

09:23:46 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY,**
2 **28TH APRIL 2004 AT 10.30 AM:**

3

4

CHAIRMAN: Good morning Mr. Quinn.

10:40:48 5

6

MR. QUINN: Mr. Scollan please.

7

8

MR. HAMILTON: Mr. chairperson I appear on behalf of Mr. Scollan instructed by

9

Mairead Liddle & Company in that context I am seeking limited representation on

10:41:01 10

11

behalf of Mr. Scollan.

12

CHAIRMAN: All right. Thats granted. Thanks.

13

14

MR. COLM SCOLLAN, HAVING BEEN SWORN WAS EXAMINED

10:41:36 15

16

AS FOLLOWS BY MR. QUINN:

17

CHAIRMAN: Sit down Mr. Scollan, thank you.

18

Q. 1 Good morning Mr. Scollan.

19

A. Good morning.

10:41:56 20

21

Q. 2 Mr. Scollan you have provided a statement to the Tribunal in relation to a meeting which you had with Mr. Gilmartin and Mr. Sherwin, isn't that correct?

22

A. That's correct.

23

Q. 3 Before I open that statement, Mr. Scollan you would have seen in the last number of months, documentation from the Tribunal in anticipation of your evidence, isn't that right?

24

A. That's correct.

10:42:20 25

26

Q. 4 Can I ask you did you disclose the contents of that documentation to anyone?

27

A. No.

28

Q. 5 Other than your solicitors?

10:42:27 29

30

A. Other than my solicitor no, sir.

10:42:29 1 Q. 6 Did you furnish any portion of the documentation to any third party other than
2 your legal advisers?
3 A. No.
4 Q. 7 Now do you have a copy of your statement, a hard copy of your statement?
10:42:40 5 A. I have it in my --
6 Q. 8 We'll furnish you with -- I propose to read your statement Mr. Scollan and then
7 I propose to ask you one or two questions arising out of the statement, is that
8 okay?
9 A. That's okay.
10:42:59 10 Q. 9 This is a statement dated the 3rd of March 2004 and you say as follows:
11
12 I Colm Scallan, property consultant, of 54 Shrewsbury Park, Ballsbridge in the
13 county of Dublin provide this statement voluntarily as requested by the
14 Tribunal in it's letter of 28th January 2004. I have set out hereunder as far
10:43:17 15 as possible at this remove in time, my recollection of my dealings with
16 Mr. Thomas Gilmartin and Mr. Sean Sherwin and Arlington Securities Limited.
17
18 I recall that sometime in the autumn of 1990 while I was at home, I received an
19 unsolicited telephone call from Mr. Thomas Gilmartin. I had never met with or
10:43:37 20 spoken to Mr. Gilmartin prior to receiving that call. Mr. Gilmartin had a been
21 furnished with my name by a mutual acquaintance. He asked would it be possible
22 to meet with me and I recall that arrangement were made for me to drop by his
23 office the following day.
24
10:43:53 25 The following afternoon I called into his office at St. Stephen's Green.
26 Mr. Gilmartin introduced himself and he informed me of the difficulties that he
27 was experiencing with his proposed development at Quarryvale. I was interested
28 in listening to his ambitious plan for Quarryvale, as he informed me that up to
29 25,000 jobs could result from the development. My understanding was that
10:44:13 30 Mr. Gilmartin wanted to see if there was anything I do could do to help him.

10:44:18 1
2 I had known Mr. Sean Sherwin for many a number of years. I suggested to
3 Mr. Gilmartin that he should meet with him. I telephoned Mr. Sherwin from Mr.
4 Gilmartin's office and you asked would he meet with Mr. Gilmartin. You said
10:44:29 5 that Mr. Gilmartin and you walked down to Mr. Sherwin's office and Mr.
6 Gilmartin spent the next hour and a half talking about all the problems he had
7 encountered. I recall that I contributed virtually nothing to the meeting. I
8 recall that Mr. Gilmartin produced some plans relates to the Quarryvale
9 development.

10:44:39 10
11 After that meeting Mr. Gilmartin and I went for dinner and following dinner I
12 did not have any further contact with Mr. Gilmartin.
13

14 I have never had any dealings with Mr. Owen O'Callaghan or with the companies
10:44:51 15 Barkhill Limited or Riga Limited, who you understand are associated with him.
16 Also I have no involvement with lands at Quarryvale Neilstown/Balgaddy and
17 Bachelor's Walk other than as described above."

18 Is that your statement to the Tribunal?

19 A. It is my statement.

10:45:07 20 Q. 10 About your meeting with Mr. Gilmartin?

21 A. It is my statement.

22 Q. 11 I don't know if you are familiar with the evidence given here by Mr. Gilmartin
23 over the past number of weeks.

24 A. Well I follow it, what I see in the television and on the papers.

10:45:22 25 Q. 12 There is no doubt but that was a meeting between you and Mr. Gilmartin and a
26 subsequent meeting between you, Mr. Gilmartin and Mr. Sherwin in late
27 October/November 1990, isn't that right?

28 A. That's correct yeah.

29 Q. 13 Now in your statement you say that that, your meeting with Mr. Gilmartin came
10:45:41 30 about as a result of an unsolicited contact by Mr. Gilmartin of you. Isn't

- 10:45:46 1 that right?
- 2 A. That's correct, yes.
- 3 Q. 14 Mr. Gilmartin in evidence said that he met you on a previous occasion, do you
- 4 dispute that?
- 10:45:58 5 A. I do, yes.
- 6 Q. 15 I just put to you so that I can give you so you can have an opportunity to
- 7 comment on it Mr. Gilmartin's evidence in relation to what he says was his
- 8 first meeting with you, at days 476 page 31. I'll just very briefly read it
- 9 to you Mr. Scollan so that you can comment on it.
- 10:46:14 10
- 11 Question 210: Mr. Gilmartin in answer to the question can you say in what
- 12 circumstances and when you met him before he called to your office in
- 13 St. Stephen's Green he replied as follows: "I never knew or heard of
- 14 Mr. Scollan so why would I you know, pick a name Mr. Scollan out of thin area
- 10:46:32 15 and ring him. Mr. Scollan phoned me in London and want to meet me. He phoned
- 16 my house, he got my phone number a brochure he said".
- 17 Now do you recall contacting Mr. Gilmartin on the phone in Luton?
- 18 A. I never -- his first contact with me was by him calling me on his telephone
- 19 from Luton.
- 10:46:54 20 Q. 16 And what did he say to you in that contact?
- 21 A. He asked if he could meet me. He said he was coming to Dublin, I think it was
- 22 a couple of days.
- 23 Q. 17 Was this a couple of days prior to the meeting where you, that we are about to
- 24 refer to?
- 10:47:06 25 A. Yes I had never heard of him before, knew him before, or anything like that,
- 26 that was a cold call from him to me.
- 27 Q. 18 And did he tell you why he was contacting you?
- 28 A. He just told me that he would like to meet me, that's what he said I said I
- 29 would certainly meet him.
- 10:47:23 30 Q. 19 But you, what you say is that you received a telephone call from somebody

10:47:28 1 living in Luton who asked if they could meet with you when they came to Dublin.

2 A. No the phone call was from Mr. Gilmartin.

3 Q. 20 He was living in Luton?

4 A. Yes at the time.

10:47:37 5 Q. 21 And he phoned you from Luton?

6 A. Yes.

7 Q. 22 And asked if he could meet you when he was next in Dublin?

8 A. That's correct yeah.

9 Q. 23 Did he say why he was ringing you or why he had selected you?

10:47:46 10 A. He didn't elaborate on the phone I said I would certainly meet him.

11 Q. 24 Did he say why he had contacted you?

12 A. He didn't no. He said -- he indicated that he had some problems and he wanted

13 to meet me.

14 Q. 25 He indicated in that telephone conversation with you that he had difficulties

10:48:01 15 or problems.

16 A. Well you no, he wasn't going to meet me to talk about the weather.

17 Q. 26 I appreciate that Mr. Scollan but that's why I am asking you?

18 A. He said he had some problems, that's what he said to me, that he would like to

19 talk to me.

10:48:14 20 Q. 27 First of all did you know Mr. Gilmartin at that stage?

21 A. No.

22 Q. 28 Did you --

23 A. I had never heard of him.

24 Q. 29 So you got this phone call from someone you never heard of who said they were

10:48:24 25 having problems and could they meet with you?

26 A. He'd like to meet me that's what he said.

27 Q. 30 Did you ask how he got your number?

28 A. I know how he got the number. He got the number from a mutual friend of him

29 and me, a sister in a religious order in Luton.

10:48:43 30 Q. 31 He said that in response to the question to the Tribunal which I have just

- 10:48:49 1 referred to, he went on to say that he got your phone number from -- sorry that
2 you told him when you rang him that you got his phone number from the brochure
3 and you said you would like to meet him and he gave you a number so that he
4 could contact you when he was in Dublin. You said that he's mistaken in his
10:49:09 5 recollection in that regard.
- 6 A. He is totally mistaken in that.
- 7 Q. 32 He goes on in more detail in relation to that first meeting, which he says he
8 had with you in that he goes on to say that when he did come to Dublin you had
9 contacted him and you had arranged to meet him in Mary Street and you said that
10:49:27 10 you had something to show him.
- 11 A. No, that's not correct either.
- 12 Q. 33 He goes on to say so it was corner I think of Wolf Tone Street, I don't know if
13 that's the corner street now, but it's opposite the Jervis Street hospital. As
14 I met him there with two other gentlemen, now could you have met Mr. Gilmartin
10:49:46 15 with two other gentlemen at the corner of Wolf Tone Street?
- 16 A. No that didn't happen.
- 17 Q. 34 He goes on to identify in fact the two gentlemen concerned. He says one was a
18 Mr. McFaye who was an architect and the other gentleman was a Mr. McConnell who
19 was an electrical contractor or something like that, do you know a Mr. McFaye
10:50:04 20 who is an architect?
- 21 A. I do know Mr. McFaye, he is an architect, I know him a few years.
- 22 Q. 35 Do you know a Mr. McConnell who is an electrical contract are?
- 23 A. No.
- 24 Q. 36 So you say neither you, Mr. McFaye or Mr. McConnell met with Mr. Gilmartin
10:50:20 25 sometime after July of 1990?
- 26 A. I certainly didn't meet him at any site in the city.
- 27 Q. 37 When he, when you say he contacted you did he tell you the difficulties that he
28 was experiencing, now on the telephone?
- 29 A. I met him in his office.
- 10:50:36 30 Q. 38 Before you met him in his office did he tell you?

- 10:50:38 1 A. He didn't go into any detail on what the problems were.
- 2 Q. 39 Did he tell you that he was a property developer?
- 3 A. Well he, obviously he must have done, because I wouldn't have been meeting him
- 4 about anything else.
- 10:50:55 5 Q. 40 Now he, in that series of question and answer session, which I have just
- 6 referred to, in evidence, Mr. Gilmartin went on to say that and this is
- 7 referring to yourself Mr. McFaye and Mr. McConnell:
- 8
- 9 "They indicated to me that they had an interest in that area and wanted to see
- 10:51:16 10 if I could set up funding for it and during the course of the conversation I
- 11 discovered that they didn't own the property and that it would be a site
- 12 assembly job and the like and in the light of our experience in Bachelor's Walk
- 13 I said there was no way I was getting involved or would encourage anybody. If
- 14 they owned the whole site, then and came up with a scheme. "
- 10:51:35 15
- 16 In other words Mr. Gilmartin in evidence said he met with you at your request,
- 17 he met with you at a site in Wolf Tone Street. He met with you in the company
- 18 of an architect and an electrical contractor and he met with you in the context
- 19 of you asking him to assist in funding the site. Do you say that he is
- 10:52:00 20 incorrect in all of that?
- 21 A. Yes I, I don't recall that at all.
- 22 Q. 41 Well did you ever have an interest either on your own or with Mr. McFaye or
- 23 Mr. McConnell in a site in Wolf Tone Street?
- 24 A. I did mention to him the first day I met him, I told him that there was a site,
- 10:52:19 25 there was a building, not a site, that could be bought in Mary Street.
- 26 Q. 42 Yes, this is the first time you met Mr. Gilmartin?
- 27 A. This was the first meeting yes.
- 28 Q. 43 How many meetings did you have with him?
- 29 A. Just one meeting.
- 10:52:34 30 Q. 44 So therefore the only meeting you had with Mr. Gilmartin?

10:52:36 1 A. There was two meetings, one with me for an hour and a half and one with Sherwin
2 for an hour and a half. If you like to call that one or two meetings but if I
3 could explain to you, I mentioned that site, that house or building that was
4 for sale in Mary Street to him and I asked him would he be interested and he
10:52:55 5 said no and I said that's okay. But it never was discussed after that and
6 there was no meeting after that at any site, because I didn't meet
7 Mr. Gilmartin after the meeting with Sherwin.

8 Q. 45 Now, so can the Tribunal take it that your evidence is that you had this call
9 from Mr. Gilmartin in Luton, he -- you agreed meet him when he came to Dublin?

10:53:21 10 A. Yes.

11 Q. 46 And when you did meet and you anticipated that the meeting was concerned with
12 difficulties, he was experiencing when you did ultimately meet, you met and
13 discussed a project that you had ongoing in relation to a house in --

14 A. No no. The discussion went on for an hour and a half about his problems.

10:53:40 15 Q. 47 Okay at what stage?

16 A. On the two properties.

17 Q. 48 Yes at what stage in the discussion did you raise the possibility of his being
18 interested in this property?

19 A. It was the time he was talking about the site on the river.

10:53:53 20 Q. 49 This is the Bachelor's Walk site, the Arlington site. Now you met
21 Mr. Gilmartin in his office, isn't that right?

22 A. That's right.

23 Q. 50 And it would have been October, November 1990, isn't that correct?

24 A. It was around that time of the year, yes.

10:54:13 25 Q. 51 And were you on your own when you went to the see Mr. Gilmartin?

26 A. I was, yes.

27 Q. 52 And was it late in the afternoon or evening time when you met?

28 A. I met him, the appointment was for 3 o'clock and I was there at 3 o'clock.

29 Q. 53 Okay. Well did he tell you, did he introduce himself to you and tell you --

10:54:32 30 A. Oh he did yeah, I listened to him for an hour and a half and telling me all the

10:54:37 1 problems that he had.

2 Q. 54 Okay.

3 A. He told me about both the developments and he showed me the drawings of the one

4 out on the --

10:54:49 5 Q. 55 This is the Quarryvale development.

6 A. Quarryvale.

7 Q. 56 Now he --

8 A. I must say I was very impressed by the drawings because I thought it was a

9 fantastic development.

10:54:58 10 Q. 57 Did he tell you that the, it had a potential to generate quite a significant

11 number of jobs?

12 A. Yes.

13 Q. 58 Up to 25,000.

14 A. Up to 25,000, it was a very big development.

10:55:11 15 Q. 59 Now did he tell you why he had selected you as someone he wanted to share his

16 difficulties with?

17 A. He didn't. I just --

18 Q. 60 Did you ask him?

19 A. He talked to me about his problems, the more he talked to me the more I

10:55:26 20 realised that I wasn't the man who could help him.

21 Q. 61 I know, but did he explain to you why he thought you may be able to help him

22 with his problems?

23 A. That was because somebody recommended him that he should talk to me I think.

24 Q. 62 But what expertise did you have in relation to these type of problems at this

10:55:43 25 time?

26 A. I have a lot of experience in property business.

27 Q. 63 Okay. Well perhaps we better just deal then with the problems that he outlined

28 to you in that first meeting that's the meeting in his office. What did he

29 tell you, what problems did he tell you he was experiencing?

10:56:00 30 A. Well he told me about the difficulties he was having about getting zoning and

- 10:56:07 1 planning and the obstacles that he was coming across by people who were looking
2 for money and all that kind of thing.
- 3 Q. 64 First of all in relation to the Arlington, which is the Bachelor's Walk
4 development?
- 10:56:19 5 A. Yeah.
- 6 Q. 65 Did he tell you that he had an interest in developing Bachelor's Walk?
7 A. Yes he told me that --
- 8 Q. 66 In conjunction with the company Arlington Securities?
9 A. That's right. He told me he was the prime mover, he put the site together an
10:56:34 10 then he brought in Arlington.
- 11 Q. 67 Yes. Did he tell that you he met with Mr. Lawlor in 1980?
12 A. He did he described that incident where Mr. Lawlor invaded the board meeting in
13 London, he was very annoyed about that.
- 14 Q. 68 Yes. Well can I just ask you to tell the Tribunal in your own words what he
10:56:53 15 told you about that incident?
- 16 A. Well he told me that he was at a board meeting in London and somebody came to
17 the meeting or down stairs and Mr. Lawlor appeared down stairs and he wanted to
18 meet with the Chairman of the company.
- 19 Q. 69 What happened then?
10:57:27 20 A. And the, sorry -- the name is not coming to me. The Chairman anyway went to
21 meet with Mr. Lawlor.
- 22 Q. 70 Was this Mr. Mould or Mr. Dadley?
23 A. I'm not too sure I don't know.
- 24 Q. 71 You can't remember the name of the gentleman?
10:57:49 25 A. But it was the Chairman, whoever he was.
- 26 Q. 72 Yes. And he spoke you say with Mr. Lawlor?
27 A. He did, yeah.
- 28 Q. 73 And did Mr. Lawlor speak with Mr. Gilmartin?
29 A. Mr. Gilmartin was furious at that invasion of the meeting by Mr. Lawlor.
- 10:58:05 30 Q. 74 Did Mr. Gilmartin say anything to you about Mr. Lawlor looking for an interest

10:58:12 1 in Arlington or an interest in the Bachelor's Walk development?

2 A. It was discussion about that, yeah but I thought myself that it was more in the

3 meeting that they had in the Deadman's pub.

4 Q. 75 This is an earlier meeting is that right?

10:58:32 5 A. I don't know whether it was, it must have been before.

6 Q. 76 Yes.

7 A. Before I met him anyway, but when he met these people at the pub, one member of

8 the group came and said to him "Mr. Lawlor if you want your planning you have

9 got to pay us" you have got to look after us, that was the import.

10:58:59 10 Q. 77 This is, just to - you said Mr. Lawlor, were you referring to Mr. Gilmartin?

11 A. Sorry, Mr. Gilmartin, yeah. He said -- a member of the group approached

12 Mr. Lawlor.

13 Q. 78 Or approached Mr. Gilmartin?

14 A. Mr. Gilmartin sorry and he said to him "If you want to get your planning in

10:59:24 15 this development you have got to look after us."

16 Q. 79 Now when you say a member of the group, this is you say a meeting which took

17 place in the Deadman's Inn, is that right?

18 A. That's what I was told.

19 Q. 80 And what group was Mr. Gilmartin referring to?

10:59:40 20 A. It was a group of councillors.

21 Q. 81 And how many councillors?

22 A. I don't know.

23 Q. 82 Did he identify any of the councillors?

24 A. He didn't, no but Mr. Lawlor was there.

10:59:50 25 Q. 83 But Mr. Lawlor was present. Just to get back to the Arlington meeting for a

26 moment, did Mr. Gilmartin tell you that Mr. Lawlor had sought an interest in

27 the Mr. Gilmartin's interest in Arlington, in other words had he sought a share

28 in Mr. Gilmartin's profits from that development?

29 A. Well there wasn't any discussion about that, but he did, he was very annoyed

11:00:21 30 that this meeting was invaded by Mr. Lawlor.

11:00:24 1 Q. 84 Did he tell you that Mr. Lawlor was being paid a consultancy fee?
2 A. That only took place afterwards.
3 Q. 85 After that meeting?
4 A. I think so.
11:00:33 5 Q. 86 Yes, but did he tell you that there was such a fee in place?
6 A. He did, yeah.
7 Q. 87 Did he tell that you it was 3 and a half thousand pounds a month?
8 A. Something like that.
9 Q. 88 Did he tell that you he was making the payments on behalf of Arlington?
11:00:44 10 A. No he didn't tell me that.
11 Q. 89 Sorry.
12 A. He didn't tell me that at all.
13 Q. 90 Did you ask him who was making the payments?
14 A. No.
11:00:50 15 Q. 91 Did you ask him if the payments were being made?
16 A. No, I assumed that they were.
17 Q. 92 Did you ask him the purpose of the payments?
18 A. Well he indicated that Mr. Lawlor said that he would be the consultant and he
19 would push the planning through whatever, for this consultancy.
11:01:14 20 Q. 93 Did he tell you how many payments had been made to Mr. Lawlor?
21 A. No.
22 Q. 94 Did he tell you if the payments were still being made, that is by
23 October/November 1990?
24 A. No he didn't know.
11:01:28 25 Q. 95 Did he tell you how much in all Mr. Lawlor had received?
26 A. No, he didn't.
27 Q. 96 Did he tell you that, did he make any complaints about Mr. Lawlor bringing him
28 to see Mr. Redmond?
29 A. He did mention having difficulties with the Corporation but he didn't go into
11:01:51 30 in great detail.

- 11:01:52 1 Q. 97 Did he tell you that Mr. Lawlor had demanded monies on his own behalf and on
2 behalf of Mr. Redmond.
3 A. No he didn't tell me that, no.
4 Q. 98 Did he mention Mr. Redmond by name?
11:02:02 5 A. I don't recall that name being mentioned.
6 Q. 99 Did you know Mr. Redmond?
7 A. No, I didn't.
8 Q. 100 You didn't know who the assistant?
9 A. I might have known him by the name but I didn't know him at all.
11:02:15 10 Q. 101 Did he tell you that Mr. Redmond, Mr. Lawlor had managed to get Mr. Redmond to
11 produce a map for him of ownership in the Quarryvale?
12 A. No, nothing.
13 Q. 102 Did he tell that you Mr. Lawlor was looking for an interest in his Quarryvale
14 project?
11:02:29 15 A. Sorry.
16 Q. 103 Did he tell that you Mr. Lawlor was looking for an interest in his Quarryvale
17 project?
18 A. Well the group that met him in Deadman's, they were demanding an interest, he
19 was part of the six, he was one of them, whatever number there were.
11:02:51 20 Q. 104 Was there a figure mentioned as to how much they each required?
21 A. I think it was a figure of 20 per cent.
22 Q. 105 A 20 per cent interest, for all of the councillors or for Mr. Lawlor?
23 A. I don't know, it's probably for them all.
24 Q. 106 Did he tell you --
11:03:09 25 A. Because what the man said to me, it wasn't Mr. Lawlor said this, it was
26 somebody else, he said that as I recall it, "if you want to get your planning
27 on this thing you have to look after us."
28 Q. 107 Did he tell you of a meeting he had with Mr. Hanrahan, who was a councillor?
29 A. I don't remember any name like that being mentioned.
11:03:31 30 Q. 108 Did he mention a demand being made up for a 100,000 pounds by a councillor in

11:03:39 1 exchange for his support?

2 A. No there was no discussion about that.

3 Q. 109 Did he mention that he had met with the government and that, including

4 Mr. Haughey and other members of the cabinet in February of 1989?

11:03:51 5 A. He didn't tell me that either because if I had known that I wouldn't have

6 brought it to Mr. Sherwin, because the only reason why I brought it to Sherwin

7 was, I saw all the difficulties at a local level, a local authority level if

8 you like, and the only way to overcome these problems was to bring them to a

9 higher power, and I knew Mr. Sherwin had access to all the Ministers, and that

11:04:19 10 would be, that was my reason for bringing him there.

11 Q. 110 Can I just ask you, you have indicated the, these complaints in relation to

12 Mr. Lawlor gatecrashing the Arlington meeting in London, isn't that right?

13 A. He was furious at that.

14 Q. 111 That was one of his complaints, isn't that right?

11:04:35 15 A. Of course it was, yeah.

16 Q. 112 And you mentioned the, that he told you of the demands for consultancy fees of

17 3 and a half thousand pounds per month by Mr. Lawlor and the payment of those

18 fees?

19 A. I think he put it, the way I read it was that the board of Arlington took

11:05:00 20 Mr. Lawlor on against his wishes and I don't know what they paid him, there was

21 a figure mentioned but I can't remember what the figure was.

22 Q. 113 And you have indicated that he made a complaint of a demand being made of him

23 by a group of councillors at a meeting in the Deadman's Inn, is that right?

24 A. I remember that bit.

11:05:23 25 Q. 114 Yes. What other complaints did he make against politicians at that time?

26 A. Well he was very annoyed that he couldn't make progress in the development

27 because he invested an awful lot of money and he had bought the site and all

28 that, and he couldn't get progress on the planning.

29 Q. 115 Did he make any complaints of other demand being made of him for money, other

11:05:51 30 than the ones you have outlined. Did he tell you that anybody demanded for

- 11:05:56 1 example that he pay 5 million pounds to an Isle of Man bank account?
- 2 A. No I don't recall anything like that.
- 3 Q. 116 Did he make any complaints about the lands being acquired by him from Dublin
- 4 Corporation being increased in value as a result of the intervention of others?
- 11:06:17 5 A. He didn't go into any detail on that, at all.
- 6 Q. 117 Did he mention it?
- 7 A. He may have mentioned it but not in any great detail.
- 8 Q. 118 You see, you selected Mr. Sherwin as someone who might be able to help him,
- 9 isn't that right?
- 11:06:38 10 A. The reason why I selected him was because he is a senior executive in Fianna
- 11 Fail headquarters and he would have access to all the Ministers and that Mr --
- 12 could be brought to the Minister who could move on the planning, the zoning,
- 13 that's the reason why I brought him there.
- 14 Q. 119 Did he make complaint to you of corruption at that meeting?
- 11:07:12 15 A. Well I mean, if somebody asked you for 20 per cent of the company for doing a
- 16 turn, what the hell would you call that?
- 17 Q. 120 And having made that complaint of corruption to you, you decided to bring it to
- 18 Mr. Sherwin, is that correct?
- 19 A. Yeah.
- 11:07:33 20 Q. 121 Why didn't you advise him to go to the Gardai if he was the subject of corrupt
- 21 demands being made of him?
- 22 A. It never dawned on me to go to the Gardai, I thought he could overcome his
- 23 problems by getting into a higher political level, so that he could get zoning
- 24 and planning for the projects.
- 11:07:54 25 Q. 122 Did you that there had been a Garda inquiry?
- 26 A. No.
- 27 Q. 123 You weren't aware that there had been any allegations of corruption at that
- 28 time or prior to that time in around 89 or 90?
- 29 A. I didn't, you know, I didn't know of anything relating to him anyway that's for
- 11:08:13 30 sure.

- 11:08:13 1 Q. 124 The extortion demands of the 20 per cent interest that you referred to, was
2 that made of him by Fianna Fail councillors?
3 A. I don't know, sure they were four or five there I believe and I don't know,
4 there were no names.
- 11:08:31 5 Q. 125 He mentioned no names to you?
6 A. No.
7 Q. 126 Now when you --
8 A. Accept Mr. Lawlor.
9 Q. 127 Except Mr. Lawlor. He was complaining about Mr. Lawlor demanding monies from
11:08:44 10 him.
11 A. Well it wasn't Mr. Lawlor who made this demand.
12 Q. 128 I accept that. But what was his complaints in relation to Mr. Lawlor?
13 A. He went very pleased with him.
14 Q. 129 When you say he wasn't very pleased with him, what do you mean?
11:08:59 15 A. Well his behaviour on Arlington thing was, annoyed him greatly.
16 Q. 130 Did he tell you he was having difficulties acquiring land?
17 A. There was no deep discussion about that at all, he told me that he was
18 negotiating with the --
19 Q. 131 County Council or Corporation?
11:09:22 20 A. Could County Council Corporation.
21 Q. 132 Did he tell you he had made complaints to anybody else, that he had made to
22 you?
23 A. No he didn't go into any detail about that.
24 Q. 133 Did you ask him he made the complaints to anybody else?
11:09:35 25 A. No he just told me about his problems and I decided halfway through the
26 discussion that the thing to do, that I couldn't do much for him, do anything
27 for him really, but that I could maybe help him by bringing him to Sean
28 Sherwin.
29 Q. 134 You see, Mr. Scollan, it would be a problem to try and develop a shopping
11:09:56 30 centre on a site that was zoned industrial or residential but it would be an

- 11:10:00 1 entirely different problem to have a demand made of you, an improper demand
2 made of you for money by a councillor, isn't that right?
- 3 A. Of course it would, yeah.
- 4 Q. 135 Mr. Gilmartin was complaining of the latter, isn't that right? His problems
11:10:17 5 were a problem of corrupt demands being made of him, isn't that right?
- 6 A. It was, his problems were multi numbered, you know. He didn't, it wasn't that.
7 He was concerned about the fact that he had so much money invested in the
8 project and he couldn't move forward on it.
- 9 Q. 136 You see Mr. Gilmartin's recollection of that meeting was that he outlined to
11:10:44 10 you the difficulties which he was experiencing and he told you about the
11 demands by Mr. Lawlor, Mr. Redmond and the various games, as he described it,
12 that was goes on. Demands made of him by Mr. Hanrahan and the demand made of
13 hip him in the Dail for five million pounds?
- 14 A. No, there was no discussion about meetings in the Dail because that was one of
11:11:09 15 the things that surprised me was that he didn't tell me, I wouldn't have
16 brought him to Sean Sherwin to bring him to Ministers, if I had known he had
17 been already there with Ministers, at a very high level.
- 18 Q. 137 Here was a man that you had, you say you had never met previously, isn't that
19 right?
- 11:11:27 20 A. That's correct, yeah.
- 21 Q. 138 And he is outlining a whole litany of demands and improper demands being made
22 of him, isn't that right?
- 23 A. Yeah, well he told me an awful lot about what was happening, relative to the
24 two projects.
- 11:11:42 25 Q. 139 Yes. One of the projects I think was no longer viable, isn't that right? The
26 Bachelor's Walk development was taken over by another company at that stage,
27 isn't that right? He was no longer involved in the Bachelor's Walk development
28 after February of 1990?
- 29 A. I don't think that's true. I don't think that's true he still had an equity in
11:12:04 30 it.

11:12:04 1 Q. 140 Even by you say October/November of 1990?
2 A. I think so. I am not sure about that but I assumed that he had, but his whole
3 emphasis was on the other project.
4 Q. 141 Well you rang Mr. Sherwin then isn't that right? And you asked --
11:12:19 5 A. That's right.
6 Q. 142 Would he meet with Mr. Gilmartin?
7 A. That's correct.
8 Q. 143 And you both went to Mr. Sherwin's office, isn't that right?
9 A. That's right.
11:12:27 10 Q. 144 And you waited and eventually Mr. Sherwin met with both of you, isn't that
11 right?
12 A. That's right.
13 Q. 145 And Mr. Gilmartin you say spent an hour and a half outlining his difficulties
14 and repeating his difficulties to Mr. Sherwin?
11:12:40 15 A. He did.
16 Q. 146 Did he tell Mr. Sherwin in your presence any difficulty he hadn't already
17 outlined to you in the earlier meeting?
18 A. I don't think he did, he repeated really what he had already told me. I was
19 with him for an hour and a half on my own, so he went into fairly deep detail
11:13:01 20 if you like on his problems.
21 Q. 147 And what did Mr. Sherwin say to him?
22 A. The first thing he said was that he was just a manager of the, of their office
23 and you know, that he couldn't do anything for him, but that he would listen to
24 him and that he would direct him in the best way he could after hearing the
11:13:26 25 story.
26 Q. 148 Did he make the complaints that you have outlined here to Mr. Sherwin, namely
27 the demands being made of him?
28 A. Oh he did, yeah.
29 Q. 149 Did Mr. Sherwin --
11:13:37 30 A. When I went into his office Mr. Sherwin's office I said to Mr. Gilmartin "You

- 11:13:44 1 tell this man what you've already told me" and I sat there and I listened.
- 2 Q. 150 Yes. And he --
- 3 A. And that took an hour and a half.
- 4 Q. 151 And did he tell --
- 11:13:55 5 A. In the meantime he looked at the drawings of the project and all that up in
- 6 the --
- 7 Q. 152 And did he outline to Mr. Sherwin all the demands that had been made of him and
- 8 the difficulties which he had experienced, in your presence?
- 9 A. Well he told the same kind of story to him as he told to me.
- 11:14:14 10 Q. 153 Mr. Sherwin has given a statement to the Tribunal in which he says that and I
- 11 will just read to you what Mr. Sherwin says happened.
- 12
- 13 "The meeting again took place in my office and he said that he had encountered
- 14 difficulties with politicians".
- 11:14:29 15 A. Yeah.
- 16 Q. 154 And did he identify Mr. Lawlor as one of those politicians?
- 17 A. I think he did, yes.
- 18 Q. 155 Did he make any reference to Mr. Hanrahan, a councillor whom he had --
- 19 A. I can't remember that name at all.
- 11:14:42 20 Q. 156 Yes. Do you remember any demand or any allegation of a demand being made of
- 21 him by a councillor for a 100,000 pounds in return for his support?
- 22 A. I don't remember that figure either.
- 23 Q. 157 Well do you remember any figure being suggested by a councillor in return for
- 24 his support?
- 11:14:59 25 A. I do remember the demand for 20 per cent of the equity.
- 26 Q. 158 Was that to be shared amongst a number of politicians or was it for one
- 27 politician in particular?
- 28 A. I assumed it was for them all. What the man said to him was "If you want to
- 29 get your planning you've got to look after us" us.
- 11:15:27 30 Q. 159 When he referred to "us", was that, those the councillors present at that

11:15:33 1 meeting or was it just councillors generally?

2 A. I would say probably the ones who were there, I don't know.

3 Q. 160 Did he tell Mr. Sherwin that he had given a money to the Fianna Fail party?

4 A. No there was no discussion about that at all.

11:15:53 5 Q. 161 It didn't arise at all you say?

6 A. No.

7 Q. 162 Mr. Gilmartin says that it did arise and that you were present and it arose in

8 the context of Mr. Sherwin advising him or telling him that if there was any

9 money going that Fianna Fail could do with some money, and would he consider

11:16:11 10 making a donation to the party. Do you recall that conversation?

11 A. No I don't recall that.

12 Q. 163 And Mr. Gilmartin --

13 A. I had only got one meeting with Mr. Lawlor, Mr.

14 Q. 164 Gilmartin?

11:16:28 15 A. Gilmartin. With Mr. Sherwin.

16 Q. 165 Sherwin. And he says that --

17 A. That may have happened at another meeting it didn't happen in my presence.

18 Q. 166 He says that he told Mr. Sherwin that he had already given a donation of 50,000

19 pounds to the party?

11:16:47 20 A. I don't remember that at all.

21 Q. 167 Do you recall did Mr. Sherwin suggest that he might contact the Gardai about

22 the corrupt demands being made of him?

23 A. I didn't, you see I don't remember that discussion at all, about 50,000. The

24 first -- no that was in the paper about six years or seven years later.

11:17:16 25 Q. 168 Did he make any reference to a meeting in Buswell's Hotel with councillors or a

26 councillor?

27 A. No.

28 Q. 169 When you say you don't recall the evidence of Mr. Gilmartin or you don't recall

29 Mr. Gilmartin advising Mr. Sherwin that he had given 50,000 pounds to the

11:17:39 30 Fianna Fail party, could that have been said and you just have forgotten it?

11:17:46 1 A. I would remember that if it was said in my presence.

2 Q. 170 Yes.

3 A. But I don't think it was said in my presence.

4 Q. 171 But Mr. Gilmartin is quite adamant that it was?

11:18:02 5 A. Well I am telling you what I remember.

6 Q. 172 Did you have some respect and admiration for Mr. Gilmartin?

7 A. Yes a hell of a lot of respect, yes.

8 Q. 173 I take it you still have it?

9 A. I do, yeah.

11:18:15 10 Q. 174 He was a man who was going to generate a lot of employment and a lot of
11 activity?

12 A. Well he told me his life story you know, during the conversation, and I must
13 say I was very impressed by him, he was a man who did things. He employed a
14 lot of people in Luton, 450 people and they are nearly all Irish people.

11:18:37 15 Q. 175 Did you --

16 A. They couldn't get jobs at home, and now he was prepared to come back here and
17 do a big development here to create jobs and he wasn't getting any assistance.

18 Q. 176 It was little worse than not getting assistance Mr. Scollan his complaint to
19 you was that he was being positively interfered with by corrupt demands being
11:18:57 20 made of him by people who should have been providing him with assistance, isn't
21 that right?

22 A. Yes he was being shafted all over the place.

23 Q. 177 It was a horrendous scene he was unfolding to you at that meeting, isn't that
24 right?

11:19:08 25 A. Of course it was.

26 Q. 178 A disgraceful scene?

27 A. Yes.

28 Q. 179 Did Mr. Sherwin ask him he been to the police in relation to the demands?

29 A. I don't recall that.

11:19:20 30 Q. 180 Did he, Mr. Sherwin ask him had he made complaint to anybody else of the

- 11:19:25 1 demands being made of him?
- 2 A. I don't -- Sherwin's attitude was that he would try and help him if he could,
3 you know.
- 4 Q. 181 Did he indicate how he might help him?
- 11:19:43 5 A. The only way he could help him was bring him to a higher power if you like,
6 somebody who could make decisions about that project.
- 7 Q. 182 That might help with the rezoning, but that would hardly help with the improper
8 demands, isn't that right?
- 9 A. Well if you get the zoning you are halfway there, aren't you?
- 11:20:09 10 Q. 183 Now did you ever discuss Mr. Gilmartin with Mr. Sherwin after that meeting?
- 11 A. Oh, yes, you know time to time, yeah.
- 12 Q. 184 And what did Mr. Sherwin tell you about the efforts he was making to assist
13 Mr. Gilmartin?
- 14 A. I think Mr. Sherwin, he did his damndest to help him but nothing.
- 11:20:36 15 Q. 185 What I would like you to tell the Tribunal, Mr. Scollan, is what Mr. Sherwin
16 told you he had done for Mr. Gilmartin. First of all did he tell you he had
17 relayed on Mr. Gilmartin's complaint to anybody in authority within Fianna
18 Fail?
- 19 A. I am sure he did, you know because he undertook to do that and --
- 11:20:53 20 Q. 186 Did he tell you -- sorry, did he tell you who he had told within the party of
21 Mr. Gilmartin's complaint?
- 22 A. No he didn't.
- 23 Q. 187 Did he tell you what the people he had spoken to about Mr. Gilmartin's
24 complaints said to him?
- 11:21:08 25 A. Some of the people I thought he could be introduced to, he had already been
26 talking to him, long before I met him.
- 27 Q. 188 No I am inquiring after Mr. Scollan is what Mr. Sherwin told you about his,
28 Mr. Sherwin's efforts to assist Mr. Gilmartin, what he told you subsequently
29 about his efforts to help him out?
- 11:21:27 30 A. Well he did introduce him to some higher powers in the government and he did

11:21:32 1 introduce him to some investor, some financier.

2 Q. 189 Did he tell you what higher powers he introduced him to?

3 A. No he didn't go into details on it.

4 Q. 190 Did he tell that you Mr. Gilmartin had told him that Mr. Gilmartin had made a

11:21:47 5 payment to Fianna Fail?

6 A. There was no discussion about that in my presence at all.

7 Q. 191 No I accept --

8 A. I have explained to you, there was another meeting, maybe two more meetings

9 that I wasn't at at all.

11:22:01 10 Q. 192 I accept that Mr. Scollan but what I am talking about now is your conversation

11 your subsequent conversations that you had with Mr. Sherwin. You see you had

12 brought this Luton based developer to Mr. Sherwin?

13 A. Yeah.

14 Q. 193 Because he had outlined complaints to you of demands and improper demands by

11:22:21 15 politicians, isn't that right?

16 A. No he came to me if I could help him in any way to get the zoning.

17 Q. 194 And you brought him to Mr. Sherwin?

18 A. Yes.

19 Q. 195 And subsequently you must have spoken with Mr. Sherwin to see how he was

11:22:38 20 getting on, how he was helping Mr. Gilmartin, isn't that right?

21 A. I mightn't be talking to Sean Sherwin once a year or something like that.

22 Q. 196 Would it unusual if you wouldn't have followed up yourself out of sheer

23 curiosity as to how he was getting on with Mr. Gilmartin's problems?

24 A. I can't recall having any conversation with Sherwin about that at all.

11:23:02 25 Q. 197 Now Mr. Gilmartin says that when, that when she was leaving or having left

26 Mr. Sherwin, that he said to you words to the phrase to the effect deja vu, do

27 you recall any conversation like that after you left Mr. Sherwin's office with

28 Mr. Gilmartin?

29 A. I don't recall that, I went for dinner with him after that and we had a, you

11:23:25 30 know, it was a general discussion about it.

- 11:23:31 1 Q. 198 Did you ever speak to Mr. Gilmartin again to see how he had got on with
2 Mr. Sherwin?
3 A. No, no. I did see Mr. Gilmartin in a hotel in Ballsbridge at a distance I just
4 waved to him, that's about six years later.
- 11:23:56 5 Q. 199 I think you said that the complaints being made by Mr. Gilmartin at that time
6 were horrendous and disgraceful, is that right? That's the complaints in
7 relation to the demands of money etcetera by councillors.
8 A. When did I say that.
9 Q. 200 Did you say that a moment ago to me in response to my questions?
11:24:13 10 A. I did yeah.
11 Q. 201 And that your evidence?
12 A. Well if you want to take it as evidence, I am saying that that is, that's a
13 fact isn't it?
14 Q. 202 Thank you very much.
- 11:24:35 15
16 CHAIRMAN: Mr. O'Donnell do you want to.
17
18 **MR. SCOLLAN WAS THEN CROSS EXAMINED BY MR. O'DONNELL AS FOLLOWS:**
19
- 11:24:41 20 Q. 203 Good morning Mr. Scollan. I appear on behalf of Mr. Gilmartin and I want to
21 ask you a few short questions. Mr. Quinn already asked you a number of
22 questions about these matters and I hope I wouldn't de tape you unduly.
23
24 You describe yourself in your statement as a property consultant, is that
11:24:57 25 correct?
26 A. Yes.
27 Q. 204 And I don't want to pry into your affairs but I assume that involves perhaps
28 acquiring sites, identifying sites, putting people with sites in connection
29 with people who want to develop those sites or larger sites, that type of
11:25:13 30 thing, is that right?

- 11:25:14 1 A. That's right.
- 2 Q. 205 That's what your expertise would be in dealings within the property market, is
3 that right?
- 4 A. That's correct.
- 11:25:19 5 Q. 206 And however Mr. Gilmartin came into touch with you or vice versa, there's no
6 doubt you had a meeting with him in his office at Stephen Green in late 1990?
- 7 A. That's correct.
- 8 Q. 207 At that meeting he outlined both his interests his background and experience,
9 his interests, his proposals in relation to development and the difficulties
11:25:46 10 which he was encountering, isn't that right?
- 11 A. Yes.
- 12 Q. 208 And he described those to you in some detail over the course of an hour and a
13 half?
- 14 A. He did of course, yeah.
- 11:25:54 15 Q. 209 Yes. And I think you have said that you were impressed by Mr. Gilmartin, both
16 in relation to what he said and what he had done and what he proposed to do, is
17 that right?
- 18 A. I still admire him because I think he is a man with vision.
- 19 Q. 210 Yes; and you took seriously what he was saying to you, in it's totality?
- 11:26:15 20 A. I did of course, yeah.
- 21 Q. 211 Yes. And what he described to you is something which you, I think, in your own
22 words said he was being "shafted all over the place"?
- 23 A. That's how it, I saw it.
- 24 Q. 212 Yes. And that was your conclusion as a result of what he had told you, isn't
11:26:39 25 that right, as it were, your diagnosis of it?
- 26 A. That's right.
- 27 Q. 213 And indeed your diagnosis of it was that the problems he was encountering were
28 something that a property consultant really couldn't deal with and that he
29 needed to go to another area, or another area of expertise, isn't that right?
- 11:26:59 30 A. Well as I said before, the -- he was being blocked if you like.

- 11:27:11 1 Q. 214 Yes.
- 2 A. At the areas where he should have been getting help and I thought that the only
- 3 way he could get help would be to go to a higher level, political level, that
- 4 would change that.
- 11:27:22 5 Q. 215 But there was no doubt that your conclusion was that the help he needed was
- 6 help in the political arena?
- 7 A. That's right.
- 8 Q. 216 To deal with the difficulties that he had encountered?
- 9 A. I didn't see any other way of doing it.
- 11:27:33 10 Q. 217 Yes. And that was because you were under no illusions as to the seriousness of
- 11 what it was he was describing to you?
- 12 A. Of course it was serious because of the amount of money that he invested in it.
- 13 Q. 218 And also the behaviour which he encountered having come back to Ireland to
- 14 invest in Ireland to be met, by his account, a sitting TD representing himself
- 11:27:56 15 to be interested on behalf of the government, attending at a meeting at which
- 16 he was not invited in London, seeking and obtaining a payment in respect of
- 17 consultancy services, and other County Councillors demanding money for doing
- 18 their public duty. Those were very serious matters and you were under no
- 19 illusion as to the seriousness of them and how disgraceful they were, isn't
- 11:28:17 20 that right?
- 21 A. That's correct.
- 22 Q. 219 And as it were, you considered them sufficiently serious to say you must, "I
- 23 must bring you to somebody else" and do so almost immediately. You rang
- 24 Mr. Sherwin at that meeting and brought Mr. Gilmartin around that very day?
- 11:28:36 25 A. That's right.
- 26 Q. 220 And you said, and you sat with Mr. Gilmartin and he recounted essentially the
- 27 same story to Mr. Sherwin at that meeting, isn't that right?
- 28 A. That's correct, yeah.
- 29 Q. 221 Thank you Mr. Scollan.
- 11:28:48 30

11:28:48 1
2
3 CHAIRMAN: Is there anyone else who wishes to cross examine?
4
11:28:53 5 **MR. SCOLLAN WAS QUESTIONED AS FOLLOWS BY MR. REDMOND:**
6
7 Q. 222 Mr. Scollan --
8
9 CHAIRMAN: You can sit down if you wish.
11:29:08 10 Q. 223 I think I will have to move closer, is that all right? I Apologise Your
11 Worship, I am having difficulty, even with the headphones.
12
13 Mr. Scollan my name is George Redmond and I am asking questions on my own
14 behalf. The first thing is the date of the meeting, it's well established that
11:30:00 15 it was towards the end of 1990, isn't that right?
16 A. That's right, yeah.
17 Q. 224 And you never met Mr. Gilmartin before. Did he describe the development to
18 you, in relation to Quarryvale, did he tell you for example that it was one of
19 the mightiest developments ever to be carried out? That's if it was carried
11:30:26 20 out; and retail area was something in the region of a million and a half square
21 feet?
22 A. He showed me the map of it.
23 Q. 225 Yes, but --
24 A. You know the --
11:30:41 25 Q. 226 Was it a map or a brochure?
26 A. A brochure yeah, but there was a map on it, the site map as far as I remember.
27 Q. 227 But did he, you didn't thereupon read the brochure, or did he leave you a copy?
28 A. He left me a copy, yeah.
29 Q. 228 He left you a copy, yes?
11:30:57 30 A. Left me a copy, yes.

- 11:30:59 1 Q. 229 Well now at the time did he tell you that he was in command of the site, in
2 terms of ownership?
3 A. He told me that he had, he owned part of the site, yeah. He had bought a farm
4 and, but he was negotiating with the Corporation for, or was it the County
11:31:21 5 Council for some industrial land, I think it was, for other acreage to add to
6 the land that he had already bought.
7 Q. 230 He told you that he was negotiating with the Corporation for their big area of
8 69 acres, something like that. He didn't tell you that he was already in
9 contract with Dublin Corporation, the city council, in full plenary session
11:31:56 10 having approved the sale of the land to him in fee simple in June 1989?
11 A. I didn't go into that detail with him.
12 Q. 231 No, but I mean, did he tell you that or did he, or -- you see, did you not say
13 earlier that he was having problems in relation to the land?
14 A. There were problems obviously, yeah, but I assumed that he had some kind of a
11:32:34 15 grip on the site because of the fact that the architects had included that
16 piece of land, I think, in the site.
17 Q. 232 But his own statement is, it's 460, 55 if you want to put up on the screen.
18
19 JUDGE FAHERTY: Day 460 page 55.
11:33:04 20 Q. 233 Did he discuss with you in relation to the sale of the land, nearly 18 months
21 before?
22 A. There wasn't any discussion about that purchase of the land.
23 Q. 234 No but he, but he didn't say then that he was having difficulty about that
24 piece of land?
11:33:19 25 A. Well there were difficulties every where.
26 Q. 235 Sorry?
27 A. As far as I was concerned -- I understand, there were problems there about that
28 particular site as well.
29 Q. 236 And was he specific about what the problem was about the Corporation land?
11:33:35 30 A. No. No, but there were problems, general problems.

11:33:38 1 Q. 237 Well on the, first of all let's try and get down to the problems, first of all
2 its the assembly of the site that's the first thing. Now he had agreed, he
3 alleges that up to the time the Corporation made it's decision to dispose of
4 land to him, he was having interruptions, roadblocks, etcetera; but I mean he
11:34:02 5 was now, when he met you, he was in contract with the Corporation. Payments,
6 he had paid his initial deposit, he certainly was in difficulty about next
7 payments, in fact the Corporation, he didn't tell you that the Corporation
8 threatened to cancel the contract because of the default in the payment? He
9 didn't tell you that? Some of the delay in relation to the contract was on his
11:34:37 10 side, never told you that?

11 A. There was no discussion about it.

12 Q. 238 No discussion. That's fair enough. There was no discussion. Now in relation
13 to planning do you say, did he say to you that he was in a position, a legal
14 position to make a planning application in respect of the land? You are a
11:35:01 15 property consultant yourself so you know that ownership is the key to a lawful
16 application?

17 A. I don't think he got to those terms. The fact is that he was, he had to get it
18 zoned before he could go for planning.

19 Q. 239 Sorry. I will have to go closer. It's the public address is knocking me off.
11:35:39 20

21 CHAIRMAN: Would it be easier if you sat down?

22 Q. 240 No, I'd rather stand, if you don't mind please.
23

24 MR. QUINN: I'm afraid Mr. Redmond won't be picked up for the stenographer.
11:35:59 25

26 CHAIRMAN: We have to pick you up on the sound system, so we are going to see
27 if we can organise something.
28

29 CHAIRMAN: What we'll do is have to rise for a few minutes and organise
11:36:13 30 something for Mr. Redmond.

11:36:24 1

2

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

3

AND RESUMED AGAIN AS FOLLOWS:

4

11:36:30 5

CHAIRMAN: Now Mr. Scollan.

6

7

MR. REDMOND: Thank you your worship.

8

9

CHAIRMAN: Mr. Redmond, you have to come closer to the mike.

11:55:32 10

Q. 241 Yes I think just before we had the break Mr. Scollan, I asked you did he inform you that he had a planning application before the County Council?

11

12

The reason I ask that question, I mean, in 1990 he is implying that he is being held up, I am asking insofar as your discussion with him, did he say he had an application or was it being frustrated or what?

13

14

11:56:04 15

A. He didn't indicate that there was a planning application before you.

16

Q. 242 Well for the public, the public record is there wasn't a planning application but at the time he didn't mention that to you.

17

18

The second thing, the County Council was in the course of reviewing it's

19

Development Plan, one of the things that happens as you probably know as a planning consultant, property consultant, people are entitled to make

11:56:29 20

21

representations and write in and have consultants write in, did he say that he had taken any steps along those lines?

22

23

A. To do what.

24

Q. 243 No. Are you saying he didn't?

11:56:45 25

26

Q. 244 Did he inform you that he had, you know, launched that sort of a, of representation to the Council, officially now, not the members?

27

28

A. No there was no detailed discussion about that at all.

29

Q. 245 No I am just trying to, you see, I am trying to identify are, the holdups, you can appreciate that. The position as I have explained to you, the Corporation

11:57:10 30

11:57:16 1 land had been disposed of, that was out of the way. Well it was out in the way
2 in some respects if he would pay what he was due to pay, that's a separate
3 matter. There was no planning application for Quarryvale, or any part of
4 Quarryvale before the County Council. And there was no representations as to
11:57:40 5 what he wanted done with his land. Do you accept that?
6 A. Well I wasn't informed about that.
7 Q. 246 He didn't inform that. But I mean --
8 A. But he did show me the Development Plan for it.
9 Q. 247 But when we come down to interference and delay, and you would know this as a
11:58:03 10 property man, you have to be specific about what areas are you talking about.
11 Is he being obstructed at this time in relation to the acquisition of the land
12 and he didn't say he was, did he?
13 A. What he did indicate was that he was being held up all over the place. You
14 know, he didn't --
11:58:23 15 Q. 248 Yes I mean the next question -- he was being held up all over the place that's
16 fair enough. That's a good ballpark description.
17 A. He didn't detail it if you like.
18 Q. 249 The next question would be asked, very rightly asked is well, has he a planning
19 application in, is that what's being held up? I mean we have to try and
11:58:43 20 identify exactly what's holding him up?
21 A. Well I can't tell you that because we didn't discuss that in any great detail.
22 Q. 250 Well I don't know what it is either. We know it's not the land. We know it's
23 not a planning application, we know it's not a representation. But I will read
24 what he said, incidentally in your cross-examination by Mr. Quinn you said that
11:59:05 25 you didn't recall the name Redmond coming up in the first meeting you had with
26 him, the hour and a half meeting you had?
27 A. That's correct, I didn't. I don't remember your name being mentioned.
28 Q. 251 Well the only reason I am here, and the only reason I am asking you questions
29 Mr. Scollan is because of what Mr. Gilmartin said in his submission in his
11:59:38 30 statement. "Mr. Scollan asked me to repeat in the presence of Sean Sherwin

11:59:42 1 what I had said to him earlier and I did so."
2
3 They are the words of Mr. Gilmartin. "In particular, I recounted my complaints
4 against Mr. Redmond and Mr. Lawlor because I thought it was in dealings with
11:59:58 5 these individuals that Mr. Sherwin might be able to enlist some political
6 support which would arrest the activities of both of them".
7
8 Now what he was saying there, he said to the Tribunal and what he is also
9 confirmed under oath, is that in 1990, in 19 -- at the end of 1990 he was still
12:00:23 10 faced with activities of Mr. Redmond, but he didn't say that to you, you say,
11 he made no mention of Redmond.
12 A. There was no great detail gone into in that whole area of --
13 Q. 252 What?
14 A. There was no detail gone into.
12:00:43 15 Q. 253 No.
16 A. Relating to that aspect of the development.
17 Q. 254 Yes. But did he tell you, when he mentioned the name Redmond and he says he
18 did it twice. He says he did it in your own presence and he says he did it in
19 the presence of Mr. Sherwin, although neither of you mention it in your
12:01:04 20 statement, did he tell you that I had retired 18 months before or thereabouts.
21
22 CHAIRMAN: Mr. Redmond, sorry, Mr. Scollan made it quite clear he didn't hear
23 your name being mentioned. He didn't hear -- the witness has made it clear
24 that your name was not mentioned to him, that's his recollection, do you
12:01:25 25 follow?
26 Q. 255 That's right.
27
28 CHAIRMAN: So there is little point in asking him repeatedly, did he mention
29 your name in any other capacity, retirement or otherwise, do you follow?
12:01:36 30 Q. 256 Yes. I respect your advice your worship, so the position then is that his

- 12:01:45 1 statement, Mr. Gilmartin's statement that he did mention my name to you is
2 untrue, as far as you are concerned that's my last question?
- 3 A. He may have mentioned it in passing but there was no great detailed discussion
4 about you or you know.
- 12:02:03 5 Q. 257 You have no recollection of it.
- 6 A. Well it may have, as I say it may have happened in passing but there was no
7 detailed discussion about you.
- 8 Q. 258 Yeah.
- 9 A. It's a long time ago you know.
- 12:02:26 10 Q. 259 The point is now, he has thrown a doubt what you are saying to us now is that
11 it might have come up, but was it elaborated upon, you can't remember any
12 detail?
- 13 A. It wasn't if there was an elaborate discussion about that I would have
14 remembered that. Your name may have been mentioned in passing but it wasn't
15 any great detail.
- 12:02:52 16 Q. 260 But obviously there is the complaints that some people were looking for money
17 from him, but apart from that, can you recall any specific holdup that was
18 there that he could identify, that you can identify now?
- 19 A. Well I think it was obvious, there was a block, there was a block on the whole
20 development because people were looking for money.
- 12:03:20 21 Q. 261 Well you knew the development was massive and it was turning the Development
22 Plan on it's head, you would have known that, I mean your from your own
23 knowledge of Dublin property?
- 24 A. Of course it was a big development, but sure look at it today, it's very
25 successful.
- 12:03:39 26 Q. 262 A lot of people would disagree with that. But that was the nature of the
27 development.
- 28 A. Oh, yes. A very big development.
- 29 Q. 263 Yeah.
- 12:03:54 30 A. But the thing that attracted me to it was the fact that it was going to create

12:03:58 1 employment for 20 to 25,000 people.

2 Q. 264 Yes.

3 A. And the unemployment area, that was a very high unemployment area at the time

4 and the, you know.

12:04:11 5 Q. 265 That's quite true.

6 A. I have six children and five of them had to emigrate at that time to get work.

7 Q. 266 Yes it was alleged that it would generate jobs. Would you agree that it would

8 also generate a lot of profit?

9 A. What's wrong with that. That's not a crime.

12:04:30 10 Q. 267 No of course not. But would you agree that it would generate a lot of profit

11 if successful?

12 A. Hopefully, yeah.

13 Q. 268 Yeah. In particular for the, for the landowner who --

14 A. Hopefully for everybody.

12:04:46 15 Q. 269 Mr. Gilmartin, in his discussion with you, he didn't tell you how much he paid

16 for the land.

17 A. No he didn't, no.

18 Q. 270 Did he tell you what he expected to get for selling the land, if things went

19 right?

12:04:59 20 A. No, there was no discussion like that at all.

21 Q. 271 That's all your worship thank you. Thank you Mr. Scollan.

22

23 CHAIRMAN: Mr. Hammond is there anything else wishes to cross-examination? Do

24 you want to ask your witness.

12:05:18 25

26

27

28

29

12:05:18 30

MR. SCOLLAN WAS CROSS EXAMINED BY MR. HAMMOND AS FOLLOWS:

- 12:05:18 1
- 2
- 3 Q. 272 MR. HAMMOND: Just a couple of questions chairperson. Mr. Scollan at any stage
- 4 did you receive any benefit or favour monetary or otherwise from Mr. Gilmartin?
- 12:05:28 5 A. No there was no question of that at all.
- 6 Q. 273 Okay. I think you have stated in your evidence earlier that you were in fact
- 7 impressed by Mr. Gilmartin, in particular you were impressed by the opportunity
- 8 for job creation at the Quarryvale development, isn't that right?
- 9 A. That's correct, yes.
- 12:05:44 10 Q. 274 And would it be fair to say that that was the motivating factor behind your
- 11 introduction of Mr. Gilmartin to Mr. Sherwin?
- 12 A. It was of course, because you know there was no Celtic Tiger in those days
- 13 there was a lot of poverty and emigration, a lot of unemployment, that was my
- 14 motive at the time to help Mr. Gilmartin to get the project under way.
- 12:06:10 15 Q. 275 Thank you Mr. Scollan.
- 16
- 17 CHAIRMAN: Sorry do you have any further questions?
- 18
- 19 MR. HAMMOND: No further questions, no.
- 12:06:25 20
- 21 CHAIRMAN: Just before you finish Mr. Scollan, I was interested in your early
- 22 evidence when you were being asked about how you first came in contact with
- 23 Mr. Gilmartin, I think your evidence is that he contacted you out of the blue
- 24 so to speak, would that be right?
- 12:06:46 25 A. That's correct.
- 26 Q. 276 And that you had never heard of him or met him before that?
- 27 A. No.
- 28 Q. 277 And you said that some, that you understand that somebody who knows you
- 29 suggested to Mr. Gilmartin to contact you.
- 12:07:01 30 A. That is as I understand it, yes.

12:07:03 1 Q. 278 Did you say that that person was a solicitor?
2 A. No, no.
3
4 CHAIRMAN: Sister --

12:07:11 5 A. A sister. Religious sister.
6
7 CHAIRMAN: Are you talking about a religious sister
8 A. Yes.
9

12:07:17 10 CHAIRMAN: And who knows you, is that right?
11 A. And who also knows Mr. Gilmartin.
12
13 CHAIRMAN: And did it surprise you that somebody who was a complete stranger
14 would out of the blue contact you about problems that were really political
15 problems or problems with politicians, difficulties with the County Council or
16 Corporation or whatever, as insofar as Mr. Gilmartin was concerned, demands for
17 money and so on, that Mr. Gilmartin would contact you?
18 A. Well nothing surprises me any more.
19

12:08:05 20 CHAIRMAN: Well that may be the case now, but at that time did it surprise
21 you?
22 A. It didn't surprise me because I didn't know what his problems were until I met
23 him. I agreed to meet him. Only when he met me --
24

12:08:21 25 CHAIRMAN: No but are you surprised that someone who you didn't know and who
26 had problems such as Mr. Gilmartin says he had, that that person would contact
27 you out of the blue?
28 A. Well I suppose it's unusual but it doesn't surprise me.
29

12:08:42 30 CHAIRMAN: And have you been contacted by other people about problems with

12:08:47 1 developers or other business people being demanded money?
2 A. No, no. Not that kind of -- I mean I am not surprised that people approached
3 me for advice and things.
4

12:09:00 5 CHAIRMAN: But this wasn't advice about how to go about building a development
6 or, which was your profession at the time, isn't that right?
7 A. I didn't know you see that he had, he was having problems about --
8
9 CHAIRMAN: Yes I know.

12:09:15 10 A. When I met him. It was only when, excuse me, it was only when I met him that I
11 discovered that he had these problems. You know.
12
13 CHAIRMAN: Yes but you are there, you are in the business of property
14 development and the next thing this complete stranger approaches you for advice
12:09:35 15 about problems relating to corruption, having been put in contact with you by a
16 nun that's your evidence, isn't that right?
17 A. Yes.
18
19 CHAIRMAN: And you say that this didn't surprise you that you would be
12:09:57 20 contacted in this way by this stranger. Had you at the time, were you involved
21 in politics at the time?
22 A. No. Never was involved in politics thanks be to God.
23
24 CHAIRMAN: But would you, were you known as somebody who might be close to
12:10:20 25 politicians?
26 A. Well the reason why I recommended Mr. Gilmartin to go to -
27
28 CHAIRMAN: Yes I can understand why, having heard his problems.
29 A. Because I thought that he would have the ear of one or two Ministers who could
12:10:36 30 change the scene for, and get the projects under way.

12:10:43 1
2 CHAIRMAN: But you never thought of asking Mr. Gilmartin why did you come to
3 see me? I can't give you any help.
4 A. Well I did say to him there was nothing I could do for him but I could point
12:11:00 5 him in the right direction, that's why I phoned Sean Sherwin from his office
6 and he said that's okay. And then we met Sherwin after that for an hour and a
7 half.
8
9 CHAIRMAN: And had you referred other people to Mr. Sherwin or anyone else
12:11:17 10 with similar complaints or other complaints?
11 A. No.
12
13 CHAIRMAN: This was the only time anything of this nature ever occurred in
14 your experience?
12:11:26 15 A. You hear of things but --
16
17 CHAIRMAN: No I am talking about involving you directly
18 A. No.
19
12:11:31 20 CHAIRMAN: That somebody came to you and you referred them on to someone high
21 up in the political world, this was the first time --
22 A. The reason why I said --
23
24 CHAIRMAN: I know that. But your evidence is this was the only time anything
12:11:47 25 of that nature ever occurred in your experience.
26 A. I can't recall an incident like that.
27
28 CHAIRMAN: Sorry?
29 A. I don't recall any incident like that.
12:11:59 30

12:11:59 1 CHAIRMAN: Well I would imagine you would if somebody else came to you with
2 similar complaints.
3 A. I don't recall. It was a very unusual kind of situation really.
4

12:12:10 5 CHAIRMAN: I accept that, and that's why I was asking you, is this the only
6 time in your experience that anything of this nature occurred?
7 A. In my --
8

9 CHAIRMAN: Yes.
12:12:21 10 A. In my experience yes.
11

12 CHAIRMAN: It is? Yes.
13

14 JUDGE FAHERTY: Did what Mr. Gilmartin tell you, when he told you, did that
12:12:31 15 surprise you Mr. Scollan? About the demands for money?
16 A. At my age nothing surprises me any more.
17

18 JUDGE FAHERTY: Back in 1990, what was your reaction when he told you of the
19 nature of the problems he was encountering?
12:12:47 20 A. I wasn't surprised.
21

22 JUDGE FAHERTY: Why not?
23 A. Because I was a very friendly with the famous Joe -- Joe the major developer
24 who comes from England here back in 1973, he had a huge amount of money to
12:13:12 25 spend in Dublin, and he said to me one day, "Colm he said I'm getting out of
26 this effing country, you can get nothing done in this country."
27

28 JUDGE FAHERTY: When was that said to you Mr. Scollan?
29 A. 1973.
12:13:26 30

12:13:26 1 JUDGE FAHERTY: 1973

2 A. Joe Murphy was his name, he came back here with a bundle of money to invest in

3 Dublin and that's why I am not surprised, because he met the same kind of

4 difficulties.

12:13:37 5

6 JUDGE FAHERTY: When this developer said that to you, what was he referring to

7 specifically?

8 A. He was referring to the fact that he couldn't get progress on planning and all

9 this kind of stuff, in 1973. He said, I am going back to England.

12:13:50 10

11 JUDGE FAHERTY: And what reason did he give you that he couldn't get anything

12 started?

13 A. He said you can't get anything done in this country.

14

12:13:57 15 JUDGE FAHERTY: But why couldn't he, what did he say to you at the time

16 A. He said "I'm going back to England I'm getting out this country".

17

18 JUDGE FAHERTY: But why did he go back to England?

19 A. He did go back within a couple of months?

12:14:12 20

21 JUDGE FAHERTY: Why couldn't he get anything done in Ireland?

22 A. The same reason.

23

24 JUDGE FAHERTY: What reason was that did you believe, Mr. Scollan, what reason

12:14:19 25 was that?

26 A. Well the general difficulty in getting planning and all this kind of stuff, he

27 had a huge amount of money to invest and went back to London and started up

28 again in London after being in London for 30 years.

29

12:14:32 30 JUDGE FAHERTY: Did he have the same problems a Mr. Gilmartin in your view?

12:14:36 1 A. Yes.
2
3 JUDGE FAHERTY: Mr. Gilmartin said he was met with demands for money
4 A. He didn't discuss about that he said I am getting out of this country. That
12:14:44 5 was a man who left Dublin in 1945 and went to England. He came back in the
6 early 70s to invest a huge amount of money which he had, and he left after
7 about three years, he couldn't stick he said.
8
9 JUDGE FAHERTY: But you weren't surprised when Mr. Gilmartin told you about his
12:15:02 10 problems?
11 A. I wouldn't be surprised.
12
13 JUDGE FAHERTY: Thanks very much.
14
12:15:06 15 JUDGE KEYS: Mr. Scollan, could I just ask you, as a property developer, you
16 would have a fair knowledge of the planning process as such, would that be
17 correct?
18 A. I know something about it.
19
12:15:15 20 JUDGE KEYS: And I think over the years when the Development Plan was being
21 reviewed would you have had some interest in that as well, as to what would
22 be --
23 A. I have absolutely no interest.
24
12:15:25 25 JUDGE KEYS: Rezoning. Well would your knowledge of property development over
26 the years, did you at any stage become aware of rumours circulating that there
27 was improper conduct going on in the planning process, such as described
28 corruption such as payment of monies to try and get favours to get planning
29 matters through?
12:15:48 30 A. Of course.

12:15:49 1
2 JUDGE KEYS: Did you hear --
3 A. The dogs in the street are barking that.
4
12:15:53 5 JUDGE KEYS: Well that's already been stated in this Tribunal that even the dogs
6 in the street knew that there was corruption going on in the planning process,
7 so you are not, you heard that as well is that correct? You heard the dogs as
8 they say barking in the streets, stating that, would that be correct?
9 A. Of course, yes.
12:16:09 10
11 JUDGE KEYS: Pardon?
12 A. Of course.
13
14 JUDGE KEYS: Off course. Thank you very much.
12:16:13 15
16 CHAIRMAN: Thank you Mr. Scollan.
17
18 **THE WITNESS THEN WITHDREW.**
19
12:16:17 20 MR. QUINN: Mr. Edward Lyons please.
21
22 **HAVING BEEN SWORN WAS EXAMINED AS FOLLOWS BY**
23 **MR. QUINN: EDWARD LYONS.**
24
12:16:51 25 Q. 279 Thank you Mr. Lyons. Mr. Lyons I think you are a Director of Mason Owen and
26 Lyons, is that correct?
27 A. That's correct.
28 Q. 280 And I think they are charters surveyors, estate agents and generally involved
29 in land purchase and land sale in the county and city of Dublin, is that right?
12:17:08 30 A. Correct.

- 12:17:09 1 Q. 281 Just before I deal with your statement, you would have received from the
2 Tribunal as part of the documentation, papers over the last number of weeks and
3 months.
- 4 A. Yes.
- 12:17:19 5 Q. 282 Can I ask you did you share those papers or correspondence of the Tribunal with
6 anyone?
- 7 A. Nobody but my solicitor.
- 8 Q. 283 No one but your solicitor. Thank you.
- 9
- 12:17:29 10 Q. 284 Now Mr. Lyons I think you have supplied a statement to the Tribunal of the 12th
11 of December 2003. I propose to just read through that statement and then ask
12 you one or two questions arising from it is that okay?
- 13 A. That's fine with me, yeah.
- 14 Q. 285 You said that in or about the 24th of February 1987 you wrote to Mr. McLoone
12:17:46 15 chief valuer of Dublin County Council expressing interest in lands at
16 Clondalkin on behalf of Portal Developments Limited.
17
- 18 You say that Portal Developments Limited is a UK property company which
19 specialises in both industrial and retail park development. You said this they
20 had shown interest in investing in Ireland and you were asked to look out for
12:18:00 21 opportunities. You reported to Jeffrey Mason, your partner and colleague one
22 of the principals of Mason Owen and partner in Liverpool.
23 And you wrote to him on the 11th of May 1987 with background information. You
24 say that an offer was prepared and dated 29th of May and followed a request for
12:18:15 25 a response by 10th of July and reply date of 14th July was received by the
26 chief valuer, Mr. McLoone. You say that subsequently Portal Developments
27 Limited decided to opt out and the place was taken by Montrose Holdings,
28 another client.
29
- 12:18:28 30 You say the letter of the 20th of November 1987 was on behalf of the Montrose

12:18:33 1 Holdings.
2
3 On the 2nd December 1987, you informed Jeffrey Mason, that the council required
4 you to advertise the property which they did I on Friday 4th December 1987.
12:18:41 5 The tender was subsequently submitted on 18th of December 1987, together with a
6 reference of Celtic Bank referring to Montrose Holdings Limited. You say that
7 this tender was on similar terms to that already submitted and was recommended
8 for acceptance". Under the heading Ambrose Kelly. You say:
9
12:18:58 10 "As an architect, Ambrose Kelly worked on various projects through the 70s and
11 early 80s. Your firm acted as property advisors to Three Guys, a supermarket
12 group owned by Albert Gubay. You said Mr. Kelly acted as architect you said
13 from time to time we have other mutual clients. You said that it would appear
14 from recollection he may have done some preliminary work for Portal
12:19:17 15 Developments on a no fold no fee basis and when Montrose Holdings took over the
16 negotiations from Henry J Lyons and Partners was appointed.
17
18 Under the heading "Albert Gubay". Mr. Gubay is a well known retailer and
19 property developer in Ireland. You acted for him in the capacity mentioned
12:19:34 20 above. In those days Mr. Mason acted as his agent in property development
21 throughout the UK while your firm represented him in Ireland. His companies
22 include Montrose Holdings, Merrygrove and Bardwell, although I have no detailed
23 information under the inter company relationship.
24
12:19:49 25 Under the heading 1988 you said the following: The matter is now being dealt
26 with by the administration of Dublin Corporation and was to be put on the
27 agenda of a council meeting for consideration and approval on the 1st of
28 February.
29
12:19:58 30 I recollect continuous delay in this area till a contract was finally issued

12:20:04 1 culminating in a deposit being paid on 27th September and receipt was received
2 on 18th October '88.
3
4 Under the heading "O'Callaghan Properties": You say, sometime prior to this,
12:20:11 5 that's October 1988, you recall, you cannot recall exactly when approaches were
6 made by Ambrose Kelly acting on behalf of O'Callaghan Properties culminating in
7 a proposal whereby they were to take over Merrygrove Estates which had
8 succeeded Montrose Holdings as the Gubay entity involved subject to planning
9 permission at a consideration of 500,000 pound.
12:20:30 10
11 The letter of the 7th October 1988, from Deane & Company solicitor confirmed my
12 firm's retention as agent in the case of Merrygrove deal on Balgaddy lands.
13
14 On the 24th October I wrote a memo to Mr. O'Callaghan to assist him with a
12:20:44 15 meeting he was to have a "G O C" and I have no recollection as to whom this
16 refers but clearly it's in connection with the poor infrastructure in the area
17 available to serve the town centre lands.
18
19 The conditional agreement to take over the company that is Merrygrove, must
12:20:58 20 have taken place at around this time, as the first meeting took place prior to
21 the 29th October with O'Callaghan Properties and their technical advisers
22 regarding various aspects of the development and raised questions about the
23 existing scheme.
24
12:21:10 25 At that point, the Balgaddy scheme was progressing. I cannot recall
26 accurately but I believe that there was a condition in the agreement over
27 Merrygrove that O'Callaghan Properties would submit a planning application
28 within two months. This was back-to-back with the contract Merrygrove had with
29 Dublin Corporation. On the 4th November, I received a fax from
12:21:28 30 Mr. O'Callaghan which refers to a conversation with Liam Lawlor which was as I

12:21:33 1 recollect the first that I had heard of a competitive retail scheme proposed in
2 the area.

3
4 Under the heading Liam Lawlor: I confirm that I had no dealings with Liam
12:21:41 5 Lawlor. He is mentioned in the above memo and an unsolicited letter from him
6 dated 9th February 1988 was received in his capacity as a local councillor or
7 TD.

8 There is no reply on my file and I have no recollection of any contact being
9 made.

12:21:56 10
11 In relation to Finbarr Hanrahan: I had no dealings with this gentleman.

12
13 In relation to Owen O'Callaghan: My dealings with Owen O'Callaghan have been
14 documented in my file. I met both him and John Deane in connection this around
12:22:16 15 October/November of 1988 and the early part of 1989. I have no recollection of
16 any dealings with George Redmond or Paddy Morrissey in this connection.

17
18 As regards Michael McLoone I dealt with him throughout as shown by the
19 correspondence on file in the negotiations of the purchase of the property
12:22:26 20 ultimately by Merrygrove Estates.

21
22 Under the heading 1989: From my file it is clear that on the 19th January 1989
23 John Deane wrote to Ivor Fitzpatrick explaining the reasons for the delay in
24 getting the planning application lodged. I recall I was concerned about delays
12:22:39 25 and the impact it would have on the transaction with Dublin Corporation. There
26 was a telephone record of the Thursday 18th January that I rung Owen
27 O'Callaghan to confirm that they were sending a fax to Ivor Fitzpatrick looking
28 for an extension of time.

29
12:22:53 30 On the 10 February I wrote to the Mr. Gubay of Montrose Holdings to explain the

12:22:58 1 position and confirmed that unconditional offer of 400,000 pounds Irish, had
2 been made by O'Callaghan Properties and I copied that fax to Ivor Fitzpatrick.
3 And on the 14th of February you sent a further fax confirming your instructions
4 to accept the 460,000 as damages.

12:23:06 5
6 On the 20th February 1989 a letter was sent to O'Callaghan Properties by
7 Bardwell Limited. It is my understanding that Bardwell Limited was an
8 associate company of Montrose Holdings and Merrygrove and I have no knowledge
9 of their relationship. Confirming that Merrygrove had a liability for the fees
10 due to this firm.

11
12 You believe that the shares in Merrygrove were transferred to O'Callaghan
13 Properties at or about this time. I wrote on the 22nd February 1989 requesting
14 an early meeting with Mr. O'Callaghan to progress the Balgaddy land.

12:23:34 15
16 On February 23rd, I received a response and that was the last communication I
17 had on my file. I recollect that I made many attempt to make contact with
18 Mr. O'Callaghan without success and I had no further dealings with the matter
19 until more recently when I pursued the fee due too my firm.

12:23:51 20
21 As a result of our interview I have forwarded to you documentation regarding
22 that fee, my request for it's payment and ultimate settlement.

23
24 You go on to say you trust it is a clear and satisfactory narrative of the
12:24:03 25 transaction."

26
27 The statement is at page 892 to 896 of the brief.

28
29 Is that your statement to the Tribunal Mr. Lyons in relation to your
12:24:20 30 recollection?

12:24:20 1 A. It is.

2 Q. 286 In respect of these event?

3 A. It is.

4 Q. 287 Very briefly as I, just to recap, you as an estate agent acting on behalf of a

12:24:28 5 company Portal Developments Limited a UK company expressed an interest in

6 Corporation lands in Neilstown Balgaddy, is that correct?

7 A. That's correct

8 Q. 288 You did that to Mr. McLoone?

9 A. I did.

12:24:40 10 Q. 289 At the time the lands had not been advertised, is that correct?

11 A. That's correct.

12 Q. 290 How did you come to here the lands were for sale?

13 A. Mr. McLoone and I would have had regular dealings and I think it was, in a

14 casual remark he might have said would you have somebody who would be

12:24:53 15 interested in the lands.

16 Q. 291 This is Mr. McLoone saying?

17 A. Saying that to me just one to one.

18 Q. 292 Yes. An was if in that context that you contacted your counterparts in England

19 or Portal Developments?

12:25:06 20 A. I had a simultaneously had contact with Portal Developments in the UK and they

21 asked me to look out for opportunity and I thought the two things would

22 dove-tail very nicely.

23 Q. 293 Portal Developments, I think was that Mr. Gubay controlled company in the way

24 that Merrygrove and Montrose Holdings?

12:25:22 25 A. Portal Developments were totally independent of Mr. Gubay, managing director is

26 Colin Murphy. They were very successful in the northwest of England in those

27 years and still very successful.

28 Q. 294 I see. So when Portal Developments lost interest in the site you interest in

29 Mr. Gubay through one of his companies.

12:25:40 30 A. He hadn't been active in Ireland at that time, he had in the early 80s but not

- 12:25:45 1 at that time and we thought we better get somebody to replace him, I did I
2 informed Mr. McLoone they were happy in Dublin Corporation that we had an
3 alternative.
- 4 Q. 295 Did you ask Mr. McLoone why he wasn't advertising the lands for sale?
- 12:25:58 5 A. At that point I can't recall if I did or not, I am sure some discussion took
6 place because we would both have known it would be a requirement to advertise.
- 7 Q. 296 Yes. Well in fact I think you have practically concluded your agreement with
8 Mr. McLoone before the lands were advertised, isn't that right?
- 9 A. Yes he had checked obviously with his legal department or whomever and came
12:26:18 10 back and told me that it would have to be advertised after all.
- 11 Q. 297 Yes. In fact if we could have document number 1391. Mr. McLoone wrote to you
12 on 2nd of November '87 setting out terms on which he said he was prepared to
13 recommend the sale of the lands, isn't that right?
- 14 A. Yeah.
- 12:26:35 15 Q. 298 He set out there the acreage and the consideration, isn't that right?
- 16 A. That's right.
- 17 Q. 299 And in fact I think he then wrote a further letter to you on the 20th of
18 November that's if I could have 1468 please? Where he revised those terms
19 isn't that right?
- 12:26:53 20 A. Yes.
- 21 Q. 300 Do you recall discussing the original terms with Mr. McLoone between the 2nd
22 and 20th of November?
- 23 A. I do yeah. What I -- I recall that we did I don't recall the actual moment.
24 But the basic difference between the two letters is that in the first one he
12:27:10 25 want an up front payment of a million Irish pounds. In the second we
26 negotiated that to a deposit of 300,000 being 10 per cent of the total
27 consideration.
- 28 Q. 301 But the lands had not been advertised for sale at this stage, isn't that right?
- 29 A. No the add, I have a copy it have, it appeared later.
- 12:27:25 30 Q. 302 The add I think went in on the 4th of December if we could have 1482 please.

- 12:27:32 1 Is it usual in the property world to buy lands or agree lands, the sale of
2 lands in advance of them being advertised for sale?
- 3 A. Well in this particular case my recollection is that obviously they thought
4 this it may have been advertised in the past or something had happened but they
12:27:51 5 certainly didn't indicate to us in advance of those negotiations that it was a
6 requirement. It was only after they recommended the figure that they said that
7 they had an obligation, because of the reserve function of the council and they
8 had to advertise it.
- 9 Q. 303 You would have bought other lands from Mr. McLoone on behalf of the clients?
- 12:28:11 10 A. I would have indeed.
- 11 Q. 304 So you would have been reasonably familiar with the procedure in the council?
- 12 A. Oh, yes.
- 13 Q. 305 And the necessity to get a section 83 consent from the council, isn't that
14 right?
- 12:28:19 15 A. That's right, yeah.
- 16 Q. 306 Now I think that by the time you agreed to purchase the lands a company
17 Montrose Holdings was to be the purchaser, isn't that right?
- 18 A. Yes that was Gubay company, yes.
- 19 Q. 307 Yes. And the proposed purchase or the recommendation of Mr. McLoone came
12:28:38 20 before the council if we could have 1541 in, in February of 1989, isn't that
21 right?
- 22 A. That's right.
- 23 Q. 308 For their approval.
- 24 A. Yes.
- 12:28:51 25 Q. 309 Now I think shortly after that you received some correspondence from
26 Mr. Lawlor, if we could have 1550 please on the 9th February Mr. Lawlor wrote
27 to you in relation to the acquisition of the lands, isn't that right?
- 28 A. That's right and as I said in my statement, there was no reply on my file, I
29 don't think. I think it was considered just a flier I don't think I took it
12:29:20 30 too seriously, i don't recall having any response to it.

- 12:29:23 1 Q. 310 Well was Mr. Lawlor or other councillors in the habit of writing to you in
2 similar terms in relation to the acquisition of other lands?
3 A. No I wouldn't expect it no.
- 4 Q. 311 Mr. Lawlor was there expressing his pleasure at the purchase of the lands for
12:29:36 5 the provision of the town centre facilities and I think he was looking forward
6 to an opportunity to brief you on your proposed developments, isn't that right?
7 A. That's what he says.
- 8 Q. 312 And that he was looking forward to giving it the maximum support he could in
9 relation to planning meetings etcetera?
12:29:53 10 A. That's what his letter says, yes.
- 11 Q. 313 Had you ever similar offer of support from Mr. Lawlor in the past?
12 A. Not that I can recall no.
- 13 Q. 314 Do you recall meet building Lawlor or taking him up on his offer?
14 A. Never.
- 12:30:06 15 Q. 315 Do you recall relaying Mr. Lawlor's offer of assistance to your principals?
16 A. I don't even think I did, I can't recall to be certain.
- 17 Q. 316 Now I think that subsequently the solicitors acting on behalf of Montrose
18 Holdings wished to vary the contract, isn't that right?
19 A. That's right.
- 12:30:24 20 Q. 317 And I think a letter was written on the 2nd of June 1988 by Ivor Fitzpatrick.
21 If we can 1705 please. By June 1988, it had become apparent that there was
22 another development for a shopping centre in the locality, isn't that right?
23 A. Yes the Cooldrinagh one.
- 24 Q. 318 This was a shopping centre that was being proposed to have been developed by
12:30:50 25 O'Callaghan Properties Limited?
26 A. That's right.
- 27 Q. 319 And again I understand that the zoning in relation to that shopping centre
28 wasn't adequate and it became necessary to either have a material contravention
29 or section 4 motion brought in respect of it?
12:31:05 30 A. Obviously I only had a peripheral knowledge of it.

- 12:31:08 1 Q. 320 Yes but a development of the Cooldrinagh shopping centre would have
2 considerably affected your proposed development.
- 3 A. We were in the midst of having just done a deal effectively with the
4 Corporation we didn't want permission to be granted to competing schemes within
12:31:34 5 an area.
- 6 Q. 321 Yes. And that letter of the 2nd of June which I referred to a moment ago
7 sought to insert a special condition in the contract which would allow for the
8 contract to fall in circumstances where permission might be granted by the
9 council for the development of a competing centre, isn't that right?
- 12:31:44 10 A. Correct over a certain size.
- 11 Q. 322 Over a certain size. And we know that on the 2nd of May 1988 a section 4
12 motion was signed by Mr. Hanrahan, Hickey and Walsh, 3 members of the Dublin
13 County Council. If we can have 1627 please in relation to Cooldrinagh
14 development, isn't that right?
- 12:32:02 15 A. That's not part of my evidence -- I don't know --
- 16 Q. 323 You don't --
- 17 A. I know nothing about that.
- 18 Q. 324 Okay but I think you had occasion to write on behalf of your clients to one of
19 the members of the council at the time on the 24th of May 1988 seeking their
12:32:17 20 support in opposition to that motion, if I could have 1675 please? Do you
21 recall writing to Michael J Cosgrave?
- 22 A. I don't actually recall that letter, I haven't seen that, it's not on my own
23 file but if you give me time to -
- 24 Q. 325 If we just maybe have a look at that letter you would have received it as part
12:32:43 25 of the brief, Mr. Lyons, but if you want to have a further look at the letter,
26 the reference seems to be E L R G. Is that your reference?
- 27 A. It would be, yeah.
- 28 Q. 326 And you are writing on behalf of Montrose Holdings Limited and that's the
29 company that had purchased the property isn't that right from the County
12:33:03 30 Council?

- 12:33:03 1 A. Yes.
- 2 Q. 327 And you referred to the advertisement in relation to the material contravention
- 3 of the 12th of May '88, isn't that right?
- 4 A. Right.
- 12:33:11 5 Q. 328 And I think you conclude your letter if we have 1676 -- you said "If a planning
- 6 application is to be considered along these linings the County Development Plan
- 7 will become a meaningless document. Development on the existing town centre
- 8 site is likely to create up to 2,000 jobs in an area of very high unemployment
- 9 and this be lost forever.
- 12:33:39 10
- 11 The purchase consideration of 3 million will be in jeopardy as the lands will
- 12 fall in value to a mere fraction of this figure.
- 13
- 14 We trust that the good sense of the councillors will prevail in rejecting this
- 12:33:52 15 application". Did you write to other councillor in similar fashion?
- 16 A. I don't recall.
- 17 Q. 329 In any event O'Callaghan Properties decided not to proceed with the
- 18 development, isn't that right?
- 19 A. That's right.
- 12:34:02 20 Q. 330 In the meantime your purchase was proceeding?
- 21 A. It was in the hands of solicitors they were dealing with the law agent in the
- 22 normal way.
- 23 Q. 331 Now we know that the architect who was involved in making the planning
- 24 application for O'Callaghan Properties was Mr. Kelly, isn't that right?
- 12:34:20 25 A. That's right.
- 26 Q. 332 And we know that the architect who was acting on behalf of Portal Developments
- 27 was Mr. Kelly?
- 28 A. That's right.
- 29 Q. 333 And at some stage you say in your statement that Mr. Kelly approached you about
- 12:34:31 30 a possible purchase of the Neilstown contract?

- 12:34:35 1 A. Correct.
- 2 Q. 334 On behalf of Mr. O'Callaghan?
- 3 A. That's right.
- 4 Q. 335 Did you conduct those negotiations?
- 12:34:40 5 A. Yes he would have been in touch with me directly.
- 6 Q. 336 Yes.
- 7 A. And I would have initiated them and reported to my client.
- 8 Q. 337 Yes you would have advised your client Mr. Gubay?
- 9 A. Exactly.
- 12:34:50 10 Q. 338 That this approach had been made.
- 11 A. I would have, yeah.
- 12 Q. 339 Was that approach made after the Cooldrinagh proposed development had been
- 13 abandoned?
- 14 A. I don't think yes, very probably obviously it was, in my statement I thought it
- 12:35:04 15 was close to September or October of that year.
- 16 Q. 340 Yes. Now Mr. O'Callaghan then I think took over the contract, the Neilstown
- 17 contract, isn't that right?
- 18 A. That's right.
- 19 Q. 341 I think on the 7th of October an option deal was executed, if we could have
- 12:35:25 20 1879 and I don't propose to open up this document in any great detail but you
- 21 are familiar with it?
- 22 A. I tried to understand it actually, yes.
- 23 Q. 342 And I think in or around the same time the purchase by Merrygrove of the
- 24 property from the County Council was advancing in that Mr. Fitzpatrick
- 12:35:46 25 forwarded 300,000 pounds to the Corporation as part of the acquisition of that
- 26 site.
- 27 A. That's right.
- 28 Q. 343 That's the deposit which was payable in relation to those lands?
- 29 A. The 300,000.
- 12:35:57 30 Q. 344 Yes. And I think the agreement between Mr. O'Callaghan and Mr. Gubay was that

- 12:36:05 1 Mr. O'Callaghan was to have an option on the contract which was Mr. Gubay's
2 contract company Merrygrove had with the Corporation and in consideration of
3 that option he was to pay the deposit of 300,000 pound plus a profit of 500,000
4 pounds, is that right?
- 12:36:21 5 A. That's right.
- 6 Q. 345 And I think the 300,000 deposit was paid or paid in or around the time that it
7 became payable to the Corporation?
- 8 A. I presume it was yes, I didn't deal with that aspect of it.
- 9 Q. 346 Yes. Now, one of the advantages of the sale of that property to the sale of
12:36:44 10 that option to Mr. O'Callaghan was that you retained Mr. O'Callaghan, or
11 Mr. O'Callaghan retained your services thereafter, isn't that correct?
- 12 A. Yes because Merrygrove were the, for whom I acted still had to complete the
13 work, so obviously I was acting for Merrygrove and it was agreed that I would
14 continue on.
- 12:37:04 15 Q. 347 If we could have 1912 please that's the letter to you from Mr. Deane on behalf
16 of O'Callaghan Properties setting out the terms under which you were to
17 continue to act on behalf of Merrygrove, isn't that right?
- 18 A. That's right.
- 19 Q. 348 And this would have been, so therefore can we take it by the 7th of October
12:37:22 20 1988, which was the date in which the deposit was, the deposit was forwarded to
21 the Corporation or in or around the time of the deposit was forwarded to the
22 Corporation, that O'Callaghan Properties as a result of their option agreement
23 with Merrygrove/Mr. Gubay, were in fact the purchasers of the Neilstown site?
- 24 A. Through Merrygrove.
- 12:37:46 25 Q. 349 Through Merrygrove, yes?
- 26 A. Now the option didn't take effect immediately I don't think.
- 27 Q. 350 I accept that.
- 28 A. It was still a conditional deal.
- 29 Q. 351 Yes.
- 12:37:54 30 A. But -- go on.

- 12:37:57 1 Q. 352 We see the deposit being accepted by the Corporation, if we could have 1924
2 please on the 17th of October 1988 the --
- 3 A. That's the receipt.
- 4 Q. 353 That's the receipt. And it's receipt of a deposit I was forwarded on the 7th
12:38:12 5 October '88 if we could have 1914 please? We see the letter from Ivor
6 Fitzpatrick to the Corporation forwarding the deposit?
- 7 A. Yeah.
- 8 Q. 354 So by the 7th October Mr. O'Callaghan had put forward the 300,000 pound which
9 was necessary to, by way of deposit on the land and he was now effectively the
12:38:43 10 purchaser of the land, isn't that right?
- 11 A. Through Merrygrove.
- 12 Q. 355 Through Merrygrove.
- 13 A. Merrygrove was the company a subsidiary of month rows which he had the option
14 to take over.
- 12:38:55 15 Q. 356 Yes. Now I think just to advance matters slightly, the contract or the terms
16 of the contract which had been agreed between Merrygrove and the Corporation
17 required that a planning application would be lodged within two months of the
18 execution of the contract, isn't that right?
- 19 A. That's right.
- 12:39:15 20 Q. 357 And even though the deposit was forwarded on the 7th of October, I think there
21 were some further minor difficulties which required a further sanction of the
22 council and it wasn't until I think it was November of 1989?
- 23 A. I was reading the document recently I didn't have them on my file but the
24 account is 21st of November.
- 12:39:37 25 Q. 358 That's the contract between Merrygrove and the Corporation?
- 26 A. Correct.
- 27 Q. 359 And therefore a planning application was required to have been lodged under
28 that contract?
- 29 A. Mm-hmm.
- 12:39:47 30 Q. 360 By 20th of January '89, isn't that right?

- 12:39:51 1 A. Yeah.
- 2 Q. 361 But no such planning application was lodged, isn't that right?
- 3 A. No it wasn't.
- 4 Q. 362 Now I think in the meantime Mr. O'Callaghan had met with Mr. Gilmartin, isn't
- 12:40:01 5 that right?
- 6 A. I didn't know at the time.
- 7 Q. 363 Yes?
- 8 A. But I only know from the correspondence.
- 9 Q. 364 We know that Mr. O'Callaghan's interest in that site was well publicised in or
- 12:40:15 10 about the 2nd of November '88. If we could have 1930 please, I think it
- 11 became, there was --
- 12 A. It was a press release.
- 13 Q. 365 Which was carried by Mr. Fagan, isn't that right? Of the Irish Times of that
- 14 date and thereafter everybody was aware that the Neilstown site was now
- 12:40:36 15 Mr. O'Callaghan, Mr. O'Callaghan was effectively the purchaser of the Neilstown
- 16 site?
- 17 A. That's right.
- 18 Q. 366 Did you have any hand in releasing that press release?
- 19 A. I think I would have, yeah.
- 12:40:46 20 Q. 367 You probably drafted it and --
- 21 A. The probability is I drafted it and sent it for approval to the parties
- 22 involved and then sent it down to the press.
- 23 Q. 368 Can I ask you why that press release was issued at the time?
- 24 A. I haven't the slightest idea, off the top of my head. I don't think there was
- 12:41:08 25 anything, just because it had happened, it was a de facto situation, it wasn't,
- 26 there is no substance in it.
- 27 Q. 369 Yes. We do know that the contract with Dublin Corporation had a further
- 28 onerous condition in that it provided that the purchaser was to be responsible
- 29 for putting in infrastructure by way of roads, isn't that right?
- 12:41:32 30 A. That's right.

- 12:41:32 1 Q. 370 That obviously was going to cost the purchaser additional sums on top of the --
- 2 A. Yes.
- 3 Q. 371 The contract. Now if I could have document number 3660, please? I think on
- 4 the 24th October 1988 a letter was received by Mr. O'Callaghan from you in
- 12:41:53 5 relation to that condition, isn't that right?
- 6 A. That's a fax, yeah.
- 7 Q. 372 That's a fax. Do you recall drafting this fax?
- 8 A. I don't really recall. I recall seeing it, I don't --
- 9 Q. 373 Would you summarise, would it be a fair summary of that fax to say that it was
- 12:42:10 10 setting out reasons as to why that condition and the contract might be waived
- 11 or reduced?
- 12 A. My interpretation of that is that it was, that the general infrastructure in
- 13 the area was poor; the conditions of the contract refer to building roads
- 14 around the existing site, but the Fonthill Road which lead to Clondalkin and
- 12:42:33 15 going over the canal and railway line was a vital part of the successful
- 16 development and I think that's what the letter was about, not about the
- 17 conditions of the contract.
- 18 Q. 374 Yes. And it's trying to persuade somebody to do something about the --
- 19 A. Well it's giving him ammunition if you like to meet somebody, I can't remember,
- 12:42:51 20 but to say "for all these good reasons we want to get something done about the
- 21 Fonthill Road".
- 22 Q. 375 It's giving Mr. O'Callaghan ammunition in relation to what is described there
- 23 as a meeting on Monday with?
- 24 A. GOC, yes.
- 12:43:05 25 Q. 376 Now can I ask you who was GOC?
- 26 A. I haven't, to be honest I have no idea, I just don't remember.
- 27 Q. 377 But you must have had some discussions with Mr. O'Callaghan before you prepared
- 28 this document?
- 29 A. Well I don't have a great recollection of it I don't really, I can try and
- 12:43:22 30 imagine what happened but I feel it was kind of a rushed situation -- give me

- 12:43:26 1 something to talk to this guy on Monday about -- I just rattled that off.
- 2 That's as far as I can recall it.
- 3 Q. 378 GOC could be General Officer in Command, isn't that right?
- 4 A. It could be, but it obviously must refer to somebody, I don't know. I would
- 12:43:40 5 have to see a list of names to try and jog my memory on it, but I don't know to
- 6 be honest.
- 7 Q. 379 Was it somebody in politics or someone within the council?
- 8 A. This would imply it is somebody who had influence over the infrastructure,
- 9 whether politically, it would seem logical, yes.
- 12:43:57 10 Q. 380 That it was a politician?
- 11 A. Well somebody in an influencing position on, to do with infrastructure.
- 12 Q. 381 So it was a briefing note from Mr. O'Callaghan to try and persuade somebody,
- 13 whoever that person may be, in a position of influence?
- 14 A. Sort of aid memoir for his conversation that he was about to have.
- 12:44:17 15 Q. 382 That he was to have on the Monday?
- 16 A. To make a case to somebody to do something about the roads in the area.
- 17 Q. 383 This was probably, apart from the press release, indeed in advance of the press
- 18 release your first work for Mr. O'Callaghan since you had been retained on the
- 19 7th of that month?
- 12:44:33 20 A. There was a meeting which, with consultants around the same time, now whether
- 21 this was in advance of that, but I got a minute dated I think the 29th of
- 22 October.
- 23 Q. 384 Yes?
- 24 A. Back from that so it could have been in or around the same time.
- 12:44:50 25 Q. 385 You still can't say who the GOC is?
- 26 A. I can't really, if I try to throw out names it would be pure speculation and
- 27 wouldn't be right, I don't have a recollection of it.
- 28 Q. 386 Can you recall Mr. O'Callaghan coming back to you advising you of the outcome
- 29 of his conversation?
- 12:45:05 30 A. I don't have a recollection of that.

- 12:45:06 1 Q. 387 Now I think again in or around this time you received a fax from
2 Mr. O'Callaghan, or O'Callaghan Properties, if we could have 1939 please? This
3 was a fax dated 4th November 1988, isn't that right?
- 4 A. Yeah.
- 12:45:24 5 Q. 388 And you are familiar with this document, it's from Mr. O'Callaghan directed to
6 you, or your company, with copies to Mr. Kelly and Mr. Deane?
- 7 A. That's right.
- 8 Q. 389 Now if we could have 1940 please? This is Mr. O'Callaghan again as a follow on
9 to the document we have seen a moment ago, advising you of a meeting he had
10 with Mr. Lawlor?
- 11 A. That's right.
- 12 Q. 390 And Mr. Cherry and Mr. Hanrahan. In relation to Mr. Lawlor he advises he met
13 him on Wednesday last, and Lawlor told him Flynn and McSharry asked him to look
14 after Gilmartin and would have preferred if nothing happened on the Clondalkin
15 site and was under the impression, like everyone else, that the sites was going
16 nowhere. Do you recall receiving that fax and that advice from
17 Mr. O'Callaghan?
- 18 A. I do, I do recall it.
- 19 Q. 391 He says "Lawlor is quite confident that Gilmartin will get his permission but
12:46:18 20 that we are in the driving seat for the time being" I presume the "we" is?
- 21 A. The Balgaddy lands.
- 22 Q. 392 That he was acquiring with your assistance. You were in the driving seat. "He
23 also feels that the provision of the road is essential to our scheme and
24 suggested that we write to Paddy Morrissey or George Redmond immediately to
12:46:40 25 establish the situation with the road."
- 26 This is now advice being given to Mr. O'Callaghan by Mr. Lawlor, isn't that
27 right?
- 28 A. That's what it reads like.
- 29 Q. 393 Yes. Did you know that Mr. O'Callaghan was about to meet Mr. Lawlor? That
12:46:53 30 meeting would have taken place after the publication or the advertisement of

12:46:58 1 the 2nd of November, isn't that right?

2 A. I presume so, yes.

3 Q. 394 Mr. O'Callaghan says "I am not sure whether Lawlor is trying to be helpful to

4 us."

12:47:06 5 A. Can I just go back? What did you just say "the advertisement" -- you mean the

6 press release?

7 Q. 395 Press release.

8 A. Sorry.

9 Q. 396 The advertisement in relation to that was 4th of December the previous year?

12:47:17 10 A. Just to be clear, yes. Around the same time.

11 Q. 397 In fact, the lands had been purchased I think and the terms more or less agreed

12 subject to variation by the 20th of November, or by the 2nd of November indeed

13 '87, even though now by 4th of November '88 no contract had been signed, isn't

14 that right?

12:47:39 15 A. It's about right, yeah.

16 Q. 398 "Lawlor suggested a meeting be arranged between Gilmartin and myself."

17 A. That's right.

18 Q. 399 Do you recall, did you know that Mr. Gilmartin was involved in relation to a

19 site locally at that time?

12:47:56 20 A. I don't believe I did.

21 Q. 400 Did you know or had you heard of Mr. Gilmartin at that stage?

22 A. Not in the context, put it this way, maybe I had heard rumblings of something

23 going on, but the name Gilmartin didn't mean anything to me.

24 Q. 401 Yes.

12:48:10 25 A. And my main concern is this; that the Merrygrove contract would proceed with

26 Dublin Corporation that was my biggest concern. So I don't really recall much

27 about it other than that it happened and it was obviously to me, an alarm bell

28 for a competitive scheme which would mean our scheme wouldn't go ahead.

29 Q. 402 Now if we could have 1941? Under the heading Finbarr Hanrahan/Dublin County

12:48:40 30 Councillor, Mr. O'Callaghan is saying to you "I spoke to Finbarr Hanrahan this

- 12:48:44 1 morning in Cork" did you know Mr. Hanrahan?
- 2 A. No.
- 3 Q. 403 Had you ever met Mr. Hanrahan?
- 4 A. Never.
- 12:48:52 5 Q. 404 Can I ask you had you met Mr. Lawlor by this date?
- 6 A. Not in connection with this. I may have met him over the years. To say I
- 7 never met him wouldn't be true, but certainly I don't recall having any
- 8 discussions regarding Balgaddy with Mr. Lawlor.
- 9 Q. 405 And you had obviously received the request the previous February from
- 12:49:11 10 Mr. Lawlor?
- 11 A. Yes, I ignored it.
- 12 Q. 406 Did you tell Mr. O'Callaghan that Mr. Lawlor had been writing to you offering
- 13 his services the previous February?
- 14 A. I don't believe I did, I wouldn't think I would give it any import at all.
- 12:49:24 15 Q. 407 Do you know how Mr. Callaghan came to meet with Mr. Lawlor?
- 16 A. I don't.
- 17 Q. 408 Do you, were you aware that a meeting was to take place?
- 18 A. No, that came out of the blue. I remember being quite surprised at it.
- 19 Q. 409 Why were you surprised?
- 12:49:38 20 A. Just because of all the names mentioned in it, it was quite, I wasn't expecting
- 21 it. I had no, there was no discussion with me prior to that about Liam Lawlor
- 22 or any of the people in this, probably with the exception of Robin Cherry in
- 23 Quinnsnorth, which was more my area.
- 24 Q. 410 He would have been one of the anchor tenants in it?
- 12:49:55 25 A. Yes, they're --
- 26 Q. 411 Mr. O'Callaghan goes on "Finbarr, who was our main supporter in Lucan, and it
- 27 was he who told me about the Gilmartin site some three months ago. As you know
- 28 the Gilmartin has an option on this site which is owned by Paul Sharpe". Did
- 29 you know Mr. Gilmartin had an option on Paul Sharpe's site?
- 12:50:17 30 A. No.

- 12:50:18 1 Q. 412 Did you know the Paul Sharpe site?
- 2 A. No I don't actually, no, I don't know, no.
- 3 Q. 413 Did Mr. McLoone ever say anything to you about Mr. Gilmartin being interested
- 4 in lands in the area?
- 12:50:30 5 A. Ever?
- 6 Q. 414 Well --
- 7 A. Prior to this?
- 8 Q. 415 Prior to this?
- 9 A. I don't recall, no.
- 12:50:40 10 Q. 416 Now he goes on to say in relation to the Cooldrinagh site "Dublin County
- 11 Council put a Section 4 through, instructing Dublin County Council officials to
- 12 give Gilmartin an entrance onto the Galway Road". Did you know that had taken
- 13 place?
- 14 A. No.
- 12:50:55 15 Q. 417 Did you know there had been a High Court challenge under appeal to the Supreme
- 16 Court?
- 17 A. No, I had no idea.
- 18 Q. 418 Did you know that Mr. Gilmartin, Mr. Hanrahan was confident that the decision
- 19 would be in Mr. Gilmartin's favour?
- 12:51:08 20 A. None of that was, all of this was news to me. I didn't know where it was
- 21 coming from.
- 22 Q. 419 Yes. Then he goes on to say "All Gilmartin has then to do is get a change of
- 23 use to retail. The site is obviously a better location than Clondalkin".
- 24 Would you agree that the Sharpe site or Quarryvale site was a better site than
- 12:51:28 25 the town centre site that you had bought?
- 26 A. Obviously the, beside the motorway or proposed motorway, then it would have
- 27 been.
- 28 Q. 420 When Mr. McLoone initially interested you in the site in Neilstown/Balgaddy did
- 29 he show you any other sites in the area?
- 12:51:42 30 A. No.

12:51:44 1 Q. 421 Did he tell you that the Corporation had lands in Quarryvale?
2 A. No. The only attraction we had to this was that it was zoned town centre.
3 Q. 422 Yes. And he goes on to say "I feel it is essential that Ambrose and yourself
4 and myself, if necessary, open initial discussions with Redmond and Morrissey
12:52:01 5 on the road and the Gilmartin discussion".
6 Now can I just ask you in relation to that, did you discuss that request as
7 contained there with Mr. O'Callaghan, in the first instance?
8 A. I don't have a direct recollection but it's obvious that I must have rung. His
9 response to that -- I must have asked the questions, it wouldn't necessarily be
12:52:22 10 my job to talk to people about roads.
11 Q. 423 Certainly Mr --
12 A. About the Gilmartin situation --
13 Q. 424 We will come to that, but Mr. O'Callaghan was under the impression that it was
14 certainly one of your jobs and --
12:52:33 15 A. I think because of Ambrose Kelly, it was more his department.
16 Q. 425 But I think it was Ambrose and yourself and only himself if necessary?
17 A. Well, we were all together on the team.
18 Q. 426 You were the team that were --
19 A. Absolutely.
12:52:45 20 Q. 427 Involved in the --
21 A. Whether you appoint a roads consultant to go in and do the job, or you go in
22 and do it yourself it is usually best to get somebody who is a specialist in
23 this area.
24 Q. 428 Now the discussions; did you have a discussion with Mr. Kelly in relation to
12:53:01 25 this request?
26 A. I must have.
27 Q. 429 And can you recall what you agreed or what you decided?
28 A. No, to be honest I have no idea.
29 Q. 430 Do you recall meeting Mr. Redmond and or Mr. Morrissey in relation to the
12:53:12 30 roads?

- 12:53:12 1 A. No, I don't recall that, I don't believe I did, but I just don't recall.
- 2 Q. 431 Do you recall if Mr. O'Callaghan, or indeed Mr. O'Kelly, spoke with Mr. Redmond
3 or Morrissey?
- 4 A. Following that I don't remember anything that happened. They may have tried, I
12:53:27 5 have no idea, I just don't remember.
- 6 Q. 432 Now Mr. O'Callaghan was also suggesting here that you would have discussions
7 with Mr. Redmond and Mr. Morrissey concerning what he referred to as the
8 Gilmartin situation; what did you understand the reference to the Gilmartin
9 situation to be?
- 12:53:43 10 A. I presumed it meant the first part of the fax which was referring to
11 Mr. Lawlor's comments.
- 12 Q. 433 But Mr. Lawlor's comment in the first part of the fax seemed to stem from a
13 suggestion by him that it was two government Ministers that had told you to
14 look after Mr. Gilmartin?
- 12:53:59 15 A. But he also said he didn't know whether Mr. Lawlor was looking for information
16 or not, I don't know. That was not in my brief to deal with things like that.
- 17 Q. 434 Yes. But Mr. O'Callaghan, who was obviously retaining you or employing you, he
18 felt it was in your brief to speak together with Mr. Kelly with either --
- 19 A. It was his opinion that I should deal with it, but I don't believe it was ever
12:54:23 20 dealt with in that day way.
- 21 Q. 435 Well did you recall contacting Mr. O'Callaghan and discussing his request with
22 him?
- 23 A. I recall ringing him and trying to get a discussion going, but nothing of any
24 import happened.
- 12:54:35 25 Q. 436 Yes.
- 26 A. I was put on hold you might say.
- 27 Q. 437 Yes. Well do you know if Mr. O'Callaghan spoke to Mr. Redmond or Mr. Morrissey
28 concerning what was referred to as the Gilmartin situation?
- 29 A. I don't have any information, I don't know if he did, he may well have, I don't
12:54:51 30 know.

- 12:54:54 1 Q. 438 I think Mr. O'Callaghan did meet with Mr. Gilmartin in December 1988, isn't
2 that right?
- 3 A. From the evidence submitted I have no knowledge of that at the time.
- 4 Q. 439 Did you know that Mr. O'Callaghan was meeting with Mr. Redmond at the time?
- 12:55:09 5 A. Not --
- 6 Q. 440 Or Mr -- sorry, Mr. Gilmartin, sorry?
- 7 A. No I didn't, I didn't know anything about that meeting.
- 8 Q. 441 Did you know that Mr. O'Callaghan had, either December '88 or January '89
9 reached agreement with Mr. Gilmartin in relation to the progress of this site?
- 12:55:28 10 A. No, didn't know anything about it, I was kept out of all this.
- 11 Q. 442 I think you agreed no planning application had been submitted within the two
12 month period?
- 13 A. Very much so.
- 14 Q. 443 And then a formal agreement was entered into between Mr. O'Callaghan and
15 Mr. Gilmartin on 31st of January '89, isn't that right?
- 12:55:42 16 A. That's right.
- 17 Q. 444 And it was sometime after that Mr. O'Callaghan went to the Council and asked
18 for an extension provided for lodging a planning application?
- 19 A. If you recall from my evidence, I got upset that no application was made
12:55:58 20 because I was worried that Merrygrove's contract would fall.
- 21 Q. 445 Would lapse?
- 22 A. Because of lack of time, not even making a serious attempt to put in. So I
23 reported back, if you recall to Mr. Gubay saying I was concerned about this and
24 his legal people took over and put pressure on, it was at that point that the
12:56:19 25 contract became unconditional, as is the option on contract to buy Merrygrove.
- 26 Q. 446 I think in fact what happened was Mr. O'Callaghan became, took the
27 shareholding, or O'Callaghan Properties took the shareholding in Merrygrove?
- 28 A. Exactly. So now he is standing in the shoes of Merrygrove, if you like. He
29 took over the Merrygrove situation.
- 12:56:36 30 Q. 447 There had previously been agreed a payment of 300 and 500, isn't that right, to

- 12:56:42 1 Mr. Gubay?
- 2 A. Yes.
- 3 Q. 448 And the 300 obviously had been paid and the Corporation deposit had been paid,
4 isn't that right?
- 12:56:48 5 A. That's what I understand.
- 6 Q. 449 Yes. There was 500 outstanding and there was a possibility of the contract,
7 Mr. Gubay's contract falling with the Corporation because a material condition
8 hadn't been complied with?
- 9 A. Correct, that was of great concern to me.
- 12:57:03 10 Q. 450 And I think was there a further renegotiation of that contract then between
11 Mr. O'Callaghan and Mr. Gubay which lead to a revised sum being paid to
12 Mr. Gubay?
- 13 A. From my own notes obviously, there was an offer of 400 thousand made that was
14 evidence by the fact that I sent a copy of it to, a note to Ivor Fitzpatrick
12:57:21 15 Solicitors as well. That subsequently got increased to 460, unconditionally.
- 16 Q. 451 By way of damages I think?
- 17 A. By way of damages yes, that's what I was instructed.
- 18 Q. 452 So Mr. Gubay received 460 thousand for the contract that you had negotiated for
19 him?
- 12:57:36 20 A. Montrose Holdings would have received 460 thousand for the company Merrygrove
21 who had the contract with the Corporation.
- 22 Q. 453 Which you negotiated in 1987 and which had been signed in November '88?
- 23 A. Exactly, which took all that time to get to that point.
- 24 Q. 454 I don't know if you heard the evidence of the previous witness, he said that
12:58:00 25 the dogs in the street were aware of corruption in the planning process by
26 1990; were you aware of corruption in 1990 in the planning process?
- 27 A. I had no knowledge of, any direct knowledge of any corruption.
- 28 Q. 455 What about reports as opposed to direct knowledge?
- 29 A. What is that? Is that evidence? Obviously there is always talk, as there is
12:58:25 30 around these four walls, about corruption. I have no specific knowledge of any

12:58:30 1 corrupt acts or anything like that going back to those days.

2 Q. 456 Now finally, the contract which was signed, which was negotiated in November of

3 '87 and which was signed, I think in, agreed to be dated 21st of November '88

4 in relation to the purchase of the Neilstown site by Merrygrove?

12:58:51 5 A. Yes.

6 Q. 457 When was that contract, when were those, when was that contract completed and

7 those lands transferred?

8 A. My best knowledge of it, it wasn't until the year 2000.

9 Q. 458 And I think you had fees outstanding to you on foot of that?

12:59:06 10 A. That's right, but because of the initial arrangement and when the second

11 unconditional transaction took place it was said they were reminded that they,

12 on the completion of the sale Mason Owen and Lyons would be entitled to their

13 fee. Now the matter went on for years and I have totally lost interest in it,

14 but I found out by accident that the sale had completed and so I took my file

12:59:31 15 out and I pursued a fee and was paid a fee.

16 Q. 459 And you were paid by Merrygrove?

17 A. By O'Callaghan Properties.

18 Q. 460 Thank you very much Mr. Lyons.

19

12:59:40 20 CHAIRMAN: All right. We'll adjourn until two o'clock.

21

22 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

23

24

12:59:59 25

26

27

28

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12:59:59 30

12:59:59 1

2

THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

3

4

CHAIRMAN: Mr. O'Donnell do you wish to cross examine?

14:07:20 5

6

MR. O'DONNELL: I just want to ask Mr. Lyons one or two questions Chairman. I

7

appear on behalf of Mr. Gilmartin. I want to ask you one or two questions

8

about the evidence you have given, I think you were referred by Mr. Quinn to

9

the document 1940, that's the fax from Mr. O'Callaghan to you of the 4th

14:07:40 10

November 1988, you recall that document?

11

A. I see it yeah.

12

Q. 461 I appreciate you have said fairly that you had in a sense a limited involvement

13

with all of this, with what had gone before it and what was proposed to happen

14

thereafter, I just want your assistance from your, as it were experience, in

14:07:55 15

relation to a number of matters that are said there.

16

17

In the first place it appears from that fax that Mr. O'Callaghan must have

18

discussed Mr. Gilmartin and his plans with you at some earlier stage, because

19

he refers to the very first line says:

14:08:15 20

"I met with Liam Lawlor on Wednesday last. Lawlor told me that Flynn and

21

McSharry asked him to look after Gilmartin" and on the second page he says "As

22

you know Gilmartin had an option on this site".

23

That would seem to indicate there had been previous discussion about

24

Mr. Gilmartin, is that correct?

14:08:33 25

A. It may sound like that but I have no recollection of hear being Gilmartin

26

before that date.

27

Q. 462 Well the significant -- in any event Mr. O'Callaghan is here addressing you,

28

about Mr. Gilmartin?

29

A. Yes he is.

14:08:44 30

Q. 463 Am I right in thinking that at this point Mr. Gilmartin is another developer

- 14:08:50 1 proposing to develop another site?
- 2 A. It would appear so.
- 3 Q. 464 And the significance of him addressing Mr. O'Callaghan addressing you about
- 4 Mr. Gilmartin's plans are that if successful they have a capacity to impinge
- 14:09:04 5 upon the likelihood of success in his proposed development, is that right?
- 6 A. At Balgaddy.
- 7 Q. 465 Yes.
- 8 A. The town centre lands, yes agreed.
- 9 Q. 466 Yes. And Mr. O'Callaghan compares the two sites as it were and says on page
- 14:09:22 10 1941, Mr. Gilmartin's site is obviously a better location than Clondalkin, is
- 11 that right?
- 12 A. Because it was near to then the then proposed motorway, yes. I have already
- 13 agreed that, yes.
- 14 Q. 467 And what he seemed to record here is that both Liam Lawlor and Mr, councillor
- 14:09:41 15 Hanrahan seem to be confident that Mr. Gilmartin's plans would go through as it
- 16 were.
- 17 A. So it, that's what it says yes.
- 18 Q. 468 And he says on page 1941 that Mr. Hanrahan was confident that the decision of
- 19 the Supreme Court would be in favour of Gilmartin and the councillor, and that
- 14:09:57 20 all Mr. Gilmartin had to do was get a change of use to retail and then that
- 21 development would be in a position to take off, and the reason he is telling
- 22 you about this is, that that might have some significance for his plans and the
- 23 plans you were involved in?
- 24 A. Yes, because we had the zoned site, as far as I was concerned remember I wanted
- 14:10:17 25 to see the Merrygrove deal go through.
- 26 Q. 469 Yes?
- 27 A. I wanted to see the purchaser, purchase of Balgaddy go through.
- 28 Q. 470 Yes.
- 29 A. My concern, because I was, Montrose Holdings own Merrygrove still at that
- 14:10:32 30 point, so I didn't want anything happening to damage the contractual

14:10:35 1 arrangement between Merrygrove and Dublin Corporation. That was my only
2 concern, I wasn't, I knew the other stuff was zoned industrial or whatever, but
3 you know I didn't really react in any other way.

4 Q. 471 I appreciate you are just a recipient of this information.

14:10:52 5 A. Yes.

6 Q. 472 But it appears what Mr. O'Callaghan is saying is that the Gilmartin site has is
7 a cloud on the horizon for this development, things are going to happen which
8 means that all that will be necessary for it to proceed is a change to retail
9 and it is intrinsically the better site and we are going to have to do
10 something about it even though as you say, you didn't do anything about it
11 thereafter.

12 A. No. It's, it sounds very simply that he will way but yeah if that's what you
13 say.

14 Q. 473 Yes but what Mr. O'Callaghan seemed to think was that what he should do as it
15 were, was either on his own, directly himself or through somebody else, was
16 approach Dublin Corporation or Dublin County Council in the, through
17 Mr. Morrissey and Mr. Redmond, to deal with this difficulty which he had
18 identified.

19 A. To address it, yeah.

14:11:41 20 Q. 474 Thank you Mr. Lyons.

21

22 CHAIRMAN: Is there anybody else who wishes to cross examine?

23

24 All right thank you very much Mr. Lyons.

14:11:55 25

26 MR. QUINN: I should say Sir, the Tribunal has been contacted by
27 Mr. O'Callaghan's legal team and they may require Mr. Lyons to return, they
28 have difficulty in being here today.

29

14:12:08 30 CHAIRMAN: Well we'll deal with that then.

14:12:11 1

2

THE WITNESS THEN WITHDREW..

3

4

MR. GALLAGHER: Mr. Sherwin please.

14:12:24 5

6

MR. O'DONNELL: I am seeking limited legal representation on behalf of Sean

7

Sherwin, Barry O'Donnell BL, instructed by Frank Ward & Company Solicitors.

8

Mr. Sherwin hasn't returned from lunch, he was expected back at 2 pm, I am

9

sorry for the inconvenience but I wonder if the Tribunal can bear with us for a

14:12:41 10

11

few moments we'll seek to contact him.

12

MR. GALLAGHER: Ms. Dillon maybe able to take another witness.

13

14

MS. DILLON: Mr. Hackett please.

14:12:51 15

16

HAVING BEEN SWORN MR. CON HACKETT WAS EXAMINED

17

AS FOLLOWS BY MS. DILLON:

18

19

CHAIRMAN: Sit down Mr. Hackett. Thank you.

14:13:30 20

Q. 475 Mr. Hackett, you are a production operative with Leo Pharm, is that correct?

21

A. That's correct.

22

Q. 476 And on the 1st of February of 1989 you were presented with a certificate, is

23

that correct?

24

A. That's correct.

14:13:45 25

Q. 477 If I could have page 4428 please. Now this certificate was to certify the

26

completion of a manual handling course that you had done at the premises of

27

NIFST in Glasnevin, is that correct?

28

A. That's correct.

29

Q. 478 You were presented I understand according to your statement with that

14:14:04 30

certificate by the then Minister for Labour, the present Taoiseach Mr. Bertie

- 14:14:08 1 Ahern, is that correct?
- 2 A. That's correct.
- 3 Q. 479 There was a photograph taken of Mr. Ahern presenting you with that, is that
- 4 correct?
- 14:14:13 5 A. That's correct.
- 6 Q. 480 Could I have page 4429 please? Can you confirm that that photograph is
- 7 yourself being presented with your certificate by --
- 8 A. Yes.
- 9 Q. 481 Mr. Bertie Ahern. Can you recollect at approximately what time of the day this
- 14:14:32 10 occurred?
- 11 A. Yeah if I could explain it, if that's all right with you?
- 12 Q. 482 That's fine.
- 13 A. We had, in the afternoon we had a lecture and after the lecture we went to a
- 14 tea break, we came back and we done the test. And after the test the papers
- 14:14:50 15 were taken away and we were left waiting for quite a while, roughly, could have
- 16 been -- we were waiting a good while about a half hour and then Mr. Ahern came
- 17 in and he was introduced, he was -- Mr. Carroll introduced him, Mr. Clive
- 18 Carroll introduced him and next thing, after that Mr. Ahern went into the
- 19 process of giving people their certificate, the recipients the certificates,
- 14:15:18 20 they were called up and he handed them and said something to each person.
- 21 Q. 483 And what time did your classes start that afternoon, can you recollect?
- 22 A. I would say that the, the afternoon started about two o'clock. It started two
- 23 o'clock.
- 24 Q. 484 And you had a lecture, is that right?
- 14:15:34 25 A. We had a lecture yeah.
- 26 Q. 485 How long did that lecture last?
- 27 A. I recognise an hour and a quarter, an hour and 20 minutes.
- 28 Q. 486 Then you had a tea break, how long did that last?
- 29 A. About 15, 20 minutes.
- 14:15:45 30 Q. 487 So about half past three, quarter to four?

- 14:15:51 1 A. It would have been, it would have been around half three or 20 to four 25 to
2 four somewhere around between that, you know what I mean. I can't give you an
3 exact time, nobody was watching the clock at that particular stage. Do you
4 know what I mean?
- 14:16:08 5 Q. 488 Of course, after you had the tea break you had the test?
- 6 A. We done the test.
- 7 Q. 489 How long did the test take?
- 8 A. I recognise the test took 30 to 40 minutes there was only about 6 to 8
9 questions in the test.
- 14:16:19 10 Q. 490 So 30 to 40 minutes.
- 11 A. Yeah.
- 12 Q. 491 And after you had the test the papers were collected?
- 13 A. That's correct.
- 14 Q. 492 And then they were taken away presumably to be graded?
- 14:16:29 15 A. That's my understanding of it.
- 16 Q. 493 Because if you had failed the test you wouldn't get a certificate later on that
17 evening, is that right?
- 18 A. Yeah, that would be right.
- 19 Q. 494 So the papers had to be graded or dealt with by the school?
- 14:16:41 20 A. Whoever was doing, whoever was going through examining the papers.
- 21 Q. 495 And how many of you sat the test, approximately can you remember?
- 22 A. I reckon there was between 20 and 25 people.
- 23 Q. 496 All right. And then you think it was sometime later, can you recollect when it
24 was that, about half an hour later I think you said, that they came back, is
14:17:05 25 that right?
- 26 A. When the test was done, we had, there was a long pause in between the test
27 because the papers were taken away, and when the papers were taken away we were
28 told, this is going to take a little bit of time, and there was roughly a bit
29 of time between that and when Mr. Ahern turned up and there was a lot of people
14:17:31 30 started to come in who I didn't know, I didn't know who they were, probably

- 14:17:35 1 staff from NIFST themselves, they came in and then Mr. Ahern came in and he was
2 introduced by Mr. Carroll.
- 3 Q. 497 Can you remember at what time approximately Mr. Ahern came in?
4 A. It was close enough to 5 o'clock, in around 5 o'clock because we were waiting
14:17:56 5 about a half an hour after the test, after the papers were taken, do you know
6 what I mean? And that's why I am saying there was a bit of a pause between the
7 time of the papers were taken and the introduction of Mr. Ahern.
- 8 Q. 498 So your classes start at 2, the class was an hour and a quarter?
9 A. The lecture was an hour and a quarter or an hour and 20 minutes.
- 14:18:23 10 Q. 499 You had a 15 minute tea break at least 30 to 40 minutes of examination, you had
11 a break, you are not sure of the length of time?
12 A. It was a long break.
- 13 Q. 500 For the papers to be corrected and then there were some people came in?
14 A. People started to wander in.
- 14:18:37 15 Q. 501 And then Mr. Ahern appeared.
16 A. Mr. Ahern turned in close enough to 5 o'clock.
- 17 Q. 502 Can I ask you how you came to produce this photograph, who did you produce this
18 photograph to?
19 A. I rang the Fianna Fail headquarters. Can I just explain it to you in my own
14:18:58 20 way?
21 Q. 503 All right fine.
22 A. I was listening to the news in March the day before Paddy's day, the 16th of
23 March and on the 1 o'clock news they had an introduction to the news what they
24 were going to tell you and they kind of said Mr. Bertie Ahern or his spokesman,
14:19:19 25 one or the other said he couldn't have been in a particular place at that time
26 because he had a booking for Glasnevin at NIFST to do a presentation manual
27 handling certificates or -- that's as near as I can remember, because as soon
28 as it was said it twigged in my brain, I was there. I know I was there because
29 that was the time that, that was the period that it took place and I hadn't
14:19:45 30 done another manual handling examination, manual handling programme for another

- 14:19:53 1 three years after that.
- 2 Q. 504 Who did you contact when you realised that you had information?
- 3 A. I contacted the Fianna Fail headquarters.
- 4 Q. 505 Were you aware when you heard the news that this material had had been raised
- 14:20:05 5 at the planning Tribunal?
- 6 A. Not beforehand.
- 7 Q. 506 Well could I have page 4427? In your statement to the Tribunal, Mr. Hackett
- 8 you say "I heard on the radio on the 16th of March last, that the presentation
- 9 of certificates by Bertie Ahern on the 1st February 1989 had been raised at the
- 14:20:24 10 planning Tribunal". That's your statement, isn't it?
- 11 A. I said that the certificates, he said he was there to be there on the 1st of
- 12 February 1989.
- 13 Q. 507 If you look at the statement on screen beside you Mr. Hackett and can you
- 14 confirm first of all that's your signature at the bottom of the statement?
- 14:20:39 15 A. Yes.
- 16 Q. 508 That's your statement. Now if you go back to the second last paragraph you
- 17 will see that it states you heard on the radio on the 16th of March that the
- 18 presentation of certificates by Bertie Ahern on the 1st of February 1989 had
- 19 been raised at the planning Tribunal?
- 14:20:53 20 A. Yes that's -- I know what you mean. That's a, that's my mistake I don't know
- 21 which it is, but it's -- I didn't mean that it was -- it was raised by him
- 22 saying to some journalist that he couldn't have been somewhere because he was
- 23 to be at NIFST on the 16th of March in Glasnevin, I didn't mean to say that it
- 24 was raised at the planning Tribunal.
- 14:21:18 25 Q. 509 It was in fact, Mr. Hackett, raised at the planning Tribunal by Mr. Connor
- 26 Maguire on the 16th of March 2004.
- 27 A. Yeah well I heard it on the radio.
- 28 Q. 510 Yes. But my question to you is, if you were aware as according to your
- 29 statement, you were aware when you heard it first that this issue had been
- 14:21:38 30 raised at the planning Tribunal according to your statement, isn't that right?

- 14:21:42 1 A. Yeah but -- what I am saying is that I thought, I took it that this was said I
2 took this it that this question was being asked and that it was going to come
3 up and that he had said well I couldn't have been in two places at the one time
4 or something to that effect, that I was booked for the NIFST in the 16th of
14:22:08 5 March -- on the 1st of February, to present certificates for a manual handling
6 course in NIFST.
- 7 Q. 511 Yes you see you go on to say in your statement: "Because I have a clear memory
8 of receiving the certificate on that date". So you were aware that the date in
9 question was the 1st of February 1989?
- 14:22:27 10 A. Yes.
- 11 Q. 512 I thought I could be of some assistance.
- 12 A. Yes.
- 13 Q. 513 Now to whom were you going to be of assistance?
- 14 A. Well the way I looked at it, the way I looked at it was that when I recognised
14:22:41 15 that, and I recognised that I had been at the course, I felt that it was right
16 to give the evidence, irrespective of who it was. I don't have any allegiance
17 to anybody, so in other words it would have been, it could have been A to Z but
18 the fact that I said it and I said it because it happened.
- 19 Q. 514 Who did you contact Mr. Hackett with your information?
- 14:23:06 20 A. I rang a person in Fianna Fail headquarters.
- 21 Q. 515 Who did you speak to in Fianna Fail headquarters?
- 22 A. I don't know the person's name.
- 23 Q. 516 What did you say to the person in Fianna Fail and what did she say to you?
- 24 A. I said to her, there was a thing on the radio yesterday and there was, about
14:23:22 25 the Bertie Ahern going to Glasnevin and about the 1st of February of 1989 that
26 he was giving out certificates, I said I just want to say to you that I was
27 there and I have a certificate and a photograph to verify.
- 28 Q. 517 And what were you advised by the person, the woman that you spoke to in Fianna
29 Fail headquarters?
- 14:23:44 30 A. She said to me could I put somebody on to you later on.

14:23:48 1 Q. 518 And did you leave your phone number?
2 A. I gave my job number.
3 Q. 519 Your work number?
4 A. My workplace number yeah.
14:23:54 5 Q. 520 Did somebody else wring you from Fianna Fail?
6 A. A man rang me, I don't know his name.
7 Q. 521 Okay. What did he say to you?
8 A. He said, can I come up and speak to you, can I come up and talk to you. Well
9 says I, I am in work right now, says I. Could you not give me a shout at
14:24:11 10 lunchtime or come up in the evening time when I would be finished work or
11 something and at the end of that then he said okay and the next thing I got a
12 call from a solicitor or somebody in the solicitor's office from Mr. Ward's
13 office.
14 Q. 522 Mr. Frank Ward's office?
14:24:31 15 A. Yes.
16 Q. 523 That's Mr. Bertie Ahern's solicitor?
17 A. Yes.
18 Q. 524 All right?
19 A. They asked me can we talk to you, I said sure yeah. Can we come to your house
14:24:43 20 and I told them to come to the house yeah, gave them my address, and they came
21 up, I think they came up on Thursday or Friday.
22 Q. 525 Did they prepare the statement that is furnished to the Tribunal, the statement
23 you can see it's on screen?
24 A. They asked questions and I answered the questions.
14:24:59 25 Q. 526 Did they get the statement typed up for you?
26 A. Yes.
27 Q. 527 Okay did they bring it back to you and you sign it?
28 A. Yes.
29 Q. 528 When you spoke in the first instance to the woman in Fianna Fail and then when
14:25:10 30 the gentleman from Fianna Fail rang you back, did either of them advise you to

14:25:14 1 bring your information straight to the planning Tribunal?

2 A. No.

3 Q. 529 Okay. Thank you one further document I should show you, could I have page 4071

4 please? This is an extract from the diary of Mr. Bertie Ahern for the 1st of

14:25:31 5 February 1989 and you will see on the 1st of February at the bottom that there

6 is an entry at 5 pm present certificates manual handling NIFST Glasnevin.

7 A. Yes.

8 Q. 530 Can you confirm that that is the event that you were at and where you were

9 presented with your certificate?

14:25:47 10 A. Yes.

11 Q. 531 Were you shown that diary entry at any stage?

12 A. This no.

13 Q. 532 No. Thank you very much Mr. Hackett if you just remain in case somebody else

14 want to ask you some questions.

14:26:01 15

16 MR. BARNIVILLE: Chairman I have one or two questions on behalf of

17 Mr. Gilmartin, I appear for Mr. Gilmartin just one or two questions for you. I

18 think you indicated that the Taoiseach presented you with your certificate or

19 arrived at the venue at 5 o'clock, is that correct?

14:26:19 20 A. Around 5, close enough to 5 o'clock.

21 Q. 533 That's your recollection.

22 A. Yeah.

23 Q. 534 How many other people were getting certificates on the day?

24 A. Between 20 and 25 people that I can recall.

14:26:28 25 Q. 535 And the presumably Mr. Ahern was there for the entire of the ceremony?

26 A. He went through all the people that were there.

27 Q. 536 How long did that take?

28 A. I reckon it, it didn't take an awful long time, if you take it that he only

29 asked me two questions. He said to me, because -- he said how is everybody

14:26:49 30 down Leo Laboratories and the next thing he said do you know Marie O'Reilly

14:26:54 1 there I said yeah she works in the personnel office, he said tell her I was
2 asking for her and congratulations that was the end of it.

3 Q. 537 Presumably he asked similar questions of other --

4 A. Well if he knew somebody who knew somebody, I just happened to be in a
14:27:08 5 situation where he knew somebody in the factory that I work in.

6 Q. 538 And can you recall how long Mr. Ahern was present at the ceremony?

7 A. I reckon he was there between, up to three quarters of an hour, maybe even
8 less, because I left, I waited, I wanted to go home because I live in
9 Ballyfermot and I wanted to get out of there when it was over, I wanted, I
14:27:33 10 waited until he was gone, gave him ten minutes and I got out of there as well.

11 Q. 539 Would that be approximately 5.30 or quarter to six then?

12 A. He would have -- as soon as he was gone, I gave him a few minutes and I was
13 gone too, because trying to get out of that place and get across to my side of
14 the city in Phibsboro, the traffic is very heavy and it took me the guts of
14:27:59 15 three quarters of an hour to get home or nearly an hour.

16 Q. 540 What time did you think you left at?

17 A. I think I left at quarter ten to six.

18 Q. 541 He was probably gone 20 to six?

19 A. He would have been gone by then anyway.

14:28:10 20 Q. 542 Thanks very much.

21
22 CHAIRMAN: Mr. Maguire do you want a few minutes to look at the transcript of
23 this witness' direct evidence?

24
14:28:24 25 MR. MAGUIRE: Sorry, Chairman as you can see I had been watching the list of
26 witnesses and I understood that he was not going to be taken until after this
27 witness, I haven't had time to adjust to this so I wonder if I could just have
28 --

29
14:28:46 30 CHAIRMAN: If you want we can arrange for you to be given I think it will only

14:28:50 1 take a few minutes, a transcript of the few minutes of evidence that you missed
2 and then you can decide whether you wish to cross examine.

3

4

MR. MAGUIRE: Yes Chairman if you can do that.

14:29:00 5

6

CHAIRMAN: You can step down for just a few minutes.

7

8

THE TRIBUNAL THEN ADJOURNED FOR A SHORT

9

BREAK AND RESUMED AS FOLLOWS:

14:29:04 10

11

CHAIRMAN: Now, Mr. Hackett please.

12

13

MS. DILLON: I don't think Mr. Maguire has any questions.

14

14:43:45 15

16

MR. MAGUIRE: I have no questions Chairman.

17

CHAIRMAN: Right if you just step back into the box? Is there anyone else,

18

any other legal representatives wish to cross examine?

19

14:44:02 20

21

Thank you very much for attending.

22

THE WITNESS THEN WITHDREW.

23

24

MS. DILLON: Ms. Patricia Carroll please?

14:44:14 25

26

Mr. Clive Carroll please?

27

Those witnesses that were scheduled for, they relate to the same issue they

28

don't appear to be here at the moment.

29

14:44:37 30

CHAIRMAN: Right, can we deal with Mr. Sherwin?

14:44:39 1
2 MR. GALLAGHER: Yes, sorry I don't know whether you, I know Mr. Maguire is
3 interested to know when the two witnesses that Ms. Dillon has called will be
4 dealt with.

14:44:57 5
6 CHAIRMAN: I understood -- are they here or are they?
7

8 MS. DILLON: I understood that they were here. I haven't spoken to them
9 myself, Ms. O'Raw is going to check are they outside. But we understood that
14:45:09 10 the last witness may know whether they are here or not?
11

12 CHAIRMAN: Mr. Hackett, can you tell us if your two colleagues, Mr. Carroll
13 and Ms. Carroll are in the building?
14

14:45:27 15 MR. HACKETT: I haven't seen them your Honour. I haven't seen them in years.
16

17 CHAIRMAN: All right. Thanks.
18

19 Mr. Hackett: Am I excused now?
14:45:39 20

21 CHAIRMAN: You are free. Yes.
22

23 MS. DILLON: The Tribunal staff did send an updated witness schedule to
24 Ms. Carroll and Mr. Carroll. Now while we had had no response, I understand in
14:45:53 25 relation to serving that, to contact in relation to that, we haven't had
26 anything to indicate that they would not be here, so perhaps in all the
27 circumstances it might be prudent to put them into tomorrow's list and we can
28 make further efforts to contact them.
29

14:46:08 30 CHAIRMAN: Does that suit Mr. Maguire? Anyway we have to ascertain why they

14:46:15 1 didn't turn up.

2

3 MS. DILLON: It may simply be a communication problem, perhaps if you let me

4 discuss with Mr. Maguire for a date we'll --

14:46:22 5

6 CHAIRMAN: We'll rise for another few minutes.

7

8 MS. DILLON: No no, thank you Sir.

9

14:46:26 10 MR. GALLAGHER: Mr. Sherwin please.

11

12 **HAVING BEEN SWORN WAS EXAMINED AS FOLLOWS**

13 **BY MR. GALLAGHER: SEAN SHERWIN.**

14

14:46:59 15 CHAIRMAN: Sit down Mr. Sherwin.

16 Q. 543 Good afternoon Mr. Sherwin.

17 A. Afternoon.

18 Q. 544 I want to ask you some questions on behalf of the Tribunal. Before I deal with

19 your statement, I want to ask you one question arising from the circulation of

14:47:20 20 the brief to you and to other witnesses over the past number of weeks, number

21 of months perhaps you have received various documents which constitute the

22 brief for this part of the, this particular module, isn't that light?

23 A. My solicitor got them.

24 Q. 545 Your solicitor. Did you or anybody on your behalf or anybody to your

14:47:43 25 knowledge, disclose any of the information that is contained in that brief to

26 any person other than to your solicitor?

27 A. None whatsoever.

28 Q. 546 Or your barrister?

29 A. None whatsoever.

14:47:55 30 Q. 547 Okay. You are the national organiser of Fianna Fail, I think you held that

- 14:48:01 1 position for quite a few years, since November 1985.
- 2 A. That's correct.
- 3 Q. 548 And on the 27th of January of 2004 you furnished to the Tribunal, a statement
4 in response to a request from the Tribunal and that statement is to be found at
14:48:16 5 page 3260 to 3263 inclusive. You will see the first page of that is on screen,
6 we'll put the remainder on screen, but before I take you through that can you
7 confirm that that statement represents your evidence as tendered to the --
8 sorry, represents a summary of the evidence that you wish to give to the
9 Tribunal?
- 14:48:50 10 A. That's correct.
- 11 Q. 549 I think that you have worked as an organiser for Fianna Fail for many years,
12 and that you are based in Fianna Fail headquarters.
- 13 A. That's correct.
- 14 Q. 550 I think you have known Mr. Scollan, who gave evidence here today, for some
14:49:13 15 time?
- 16 A. Colm Scollan, yes.
- 17 Q. 551 You knew him before October 1990?
- 18 A. I did, yes.
- 19 Q. 552 When did you first meet him and how long have you known him roughly, at that
14:49:25 20 time?
- 21 A. My meetings with Colm would be very much once a year, twice a year. He would
22 call into my office. I knew his niece, Noreen Ni Scollan, and through Noreen,
23 I became aware of Colm, but very seldom did I meet him, but when we did we just
24 chitchated about things.
- 14:49:50 25 Q. 553 How long had you known him before October 1990, approximately?
- 26 A. I would say about 20 years.
- 27 Q. 554 Now you say that in or around October 1990 you were contacted by Mr. Scollan
28 who requested you to meet Tom Gilmartin?
- 29 A. Yes.
- 14:50:08 30 Q. 555 What did Mr. Scollan say to you when he telephoned you to make that request?

- 14:50:13 1 A. He indicated that he was with Tom Gilmartin, a developer of a major project in
2 Ireland, he indicated that this man was experiencing some difficulties and he
3 would like to talk to me about it. I think I recollect that he said this man
4 is perhaps not going to proceed with his project and that would be a shame and
14:50:43 5 he asked auto would I meet him. I said I would. And I invited both of them to
6 come straightaway.
- 7 Q. 556 You are not, you were not then an elected politician, you were not somebody who
8 had --
- 9 A. I was a former TD.
- 14:51:03 10 Q. 557 A former TD but you did not at that stage hold any political office?
- 11 A. No none, none.
- 12 Q. 558 And you had no background as a planner or as an engineer?
- 13 A. None whatsoever, no. I wasn't ever a member of the County Council or --
- 14 Q. 559 Indeed. You were contacted I take it by Mr. Scollan because of the position
14:51:24 15 you held at that time as national organiser for Fianna Fail, the party,
16 headquarters official?
- 17 A. That's right.
- 18 Q. 560 And did Mr. Scollan indicate to you what he felt that you could do in that
19 capacity for Mr. Gilmartin?
- 14:51:42 20 A. Not on the telephone conversation, before the meeting, no.
- 21 Q. 561 So Mr. Gilmartin came to you in the company of Mr. Scollan, what difficulties
22 did he outline to you at that meeting?
- 23 A. Well Colm didn't outline anything to me when the meeting started, we started to
24 discuss the projects that Tom Gilmartin was planning. We went through all of
14:52:10 25 the Bachelor's Walk project, what he planned to do there, what he hoped to do
26 there. And then he turned his attention to Quarryvale or as he called it
27 Westpark. He explained in detail then about the project. I was interested
28 because I lived in Clondalkin.
- 29 Q. 562 Can I ask you to pause there for just a moment, are you sure your recollection
14:52:40 30 is accurate in that respect, in respect of the Arlington project, because it

- 14:52:43 1 would appear from documents that the Tribunal has seen and indeed from the
2 evidence of Mr. Gilmartin has given, if it's correct, that he had severed his
3 connection with the Arlington project in or about February 1990?
- 4 A. Well I can't account for, there was no indication to me that he had severed, he
14:53:10 5 did talk to me about the project, what he had planned for it. He explained
6 that he was assembling the site, taking options on buildings near the
7 Bachelor's Walk area. At no stage did he indicate to me that he was finished
8 with the project, in fact on the contrary, I certainly got the impression that
9 he was still very much involved in the project.
- 14:53:38 10 Q. 563 And did he outline to you any difficulties that he had experienced in relation
11 to that project?
- 12 A. I think I recollect that he explained that whereas he had acquired a percentage
13 of the buildings, properties, that the, that he had not completed the
14 acquisition of all of the projects, all of the buildings and the addresses in
14:54:11 15 the catchment area of the Bachelor's Walk project.
- 16 Q. 564 Did he make any reference to Liam Lawlor in connection with the Arlington
17 project?
- 18 A. He did, yes.
- 19 Q. 565 What did he say about Mr. Lawlor in that context?
- 14:54:25 20 A. He indicated to me that Liam Lawlor had visited Arlington's offices in London,
21 uninvited and that he was quite shocked at this. I think he did tell me that
22 Liam Lawlor had met him and that Liam Lawlor found through conversation, when
23 he was going back to a meeting in Arlington, with Arlington's offices. So I
24 think that Liam knew, used that information to be there at the same time. Tom
14:55:03 25 Gilmartin did express a view that Liam Lawlor had not been invited by him, but
26 that Liam Lawlor had turned up at the meeting.
- 27 Q. 566 You were here this morning I think for the evidence of Mr. Scollan, is that
28 right?
- 29 A. Yes, well practically all of it, yes.
- 14:55:24 30 Q. 567 You heard his description of the anger and I'm not certain that was the word

- 14:55:35 1 that was used, but the annoyance certainly and a conveyance of anger or grave
2 upset on the part of Mr. Gilmartin as Mr. Scollan described it?
- 3 A. Yes.
- 4 Q. 568 You heard that description?
- 14:55:46 5 A. I did, yes.
- 6 Q. 569 Was that the attitude and the view expressed by Mr. Gilmartin to you on the
7 occasion, that you met him?
- 8 A. My recollection is that Tom Gilmartin would have explained to me that he was
9 the person in Dublin dealing with the project. And that if Liam Lawlor was to
10 be brought to the Arlington people it would be at his invitation, not that Liam
11 Lawlor would or should arrive unannounced from his perspective.
- 12 Q. 570 Well did he tell you that he was angry or upset or annoyed or embarrassed by
13 the arrival of Mr. Lawlor uninvited at the Arlington meeting?
- 14 A. I think the only abiding memory I have of Tom's comment to me was that Liam
14:56:39 15 Lawlor had gate crashed the meeting.
- 16 Q. 571 Did he tell you that Mr. Lawlor had been engaged in a consultancy capacity in
17 relation to Bachelor's Walk project?
- 18 A. Yes.
- 19 Q. 572 Did he outline the nature of that consultancy and how it arose and what
14:57:03 20 remuneration was being paid in respect of that consultancy?
- 21 A. He gave me to understand that Liam Lawlor and he would have discussed the
22 project in Dublin and that subsequently Arlington or Tom Gilmartin had engaged
23 Liam Lawlor's services in a consultancy capacity and the figure of 3,000 or
24 4,000 pounds per month was what I understood it to be, and that several
14:57:32 25 payments had been made.
- 26 Q. 573 Did Mr. Gilmartin indicate whether this was something that he had agreed to or
27 acquiesced to, agreed with in the first instance?
- 28 A. I got the impression that it wasn't Tom's choice, that it was Arlington's
29 choice.
- 14:57:56 30 Q. 574 I see. And did you get the impression that he approved of it or disapproved of

- 14:58:02 1 it?
- 2 A. Well once it was made by his company that he was associated with, I think he
- 3 just went along with it.
- 4 Q. 575 I see. Did he tell you what, if anything, was done by Mr. Lawlor in return for
- 14:58:21 5 this monthly payment?
- 6 A. No, no.
- 7 Q. 576 Were you surprised that a sitting TD would be paid a monthly payment of 3 or
- 8 4,000 pounds by a company here seeking to develop a large site in the centre of
- 9 Dublin?
- 14:58:38 10 A. I think I was very surprised that Liam Lawlor was the politician who would have
- 11 rendered services because Liam would be from the west side of Dublin and not
- 12 from inner city area. But I was aware of Liam's skills in, because he had been
- 13 a councillor for a good few years, and if Liam Lawlor was engaged as a
- 14 consultant there was certainly nothing untoward about that. There are lots of
- 14:59:08 15 politicians who are professionally engaged in matters that are relative to
- 16 their skills.
- 17 Q. 577 Why were you very surprised that he was the politician who rendered the
- 18 services, he was, we know he was not a TD for the constituency concerned or the
- 19 area concerned?
- 14:59:30 20 A. I would have thought that Liam Lawlor would have been more involved, more
- 21 knowledgeable about his own constituency and matters west of Dublin rather than
- 22 downtown centre city developments.
- 23 Q. 578 He was not a councillor for Dublin city?
- 24 A. Not at all.
- 14:59:49 25 Q. 579 He was a councillor however for Dublin County?
- 26 A. County Council, yes.
- 27 Q. 580 And to that extent he was involved in something that was to use a
- 28 colloquialism, outside his patch?
- 29 A. That was the only surprise that I had, I can't question Liam Lawlor's ability
- 15:00:12 30 or his skill in helping a development. I can only assume that if he was paid a

15:00:17 1 fee and during that period that he was engaged as a consultant he obviously
2 would have made reports or gave advice.

3 Q. 581 Well Mr. Gilmartin clearly was very upset at that time and whether he was
4 justified in that upset or otherwise is a matter that the Tribunal will no
15:00:38 5 doubt have to decide, but he was expressing upset and anger to you, or
6 annoyance to you and Mr. Scollan on that occasion?

7 A. I must say I didn't, most of the meeting that I had with Tom and Colm Scollan
8 was about the actual detail of the project, mainly the one in Quarryvale.
9 During my meeting with Tom Gilmartin he would have explained about Liam
15:01:10 10 Lawlor's involvement, beyond that I didn't get the impression that Liam Lawlor
11 was not doing what he was being paid for.

12 Q. 582 What did he say that Liam Lawlor was doing or not doing in relation to the
13 Quarryvale, Westpark development?

14 A. I got the impression that he wasn't involved at all in the Quarryvale project.

15:01:34 15 Q. 583 All right. So is it your evidence that Mr. Gilmartin told you about Mr. Lawlor
16 only in the context of Arlington?

17 A. Yes, his complaint to me was essentially about Liam Lawlor's involvement or
18 pushing himself on the Arlington, Bachelor's Walk development.

19 Q. 584 What other matter did he raise with you that he believed you could help him
15:02:10 20 with?

21 A. Well I think it's, it's not as easy for me to answer that because when he
22 finished and I am talking about a meeting that lasted at least an hour and a
23 half if not more. When he finished detailing the description of the various
24 component parts of the Quarryvale project, which was not just the shopping
15:02:39 25 centre, he talked to me about a, an athletic stadium, swimming arena,
26 incubator, business park, small industry development as well as the shopping
27 centre, so I was very interested in that because that's, I think that's picking
28 up on Colm's earlier evidence, of the number of people that might be employed
29 there, I was very interested to see that that would happen, and subsequently
15:03:08 30 Tom Gilmartin did tell me about some of the pressures that he was under. And

15:03:17 1 the main pressure was that he needed to get the site rezoned because without it
2 being rezoned he couldn't put in a planning application. That was mainly the
3 thing, I do recall some discussion about tax designation or designation and Tom
4 Gilmartin's -- I asked him about whether or not he was looking for tax
15:03:45 5 designation for the area and he said no, a good project doesn't need tax
6 designation. He might have said if it comes it comes, but -- because I was
7 vaguely aware of tax designation status given to the Tallaght Square Shopping
8 Centre and I wondered whether that was why he was coming to see me about, but
9 he said no.

15:04:10 10 Q. 585 Are you saying that Mr. Gilmartin told you that his proposal was of such merit
11 that it could stand on it's own two feet and be commercially viable without the
12 benefit of tax designation?

13 A. Yeah. He said to me that because of his experience of seeing sites and
14 developments in the UK, in the main, he felt that this location where these two
15:04:38 15 roads would be, that that was easily the best site in Europe and that the
16 projects and the components that he had envisaged would sell itself, if tax
17 designation came along that's a bonus, but it was not as I recall, it was not
18 the focus of his attention.

19 Q. 586 Are you saying he was telling you that if, that the development that he was
15:05:04 20 proposing would be viable without the benefit of tax designation?

21 A. Yes.

22 Q. 587 Now you have told the Tribunal that Mr. Gilmartin came to you and you say that
23 he outlined to you the details of his scheme. I take it that you would have
24 known or have read that he was proposing to carry out a development in
15:05:29 25 Quarryvale and that he had spent two days in the Berkley Court, an exhibition
26 open to members of the public or at least councillors or council officials and
27 others who might be interested to explain to them what was proposed?

28 A. Yeah I think when I was trying to recall my meeting and conversation with Tom I
29 did think that it was Buswells Hotel but I since learned that it was the
15:06:00 30 Berkley Court.

- 15:06:00 1 Q. 588 I see.
- 2 A. And that he had an exhibition with model plans of his project obviously large
- 3 scale hoarding showing the different designs and I think he had his design team
- 4 also there. To that exhibitions he would have invited public representatives.
- 15:06:20 5 Q. 589 But were you at that?
- 6 A. No no.
- 7 Q. 590 But you knew of the exhibition, I take it?
- 8 A. I read it in one Sunday newspaper.
- 9 Q. 591 All right. So you knew there was a proposal to carry out this type of
- 15:06:31 10 development in Quarryvale or Westpark?
- 11 A. Yeah and months earlier I had been aware of that.
- 12 Q. 592 That exhibition was held in July of 1990, we are talking about October 1990.
- 13 So can I suggest to you that Mr. Gilmartin's purpose in visiting you was not to
- 14 outline the merits or otherwise of his particular project although that might
- 15:06:53 15 have been mentioned but to explain to you the difficulties that he was having
- 16 at that time, as he perceived them?
- 17 A. Well I can only say that if the meeting which I believe was at least an hour
- 18 and a half, if not two hours, 90 per cent of the time of that meeting was
- 19 talking to me about the project and the detail of the project and the aspects
- 15:07:17 20 of employment opportunities in north Clondalkin, so it's very much, if his
- 21 interest was to talking to me about his problems, he certainly took 90 per cent
- 22 of the time to talk about the project and the small amount of the time to talk
- 23 about his problems.
- 24 Q. 593 Well the merits of the project as he saw it was that it was going to employ a
- 15:07:44 25 significant number of people who would not otherwise be employed, isn't that
- 26 right?
- 27 A. Yes, yes.
- 28 Q. 594 That essentially is what he was saying, that's what he was saying to
- 29 Mr. Scollan this morning and Mr. Scollan was present at that meeting. He was
- 15:07:58 30 complaining about a number of individuals, he did complain about a number to

- 15:08:03 1 you?
- 2 A. Not a large number of individuals. I any in the political sphere he spoke
- 3 about one councillor.
- 4 Q. 595 Who did he speak about?
- 15:08:14 5 A. Finbarr Hanrahan.
- 6 Q. 596 What did he say about Finbarr Hanrahan?
- 7 A. He explained that he arranged a meeting with Finbarr in the Buswells Hotel, he
- 8 described in detail how he met him, that is to say he met him in the down
- 9 stairs bar in Buswells. He gave me a very graphic description of both of them
- 15:08:36 10 sitting on stools at a bar, not addressing each other directly but looking
- 11 straight ahead, I was quite intrigued at the almost odd way of meeting and he
- 12 explained to me that or he alleged that Finbarr had indicated that he would
- 13 wish to have a payment if he was going to, if Finbarr was going to support his
- 14 project.
- 15:09:06 15 Q. 597 Mr. Gilmartin has said that, and I am paraphrasing what he said, in his
- 16 evidence that he met Mr. Hanrahan and Mr. Hanrahan says that he would be
- 17 prepared to support the project in return for 50, a 100,00 pound, 50 of which
- 18 would have to be paid in advance or up front, is that what he told you?
- 19 A. That's what he told me and my response was, did he do that and Tom Gilmartin's
- 15:09:42 20 reply to me was no.
- 21 Q. 598 Did he do that, meaning did you pay that?
- 22 A. Yes.
- 23 Q. 599 Were you astounded that anybody would make such a demand?
- 24 A. Yes. I since then found, I spoke to Finbarr Hanrahan much later and he of
- 15:09:59 25 course, well I don't say, I don't mean to say of course, but he does deny this
- 26 because Finbarr's, I am not sure whether it's appropriate for me to quote what
- 27 he said to me.
- 28 Q. 600 We'll leave that, we know that Mr. Hanrahan has denied that he made any such
- 29 demand. When did he speak to Mr. Hanrahan?
- 15:10:19 30 A. Much later.

- 15:10:23 1 Q. 601 When you say much later, could you put a date or a year on that please?
- 2 A. It was in, I think it was in 1999.
- 3 Q. 602 I see. So nine years later you spoke to Mr. Hanrahan about this?
- 4 A. Well our party headquarters had set up a committee when the Tribunal had
- 15:10:48 5 started it's business and all of the councillors, including Finbarr Hanrahan
- 6 had been invited to give evidence to our committee and I know that this
- 7 Tribunal has a copy of all of that, summary of those interviews. I was at that
- 8 time I was approaching a libel action myself with the Sunday Independent which
- 9 I don't want to go into, but.
- 15:11:13 10 Q. 603 Nor do I.
- 11 A. But I did want to contact the, Finbarr Hanrahan about the fact that I would be
- 12 saying at that action, taking that action, that I would be saying the
- 13 allegation that Tom Gilmartin made about him.
- 14 Q. 604 Now you say that this was an allegation that I think surprised you?
- 15:11:41 15 A. Yes.
- 16 Q. 605 Were you horrified by this allegation, that somebody would demand a bribe?
- 17 A. Yes I was, yes.
- 18 Q. 606 Because if it was untrue it would be a most grievous slander on the good name
- 19 of the person whom you knew presumably?
- 15:12:07 20 A. Yes.
- 21 Q. 607 You had represented in the Dublin area as a TD, I presume you knew councillor
- 22 Hanrahan?
- 23 A. He was a councillor, yes.
- 24 Q. 608 This would have been gross slander on him if it was untrue?
- 15:12:20 25 A. Yes and to this moment I don't know if it was true or not.
- 26 Q. 609 And if Mr. Gilmartin is correct this was a slander that was uttered in the
- 27 presence of Mr. Scollan?
- 28 A. That remains a little bit of a problem, Mr. Gallagher.
- 29 Q. 610 We'll come to that. But he accept that if Mr. Gilmartin's recollection is
- 15:12:45 30 correct?

15:12:45 1 A. Yes.

2 Q. 611 And if there was only one meeting?

3 A. Yes.

4 Q. 612 Then this allegation in relation to councillor Hanrahan was made in your

15:12:57 5 presence and in the presents of Mr. Scollan?

6 A. Yes.

7 Q. 613 And whether there were one meeting or two meetings, you are certain in your

8 recollection that he did make an allegation in respect of councillor Hanrahan?

9 A. That's correct.

15:13:16 10 Q. 614 And you were astounded by this allegation, I take it?

11 A. Yes.

12 Q. 615 Horrified by it?

13 A. Well superlatives, I was shocked.

14 Q. 616 Shocked. All right. You were shocked by it. Now what did you do by that.

15:13:36 15 This shocking news, this shocking allegation, at that time, what did you do?

16 Did you go to anybody in your party or to the Gardai or did you say to

17 Mr. Gilmartin: "If that happened then it is a matter for you to report it to

18 the Gardai?"

19 A. No I didn't say that to Tom Gilmartin. Tom Gilmartin was making the

15:13:58 20 allegations, I have to say I wasn't at all certain that he was telling the

21 truth. He was telling me as convincingly as he could. He also told me of

22 another allegation.

23 Q. 617 Well we'll just deal with this allegation at the moment. Now you say you

24 didn't know, you weren't all certain he was telling the truth?

15:14:22 25 A. No.

26 Q. 618 Well, did it occur to you that if he wasn't telling the truth that it was

27 incumbent on you to bring to Mr. Hanrahan's notice the fact that untruths were

28 being uttered about him?

29 A. Well I didn't do that.

15:14:43 30 Q. 619 But did it occur to you to do that, that this was something that was being said

15:14:48 1 that was untrue, or you believed perhaps to be untrue and that it is something
2 that somebody who was a party colleague of yours, who was an elected
3 representative of the people of west Dublin, where you generally where you live
4 in that general area. Did you feel that you should bring that to his attention
15:15:10 5 as something he should address urgently?

6 A. Well I resolved to bring to the attention of Paul Kavanagh, who was our senior
7 fundraiser, about that aspect and about another aspect which you are going to
8 come to.

9 Q. 620 All right.

15:15:28 10 A. And it was there and there only that I passed on that information. I knew that
11 that person, Paul Kavanagh, would perhaps make other inquiries about that,
12 anything to do with money was certainly far from my jurisdiction or
13 responsibility.

14 Q. 621 All right. Well were you telling, did you resolve to tell Mr. Kavanagh about
15:15:53 15 the allegation concerning councillor Hanrahan?

16 A. Yes and I did.

17 Q. 622 And you did?

18 A. Yes.

19 Q. 623 When, approximately, relative to the first meeting?

15:16:01 20 A. Within days after, yes.

21 Q. 624 And what did you tell Mr. Kavanagh?

22 A. Well can I mix the other -- if I just isolate.

23 Q. 625 Just stay on this now, what did you tell him about Mr. Hanrahan?

24 A. I told him that I had met Tom Gilmartin.

15:16:21 25 Q. 626 Yes.

26 A. And that in the course of conversation he had made the allegation that this
27 councillor Finbarr Hanrahan had asked him for a consultancy or fee or payment,
28 which ever.

29 Q. 627 You haven't mentioned consultancy, Mr. Gilmartin says it was a sum of money
15:16:44 30 which was being demanded in return for support for voting for a particular

- 15:16:48 1 project?
- 2 A. Yes. I won't quibble with that.
- 3 Q. 628 All right. Mr. Gilmartin told you that he had refused to pay this or had not
- 4 paid this at least?
- 15:16:55 5 A. Yes I told that to Paul Kavanagh.
- 6 Q. 629 Now Paul Kavanagh was in charge of fund raising at that time?
- 7 A. That's right.
- 8 Q. 630 In broad terms. Given that no money had been paid, according to Mr. Gilmartin,
- 9 why did you not, why did you tell Mr. Kavanagh, why did you not go to somebody
- 15:17:13 10 else, why did you not refer Mr. Gilmartin to the Gardai and say go to the
- 11 Gardai about that, that's a very serious matter?
- 12 A. Well first of all I wasn't quite prepared to believe that the allegation was
- 13 true. It wouldn't have been, given the fact that Tom Gilmartin had said he had
- 14 not paid, it was then a question of his word against Finbarr Hanrahan had he
- 15:17:42 15 been asked. It never occurred to me to bring this matter to the Gardai or
- 16 anybody of that nature. I brought it to who I considered to be the appropriate
- 17 person within the party. I knew, I felt very confident that Paul Kavanagh
- 18 would when he would be discussing these matters with, the then leader of the
- 19 party, that he would discuss and inform people other than keep it to himself,
- 15:18:08 20 he would have that matter raised.
- 21 Q. 631 Well is it Tribunal to take it that your purpose, your reason for mentioning
- 22 this to Mr. Kavanagh or one of the reasons was that he would raise them in turn
- 23 with the then leader of the party, Mr. Haughey, Charles J Haughey, is that
- 24 correct?
- 15:18:27 25 A. I certainly was confident that he would do that, yes.
- 26 Q. 632 And was it your feeling at the time that this was a matter that should be
- 27 raised with the then leader of the party?
- 28 A. I'm not sure whether I can say that I was sure.
- 29 Q. 633 Can I put it another way, presumably you wouldn't have told Mr. Kavanagh with
- 15:18:53 30 the intention of his raising it with Mr. Haughey unless you felt it was

- 15:18:55 1 necessary and desirable that he should do so?
- 2 A. No my feelings were that I should tell Paul Kavanagh about that allegation and
- 3 frankly a much more serious allegation and that I expected that Tom, that Paul
- 4 Kavanagh would do his due diligence in the matter.
- 15:19:15 5 Q. 634 Right. But his due diligence would have been confined, given his position in
- 6 the party, as to whether or not monies were received by the party or not
- 7 received by the party, isn't that right?
- 8 A. Yes.
- 9 Q. 635 Now you knew that on the basis of what Mr. Gilmartin had told you that no money
- 15:19:30 10 had been paid to Mr. Hanrahan?
- 11 A. Yes.
- 12 Q. 636 So there is no question of Mr. Kavanagh looking into the party accounts to see
- 13 whether money had come into the party through Mr. Hanrahan from Mr. Gilmartin?
- 14 A. That's correct.
- 15:19:46 15 Q. 637 You were aware, I take it that in 1989 there had been, the previous year, there
- 16 had been a Garda investigation into allegations of corruption in the planning
- 17 process?
- 18 A. I wasn't so aware, no.
- 19 Q. 638 You were not so aware?
- 15:20:03 20 A. I think the first time I became aware of that was in 1989 or 1998 when I read
- 21 it in the Sunday Independent.
- 22 Q. 639 Are you saying that you did not become aware of, for example, prosecutions of
- 23 two officials in the planning area who had been prosecuted as a result of a
- 24 Garda investigation which commenced in 1989?
- 15:20:33 25 A. No I wasn't aware.
- 26 Q. 640 And is it your evidence to the Tribunal that you did not here at any stage, on
- 27 the grapevine or read in the newspapers, of a Garda investigation into planning
- 28 corruption in the period 1989/1990?
- 29 A. I thought you were referring to Quarryvale and matters --
- 15:21:02 30 Q. 641 No I'm not talking about Quarryvale?

- 15:21:05 1 A. I was aware of the Gogarty.
- 2 Q. 642 Garda investigation?
- 3 A. And very much to do with the Gogarty allegations, etcetera. I was very much
- 4 aware of all of that.
- 15:21:15 5 Q. 643 The Gogarty allegations were made in the mid 1990s?
- 6 A. Right well then I didn't.
- 7 Q. 644 Mr. Gilmartin has told the Tribunal that he complained to Frank Feeley and to
- 8 Mr. Sean Haughey who were managers in Dublin Corporation?
- 9 A. Yes.
- 15:21:30 10 Q. 645 Regarding corruption, alleged corruption and that as a result of this we know
- 11 from evidence tendered to the Tribunal that there was a Garda investigation
- 12 which resulted in the furnishing of 150 page report or thereabouts to the
- 13 Minister for Justice and in 1990 and in May 1990 as I recall, and the
- 14 prosecution of two officials, one of whom was acquitted?
- 15:21:59 15 A. I don't recollect, I wasn't aware of that.
- 16 Q. 646 You weren't aware of that?
- 17 A. No.
- 18 Q. 647 Were you aware of any allegations or rumours in the, in Dublin, in or about
- 19 that time, concerning alleged corruption in the planning process?
- 15:22:24 20 A. No.
- 21 Q. 648 You have heard the evidence of your friend Mr. Scollan this morning, that the
- 22 dogs in the street were talking about corruption in the planning process, you
- 23 hadn't heard that?
- 24 A. I heard what he said, I was not aware. I mean rumours or otherwise, I wasn't
- 15:22:43 25 aware of a planning corruption or corruption in the planning process, no.
- 26 Q. 649 But allegations of corruption?
- 27 A. Or allegations, no.
- 28 Q. 650 How long had you been a public representative, Mr. Sherwin?
- 29 A. From 1970 to 73.
- 15:23:01 30 Q. 651 What area had you represented?

- 15:23:03 1 A. It was then called Dublin South west, and it encompasses Ballyfermott,
2 Inchicore, Drimnagh, Crumlin.
- 3 Q. 652 I see.
- 4 A. That sort of area.
- 15:23:15 5 Q. 653 Now I know that there is, there appears to have been some confusion in your
6 mind from reading the documentation, as to whether or not you had one meeting
7 or two meetings with Mr. Gilmartin?
- 8 A. Can I just explain very briefly? I would not have quibbled at all about one
9 meeting, it was just that Colm Scollan could not recall items that Tom
15:23:49 10 Gilmartin said he explained to me and I could only come to the conclusion that
11 if Colm who was there with me, if he could not recall these items, I have no
12 hesitation in admitting when I said admitting, in remembering that I was told
13 these things by Tom Gilmartin and if Colm cannot recall or cannot remember then
14 I can only assume that there was two meetings.
- 15:24:14 15 Q. 654 All right. Mr. Gilmartin has accepted that generally speaking he agrees with
16 what you have stated in your statement, except that he says that there was only
17 one meeting and he did not have a roll of maps as you have?
- 18 A. I don't think I ever used the phrase roll of maps.
- 19 Q. 655 Well, drawings perhaps is what he referred to. He says he didn't have drawings
15:24:53 20 he did have brochures?
- 21 A. Yes.
- 22 Q. 656 And I think that the brochure that he was referring to is perhaps the brochure
23 on 4396, if we can have that please? 4396 this is an A4 size reduction of the
24 brochure in question.
- 15:25:27 25 Q. 657 Perhaps I can just show you the original, I will just show you the original of
26 that brochure, because my understanding from, of Mr. Gilmartin's evidence is
27 that it was a brochure such as this that he was showing you about the Westpark
28 development.
- 29 A. Yes.
- 15:26:01 30 Q. 658 Does that help you in your recollection?

15:26:03 1 A. I don't have -- as you can see here it opens up to a larger size.

2 Q. 659 Yes it does. (indicating document)

3 A. I was in, I had a tiny office downstairs, we moved up to the board room and

4 continued our meeting, we were able to lay the documents out.

15:26:22 5 Q. 660 I don't think a huge amount turns on it. But he disagrees, essentially in two

6 respects. One that he didn't have drawings, he did have a brochure such as you

7 see in front of you and secondly that there was but one meeting. And he says

8 that he repeated to you what he had already told Mr. Scollan and I think

9 Mr. Scollan confirmed that had in his evidence this morning, that he was

15:26:47 10 present Mr. Gilmartin, at his instigation or request repeated to you what he

11 had said. And you confirm that at your meeting there was a reference to

12 Mr. Hanrahan. Can you remember anybody else who was referred to in the course

13 of that meeting?

14 A. In terms of politicians.

15:27:06 15 Q. 661 Well in terms of politicians or in terms of government officials or otherwise?

16 A. My recollection is that the only reference and this is going back now to the

17 Arlington Bachelor's Walk project, Tom Gilmartin would have explained to me

18 that on one occasion he was at a meeting, he was waiting in the Gresham Hotel

19 to be called across the road to the County Council offices in O'Connell Street

15:27:38 20 and he had his team of engineers there because I think there were, I think I

21 recollect him saying they were going to talk about roads and the business of

22 roads. And he was growing apprehensive because he knew the meeting was

23 scheduled for a certain time and yet he was still not being called across, and

24 he told me that he did finally make up his mind that he was going, he may have

15:28:04 25 told me that he made a couple of calls, phone calls, but then he went across to

26 the County Council offices and he was able to relate to me that he felt that he

27 was being left in the hotel on purpose by the officials that he was to meet,

28 and I think he mentioned Mr. Redmond as being the person that, or one of the

29 people that he was going to meet, so he was angry about that.

15:28:35 30

15:28:35 1 My understanding, my recollection is that's the only other person that I
2 remember him referring to in any detail, that that was symptomatic of the
3 problems that he was facing with regard to the discussions, negotiations with
4 the County Council.

15:28:52 5 Q. 662 Did he tell you that he had reported that incident or that failure to hold that
6 meeting to Mr. Frank Feeley and Mr. Sean Haughey?

7 A. He did, yes.

8 Q. 663 And did he tell you that notwithstanding complaining to Mr. Feeley and to
9 Mr. Haughey that nothing, that he felt that nothing had happened, that there
10 had been no change so far as he was concerned?

11 A. Yeah I think he was, he had certainly would have given me to understand that he
12 was frustrated in his efforts, but I do recollect that he talked about that
13 there was a large tract of land that was in the ownership of Dublin Corporation
14 that was now as you probably appreciate out in the county area, but it was
15 still owned by Dublin Corporation and that he had made a bid and that somehow
16 that bid that he made which he thought was going to be successful, ultimately
17 was not successful and the bid was reopened and in reopening the bid he found
18 himself almost competing again for the same land, against I think I can
19 recollect him telling me that representatives of the Green Property Company
20 that were developing Blanchardstown which would be, could be termed as a rival
21 shopping centre, so he thought that was unacceptable.

22 Q. 664 He has told the Tribunal that he had agreed to pay 40,000 pound per acre for
23 lands owned by the Corporation an County Council. And that he had understood
24 that he had a deal done on that, subject to formal approvals going through,
25 that those approvals did not go through, that he was found himself in a
26 position where he had to tender and in order to secure the lands he tendered a
27 figure of 70 to 71,000 pound per acre?

28 A. He didn't tell me those details. He told me the basic problem.

29 Q. 665 I see?

15:30:55 30 A. Yes.

- 15:30:56 1 Q. 666 All right. Now did he tell you that he had had dealings with Mr. Flynn and if
2 so, how did that arise, can we have page 3261 please?
- 3 A. This is in my statement.
- 4 Q. 667 Yes just tell the Tribunal what you recall about -- forget about the statement
15:31:20 5 just for a moment, just tell us what you remember about Mr. Gilmartin's
6 complaints if any Mr. Flynn?
- 7 A. He indicated to me that he had made a contribution of 50,000 pound to Padraig
8 Flynn, as I understood on behalf of Fianna Fail.
- 9 Q. 668 And how did that issue arise in the course of your meeting or meetings?
- 15:31:41 10 A. He simply informed me that he had done that.
- 11 Q. 669 In what context did he inform you that he had done that?
- 12 A. He certainly had finished all of the detail of the project and we were I think
13 winding down the meeting. I had told him at that stage that I was the wrong,
14 in the wrong office for him, that he needed to go and meet with the elected
15:32:12 15 public representatives, the officials in the County Council and that that's
16 where he should bring his project to and certainly I indicated that my job
17 didn't allow me to be in anyway involved, nor was I anyway involved in these
18 matters. He did say in passing --
- 19 Q. 670 Sorry can I stop you there and I know I have ask you you a question and you are
15:32:39 20 repeating it. But why did you tell him to go and meet elected public
21 representative and officials to the Council in circumstances where he told you
22 one elected representative had looked for a 100,000 pound?
- 23 A. I'm not sure, you were asking me the questions earlier about Finbarr I am not
24 sure whether he then told me about at that stage, when I told him to go and
15:33:00 25 meet with the appropriate people and I would have identified that Quarryvale or
26 as I new the locality, I didn't know it as Quarryvale then but that it was in
27 the Lucan electoral area and the elected local authority member was Finbarr
28 Hanrahan, I think in response to that he then told me about Finbarr.
- 29 Q. 671 All right. The question I asked you was how, in the context in which the
15:33:27 30 contribution or payment to Mr. Flynn that you have just mentioned?

15:33:29 1 A. I think he, as a follow on to that, he indicated that he had given a
2 contribution, a donation, I'm not sure whether he used the word donation to
3 Padraig Flynn. Whether he actually said on behalf of Fianna Fail, I certainly
4 took it that he meant that, because Padraig Flynn was treasurer of the party at
15:33:53 5 that time, so I automatically assumed that he was telling me that he had given
6 50,000 to Padraig Flynn or Fianna Fail.

7 Q. 672 He is quite emphatic that he told you that he had given a donation to the
8 party. He says that Mr. Scollan had asked him to repeat in your presence what
9 he had earlier told Mr. Scollan. He says that in particular he recounted his
15:34:24 10 complaints against Mr. Redmond and against Mr. Lawlor because he thought it was
11 in dealing with these individual that is Mr. Sherwin might be able to enlist
12 come political support which would arrest the activities of both of them. May
13 I have page 602 please?
14

15:34:42 15 And he says that Mr. Sherwin did not express any surprise at what I told him
16 but merely asked whether I would give a donation to the party as he thought it
17 would probably help to smooth things out?

18 A. That's completely untrue.

19 Q. 673 And he says that he, in response said "that he had given a donation of
15:35:04 20 approximately 18 months previously to the party, well sorry, he asked how much
21 and I told him that I had handed a cheque for 50,000 pound to Padraig Flynn.
22 At that stage he went back into his office for a couple of minutes and he re
23 emerged to tell me that no such donation had been received by the party.
24 Mr. Sherwin said that he would have to talk to the powers that be".

15:35:29 25 A. There is a number of points there. First of all I did not ask him for a
26 donation. It would have been, I think you perhaps would agree, it would be an
27 extraordinary thing if this man was here in my office telling me about his
28 difficulties and problems and that I would make his difficulties and problems
29 even more difficult by asking him for a contribution to Fianna Fail, the last
15:35:54 30 thought in my mind would have been that. So I didn't ask him for any

- 15:35:57 1 contribution.
- 2
- 3 I certainly did not ask him, as you recited there, how much did I, did he give
- 4 to Padraig Flynn. He offered the information to me. He simply said I have
- 15:36:16 5 given 50,000 pounds to Padraig Flynn. I assumed frankly that he was saying I
- 6 gave 50,000 pounds to Padraig Flynn on behalf of Fianna Fail.
- 7 Q. 674 What was your reaction at hearing that a sum of 50,000 pounds had been handed
- 8 over by Mr. Gilmartin, whether to Mr. Flynn or to the party?
- 9 A. I was, I have to say I was in slight disbelief, I didn't think that it was
- 15:36:55 10 true. I resolved in my own mind that I would find out as soon as I could was
- 11 it true. The suggestion that Tom Gilmartin in his evidence, that I left the
- 12 room and came back ten minutes later and told him it wasn't received, that was
- 13 quite impossible. There was no way that I could have found that information
- 14 out. It would take my asking other people to research fundraising receipts to
- 15:37:23 15 know if that happened, and that could take several days.
- 16 Q. 675 Well he has said that his recollection is that you left the room and you came
- 17 back later to say that no such donation had been received by the party, in any
- 18 event whether you left the room or didn't leave the room the fact is that you
- 19 did establish within a relatively short time that no such donation had been
- 15:37:45 20 received by the party?
- 21 A. Yes.
- 22 Q. 676 Did Mr. Gilmartin ask you for any receipt for that money?
- 23 A. No.
- 24 Q. 677 Was there any question of a receipt mentioned or an acknowledgement mentioned
- 15:38:01 25 by Mr. Gilmartin?
- 26 A. No. He told me that he gave the money, he didn't express any requirement of a
- 27 receipt, in fact I would have I assumed that he if he give gave a donation he
- 28 would have gotten a receipt.
- 29 Q. 678 Did you regard the 50,000 pounds as being a huge contribution at that time?
- 15:38:18 30 A. A very very significant, very much unusual amount of money and any

15:38:25 1 contributions that the party would have gotten around that time would have been
2 much more in the range of 1,000 to 2,000 or 5,000 whatever. It would have been
3 a very very significant organisation/company that would give that type of money
4 to any political party, at that time.

15:38:43 5 Q. 679 Would it be fair to describe it as an outrageous amount?

6 A. Well I can't, sometimes companies make contributions based on their own
7 profitability and their ability to pay and I can't account for large
8 corporations wanting to support the political process and giving that type of
9 money, I can't delve into their thought processes.

15:39:11 10 Q. 680 Did you ever describe it as an outrageous amount?

11 A. Sorry.

12 Q. 681 Did you ever describe it as an outrageous amount to the best of your
13 recollection?

14 A. Yes I think I would have, I would have taken that view that it was an
15 extraordinary figure of money.

15:39:23 16 Q. 682 And were you shocked when you were told that 50,000 pounds had been given to
17 Mr. Pdraig Flynn and when you learned that that had not been, that found it's
18 way into the coffers of the party?

19 A. I was in disbelief to be truthful.

15:39:48 20 Q. 683 Were you shocked?

21 A. I was yeah and in disbelief.

22 Q. 684 Why what was the disbelief or what was the reason for your disbelief?

23 A. I couldn't make out whether Tom Gilmartin was giving me this information in a
24 truthful way, I just couldn't make up my mind, and when I found through Paul
15:40:12 25 Kavanagh that the money did not find it's way into Fianna Fail, I was then in
26 more disbelief, I was quite certain it didn't happen.

27 Q. 685 That it didn't happen.

28 A. Yes.

29 Q. 686 At that stage Mr. Flynn was the party treasurer or one of the joint treasurers
15:40:31 30 of the party?

- 15:40:31 1 A. Yes joint honorary treasurer.
- 2 Q. 687 He was a Minister in government?
- 3 A. Yes.
- 4 Q. 688 Why did you not go to Mr. Flynn at that stage, if you did not believe that he
- 15:40:48 5 had received the 50,000 pounds, and say to him "Mr. Gilmartin has alleged that
- 6 he gave you 50,000 pounds for the Fianna Fail party, it hasn't gone to the
- 7 Fianna Fail party and I am satisfied that I believe that it's a grossly
- 8 defamatory statement of you, it's untrue and I am prepared to give evidence on
- 9 your behalf if you seek to take an action against Mr. Gilmartin?"
- 15:41:21 10 A. Well to start with, I wasn't in a position of belief, I was in disbelief and
- 11 may I -- my first opportunity I raised it with who I considered to be the
- 12 appropriate person, Paul Kavanagh who was head of fundraising, I felt that it
- 13 would be his job and he would have the ability to find out whether or not it
- 14 came to Fianna Fail, as alleged by Tom Gilmartin.
- 15:41:48 15 Q. 689 But Mr. Kavanagh told you, according to your statement that there was no record
- 16 in the Fianna Fail party of the payment, isn't that right?
- 17 A. That's right, yes, some days later. Sorry, I met him some days later and then
- 18 it took him a further period to find out.
- 19 Q. 690 Within, whether it was on the day or within a few days?
- 15:42:16 20 A. Yes, yes.
- 21 Q. 691 Certainly in or about October of 1990 you knew that any money that is Thomas
- 22 Gilmartin had paid, if any, to Mr. Flynn had not found their way into the
- 23 Fianna Fail coffers?
- 24 A. That's right.
- 15:42:31 25 Q. 692 And if Mr. Gilmartin is truthful and accurate in his, what he told you, he had
- 26 given 50,000 pounds to Mr. Flynn?
- 27 A. Yes.
- 28 Q. 693 And you did nothing further about that at that time, either by going to
- 29 Mr. Flynn or by telling Mr. Gilmartin he should go to the Gardai or by writing
- 15:42:54 30 to anybody in your organisation, telling your superior about this outrageous

15:43:03 1 grossly defamatory claim that was being made, if untrue, isn't that right?

2 A. Well that's true. I didn't go to anyone else for two reasons. One I had gone

3 to Paul Kavanagh who was the appropriate person and secondly, for I to spread,

4 if it turned out to be not just untrue but scandalous, I wasn't going to be

15:43:25 5 found guilty of spreading scandal to persons. I certainly felt that Paul

6 Kavanagh was the appropriate person and that's who I spoke to.

7 Q. 694 Did you inquire from him as to whether or not he had spoken to anybody else in

8 the organisation, who was the ultimate senior party official or officer at that

9 time?

15:43:50 10 A. No the auditors wouldn't have anything to do with it.

11 Q. 695 Officer sorry?

12 A. Well as you said, the joint honorary treasurer, or one of them, was Padraig

13 Flynn. Paul Kavanagh came back to me days later and told me that it did not,

14 directly or indirectly, that's to say from Padraig Flynn, directly or

15:44:17 15 indirectly it did not come to Fianna Fail. I was frankly relieved because I

16 couldn't believe that it had gone to Padraig Flynn personally, I then as I said

17 inquired whether or not it had come to Fianna Fail itself and I was relieved

18 when it hadn't, so I was probably convinced more in my own believe that this

19 never happened.

15:44:41 20 Q. 696 Why did you not go back to, right to Mr. Gilmartin and say "Dear Mr. Gilmartin,

21 I have carried out inquiries and have established that there is no truth in

22 your claim that you paid 50,000 pounds to the Fianna Fail party, there is no

23 record in the party of 50,000 pounds having been received?"

24 A. No. I mean, if, as you know Tom Gilmartin's own evidence is I came back ten

15:45:10 25 minutes later and said it didn't arrive in Fianna Fail, if he was quite

26 satisfied about that then there would be no point in I coming back to him. But

27 in fact it never occurred to me to come back to Tom Gilmartin and to get into

28 an argument with him, as to whether or not this money came to Fianna Fail or

29 not. I knew that it hadn't come to Fianna Fail and as far as I was concerned

15:45:34 30 it didn't go to anybody, that this was --

15:45:37 1 Q. 697 Well according to your evidence Mr. Sherwin, you say that you made inquiries
2 some days later from Mr. Kavanagh?
3 A. Yes.
4 Q. 698 This is some days after you were told about this 50,000 pounds?
15:45:50 5 A. Yes.
6 Q. 699 And you did not at that stage having established that 50,000 pounds had not
7 been paid to, into the Fianna Fail coffers you did not revert to Mr. Gilmartin
8 to tell him that that money was never received?
9 A. But I wasn't in contact with Tom Gilmartin, I did meet him subsequently when I
15:46:18 10 tried to present him with some helpful --
11 Q. 700 Yes welcome to that.
12 A. Yes but it didn't occur to me to go back to Tom Gilmartin. Tom Gilmartin had
13 come to my office, making these allegations about the money aspect of Padraig
14 Flynn, Finbarr Hanrahan. I found through talking to the appropriate person
15:46:42 15 that it didn't come to Fianna Fail.
16
17 I frankly couldn't believe that it went to Padraig Flynn and as far as I was
18 concerned that was the last thought I had about it at that time, I knew the
19 allegation was made by Tom Gilmartin, I didn't know that he might make that
15:46:58 20 allegation to anyone else.
21 Q. 701 But he made it to Mr. Scollan, both according to himself, according to
22 Mr. Gilmartin, he made that allegation to Mr. Scollan?
23 A. I wasn't at the meeting with Mr. Scollan.
24 Q. 702 I appreciate that. Mr. Gilmartin's evidence, if it's correct, is that he told
15:47:14 25 Mr. Scollan about this in his office in 25 St. Stephen's Green, that as a
26 result of telling him that and other matters, and he, Mr. Scollan contacted
27 you, and according to Mr. Scollan he, that's Mr. Gilmartin, repeated in your
28 presence the difficulties he already had, he outlined those, repeated, he had
29 already told Mr. Scollan. No now I don't expect anybody, I think it would be
15:47:46 30 unreasonable to expect anybody to remember every detail of every conversation.

- 15:47:46 1 A. No but even today Mr. Scollan says he did not recall being told that.
- 2 Q. 703 I accept that. But you accept that you were in fact told that?
- 3 A. Oh, yes.
- 4 Q. 704 So your recollection differs?
- 15:47:56 5 A. That's where we get into the problem of --
- 6 Q. 705 Indeed. But insofar as you were concerned you were told and you recall being
- 7 told of the 50,000 pounds. You asked Mr. Kavanagh had this money been paid and
- 8 he came back to you on your evidence and said no it had never, it hasn't been
- 9 paid to Fianna Fail, and you let the matter sit there?
- 15:48:16 10 A. Well it wasn't for me to do --
- 11 Q. 706 That's the fact, isn't it?
- 12 A. Yes. It was the fact. It wasn't my position as I told you. My job is not or
- 13 anything to do with fundraising.
- 14 Q. 707 But if, your position at that stage was national organiser, paid official of
- 15:48:34 15 the party, you had been furnished with information which suggested if true,
- 16 that monies that Mr. Gilmar thin intended to go to the party had in fact not
- 17 gone to the party but were kept by Mr. Flynn?
- 18 A. I wasn't prepared to contemplate that.
- 19 Q. 708 It if Mr. Gilmartin was accurate in what he was saying that's in fact what he
- 15:48:57 20 had told you, isn't that right?
- 21 A. If it was true yes.
- 22 Q. 709 Well now we know that Mr. Gilmartin did pay a sum of 50,000 pound, and we know
- 23 that in 1998 or thereabouts Mr. Macken I think, the secretary general of the
- 24 party wrote to Mr. Flynn asking him about the money?
- 15:49:19 25 A. No that's right. No he didn't.
- 26 Q. 710 Well asked for an explanation. Asked for an explanation about this money and I
- 27 think the Taoiseach wrote following a resolution of the Dail sometime later.
- 28 So you had never put to the Mr. Flynn the claim that monies had been paid to
- 29 him or never asked him about it?
- 15:49:45 30 A. No.

- 15:49:46 1 Q. 711 And you never told yourself, you never told the Taoiseach about it at that
2 time?
- 3 A. Well the then Taoiseach.
- 4 Q. 712 That's what I am saying?
- 15:49:53 5 A. I was quite satisfied Paul Kavanagh would have spoken.
- 6 Q. 713 Well did you ask Mr. Kavanagh had he told the Taoiseach about it?
- 7 A. I didn't ask him precisely, I asked him to investigate the matter. Now I knew
8 that in investigating the matter Paul Kavanagh would have had to go to various
9 members of the fund raising committee who were, who have nothing to do with
10 party headquarter staff or in party headquarters, he would have had to go
11 through that process. He would have had to check to see whether the then
12 leader of the party had received this money, because sometimes the leader in an
13 election situation would get funds and pass them on to the election account. I
14 was satisfied that had Paul Kavanagh would have done all of that.
- 15:50:18 15
- 16 And having done all of that and he also would have checked with our party
17 accountant, Sean Flemming, I am satisfied he did that too. When he did all of
18 that and then told me that Fianna Fail had not received this money, I was
19 satisfied then that my initial disbelief was now more true, that this was an
20 allegation that was unfounded. I know and we all know since, in more recent
21 years that this money not only was paid, but that it has transpired to me to
22 have been handled by Mr. Flynn.
- 23 Q. 714 Why having established or believed that all of these inquiries had been made
24 from everybody, except Mr. Flynn, did you not suggest or somebody else not
25 suggest that Mr. Flynn be asked a simple question?
- 15:51:06 26 A. But I didn't know.
- 27 Q. 715 You didn't know of course.
- 28 A. But I didn't know if Paul Kavanagh in doing his due diligence would have gone
29 to Padriag Flynn.
- 15:51:42 30 Q. 716 Did you ask him?

- 15:51:44 1 A. No I didn't.
- 2 Q. 717 Why did you not ask him?
- 3 A. Because it wasn't my place. It was his place to do all of the investigation
- 4 and finding out the facts of the matter.
- 15:51:52 5 Q. 718 Did I tell him, did you tell Mr. Kavanagh so far as you were concerned you were
- 6 simply relaying this information and it was up to him to make inquiries of,
- 7 from the party leader, from the other people on the fundraising committee from
- 8 Mr. Sean Flemming and from anybody else?
- 9 A. I wouldn't have recited all of that list that you have just said. I would have
- 15:52:13 10 gone to Paul Kavanagh, Paul Kavanagh is quite a successful businessman, a very
- 11 experienced individual and it would be inappropriate for me to tell him how to
- 12 do his job.
- 13 Q. 719 Did you ask, were you asking him to do his job? Were you asking him to make
- 14 inquiries from all of the, all relevant parties and all relevant sources or
- 15:52:38 15 were you simply saying Tom Gilmartin has alleged he gave 50,000 pound to the
- 16 party?
- 17 A. No I wasn't treating it flippantly. I told him as soon as I could that this
- 18 man came to my office, or Fianna Fail's headquarters office, he made this
- 19 allegation, I was concerned was it true. He, being the appropriate person, was
- 15:53:00 20 then asked by me to follow through and to see did it happen, and was there any
- 21 evidence of it and subsequently as I say he returned and gave me a brief
- 22 account that it had not been received directly or indirectly to Fianna Fail.
- 23 Q. 720 How many days elapsed between the time that you told Mr. Kavanagh of
- 24 Mr. Gilmartin's allegations of the 50,000 pounds and Mr. Kavanagh telling you
- 15:53:35 25 that there was no record of the money having been received by Fianna Fail?
- 26 A. I can only --
- 27 Q. 721 Approximately?
- 28 A. I'd say less than a week.
- 29 Q. 722 And can the Tribunal take it that at that stage less than a week after you
- 15:53:54 30 first heard the 50,000 pound, that it was your belief that the 50,000 pound had

15:54:01 1 not been paid by Mr. Gilmartin as he claimed?

2 A. Yes, that was my belief, yes.

3 Q. 723 Now would you tell the Tribunal about your next meeting with Mr. Gilmartin,
4 when did the next meeting take place approximately?

15:54:18 5 A. Given, I think about a week or probably a week or so after that. Tom Gilmartin
6 came over to Dublin, I had made contact with him in, at his home in Luton, I
7 indicated to him that there was a person who I felt was in Dublin doing a major
8 refinancing of the Goodman organisation that was then in receivership as far as
9 I can recollect, and that this man could help him. I was frankly disappointed
10 that I wasn't in a position to help Tom earlier, as I have explained to you. I
11 saw this as an opportunity which came by chance, that information came by
12 chance to me, and I asked Tom would he like to pursue the matter with this man,
13 Edmund McMullen? Tom's reply was yes, I will come over to Dublin. And I set
14 up a meeting. This man was in the -- which hotel.

15:55:30 15
16 Q. 724 Conrad Hotel.

17
18 CHAIRMAN: Why would you want to help someone like Mr. Gilmartin who you at
19 this stage, when you were contacting him, thought he had been telling you lies
15:55:45 20 and making false allegations about payments to Fianna Fail or Mr. Flynn? Your
21 evidence is, that at this stage when you were going to contact him, because you
22 say, and I am quoting you, because you wanted to help Tom, you said that you
23 contacted him, but at this stage you knew that as far as you were concerned he
24 had given you false information and made very serious allegations about
15:56:14 25 Mr. Hanrahan and about Mr. Flynn, and about making payments to the Fianna Fail
26 party.

27
28 Did you in the think you were dealing with somebody who, somebody who was very
29 dangerous and who was out to cause trouble and -- what were your thoughts when
15:56:32 30 you were going to contact him?

15:56:33 1 A. Chairman I am, the timing of I getting the information about Edmund McMullen,
2 making contact with Tom, Tom coming to Dublin I am not certain whether that was
3 in the period, within the period that I hadn't got the information from Mark,
4 or Paul Kavanagh. I know it was pretty well immediately after our meeting in
15:56:56 5 Dublin. I can't remember what days. I know that Tom Gilmartin's evidence
6 suggests it was only days after I had met him that I phoned him in London. So
7 I just can't remember exactly the timing and it's very possible that I was in,
8 I was not in the possession of the information that this money had not been
9 received by Fianna Fail.

15:57:21 10
11 CHAIRMAN: But you were in possession of that information when you came to
12 meet Mr. Gilmartin?

13 A. I can't be a 100 per cent certain. I actually can't be a 100 per cent certain
14 about that. Because it certainly would have taken a few days after the meeting
15:57:39 15 in my office before I met Paul Kavanagh. It would then be about a week within
16 a week after that, I have a feeling Tom's recollection might be a lot better
17 than mine, I have a feeling that it was sooner than two weeks before I arranged
18 a meeting, in other words that the meeting had actually taken place in Dublin.
19

15:58:01 20 CHAIRMAN: When you said in your statement to the Tribunal that you met
21 Mr. Gilmartin sometime after being told about Mr. Kavanagh that the money had
22 not found it's way into Fianna Fail?

23 A. Yeah I'm --
24

15:58:15 25 CHAIRMAN: So it's --

26 A. I'm just not a 100 per cent certain.
27

28 CHAIRMAN: But it's strange, would you in the agree that it's strange, that by
29 the time you were meeting Mr. Gilmartin on this second occasion, you apparently
15:58:26 30 knew as far as you were concerned he had misled you as to the payment of

15:58:34 1 50,000 pound, you didn't believe him, you checked it out and found no evidence.
2 You said in your own words that you couldn't believe that he would have paid
3 that sort of money to Mr. Flynn personally. But you continued and you didn't
4 seem to take up the issue with Mr. Gilmar tin, which would suggest that, that
15:58:59 5 you might have accepted what he was saying, or that there was some truth in
6 what he was saying.

7 A. Well I don't think you can put, Chairman, that construction on my interest in
8 trying to help this man. I quite admired what he was proposing to do. I did
9 regard that he was trying to do something that was way beyond the normal in the
15:59:18 10 context of the size of the projects.

11
12 CHAIRMAN: Yes I accept that, but were you not angry yourself that he was
13 telling you stories which hadn't been borne out within Fianna Fail, that this
14 money hadn't been paid, you say that you couldn't believe that he would have
15:59:38 15 paid it to Mr. Flynn directly, that's another way of saying that as far as you
16 were concerned he had mislead you and told you, given you a false story about
17 the money, but yet you were continuing to want to help him.

18 A. Well I, Chairman I don't know whether it's a sin or a crime to try and continue
19 to help somebody, even though I wasn't quite in belief with what he was saying,
16:00:05 20 regarding money. I certainly felt that anything that I could do within my
21 capacity, I would do it. I would try to help this man. I couldn't, when I did
22 it was quite accidental that I found that the Bank of Ireland had brought
23 McMullen to Dublin to help resolve, it was fortuitous as I thought, I certainly
24 wouldn't have regarded that as right for me to put that obstacle, given the
16:00:39 25 allegation of the monies, I wouldn't have put that in the way of trying to help
26 Tom Gilmartin, because I felt that the biggest, the strongest impression that I
27 was left with after my meeting with Tom Gilmartin was that he had put something
28 in the order of 4 million of his own money into this project, that the banks,
29 AIB, had increased their investment by another 10 or whatever millions and I
16:01:13 30 felt that this man could loose the whole lot if he wasn't rescued, and I have

- 16:01:19 1 to say whether I was bothered or annoyed, I certainly wasn't going to be
2 unchristian to the man if there was anyway that I could help him, I was
3 prepared to do it.
- 4 Q. 725 Mr. Chairman, Mr. Sherwin you have told the Tribunal that on your recollection
16:01:48 5 you had spoken with Mr. Paul Kavanagh about Mr. Gilmartin's allegations and
6 that he had, he Mr. Kavanagh had come back to you, within one week to tell you
7 that no monies had been paid by --
- 8 A. Directly or indirectly to Fianna Fail.
- 9 Q. 726 Directly or indirectly to Fianna Fail. Well, did, is that what Mr. Kavanagh
16:02:13 10 told you that no monies had been paid directly or indirectly to Fianna Fail?
- 11 A. Sorry.
- 12 Q. 727 Is that what Mr. Kavanagh said to you? That no money had been paid directly or
13 indirectly to Fianna Fail.
- 14 A. I must say, I did read most recently that phrase directly/indirectly, I can't
16:02:34 15 be certain that he used that phrase then, back in 1989. I certainly recall
16 that he said Fianna Fail did not receive that 50,000 pounds.
- 17 Q. 728 Mr. Kavanagh, in your statement you say that on page 3261 you say that:
18
19 "Shortly after our meeting I met Mr. Paul Kavanagh that's your meeting with
16:03:02 20 Mr. Gilmartin, Mr. Paul Kavanagh who was visiting party headquarters in his
21 then capacity as head of fundraising. I told him of the alleged payment Tom
22 Gilmartin had told me of to Pdraig Flynn and I also told him of what he had
23 said regarding councillor Finbarr Hanrahan. Paul Kavanagh told me that he knew
24 nothing of the any such payment an that he would investigate the matter
16:03:24 25 further. Some short time later Mr. Paul Kavanagh informed me that there is was
26 no record of any alleged payment to Fianna Fail either directly or indirectly
27 Tom Gilmartin". Right?
- 28 A. Yes.
- 29 Q. 729 If that is so it meant Mr. Tom Gilmartin lied to you if Mr. Kavanagh's report
16:03:41 30 to you was accurate, isn't that right?

- 16:03:44 1 A. Well Mr. Gallagher, it comes down to this. Tom Gilmartin was telling me that
2 he gave 50,000 to Pádraig Flynn, I am, I cannot say for certainty that he
3 hammered out the phrase "On behalf of Fianna Fail" but he certainly, I got the,
4 I would have only taken the inference that if he gave Pádraig Flynn party
16:04:13 5 treasurer 50,000 pounds, that ergo it was for Fianna Fail, but I cannot say
6 hand on heart that I recall him saying that's Tom Gilmartin, saying he gave the
7 money to Pádraig Flynn for and on behalf of Fianna Fail, that this was a
8 donation to Fianna Fail, I can't be a 100 per cent certain that's the way it
9 was put.
- 16:04:36 10 Q. 730 May I have 4392 please? This is a document that you prepared Mr. Sherwin,
11 apparently in connection with the libel action that you referred to and I am
12 not going to get into that libel action in any sense.
- 13 A. Yes.
- 14 Q. 731 In, halfway down the third paragraph, I take it first of all, will you identify
16:05:07 15 this document for me, is it a document that you prepared in the context of the
16 libel action?
- 17 A. No, I think the genesis of that document is that when the publicity occurred in
18 September 1989 over two Sunday --
- 19 Q. 732 1998?
- 16:05:26 20 A. 1998, yes 1998 when the publicity came, I was featuring in that and the,
21 within the government the partnership exists and Mary Harney as Tánaiste was
22 interested, or her programme --
- 23 Q. 733 I don't want to get into that in great detail, can I take it that you prepared
24 this had document in 1998 approximately, setting out your recollection of your
16:05:55 25 dealings with --
- 26 A. No you asked me was it for the libel action.
- 27 Q. 734 All right.
- 28 A. And I am telling you it wasn't. That it was because I was asked to give to the
29 Taoiseach's programme manager, Gerry Hickey who would then discuss the matter
16:06:11 30 with Catherine Bulbulia who was the programme manager for the Tánaiste, that

- 16:06:16 1 was simply to try to allay any anxieties about my involvement in these matters.
- 2 Q. 735 All right. Can you tell the Tribunal approximately when this was prepared,
3 it's undated, it was received by the Tribunal on the 30th of January 2004 on
4 foot of an order for discovery that we made?
- 16:06:34 5 A. I think it was just after I was brought here, or at least brought to the
6 Tribunal in private session.
- 7 Q. 736 I see. That would be in October 1998 as I recall?
- 8 A. Yes I think so.
- 9 Q. 737 Would that be right?
- 16:06:50 10 A. Yes I think so because I think I referred to that, that as a result of the
11 publicity I was invited by the Tribunal to meet with the lawyers.
- 12 Q. 738 I think you met with Tribunal lawyers on the 6th of October 1998 if I recall
13 correctly?
- 14 A. That's right yes.
- 16:07:13 15 Q. 739 So this is the document that you prepared at that time, setting out to the best
16 of your recollection what had happened over the period and it was, I take it a
17 truthful account of what you recall at that time?
- 18 A. Yes, it was -- it was, I do know that when I subsequently had to prepare for
19 the libel action I had to jog a lot of memories to find out, so the accuracy
16:07:42 20 when you say truthful, it was as I understood the truthful.
- 21 Q. 740 Indeed I am not suggesting otherwise, I don't mean that --
- 22 A. Okay.
- 23 Q. 741 I don't mean that in any pejorative way or in any, to reflect adversely on you
24 in any sense. But if I can refer you to the third paragraph of that document,
16:08:01 25 you say.
- 26
- 27 "My recollection is that I had only one meeting with Tom Gilmartin but recently
28 late 1998, I received a telephone call from Colm Scollan and arising from his
29 recollection of the content of the meeting he attended with Tom Gilmartin and I
16:08:20 30 it appears that I must have had a following up meeting. Colm Scollan recalls

16:08:24 1 that his meeting with us discussed the plans for the Westpark project and
2 recalled that Tom Gilmartin was indicating that he needed support to get the
3 zoning changed and that he Tom Gilmartin was not getting help. Colm Scollan
4 confirmed to me that he did not recall any references to an alleged payment to
16:08:45 5 Padraig Flynn as reported in the Sunday Independent, if this was so I must have
6 had a second meeting.

7
8 My main recollection of the meeting, second meeting if Colm Scollan is correct,
9 is that Tom Gilmartin indicated that had he had given Padraig Flynn the
16:09:00 10 Minister for the Environment and then joint party treasurer a sum of 50,000
11 pound. I formed the opinion at the time that this payment may have been for
12 the party. I resolved to alert Paul Kavanagh our fundraising expert who I felt
13 certain would check out the facts and would also report the matter to the
14 matter to the then party leader, Charles J Haughey. I also resolved due to
16:09:22 15 the alleged nature of this allegation that I would not talk to anybody else
16 about it".

17
18 And you go down some two paragraphs later and say "I learn that had Tom
19 Gilmartin had the support of financial institutions such as AIB who were
16:09:34 20 allowing him to secure options on land yet to be rezoned" etcetera.

21
22 Now in that you say in your report to the now Taoiseach, or to his assistants,
23 that you formed the opinion that this payment may have been to the Fianna Fail
24 party.

16:09:58 25 A. Yes.

26 Q. 742 And you passed that information on to Mr. Kavanagh and he came back to you and
27 told you that it had not been paid to the Fianna Fail party?

28 A. That's right.

29 Q. 743 So can the Tribunal take it that at that stage you believed that no such
16:10:14 30 payment had been made to the Fianna Fail party?

- 16:10:16 1 A. Of course.
- 2 Q. 744 And can the Tribunal take it that you did not believe that any monies had been
3 paid by Mr. Gilmartin at that time?
- 4 A. From my own perspective, at that time it had become clear in the newspapers
16:10:33 5 that there was a lot more to the 50,000 --
- 6 Q. 745 But I'm talking about the time now, I'm talking about 1990?
- 7 A. 1990? No. I formed the view that this money had not been paid.
- 8 Q. 746 Had not been paid. So Tom Gilmartin at that stage, so far as you are
9 concerned, was somebody who told you lies?
- 16:10:50 10 A. Well.
- 11 Q. 747 Isn't that so?
- 12 A. Yes, you have to conclude that, yes.
- 13 Q. 748 And he was a man who had an elaborate proposal to develop lands in your area,
14 close to where you lived and the area you had served for a number of years as a
16:11:15 15 public representative?
- 16 A. No I hadn't served no in there no.
- 17 Q. 749 Close to that area?
- 18 A. About five miles away.
- 19 Q. 750 All right close to it. And it was according to your own statement a
16:11:25 20 development that you welcomed?
- 21 A. Of course.
- 22 Q. 751 And you were enthusiastic about it when he outlined to you and showed you the
23 brochures and all that sort of thing?
- 24 A. Entirely, in fact when I saw it in the newspaper I was curious, I think that's
16:11:38 25 probably why Tom indulged quite a lot of time to explain the details it have to
26 me.
- 27 Q. 752 And you have said in your statement, on page 3261, sorry 3262: "I met with
28 Mr. Gilmartin one final time perhaps two weeks later". And that was the
29 meeting with Mr. McMullen, is that right?
- 16:12:05 30 A. Yeah.

- 16:12:06 1 Q. 753 Now the sequence as I understand it is as follows.
2
3 Mr. Gilmartin contacted Mr. Scollan, Mr. Scollan contacted you. Mr. Scollan
4 and Mr. Gilmartin met you. Once or twice depending --
- 16:12:23 5 A. I have no quibble on that, yeah.
- 6 Q. 754 In the course of his meeting or meeting with you in Fianna Fail party
7 headquarters he told you of a payment he had made to Fianna Fail through
8 Pdraig Flynn, he told you of an alleged demand by Finbarr Hanrahan and a
9 number of other problems that he had and he mentioned Mr. Redmond's name among
16:12:50 10 others. And you checked out what he had told you in relation to the 50,000
11 pounds insofar as you could and you established that had no such payment,
12 direct or indirect had been paid to Fianna Fail by Mr. Gilmartin.
13
14 You knew he had come to you because of the position you held in the party, that
16:13:12 15 you were somebody who had --
- 16 A. No, sorry for --
- 17 Q. 755 I had understood that you had accepted that earlier, that you didn't have
18 expertise as a planner or as an engineer but that you were somebody, and
19 Mr. Scollan?
- 16:13:27 20 A. I was obliging Colm.
- 21 Q. 756 Indeed you were obliging of course, I am not suggesting you weren't, but you
22 were being contacted because you were somebody who had access to Ministers and
23 to others according to Mr. Scollan, that's why he suggested your name,
24 Mr. Scollan?
- 16:13:42 25 A. From his perspective I don't blame him for thinking that.
- 26 Q. 757 That was the reason he came to you.
- 27 A. Yes.
- 28 Q. 758 And you were sympathetic.
- 29 A. Yes.
- 16:13:54 30 Q. 759 But your next contact was with Mr. Gilmartin, was not to say "I have checked to

- 16:14:01 1 find out whether this payment of 50,000 pound that you alleged to have been
2 made was made and in fact I find it wasn't made. It would appear therefore
3 Mr. Gilmartin that you have been telling me lies, or that you are mistaken in
4 what you claim; and I would appreciate if you don't bother contacting me in the
16:14:18 5 future, or if you wish, refer your matter to the Gardai or somebody else."
6 A. Well in recollecting ten years, I have to admit that my memory wouldn't be as
7 accurate because I had no contemporaneous notes taken of what was said then and
8 when, and I can only assume that I did not know when I met with Tom Gilmartin,
9 with McMullen, the result of Paul Kavanagh's findings.
- 16:14:47 10 Q. 760 But you see --
11 A. I may have said it, I think the Chairman pointed that out to me, that I said I
12 met him within two weeks.
- 13 Q. 761 According to your own note, which is on page 4392 which I have read to you,
14 Mr. Gilmartin, in the course of his meeting with you, told you he had dealings
16:15:05 15 with AIB and that he had finance and they were financing the funding of the
16 purchase of land and everything else, instead of going back to him and saying
17 "Mr. Gilmartin there is no trace of the 50 thousand pound that you alleged to
18 have paid", you come along and want to introduce him to an American financier
19 who presumably he didn't ask you to introduce?
- 16:15:24 20 A. Yes, he did. I offered.
- 21 Q. 762 You telephoned him to tell him about Mr. McMullen?
22 A. Yes; and I asked him would he be interested in meeting this person.
- 23 Q. 763 Yes, but did you tell him at that stage that there is no trace of the 50,000
24 pound that you --
- 16:15:40 25 A. No.
- 26 Q. 764 Did you tell him at any stage?
27 A. No, I can't recollect whether I knew at that time.
- 28 Q. 765 But you knew presumably at some stage?
29 A. Later.
- 16:15:47 30 Q. 766 When?

16:15:48 1 A. Well --

2 Q. 767 When?

3 A. I don't have an exact memory of when I knew and I can probably conclude that I

4 would have been a little bit more uncomfortable having such a meeting with Tom

16:16:04 5 Gilmartin if I knew absolutely that he had not given the monies to Fianna Fail

6 as he said he did. So I can certainly feel more comfortable in saying today

7 that that information did not come to me before the Conrad Hotel meeting.

8 Q. 768 Well -- I hear what you are saying, but it appears --

9

16:16:26 10 CHAIRMAN: I think we might leave it until tomorrow. Clearly Mr. Sherwin

11 won't finish today.

12

13 MR. GALLAGHER: Could you excuse me just for a second? I gather that yes,

14 that there will be cross-examination, so Mr. O'Donnell is not here just at the

16:17:02 15 moment so -- there are, I should say that there is a witness fixed, specially

16 fixed for 11 o'clock tomorrow, so it may be that that --

17

18 JUDGE FAHERTY: Who is that?

19

16:17:11 20 MR. GALLAGHER: Mr. Brennan, Seamus Brennan.

21

22 CHAIRMAN: Right we'll start. We can break Mr. Sherwin's evidence at 11, but

23 we'll start at half ten. All right?

24

16:17:23 25 MR. GALLAGHER: Thank you.

26

27 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,**

28 **THURSDAY 39TH APRIL, 2004 AT 10.30 AM.**

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