things with 500 million and so forth and then we end up today
16:18:10 20 that he's back to the wall with AIB in the autumn of 1990 and there was a lot
21 more to be done.

22 A And my good services funded that deal fully.

23
24 CHAIRMAN: We'll see -- obviously, Mr. Lawlor, if you start to drift into phase
16:18:26 25 2, we will have to pull you up on it.

26
27 MR LAWLOR : I have no problem with that. I won't be drifting. I know exactly
28 what I want to put to Mr. Gilmartin and I hope you'll find that it's of benefit
29 to the chair and your two colleagues. Alright well we'll sit at half past 10
16:18:45 30 tomorrow.

16:18:45 1
2 CHAIRMAN: I will just announce that there are other witnesses fixed for the
3 afternoon tomorrow.

16:18:51 5 MR. GALLAGHER: Mr. Gilmartin will be released at 1 o'clock so as to allow us
6 to deal with other witnesses in the afternoon. Then we will resume if
7 necessary on Monday morning.

8
9 MR LAWLOR : I'm in your hands. Whatever you want to do.

16:19:08 10
11 CHAIRMAN: Half 10 until lunchtime tomorrow for Mr. Gilmartin.

12
13 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**
14 **FRIDAY, 2ND OF APRIL 2004 AT 10.30AM.**

13:03:40 15
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