

09:59:11 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON MONDAY,**

2 **5TH APRIL, 2004 AT 10.30 AM:**

3

4 **MR. TOM GILMARTIN RETURNS TO THE WITNESS BOX AND**

10:42:56 5 **CONTINUES TO BE EXAMINED BY MR. LAWLOR AS FOLLOWS:**

6

7 CHAIRMAN: Morning Mr. Gilmartin. Mr. Lawlor?

8

9 MR: LAWLOR: Morning.

10:43:10 10

11 Q. 1 Chairman, could I just seek your advice before continuing my cross-examination?

12 There was suggestion made last week that the tax designation issue was somehow

13 related to a future module and very major evidence from the box came that three

14 members of the government had promised Mr. Gilmartin this concession, which

10:43:38 15 effectively would run to the value of 50 million pounds. Now is it the

16 intention of the Tribunal to get additional statements from the parties

17 concerned including Mr. Gilmartin so that this matter can be fully aired here?

18 Because it is quite amazing that that allegation has never been made before by

19 Mr. Gilmartin it was made in evidence last week, I would appreciate if you can

10:44:03 20 clarify what intended actions are?

21

22 CHAIRMAN: Mr. Gallagher first of all --

23

24 MR. GALLAGHER: The Tribunal has already told Mr. Lawlor as I recall, that the

10:44:16 25 question of designation is not going to be dealt with here, how it will be

26 dealt with, will be a matter for the Tribunal in due course, as parts of it's

27 ongoing inquiries and to what extent it will carry out those inquiries will be

28 a matter for the Tribunal and it will be dealt with in due course

29

10:44:35 30 CHAIRMAN: But it will be dealt with in the second phase --

10:44:38 1
2 MR. GALLAGHER: If the Tribunal so directs.
3
4 CHAIRMAN: Well that's the position Mr. Lawlor.
10:44:45 5
6 MR. LAWLOR: I don't wish to get into an argument but I can't see how there is
7 validity in the fact that it is right throughout our brief in this module and I
8 have been dealing with it and the reason I was allowed put the question was
9 because it is in this module, but now that it has arisen and become a source of
10 some controversy, to have three cabinet Ministers making that promise to the
11 witness and for it not to be in this module, it sort of beggars belief really.
12 I don't know what Mr. Gallagher's objection is to getting it dealt with in this
13 module when it is written all over the bank's letters, Mr. Gilmartin evidence,
14 tax designation, tax designation, zoning and more tax designation. Why is it
10:45:01 15 not in the module? Why can it not be dealt with?
16
17 CHAIRMAN: Well the position is Mr. Lawlor that it is a matter which I think
18 will be dealt with in this, in the next phase of this module. This phase and
19 the next phase are really the same module, they are just simply broken up for
10:45:45 20 the sake of convenience. So it's a matter for the Tribunal as to how it will
21 proceed to deal with it but it will be dealt with, so I think it should be just
22 parked, or shelved for the time being.
23
24 It's not a case of the Tribunal not prepared to deal with it. It will be dealt
10:46:06 25 with in due course.
26
27 MR. LAWLOR: I respect your view on the matter, I just reserve my position on
28 it because it just doesn't follow logic, but I also have to then raise, on a
29 similar vein, the evidence given regarding AIB by Mr. Gilmartin, which again
10:46:24 30 was a new allegation which I was not made aware of and I don't think

10:46:29 1 Mr. Gallagher was. Now there is a whole list of AIB people referred to and
2 named and I can't conclude, cross-examination on that subject until these
3 people are brought --
4

10:46:41 5 CHAIRMAN: And you are not being asked to conclude it in relation to that
6 particular issue, that is a matter which will be dealt with by the Tribunal.
7

8 MR. LAWLOR: And then just one query finally, before I commence my
9 cross-examination Chairman, the question of discovery. Mr. Gallagher to my
10 amazement wasn't aware that cheque stubs would have been part of
11 Mr. Gilmartin's discovery responsibilities and as I, expert now I would suggest
12 on discovery, having spent 3 terms in jail on the subject, I am very familiar
13 with the workings of it now, I wasn't and had no idea about it until
14 Mr. Roger's advised me back in the High Court as to what my responsibilities
15 are and were. Mr. Gilmartin appears to have cheque stubs information in a
16 biscuit tin in Sligo, the former Sole Member ordered me from a witness box to
17 go to Lucan to get the same sort of material which was inadvertently not
18 discovered.
19

10:47:25 20 CHAIRMAN: I understand that the stubs in question aren't relevant or don't
21 exist but Mr. Gallagher can you inform the Tribunal what the current position
22 is?
23

24 MR. GALLAGHER: My understanding is that cheque stubs which were not relevant to
10:48:02 25 this module were located by Mr. Gilmartin and it had been my intention to ask
26 Mr. Gilmartin about those stubs, cheque stubs in re-examination.
27

28 It is incorrect to state that I wasn't aware that cheque stubs should be part
29 of Mr. Gilmartin's discovery or indeed anybody else's discovery.
30

10:48:26

10:48:27 1 CHAIRMAN: All right.

2

3 MR. LAWLOR: Well you sought Mr. Gallagher to adjourn answering the Chairman's
4 question about whether the cheques should have been discovered. It baffles me

10:48:38 5 now to suggest that your suggestion Mr. Chairman, that cheque stubs were not
6 relevant to the inquiry.

7

8 CHAIRMAN: No I understand that -- my understanding is that no relevant cheque
9 stubs have been located. Mr. Gallagher will presumably deal with that when he

10:49:00 10 is re examining Mr. Gilmartin and if necessary the matter can be revisited
11 again.

12

13 Mr. Lawlor: But surely Chairman they should feature on schedule two of
14 discovery on the affidavit.

10:49:12 15

16 CHAIRMAN: That's a matter which the Tribunal will deal with in it's own way.
17 It's not necessary that it be dealt with today. It's a compliance issue at the
18 end of the day between the Tribunal and Mr. Gilmartin.

19

10:49:24 20 Mr. Lawlor: Yeah well it was for me to and I was -- I appreciate you have
21 dealt with it much more humanly or whatever the words are.

22

23 Because I was sent to Prague and back to discovery ever scrap of paper and it
24 appears there is an order of discovery procedure applicable to me that doesn't
10:49:42 25 seem to be applicable to Mr. Gilmartin.

26

27 CHAIRMAN: I think -- it is in effect the same order, but it's, ultimately
28 it's a compliance issue between the Tribunal and it will be dealt with.

29

10:49:55 30 Mr. Lawlor: Thank you Chairman. Sorry just one final point, the brochures and

10:50:04 1 documents which were referred to, and I note that I have discovered west park
2 brochure which was referred to repeatedly and I don't think it is in the brief,
3 but I did discover it and probably Mr. Gilmartin would have a copy of it also,
4 so Mr. Gallagher could revert on that documentation/brochures and if they are
10:50:23 5 available if we could have them please.
6

7 CHAIRMAN: All right, what is the position in relation to the brochures
8 Mr. Gallagher?
9

10:50:29 10 MR. GALLAGHER: The brochures were here on Friday, I'm not -- I'm not certain
11 that they are here right now I will check and let Mr. Lawlor know.
12

13 CHAIRMAN: All right. Mr. Lawlor: Thank you Chairman.
14

10:50:45 15 Morning Mr. Gilmartin.

16 A. Morning.

17 Q. 2 I just wanted to try and put beyond all doubt if possible, with you
18 Mr. Gilmartin, when exactly you commenced assembling the Quarryvale lands. The
19 file I want to go through with you if, just for your own help and information,
10:51:03 20 what I am calling the planning file, and that's taking you from the time you
21 identified the lands to the appointment of your professional team and ongoing
22 through the very complex procedures that prevailed in trying to bring forward
23 such a major project.
24

10:51:18 25 So the first question I wanted please, if I could have page 456 page 74, day
26 456 page 74. Just, Mr. Gilmartin, I first met you, we both agree, sometime
27 in May, we might differ on the day, I can't be certain maybe you can. I
28 thought it was a Friday, you think it was a Tuesday. But at that time what was
29 your position vis-a-vis the Quarryvale lands and your knowledge of same?

10:52:11 30 A. Well I was aware of it because I identified the site some actual years before.

10:52:20 1 So I was aware of it, but I didn't know who the owners were.

2 Q. 3 When you say years before?

3 A. I told you the other day, that I met Mr. Davin at the Deadman's Inn some five

4 years before, when he was trying to sell me land.

10:52:40 5 Q. 4 But the evidence is that so far Mr. Gilmartin, that Mr. McLoone and

6 Mr. Morrissey and Mr. Haughey in the Dublin Corporation brought the lands to

7 your attention, is that now wrong?

8 A. No, sorry. I have already explained that Mr. Haughey and McLoone brought the

9 Neilstown site to my attention and I was taken there by Mr. McLoone, sometime

10:53:08 10 in 87.

11 Q. 5 But Mr. Gilmartin if you knew about the Quarryvale lands, sure the Neilstown

12 lands are a stones throw away, you didn't know about Neilstown at all, no?

13 A. Yes I was aware -- sorry, at the time I met Mr. Davin I definitely wasn't aware

14 of Neilstown or anything about the three western towns.

10:53:31 15 Q. 6 So the suggestion that's, well we'll go to page 456 page 75, please see there

16 at 11A? "Mr. Haughey, Mr. Morrissey, I'd say those two in particular and in

17 particular Mr. Haughey, he asked me was there anything I could do and I had a

18 plan for some years and they hadn't been --" Does that mean they have had a

19 plan for some years and hadn't been successful?

10:54:03 20 A. That's correct.

21 Q. 7 "In getting any of them off the ground and that included Blanchardstown. They

22 asked me whether I would be interested in seeing what I could do about

23 Tallaght" Now is that correct Mr. Gilmartin?

24 A. That's correct.

10:54:16 25 Q. 8 And they never told that you a contract to Monarch Properties some years

26 previous?

27 A. Yes they, no they didn't tell me at that time. They asked me if there was

28 anything I could do for Tallaght, later when I had a look at Tallaght when I

29 came back, they then told me that they had some form of a deal with Monarch

10:54:36 30 but, Monaghan, Mr. Monaghan and they, they felt he was only messing around and

- 10:54:43 1 he was not going to go ahead with it. They thought at the time.
- 2 Q. 9 They were wrong?
- 3 A. Well possibly.
- 4 Q. 10 Well there is a complex called the Square there for many years and very very
- 10:54:58 5 successful project and --
- 6 A. Yeah well they asked me and I rejected it because they told me that
- 7 Mr. Monaghan had some form of a loose contract or loose agreement with them at
- 8 that time, and I said I would not under any circumstances interfere in anybody
- 9 else's business, so I declined.
- 10:55:20 10 Q. 11 You didn't apply the same rules Mr. Gilmartin to Balgaddy, did you?
- 11 A. In what way Mr. Lawlor?
- 12 Q. 12 There was a contract by the Corporation, so there was, you sort of went and
- 13 rained on one man's, well you didn't want to rain on Mr. Monaghan's parade but
- 14 you were quite prepared to sort of interfere in the north Clondalkin/Balgaddy
- 10:55:43 15 situation, where there was a contract in January of that year signed and
- 16 approved by the Dublin Corporation?
- 17 A. With Mr. Gubay, but Mr. Gubay had already announced at the time -- actually, I
- 18 was taken there before Mr. Gubay, to the Neilstown site and came to the
- 19 conclusion that nobody would build on it, but I know I was correct in that.
- 10:56:05 20 Q. 13 And who, Mr. Gilmartin, took you there?
- 21 A. Mr. McLoone, on the instructions of Mr. Morrissey and Mr. Haughey.
- 22 Q. 14 Mr. Gilmartin that's the first time you have given that evidence?
- 23 A. No.
- 24 Q. 15 Your evidence up to now has been that in May --
- 10:56:19 25 A. No that's not true. I have already.
- 26
- 27 JUDGE FAHERTY: He did give evidence.
- 28
- 29 CHAIRMAN: Yeah he has given that evidence before.
- 10:56:27 30 Q. 16 Sorry?

10:56:28 1
2 CHAIRMAN: He has given that evidence before, that he saw the site with
3 Mr. McLoone before Mr. Gubay and before there was a contract signed.
4 Q. 17 Maybe you could bring it up in a few moments, I'm not so aware if it is
10:56:45 5 available. Mr. McLoone's statement states that he took Mr. Gilmartin out, we
6 can have 931 please?
7
8 Now I am not saying you did, I am quoting Mr. McLoone in his statement has
9 stated, and I think your loyal and trusted friend Mr. Foreman probably concurs.
10:57:20 10 I quote on page 931, under heading 6 -- I will just commence reading:
11
12 "I understand that Mr. Gilmartin had expressed an interest in locating other
13 development opportunities in the Dublin area. This interest was expressed and
14 as I understand it at the time when little or no development was taking place
10:57:42 15 in the Dublin area. I can say that the then government were endeavouring to
16 generate, promote and foster development and in so doing encouraged the
17 Corporation and the County Council to facilitate same. In this context
18 Mr. Gilmartin's attention was drawn to the lands at Balgaddy and Neilstown and
19 I spoke to him about this. I can recall showing the lands to him and his
10:58:06 20 valuer Mr. Richard foreman in late 1988.?"
21
22 A. That's not correct. It was 87.
23 Q. 18 87? Are you absolutely certain about that Mr. Gilmartin?
24 A. I am absolutely certain.
10:58:23 25 Q. 19 Okay. Well -- I think your own statement, if we go to page 582? Actually
26 starts at 581 please.
27
28 Under heading 6, Mr. Gilmartin, you set out in detail your views on the Miles
29 Wright Report. I don't want to delay unduly, we have a lot to get through, but
10:58:55 30 you went to be say that:

10:58:56 1 "The plan I have set out guiding principle to development the western part of
2 Dublin to create four new towns etcetera. However none of those developments
3 had taken place and I was told by corporation officials there was considerable
4 political pressure being applied to get the development of the new town centres
10:59:17 5 referred to in the Miles Wright plan under way and this was the reason why they
6 had approached me. I said I would have a look at it. I then went to view
7 Neilstown, one of the areas concerned.

8
9 However, for various reasons, I felt that development of that site would be
10:59:28 10 very difficult. While examining maps of the area in the offices of Dublin
11 County Council it"

12
13 Could I pause there is and ask you Mr. Gilmartin, what office or can you recall
14 who arranged or did you go into the public counter which you had an entitlement
10:59:46 15 to and inspect the maps or is this something to do, well it's nothing to do
16 with the maps that you have claim Mr. Redmond gave you, is it?

17 A. I went into the Dublin County Council, to the public thing and a gentleman
18 there, I asked for a particular ordinance map of that area.

19 Q. 20 Fine. So that's how you --

11:00:08 20 A. That was a I think around 87.

21 Q. 21 Okay.

22
23 "It struck me there was an area of land that would make an ideal site for
24 shopping centre/town centre which was adjacent to where, what is now the new
11:00:24 25 M50 ring road was to be built. This is an area which I described as west park
26 and which subsequently became known as Quarryvale. I henceforth refer to the
27 area as Quarryvale for the ease of reference. I decided immediately to
28 investigate ownership of the lands in the area with a view to a possible
29 shopping centre/town centre development and this was in early 88". So your
11:00:49 30 statement is incorrect now is it?

11:00:50 1 A. No my statement is not incorrect. I started investigating the land as you well
2 know.

3 Q. 22 I don't know at all, I'm asking you Mr. Gilmartin.

4 A. In 1988 but I had the site, I had that particular area in mind long before
11:01:09 5 that.

6 Q. 23 But it doesn't say that in your statement Mr. Gilmartin.

7 A. It is expressing here in the statement exactly what is meant to convey, is that
8 it's in relation to the Tribunal's investigation into the affairs at that time.
9 And my statement is totally accurate insofar as I started investigating the
11:01:30 10 land in early 88 some April, maybe thereabouts. And I was introduced to you in
11 May, about the 10th of May.

12 Q. 24 You started investigating the land in 88 now, is that right, it's important
13 because I am coming on to something that turns on this matter, and I don't want
14 to sound delaying the Tribunal, but I'd like you to be specific if you could
11:01:54 15 please, you are now saying it's 1988, is that right?

16 A. I am saying in 1988 the first time I decided to do anything about that
17 particular area was 1988 and I did not acquire or buy or, any land, until that
18 period, mid 88.

19 Q. 25 Okay. Well could I just point out, if I could have page 3561 please? Now just
11:02:41 20 by coincidence, Mr Gilmartin, this is the public advertisement for the
21 construction of the Fonthill/Newlands Road, which was the impediment to the
22 development of the Balgaddy lands. You can see there it's dated Friday the 9th
23 February, so 1990. Would you agree with me that given the length of time to
24 assess, approve, place and see the construction of that particular contract
11:03:09 25 would have seen the Balgaddy lands opened up and being ideal for the intentions
26 of a town centre, to serve Clondalkin/Lucan, would you agree with that?

27 A. I'm not aware of what the council's decisions were on the road, at the time I
28 was told that the Nangor Road would not be built and if whoever got involved in
29 Balgaddy would have to contribute or build that road. And build the fly over
11:03:37 30 to get over the railway line, canal and proposed new Naas Road.

- 11:03:42 1 Q. 26 But that's exactly what that contract is purporting to do Mr. Gilmartin, is to
2 build over the railway, the Grand Canal, build over the main Dublin Cork
3 Limerick railway line and connect in, on the improvement of the Nangor Road
4 that's exactly what that tender documentation will contain at the time. I am
11:04:01 5 just putting it to you. Do you agree that if that investment which we had been
6 collectively crossed the political divide lobbying the government for was now
7 coming forward, that the Balgaddy lands would then be ideal for what the County
8 Development Plan specified, not what you were proposing, would you agree with
9 that?
- 11:04:20 10 A. But Mr. Lawlor, you were the very man that said that those lands would not be
11 built on and you also said that they had no intention at that time of building
12 the Nangor Road. As was the Council's so opinion at that time as well.
- 13 Q. 27 Sorry the question Mr. Gilmartin --
- 14 A. And the proposed new Naas Road, while it was said it was on the plans for the
11:04:52 15 roads around Dublin, and all that, that there was no commitment to building the
16 new Naas Road for years to come, which I believe is true today, and I think is
17 true today of the Nangor Road, I don't think it has been done. Neither has the
18 fly over been done.
- 19 Q. 28 The question Mr. Gilmartin is if the Fonthill/Newlands Road and Nangor Road and
11:05:18 20 Boot Road related contract was completed, which would have been with in about
21 24 to 36 months from that notice, the Balgaddy lands would have been opened up
22 and ideal for a town centre as per the County Development Plan. Do you agree
23 or not agree with that, submission?
- 24 A. You're talking in supposition Mr. Lawlor, because it hasn't been done to date
11:05:42 25 and it's 20 years later.
- 26
- 27 CHAIRMAN: No Mr. Gilmartin. Mr. Lawlor want you to just take that add as see
28 it in February 1990, do you agree that that --
- 29 A. That would have been --
- 11:05:54 30

11:05:54 1 CHAIRMAN: That would indicate --

2 A. That would improve the chances of the Neilstown site.

3

4 CHAIRMAN: Yeah but that would indicate that this was the intention of the

11:06:02 5 County Council at the time.

6 A. Yeah.

7

8 CHAIRMAN: Assuming that they followed up on the --

9 A. Yeah but had he, the word was shall -- if it had been completed Mr. Lawlor

11:06:12 10 used. If it had been completed then Neilstown had a fair chance. But it

11 hasn't been completed to date, 20 years on or 18 years on.

12 Q. 29 Well now can I put it to you that's wholly incorrect. I again repeat the

13 question. That work when completed would have made the Balgaddy town centre

14 lands accessible for development. You agree with that, yes?

11:06:38 15 A. It still had problems, but if it had been there, definitely.

16 Q. 30 Mr. Gilmartin, could I just for --

17 A. But it wasn't there and it's still not there.

18 Q. 31 By way of information Mr. Gilmartin, there is about a billion pounds spent in

19 Clondalkin since you are speaking about it and one of the largest

11:07:02 20 pharmaceutical project in the world is under construction the new Nangor Road

21 is built for 8 or 9 years and there has been vast investment in that area, so I

22 am just -- I don't want to get --

23 A. But the fly over and the connection across the railway line hasn't been done

24 yet. So consequently they still couldn't get at the Balgaddy lands.

11:07:22 25 Q. 32 It just put the question Mr. Gilmartin -- the bridges over the railway and the

26 canal have been constructed as part of this contract advertised in 1990, do you

27 agree with that or not?

28 A. No, there was no indication at that time that that fly over was to be built and

29 I don't think it has been to date.

11:07:41 30 Q. 33 It's incorporated Mr. Gilmartin in the documents of 1990?

- 11:07:46 1 A. That, incorporating it in the documents and being a town centre on the site
2 that was inaccessible are two different things. 20 years before a road was
3 built into it.
- 4 Q. 34 But your evidence Mr. Gilmartin, that the bridges are not build over the
11:08:04 5 railway line and the canal yet, is that your evidence?
- 6 A. Well I haven't been there in the last 10 or 15 years so they may have done it
7 since, but if they have it's very recently. I'm talking about the Nangor Road.
- 8 Q. 35 You know the Nangor Road is part of the notification, I just conclude
9 Mr. Gilmartin --
- 11:08:23 10 A. Has the fly over been built, I know you are asking the question Mr. Lawlor, but
11 you tell me, has the fly over been built? Across the railway line, the canal
12 and the proposed new Naas Road, has it been done to date?
- 13 Q. 36 Yes. It's in part of this contract Mr. Gilmartin, it's advertised in February
14 9th, 1999 --
- 11:08:46 15 A. But has it been built.
- 16 Q. 37 Built probably within 36 months of that date on the newspaper, because by then
17 Dublin County Council at long long last after many years of lobbying central
18 government, because I was a government deputy for the constituency, approved
19 the finance and it was built because they wouldn't have advertised if they
11:09:09 20 hadn't approval from the DOE and the thing was build probably within 24
21 maximum, 36 months, we won't dwell. I am making the point in 1990
22 Mr. Gilmartin the potential for opening up the Balgaddy lands was at long last
23 coming to fruition and we'll move on from there.
- 24
- 11:09:27 25 MR. GALLAGHER: By way of correction Mr. Lawlor inadvertently referred to the
26 advertisement as appearing on the 9th of February 1999, in fact it is the 9th
27 of February 1990.
- 28 Q. 38 Thanks Mr. Gallagher. So that further makes the point I was trying to convey
29 to you Mr. Gilmartin.
- 11:09:52 30

11:09:52 1 Could I just have the famous map, 3704? Now I just point out to you
2 Mr. Gilmartin, the railway line is below the Neilstown site as it's identified
3 in pink there, you can see the blue line the Grand Canal is referred to just
4 above Clondalkin? The rail way line is actually merges into the red line on
11:10:20 5 the Neilstown site, that's the main railway line and below it is the canal and
6 just at the end there at Neilstown, you can see a little diversion where the
7 road left went back onto the old railway bridge across into the village of
8 Clondalkin that section is what is referred to, you can see it is linking into
9 the Nangor Road and back down to the Galway Road, that's the section that was
11:10:46 10 applied in that contract and that accessed the site and gave connections from
11 both the Lucan side and the Clondalkin side which is where the County
12 Development Plan wanted to see a town centre, strategically located between the
13 two large communities it was intended to serve.
14
11:11:05 15 Now I think you will agree with me that your Quarryvale site, later to be
16 called west park, was very much a different proposal for a different purpose,
17 would you agree with that?
18 A. Well it had, it was an investment that I was bringing in that had a much larger
19 intention.
11:11:26 20 Q. 39 And did you think that impinged negatively on the County Development Plan?
21 A. At the time all in sundry, including the Corporation that the County
22 Development Plan in that area was a failure and the Miles Wright Plan was a
23 failure.
24 Q. 40 But could I put to you Mr. Gilmartin you refer to Miles Wright regularly, and
11:11:51 25 when was the first County Development Plan which was the statutory instrument
26 to oversee the planning of the three satellite towns do you know when that came
27 into being?
28 A. I don't know back in the 70s sometime.
29 Q. 41 Yes, it was 1972. But could I put it to you Mr. Gilmartin that by referring to
11:12:10 30 the Myles Wright Report it was produced in 1976 and set aside and was never

11:12:18 1 implemented, and the first ever statutory Development Plan for County Dublin
2 was the 1972 County Development Plan. So if you are going to give effect to
3 your interest in seeing the Myles Wright plan implemented --

4 A. I actually didn't see the Myles Wright plan, it was only, it was in discussion,
11:12:38 5 it used to keep cropping up with Dublin Corporation and others, the Myles
6 Wright plan.

7 Q. 42 Okay. Can I have page 3618 please? Now I might just throw some bit of light
8 on what is a very key missing map.
9

11:13:03 10 This is a letter from William Fry, they were your solicitors, weren't they
11 Mr. Gilmartin?

12 A. No.

13 Q. 43 Whose were they, who were they representing?

14 A. They were representing the bank.

11:13:14 15 Q. 44 The bank, I see. Well some person by the name of Hanley T, could be Elaine.
16 A. John Higgins is Ove Arup.

17 Q. 45 Yes sure. There is a letter going from the bank, the solicitors for AIB and
18 Mr. Higgins is receiving a letter and saying:
19

11:13:32 20 "I refer to the above matter and to a letter addressed to Eddy Kay of Allied
21 Irish Banks PLC dated the 9th of February.
22

23 What we had hoped to receive from you was a large map showing the outline of
24 the whole site and within that outline in a different colour boundaries of each
11:13:49 25 of the relevant folios indicating what those folios are and by letter
26 confirming that the site is comprised of those folios. What we are concerned
27 about is that there would be a gap somewhere between the different folios
28 unaccounted for.
29

11:14:07 30 We would therefore be grateful to receive from you a revised letter with the

11:14:11 1 map attached".
2
3 Now I think you said you gave Mr. Eddy Kay this very coloured map, provided by
4 the then Assistant City and county Manager, Mr. Redmond is that right?
11:14:26 5 A. That's 1971, September 71 -- this here is not referring to that at all. This
6 is referring to the actual pegging out of the lands which the Corporation
7 didn't, which I went through in detail earlier. This is in connection with the
8 various folios and the pegging out of the Corporation land and there was gaps,
9 that was unaccounted for because we couldn't peg it out no matter how we tried.
11:14:56 10 And it was Dublin Corporation's problem. So this is referring to the actual
11 purchase of the lands and the map.
12 Q. 46 Yes just to -
13 A. Before we completed, before we could complete the purchase contract.
14 Q. 47 Well I mean I know you can't answer for them --
11:15:16 15 A. I am answering Mr. Lawlor. Exactly. This is referring to the delay in
16 completion of the contract, to purchase the land, in the Corporation land,
17 which the Corporation did not peg out. So it is referring to the pegging out.
18 And I actually paid for my people to try and peg it out and failed. So,
19 because the Corporation didn't or wouldn't do it.
11:15:45 20 Q. 48 I just felt that the solicitors for AIB are looking for a very detailed map.
21 A. That's, yes.
22 Q. 49 And Mr. Kay had the map in his possession but didn't obviously --
23 A. He did not have that map, the coloured map that you are talking to. That map
24 was irrelevant to this particular letter. That map was irrelevant to anything
11:16:08 25 to do with the bank other than to identify the various sites.
26 Q. 50 Okay. I appreciate that, so we'll move on. So we now have a situation that
27 you are about your plans in north Clondalkin and you have had the land
28 identified back in '88 and possibly you had an understanding before that, and
29 you were about to appoint your professional team. Is that your assertion that
11:16:36 30 you have identified the lands, you then had them brought back to your attention

11:16:42 1 by the Corporation officials and now from '88 onwards you were active in
2 acquisition, isn't that what the time frame was?

3 A. 1988, yeah.

4 Q. 51 Could I just have page 3483 please? Now, you having achieved that very far
11:17:18 5 seeing decision, and you are now about your business. Could I ask you to go
6 down to the second last paragraph there on the statement from Mr. Richard
7 Foreman, who was your very confident advisor. Now it refers maybe go up a bit
8 because I wish to read it out for Mr. Gilmartin?

9
11:17:40 10 You are saying there that :

11
12 "Tom and I looked at several -- in relation to background in County Dublin --
13 Following on from the retail investment in Bangor, Tom became aware that the
14 demand existed from UK and Irish retailers for further representation in
11:17:57 15 Dublin. In particular, through the architects we were using in Bangor, we
16 learned that out of town stores they designed for Marks and Spencers in the
17 north were proving highly successful and Marks and Spencers were therefore
18 looking to expand at no time south on the same basis.

19
11:18:12 20 Tom and I looked at several situations in and around Dublin, most notably a
21 site at St. Helens. In undertaking this research we also became aware of the
22 government's desire to regenerate parts of Dublin city centre and to encourage
23 this through the provision of enterprise zone type incentives. In reviewing
24 the areas being targeted we were particularly attracted to the Bachelors Walk
11:18:35 25 area, given my firm's involvement with knowledge of city centre retail schemes,
26 there appeared to be a excellent opportunity for a major retail scheme that
27 would revitalise this part of the city centre and also take advantage of the
28 worldwide trends towards exciting water front development.

29
11:18:49 30 As a result Tom Gilmartin and I formulated some initial proposals and then

11:18:54 1 commenced a consultation process. This we then moved forward to site assembly
2 using local agents and in due course negotiated the onwards sale of the project
3 to Arlington Securities.
4

11:19:06 5 At the same time we continued to look for a suitable out of town site. Our
6 thoughts in this respect were focused when our architects Taggarts did a tour
7 of the area with -- and the next page please? 3484 I presume -- had done a
8 tour of the area with Marks and Spencers, and during this M and S identified
9 the Quarryvale location as their ideal site. This therefore led us to commence
11:19:45 10 consultation and site assembly work in this area as well."
11

12 Could you make a comment on that Mr. Gilmartin?

13 A. Yes. That is basically correct.

14 Q. 52 Basically?

11:19:57 15 A. Yeah. But it was me that took them out to that site. And we were walking that
16 site and I didn't own it, I was walking Bruton's land at the time, I didn't own
17 it. I knocked on the door to ask permission and I showed them around Bruton's
18 land, sharps land etcetera as being my choice of site. So I took them there
19 Mr. Lawlor.

11:20:22 20 Q. 53 Sorry, I'll just go back and ask you, and during this "M and S identified" they
21 were on tour, who was with you Mr. Gilmartin?

22 A. There was, I'm not quite sure. I think there was John McCannon of Taggarts, I
23 think Mr. MacNeill of Taggarts, there was Richard Foreman and there was another
24 gentleman from Marks and Spencers from the north.

11:20:58 25 Q. 54 Well can you agree with me that that's not what Mr. foreman is stating in his
26 statement?

27 A. That's what Mr. Foreman is stating. He may have the language, may be slightly
28 different, but it's exactly as it happened. And I took them there, because I
29 had, I had identified that area as being the right area for such a project.

11:21:19 30 Q. 55 Mr. Gilmartin statements stating that Mr. Taggart or one of his people was on a

- 11:21:27 1 tour of the Dublin region with Marks and Spencers and nobody else.
- 2 A. No no, they came up because they were working for me on Clondeboy so that's --
- 3 it was I brought them Taggarts, but Marks and Spencers had indicated before
- 4 that that they were looking to invest in the Dublin area and I think they took
- 11:21:52 5 over the C&A building on Mary Street or next to the Jervis Street hospital,
- 6 they had just taken over that and they were looking for other opportunities,
- 7 particularly out of town.
- 8 Q. 56 Mr. Gilmartin, Mr. Foreman's statement is very clear. Its stating:
- 9
- 11:22:08 10 "That when Taggarts and Marks and Spencers executive were touring Dublin that
- 11 they identified Quarryvale lands".
- 12 A. No they did not. I took them there and I walked it with them. And they
- 13 identified it as being, they said, the best site in Ireland. They identified
- 14 it as the site that they would want to place a store.
- 11:22:36 15 Q. 57 Are you back to Mr. Maguire's contention to you in question, that you are
- 16 trying to operate on the wriggle room principle now?
- 17 A. No Mr. Lawlor and you have spent four days at that.
- 18 Q. 58 I will ask you again Mr. Gilmartin, Mr. Foreman's statement clearly states that
- 19 Taggarts and Marks and Spencers visited Dublin and identified --
- 11:22:58 20 A. On my invitation.
- 21 Q. 59 So Mr. Foreman is wrong.
- 22 A. That's correct. Taggarts were working for me long before that from 19 -- in
- 23 the reconstruction -- actually we were putting an extension on Clondeboy before
- 24 it was burned down. We already had bought lands from Rath Gael School and
- 11:23:21 25 Taggarts were my architects on that and we were putting a major extension on
- 26 that, from 1983, 84 and Taggarts and I invited them to Dublin.
- 27 Q. 60 Could I put it to you Mr. Gilmartin, that what Mr. Foreman is saying is that
- 28 you got an inside tip from Taggart architects who had visited Dublin with Marks
- 29 and Spencers, is that correct?
- 11:23:52 30 A. Inside tip. I don't work on tips or sup -- whatever you like to call it Mr, I

11:24:04 1 am listening to this word. I was tipped off and I was tipped off. And I was
2 tipped off. Like you, Mr. Lawlor, when I came with these investments to Dublin
3 most of the government and including yourself, were chasing me around,
4 Mr. Lawlor. I was tipped off about nothing. I came in with the purpose of
11:24:29 5 bringing in investment to Ireland and I was told openly by Taggarts that they
6 were doing the Sprucefield Development, that Taggarts, that Marks and Spencers
7 were interested in getting more involved in the south of Ireland. So I took
8 them to see this site, long before I bought any of the lands.

9 Q. 61 That's your, maybe partly making my point Mr. Gilmartin. Mr. Foreman --

11:25:01 10 A. I'm not making any point.

11 Q. 62 Mr. Foreman is stating Mr. Gilmartin, I am putting the question to you,
12 Taggarts, according to Mr. Foreman and you are not here to answer for
13 Mr. Foreman, I am just asking you as it is confronted there in documentation,
14 Taggarts told yourself and Mr. Foreman that Marks and Spencers had identified
11:25:22 15 land at Quarryvale in County Dublin?

16 A. That's a damn lie.

17 Q. 63 By Mr. Foreman?

18 A. That's a damn lie. They didn't even know the area.
19

11:25:30 20 CHAIRMAN: Mr. Lawlor this will have to wait for Mr. Foreman's explanation as
21 to what he intended to convey.

22 A. I took Mr. Foreman there.

23 Q. 64 Could we just have page 3614 please? Now I just ask you there, just happen to
24 come up in studying, under heading 24 on the last line, "We don't now have to
11:26:02 25 pay O'Callaghan". What was William Fry referring to in that context, would
26 you have any idea, Mr. Gilmartin?

27 A. I haven't got clue.

28 Q. 65 Okay. Thank you. We go on to page 3539 please? Mr. Higgins here is doing a
29 memo on the meeting re west park we'll call it, and if I could just -- it's to
11:26:32 30 do with the -- well I read from the second paragraph down because it does refer

11:26:37 1 to something you have raised earlier.
2
3 "The County Council raised the question of proximity of the junctions for our
4 development and the new Naas Motorway. They raised it, not me, and they had
11:26:55 5 Liam Coughlan carefully examining the implications of the detail of the
6 sketches we left them at our meeting last week. They are very concerned at the
7 proximity of our intersection to the Naas Motorway intersection."
8
9 What is your recollection of that issue Mr. Gilmartin?
11:27:14 10 A. Issue also, I already explain that had, on the Irishtown Road we had in the
11 brochures, shown a roundabout, but at that time when we done the brochure we
12 had taken no measurements or we actually, the proposed Naas Road, it was just
13 being stripped at the time. We weren't quite aware of it, but the Galway Road
14 we knew -- so we showed on the brochure a roundabout there, and it was too
11:27:45 15 close, which I explained earlier in my evidence here, it was too close, because
16 it was within inside a kilometre, less than a kilometre from the Galway Road
17 roundabout so we actually -- the roads engineers pointed this out to us, so we
18 ditched it.
19 Q. 66 Could I turn --
11:28:08 20 A. We never went in for planning or anything for that, but we showed on our
21 brochure how we could deal with access and egress, including a roundabout under
22 the Galway Road.
23 Q. 67 But Mr. Gilmartin, is that not at the heart of problems that will arise further
24 cross-examination?
11:28:27 25 A. No there was no problems what so ever, because we agreed that it was unsafe.
26 It was too close to the slip road of the Naas Road.
27 Q. 68 That's the point Mr. Gilmartin, by designing it in in the first instance.
28 A. We didn't design it in other than the fact we showed it in the brochure and it
29 was pointed out to us that it was not with in the safety distance from the
11:28:51 30 Galway Road and we immediately ditched that particular one on the Irishtown

- 11:28:56 1 Road. Because we agreed that it was unsafe, if the two slip roads would have
2 run into one another.
- 3 Q. 69 Yeah, so having first put it in a brochure it was now decided it was wholly
4 unsuitable.
- 11:29:13 5 A. It was put in the brochure because at that time we didn't measure the distance
6 from the Galway Road to the Irishtown Road. We just done it from a sort of
7 footprint.
- 8 Q. 70 Yeah.
- 9 A. And it was only there for illustrative purposes anyway.
- 11:29:33 10 Q. 71 Well could I just go onto the next paragraph then.
11
12 "Mr. Gilmartin asked me to contact the chief valuer for Dublin, Mr. Michael
13 McLoone to establish what area of land we would need in the area between the
14 cemetary and the Coldcut Road on the east of the parkway. A house developer is
11:29:51 15 making an offer for the lands in the area and we want it reserved, Mr.
16 Gilmartin will have to make a counter offer very quickly".
17
18 Now do you recall that?
- 19 A. Is the Coldcut Road the same road as the Irishtown Road?
- 11:30:24 20 Q. 72 It is yes, Mr. Gilmartin. Irish town was a townland --
21 A. Yeah that was the slip of land, the slip of land which we have already been
22 through, the council piece of land which we have already been. Has already
23 come up here time and again.
- 24 Q. 73 Well know it is just the point here being raised --
- 11:30:45 25 A. And the cemetary was, we called it the cemetary because the finger of land that
26 projected into the Corporation lands it was land that was reserved for a new
27 cemetary but they put the M50 through it, so it was a finger left over of that.
28 And if we bring up the map I can identify it, so that's the piece we were
29 talking about.
- 11:31:10 30 Q. 74 Maybe if we had 3535 it might help Mr. Gilmartin please? Now, I suppose it

- 11:31:25 1 doesn't help any of us, it's like spaghetti.
- 2 A. That's the Galway Road intersection.
- 3 Q. 75 That's the problem Mr. Gilmartin, designing in down further at the intersection
- 4 there, anyway were are not into technical detail of roads design, isn't just
- 11:31:41 5 that what you proposed in the brochure was unsafe and had to be scrapped.
- 6 A. We were already aware that have Mr. Lawlor.
- 7 Q. 76 Well I don't know why put it into the brochure if you are aware of it?
- 8 A. No we weren't aware when we put into the brochure we just done an illustration
- 9 of what we could do, what we were going to do on the site and at that time we
- 11:32:00 10 had not discussed roads or anything else, other than what we, we saw as could
- 11 be done.
- 12 Q. 77 Well could I put it to you Mr. Gilmartin, that by doing that you gave to
- 13 believe to retailers and anybody studying your brochure that you were going to
- 14 have direct access off a blue signage international motorway to your proposed
- 11:32:21 15 west park centre?
- 16 A. Well incidentally, Mr. Lawlor, the CIE own the land on the other side of the
- 17 Coldcut Road, and CIE were offering me the strip of land to get on where the
- 18 new Naas Road was coming in.
- 19 Q. 78 Sorry, that's the -- the point is --
- 11:32:44 20 A. That's the point Mr. Lawlor, that was only put in there because the Coldcut
- 21 Road was there and we put a roundabout over the M50, but as a matter of fact
- 22 there is a bridge put there by County Council anyway.
- 23 Q. 79 That bridge is the long term junction 9, Mr. Gilmartin, that you speak about is
- 24 being the long term Naas Motorway project.
- 11:33:02 25 A. No no, no that's further up Mr. Lawlor.
- 26 Q. 80 Okay, I won't --
- 27 A. There is a bridge, a new bridge went across the M50 when they built the M50 a
- 28 new bridge went across that, the Coldcut Road or Irishtown Road, which ever you
- 29 like to call it.
- 11:33:21 30 Q. 81 Okay, if we just go back to page 3532 please? I wonder could I have the second

11:33:31 1 page it might help Mr. Gilmartin, 3533? If you just put up the two together if
2 possible please. Thank you.

3
4 Now just in that third paragraph there, I will just go back because we
11:33:59 5 deflected on to technical matters.

6
7 "Tom Gilmartin asked me to contact the chief valuer to establish the area of
8 land we would need in, a house developer is making an offer for the lands in
9 this area".

11:34:22 10
11 A. No that's across the M50 on the Palmerstown side of the M50. If we were
12 putting a slip road on the far side to access the bridge further up that's what
13 that's about. Actually the cemetery is right over the top, the lands for the
14 proposed new cemetery was taken away by the M50.

11:34:49 15 Q. 82 Mr. Gilmartin I just have to put it back to you again, this section is saying
16 "Mr. Gilmartin asked me to contact the chief valuer Mr. McLoone to establish
17 what area of land we would need in the area between the cemetery and the
18 Coldcut Road on the east of the parkway. A house developer is making an offer
19 for the lands in this area, and if we want it reserved, Tom Gilmartin will have
20 to make a counter offer very quickly."

11:35:16 21
22 Now do you agree with me that you and a house builder are both interested in
23 the same piece of land?

24 A. No that's across the road this has nothing to do with the Quarryvale site. It
11:35:30 25 was across the road on the Palmerstown side, because if we were to get a slip
26 road in or off, we had to have a bridge and we had to get across to the other
27 side, there was a chunk of land for sale across the way in which a house
28 builder was making an offer on and we were looking to get a slither of it along
29 the M50. So we -- I asked John Higgins to contact Mr. McLoone and show him the
11:36:03 30 exact amount of land which is on this side, the Palmerstown side of the

- 11:36:09 1 motorway. If you have a bridge and you have access ongoing north you had to
2 have access ongoing south. So it's only a little slip of land which was owned
3 by, mostly by the council which is this piece here.
4
- 11:36:24 5 MR. GALLAGHER: Mr. Gilmartin, sorry to interrupt but you are pointing out
6 something on your screen that cannot be seen by somebody else.
7 A. If you look at the screen, on the far side.
8 Q. 83 When you talk about the far side are you talking about the M50?
9 A. Far side of the M50, sorry the near side to us now, but it was across the M50
11:36:44 10 on the other side. The piece of land we are talking about.
11 Q. 84 Do you see where the red dot is, there just? It's on the far side of the
12 motorway, you see the way the map of Italy on the top if you like, and then on
13 the far side of the motorway Mr. Gilmartin is making the point that he required
14 as he just quoted a sliver of land there?
11:37:09 15 A. That's correct, for a slip road.
16 Q. 85 Now the point being that there is two parties interested in the same piece of
17 land, would you agree with that Mr. Gilmartin?
18 A. I don't know. I was told that the builder had put in an offer, had put in an
19 offer because they were selling land between the Irishtown Road and the Galway
11:37:28 20 Road on the Palmerstown side and if we were to put a slip road we would have
21 needed a little slither of the land on the Palmerstown side.
22 Q. 86 Could we just have the two pages back again, I just want to finish on this
23 matter, it's the last paragraph on the next page is really the important part.
24 Because Mr. Gilmartin, you are stating here that you asked Mr. John Higgins to
11:37:57 25 contact Mr. McLoone to establish the area of land we would need and the area
26 between - and there is a need. You have a need for this piece of land and he
27 goes on to say, Mr. Higgins, having contacted Mr. McLoone that presumably
28 Mr. McLoone told Mr. Higgins a house developer is making an offer for the lands
29 in this area and --
11:38:18 30 A. The land was openly for sale.

11:38:20 1 Q. 87 That's not the point Mr. Gilmartin. The point being, that there is two
2 different parties want the same piece of land?

3 A. No. We didn't want the same piece of land at all. It was quite a chunk of
4 land, we only needed the edge, which actually I believe was owned by the
11:38:35 5 council anyway, they left over of the M50, the council always retained, as
6 Mr. Redmond pointed out, a two metre strip and that, just a little bit along
7 that. We were not competing for the same piece of land at all. I had no
8 interest in it whatever.

9 Q. 88 Okay.

11:38:59 10 A. Other than the piece along the M50.

11 Q. 89 Can I just read out for you --

12 A. To establish an access or egress.

13 Q. 90 Okay. I will just read out for you the final paragraph of the letter
14 Mr. Gilmartin, based on what your evidence has just been. If we agree what's
11:39:18 15 in this paragraph, very specifically, if you would. 3535?
16
17 It goes on under heading five from Mr. Higgins' letter:
18 "I have now faxed this sketch to the Corporation's valuer and I understand that
19 the sale of the piece of land enclosed within the boundary I now proposed will
11:39:40 20 be stopped, until the Corporation hears from Mr. Gilmartin, setting out his
21 interest in the land in question, or otherwise."
22 A. Yeah.

23 Q. 91 How about that?

24 A. No. That's only a piece of land the County Council owned, a slither of land,
11:40:00 25 nothing at all to do with the land that the builder was offering for.

26 Q. 92 But sure the builder's free negotiations with the valuer according to this
27 letter, has been stopped?

28 A. On the piece of land along the motorway. If he was interested in the first
29 place. But you are trying to make two and two make ten, Mr. Lawlor, because we
11:40:25 30 were only talking about a we strip on the Palmerstown side which incidentally

11:40:30 1 was ruled out on safety grounds anyway.

2 Q. 93 Mr. Gilmartin, could I put it to you that this house builder could feel that he

3 was being, his dealings were being interfered with, he was held to ransom,

4 there was skullduggery going on, and all of the difficulties?

11:40:48 5 A. There was no skullduggery what so ever. I don't deal in skullduggery

6 Mr. Lawlor, only you do that. There is no question of it. We were talking

7 about a narrow little strip of land which the council had retained anyway, and

8 that builder, whoever he was, would not have been buying that piece of land

9 because the council had retained it.

11:41:13 10 Q. 94 Mr. Gilmartin --

11 A. It was only for the purpose of roads or access that it could be used, like a

12 slip road.

13 Q. 95 Mr. Gilmartin --

14 A. So there was no question of skullduggery, I never in my life interfered in

11:41:26 15 anybody else's dealings, as I didn't with Mr. Monaghan and neither would I do

16 with anybody else.

17 Q. 96 I now propose, within the boundaries, I now propose will be stopped?

18 A. You are looking for red herrings, Mr. Lawlor.

19 Q. 97 Mr. Chairman, could Mr. Gilmartin answer the question?

11:41:44 20 A. I will answer your questions.

21

22 CHAIRMAN: Mr. Lawlor --

23 A. But you are trying desperately to blacken honest people's name. Desperately.

24 You are desperate in picking out little bits and nuggets to blacken the

11:41:58 25 Corporation and people within the Corporation's name, Mr. Lawlor.

26

27 CHAIRMAN: Mr. Lawlor, this is really a matter you will have to take up with a

28 Corporation witness. Mr. Gilmartin has answered it the way he perceived it, so

29 we are stuck with Mr. Gilmartin's version until we get some other version.

11:42:19 30 Q. 98 I appreciate that, Chairman. I appreciate that. It's just that this is

11:42:22 1 Mr. Gilmartin's correspondence, from his professional advisers.

2

3 CHAIRMAN: Yes, but --

4 A. It has nothing do with anybody else's land.

11:42:32 5

6 CHAIRMAN: Hang on a minute. Mr. Gilmartin, there is no problem with you
7 asking the question. Mr. Gilmartin has given his understanding and his version
8 as to what he understands the letter to mean. And it really has to stay there
9 until some other witness is asked about it, possibly Mr. McLoone. We may get a
11:42:56 10 difference version from Mr. McLoone, but there is really nothing more that
11 Mr. Gilmartin can be asked about.

12 Q. 99 I put it to you Chairman there is a lot more he can do in answering, I have
13 purposely come in here this morning deciding not to react to Mr. Gilmartin's
14 allegation from the witness box and to try and stick to questioning, now when
11:43:14 15 Mr. Gilmartin says I indulge in this and that and the other and you don't
16 interject and say "Mr. Gilmartin that's not relevant to the proceedings" I will
17 sit back and listen to him foul mouthing if I have to, because I didn't --

18 A. I didn't foul mouth --

19

11:43:31 20 CHAIRMAN: Wait now. Mr. Lawlor, you put to Mr. Gilmartin that there was
21 skullduggery or something, behind the suggestion that another developer was,
22 had some sort of project of his scraped or interfered with because of
23 intervention from Mr. Gilmartin, so the --

24 Q. 100 I actually asked did Mr. Gilmartin agree that that builder could form that
11:43:58 25 opinion. So okay we'll move on, I just want to get through the brief and the
26 documents and stay specific to the issues, my interpretation is we are here to
27 see why Westpark did not happen, that's the difficult task for you and your two
28 colleagues?

29 A. But it did happen, Mr. Lawlor.

11:44:16 30 Q. 101 Okay. Page 3514 please? Now Mr. Gilmartin, we have Mr. Murray which will be a

11:44:30 1 very senior planning officer in the then Dublin County Council, another
2 planning officer, I don't know what grade, and I don't know who Mr. A McNeill
3 is.

4 A. Alan McNeill of Taggarts.

11:44:42 5 Q. 102 Sorry. Deputy Chief Planning Officer, Senior Planning Officer and your
6 representative from Taggart architects; and then these other people, Mr. Noyce
7 and Mr. Higgins. If we just go down there through this, it is a very important
8 meeting as to how your project could advance. If you see in the first
9 paragraph "John McCammon asked for some details of what the planning will
10 require in terms of Environmental Impact Statement as part of the planning
11 submission.

12
13 Mr. Murray explained that while the EC regulations had specified minimum limits
14 to the sizes of development to which an environmental impact statement would
11:45:24 15 apply, the Irish regulations were open ended. A full EIS would be required.

16 The following main points were made:

17
18 1. The EIS must show the effect of the development on existing retail shopping
19 areas. He advised that this should be identified as a regional centre. It
11:45:43 20 would be in the interest of the developer to show the influence of the centre
21 as being as widespread as possible."

22
23 Now what's your view on that very important recommendation made by Mr. Murray
24 to your professional team, and what exactly did your professional team do about
11:46:02 25 that?

26 A. We actually hired Nathaniel Lichfield who Dublin Corporation has, or Dublin
27 County Council, or whoever, already had Professor Lichfield involved for years.
28 We hired Nathaniel Lichfield to do the economic impact study and we have, I
29 think we have given a copy of that to the Tribunal.

11:46:24 30 Q. 103 Yes, but we are coming to it Mr. Gilmartin it's in the brief and we'll deal

- 11:46:28 1 with it at some length because it is a very vital document. I don't --
- 2 A. It's only vital insofar as that Taggart's weren't aware of the exact details of
- 3 planning in Dublin, so they had a meeting to go through and ask them what was
- 4 required of them. What was expected of us and we set about then on their
- 11:46:56 5 recommendation, to produce the economic impact study, as well as the road
- 6 traffic study.
- 7 Q. 104 Well could I put it to you there, that -- I will come to the Lichfield report,
- 8 because it is a very crucial document in your consideration but I don't think
- 9 it had anything to do with an environmental impact statement, the Lichfield
- 11:47:20 10 Report, but we'll park that and come to it again.
- 11
- 12 Now the next item --
- 13 A. I did do environmental impact study as well as an economic study and a road
- 14 traffic study, all of them were done and put into, they were put into, should I
- 11:47:42 15 say, progress to do it, and they were done.
- 16 Q. 105 Okay. Under 2. "This development will change the traffic distribution allowed
- 17 for in the DTS and also in the recent Wilbur Smyth analysis, and hence the
- 18 whole basis for traffic planning for the entire ring road and radial route
- 19 traffic distribution."
- 11:48:06 20 Now do you appreciate that that is a somewhat major traffic comment to be made
- 21 by the professional advisers within Dublin County Council and was going to,
- 22 well I don't know would it, was it ever achievable to address it fully, but do
- 23 you appreciate the import of that?
- 24 A. That's exactly their comments and we acted on it, and we done a traffic impact
- 11:48:30 25 study.
- 26 Q. 106 And --
- 27 A. And we actually came up with the idea, to relieve that problem.
- 28 Q. 107 So you feel that you responded to put the minds at rest on traffic movements on
- 29 the basis --
- 11:48:44 30 A. We done our best anyway.

- 11:48:51 1 Q. 108 Okay. Thank you.
- 2
- 3 The next point then is "The EIS should address the question of the influence of
- 4 the development on local housing and on the nearby environmentally important
- 11:49:00 5 Liffey Valley". Did you do that impact on the local housing
- 6 A. We do the economic impact study of that area, yes.
- 7 Q. 109 We'll come to the Liffey Valley, you refer to it later in your dealings with
- 8 St. Patrick's. Okay.
- 9
- 11:49:18 10 "The EIS submission must address all the matters raised in the ministerial
- 11 directive on out of town shopping centres of 1982." How did you address that
- 12 very, very major issue for you?
- 13 A. That was done in the studies we done.
- 14 Q. 110 That was the Lichfield study, yes?
- 11:49:43 15 A. Pardon?
- 16 Q. 111 The Lichfield study we are coming to?
- 17 A. Yes. There was more than Lichfield's as well.
- 18 Q. 112 Okay. We will come to it and any other studies that you have discovered.
- 19 "Cognisance should be given to the effects on centre city shopping. This
- 11:50:01 20 requires a detailed shopping impact study" was that completed?
- 21 A. It was.
- 22 Q. 113 Do you know was it discovered?
- 23 A. Pardon?
- 24 Q. 114 Would you know is it discovered in the documents we have received?
- 11:50:12 25 A. It should be, the Nathaniel Lichfield report and there was others.
- 26 Q. 115 Okay. Just maybe there was a lot of the --
- 27 A. A lot of the stuff I didn't have, but I think I had that one.
- 28 Q. 116 And you do you know have Taggarts provided major documentation to the Tribunal?
- 29 A. I don't know whether they have or not.
- 11:50:38 30 Q. 117 Could we ask Chairman, have Taggarts?

11:50:41 1

2 CHAIRMAN: Well I certainly don't know, Mr. Gallagher?

3

4 MR. GALLAGHER: To the best of my knowledge they have not.

11:50:49 5 Q. 118 Have they refused Chairman?

6

7 MR. GALLAGHER: The position is the Tribunal hasn't got it. I haven't any
8 correspondence that might have passed between ourselves and Taggarts available
9 to me at the moment.

11:51:07 10 Q. 119 Maybe it could be looked into because there is a lot of documents missing that
11 would help to clear up a lot of the queries.

12

13 We'll go on to page 3515 please?

14

11:51:19 15 CHAIRMAN: Well, we might just take a break for a few minutes.

16

17 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

18 **AND RESUMED AGAIN AS FOLLOWS:**

19

12:12:29 20

21 CHAIRMAN: Mr. Lawlor? Sorry Mr. Lawlor, I understand that the arrangements
22 are now under way to put the brochure up on the system and you will receive a
23 copy.

24

12:12:43 25 MR. GALLAGHER: In about half an hour or so. I wonder, just for completeness
26 then if I could -- this brochure could be put to Mr. Gilmartin just to formally
27 proof it? Mr. Gilmartin would you have a look at that brochure and --

28 A. Yeah.

29

12:13:11 30 MR. GALLAGHER: Is that the brochure that was circulated and was made

- 12:13:14 1 available generally, to people who attended the launch or whatever you wish to
2 call it in Berkley Court
- 3 A. Yes that's correct.
- 4 Q. 120 I see. Was there only one of those brochures circulated?
- 12:13:30 5 A. Well at that time there was hundreds of them.
6
- 7 MR. GALLAGHER: I understand. But was there only one final brochure
8 circulated, it appears that there was a draft, an earlier draft with different
9 wording.
- 12:13:43 10 A. There is an earlier one which can confined totally to Quarryvale site to the
11 shopping centre area. But this one is the one that we presented at the Berkley
12 Court.
13
- 14 MR. GALLAGHER: I see. All right then. Perhaps that might be handed in as an
12:13:59 15 exhibit to the Tribunal.
16
- 17 That is the document that is being copied at the moment and will be included in
18 the brief and will be circulated to all concerned in due course.
19
- 12:14:12 20 Mr. Lawlor: Thank you very much Mr. Gallagher. Mr. Gilmartin we are on page
21 3515, actually we were just going to it we hadn't got it to it, we had gone
22 down through the various issues. The first item here Mr. Gilmartin we can
23 dispense with quickly, because it is Mr. Murray and a senior planning colleague
24 were telling your professional team that reference was made to the negative
12:14:38 25 effect this development might have on an imminent planning submission by
26 O'Callaghan Properties in the Tallaght/Clondalkin, obviously they meant in the
27 Clondalkin area. I put to you Mr. Gilmartin as you were negotiating the
28 acquisition of the Balgaddy site that would be irrelevant, isn't that right?
- 29 A. That's correct.
- 12:14:57 30 Q. 121 Yeah. Okay well just onto the next major item then, they are suggesting:

- 12:15:03 1
2 "The impact of the development on the Fonthill Road objectives, both local and
3 global should be addressed. The treatment proposed for the Fonthill Road was
4 seen as very important. Upgrading of this road and it's extension to the
12:15:16 5 Nangor Road and hence to the Naas dual carriageway, should have to be submitted
6 by council for consideration under the NPCI. The need to have extensive
7 discussions both with the County Council and the DOE, Department of the
8 Environment, was emphasised."
9
- 12:15:32 10 Mr. Gilmartin what was being suggested there by Mr. Murray was that you really
11 had to do what we were discussing earlier in the morning, you had to build
12 those bridges over the canal and railway line and connect to the Nangor Road
13 and if I could just for clarification purposes explain to you, the Naas dual,
14 the Naas Motorway scheme is a very long term proposal, but the link to the Naas
12:15:59 15 dual carriageway is very well advanced but not yet completed, so here you were
16 being asked, or your professional team was being asked to invest in what would
17 effectively have opened the Balgaddy site by having to improve the road network
18 to such an extent because of the scale and size of Westpark. Would you agree
19 with that?
- 12:16:21 20 A. This was a discussion and questions and answers. A discussion by my
21 professional team with the various council roads engineers etcetera and it was
22 a, comments made by whoever made those comments.
- 23 Q. 122 But you agree with me Mr. Gilmartin --
- 24 A. But they were not asking us to build those roads, because we wouldn't have
12:16:53 25 built them.
- 26 Q. 123 I just have to put it to you Mr. Gilmartin, that's exactly what they are
27 specifying in that paragraph?
- 28 A. No they are not. They are saying that would improve the area if that was done.
29 But you expect us to pay 40 million or more to build the Nangor Road?
- 12:17:11 30 Q. 124 Well Mr. Gilmartin I wouldn't suggest --

- 12:17:13 1 A. Is that what you think he is suggesting? He is not. He is just saying if that
2 was put in progress which should have been done in he wanted the Neilstown site
3 built. That was a matter for the roads commission or the County Council as to
4 whether they proceeded with that.
- 12:17:33 5 Q. 125 Okay well, I just put it to you the quarter of a million pounds centre
6 currently known as Liffey Valley had to have grade separated junction build at
7 the junction with the Fonthill Road and Galway Road anyway as part of the
8 permission eventually granted.
- 9 A. We already had that on our plan.
- 12:17:51 10 Q. 126 Yes but if you wanted to go to the scale and sizes of Westpark you would have
11 had to, or the council would have had to do the work and levy you, whichever
12 but we are not going to get bogged down in it. I am make the point that the
13 roads people felt this was essential if the scheme and scale of size was to be
14 put there, that that work would have to be put in hand.
- 12:18:11 15 A. Yeah there was a map that was supplied to us, I don't know the Tribunal or what
16 has a different picture to show in connection with the brochure.
- 17 Q. 127 Just the next point then, Mr. Gilmartin which is fundamental to everything you
18 wanted to try and succeed with, that is since this development will constitute
19 a material contravention of the current Development Plan, the need to obtain
12:18:34 20 council backing for the scheme was pointed out.
21
22 Now you regularly referred that you weren't interested in going to the material
23 contravention procedure, is that right?
- 24 A. I wasn't interested. That is not correct actually. Because originally it was,
12:18:55 25 I was told the review of the Dublin plan was about to take place in 1988 and
26 since the three towns were number one priority, three western towns which had
27 been neglected all these years were number 1 priority they would be first on
28 the agenda.
- 29 Q. 128 Could I ask Mr. Gilmartin, this is very vital --
- 12:19:19 30 A. I was given a number of options which, and under various headings or numbers,

12:19:27 1 sections which I relayed to Mr. Ciaran O'Malley and he wrote out on a piece of
2 paper what they meant and consequently the preferred procedure that we went
3 along with, was suggested to, was the review of the Dublin plan, and not the
4 material contravention. So actually we didn't pursue that. And incidentally,
12:20:01 5 we would, I let the brochure speak for itself. I let what I was proposing
6 speak for itself and I did not canvass or lobby or motion councillors all those
7 who came to me.

8 Q. 129 We will come to what Mr. Ciaran O'Malley advised you on. So at this juncture
9 anyway your planning team --

12:20:25 10 A. Incidentally, Ciaran O'Malley reacted to the advice I was giving, not advise,
11 not advised in this instance, he reacted to the advice that was given to me,
12 which is a slight difference.

13 Q. 130 Could we help the Tribunal by telling, Mr. Gilmartin, who you have referred to
14 the plan was being reviewed and it would be prioritized and so forth, who
12:20:49 15 informed you of that please?

16 A. Well Mr. Flynn, Mr. Ahern and others, including I think Mr. McSharry at a
17 meeting in the thing, where we went through the various things we had for
18 discussion. As did Mr. Tom Boland who was then Chairman of the County Council
19 and numerous others, who said that there was a review of the Dublin plan, was
12:21:19 20 just about to take place, and that they would, since Neilstown was a failure
21 and they knew it wouldn't be built on, they would put it through for, to vote
22 and when they done a census of the vote, of the council on the time it came
23 back with 44 for, 11 against and 11 that was remained to be persuaded, so in
24 other words there was practically over 50 of the councillors who was in favour
12:21:49 25 of the scheme, they thought it was --

26 Q. 131 Fine. Just back now, I just have to put it to you Mr. Gilmartin for the
27 Tribunal, you have just said that the Taoiseach, the former Minister for
28 finance and the former Minister for the Environment informed you that that they
29 in some way could have interfered in the demographic process of the County
12:22:17 30 Dublin reviewing of the development plan.

- 12:22:17 1 A. No, they were pressurising --
- 2
- 3 CHAIRMAN: Mr. Lawlor the word interfere didn't arise. Mr. Gilmartin was
- 4 saying that he had been told that the Development Plan review was being
- 12:22:28 5 prioritized and he was asked, you asked him well who gave you that, who
- 6 informed you of that and then he named a number of people. The word interfere
- 7 didn't arise.
- 8 Q. 132 Mr. Gilmartin who informed you that they could influence the prioritizing of
- 9 the County Development Plan?
- 12:22:49 10 A. They didn't inform me that anyone could influence it at all. They said that it
- 11 was prioritized and it was about to take place, the review of the Dublin plan.
- 12 And they had pressure already on various people within the council and that to
- 13 get a move on.
- 14 Q. 133 Ministers were pressurising the council were they?
- 12:23:11 15 A. That's correct, I believe there was a meeting called, which was referred to the
- 16 other day and I don't know whether Mr. McSharry admitted or not, but he was
- 17 present with Mr. Haughey and others with the various managers.
- 18 Q. 134 You by just --
- 19 A. And the main purpose of it was to get it moving.
- 12:23:34 20 Q. 135 So your evidence is that in 1988, because it is, I will come to it later, you
- 21 made a suggestion that it would be completed with in two weeks I think, would
- 22 you recall saying that?
- 23 A. No, I didn't recall saying that, I had no control other what time it was taking
- 24 place. All I was told was that it would be done in 1988. The review of the
- 12:24:00 25 Dublin plan, sometime in '88.
- 26 Q. 136 Yes, you are correct the review commenced in 1988 because it was on foot of a
- 27 1983 plan and it is reviewed every five years.
- 28 A. Yes it was reviewed, it started on the north side somewhere and went south.
- 29 They went north, they went ever where bar the western towns which was number
- 12:24:23 30 one priority and why that happened would need explanation from others not me.

12:24:30 1 Q. 137 Well Mr. Prendergast will be coming to give evidence and we'll address that in
2 great detail, because it is a very serious charge to be making, that the
3 council in some way didn't proceed with the reviewing of the plan in a proper
4 format from your evidence and you have hinted and referred to that on a number
12:24:48 5 of occasions.

6
7 CHAIRMAN: But Mr. Lawlor that particular charge has not been made by
8 Mr. Gilmartin.

9
10 Q. 138 Yes it has Chairman.

11
12 CHAIRMAN: What that --

13
14 MR: LAWLOR: That the County Development Plan wasn't reviewed in it's normal
12:25:01 15 efficient speedy way. I will come back to it Chairman. I will withdraw and
16 revert to it in due course Chairman if I am wrong, if I am I genuinely
17 apologise to Mr. Gilmartin.

18
19 MR. GALLAGHER: Sir the position in relation to the review of the 1983 plan
12:25:15 20 was that it commenced in 1987, when position papers were considered by the
21 County Council, it was finally passed by the council, the new plan was finally
22 adopted by the council I think on the 10th of December of 1993. In the
23 intervening period there had been and I am speaking from recollection,
24 approximately 6 extensions of time granted by the Minister for the Environment
12:25:36 25 to the County Council to enable them to make the new plan, as was their duty.
26 That plan should have been made by 1988, five years after the making of the
27 1983 plan. In fact it wasn't made until 10 years after the making of the 1983
28 plan.

29
12:25:56 30 CHAIRMAN: All right, well at this stage we are concerned really with anything

12:26:01 1 or with Mr. Gilmartin's perception as to what people were doing or might have
2 been doing in relation to the review of the plan. Other witnesses will have to
3 tell us as to what in fact occurred.
4

12:26:16 5 Q. 139 Just fine, a point of clarification, the first review was complete in the 1983,
6 having commenced the review in 1977. And it took six years and then the second
7 review commenced five years after '83, which was 1988, and it took five years.
8 Mr. Gilmartin's contention is that as we were in the process of reviewing the
9 County Development Plan in 1988, just commenced that it should have been
12:26:48 10 finished, his whole criticism of the process was that there was some reason why
11 the plan didn't review quick enough to allow him to comply with his pressure
12 points and demands to create Westpark. The second review as Mr. Gallagher
13 pointed out concluded in 1993 and if Mr. Gilmartin was waiting for the review
14 of the plan in 1988 he had another five years to wait to achieve his ambition
12:27:14 15 of being able to lodge a planning application, so and Mr. Gilmartin contends
16 that there was something untoward which we'll revisit in greater detail as to
17 why it took that length of time and it actually took a year less than the
18 previous review which took six years of the so I will go on with my questioning
19 Chairman.

12:27:33 20
21 MR. GALLAGHER: Sir, just one point that needs to be understood. There was a
22 statutory duty on the County Council to review their plan within five years,
23 the review should have been completed in 1988 not started. And instead of
24 completing it in 1988, that is with in five years from the '83 plan, they
12:27:57 25 commenced reviewing it at the end of 1987 and they took another five years to
26 review that plan.

27
28 So that it is not unreasonable to assume that if one was looking at what the
29 statute provides, one might have reason to conclude that it was being reviewed
12:28:17 30 within five years or a relatively short time after the expiring of five years

12:28:23 1 from 1983.

2

3 MR. LAWLOR: Mr. Chairman, Mr. Gallagher and I could write a thesis on this one.

4 The situation factually is that's why we broke up local government in County

12:28:32 5 Dublin afterwards to try and speed up the whole process because it was taking

6 so long. And it was such a cumbersome task, that I and another 77 members, the

7 largest, the second largest assembly in the country had to sit talking about,

8 from Balbriggan to Bray. And it took those length of time and of course the

9 other problem was because of the inflexibility of the planning process, the

12:28:56 10 submissions were huge. Huge. And the planners had a very regimental

11 discipline about the '72 plan and the heavy hand of city hall was on it, they

12 were the biggest landowners in the County, it is for another day, or for this

13 but not in the context of questioning Mr. Gilmartin.

14

12:29:16 15 Mr. Gallagher is absolutely correct all these extension were needed because of

16 the scale and task of the job and the government thereafter split Dublin into

17 the three authority it's which are working much more effectively today.

18

19

12:29:28 20 Q. 140 But if I could just continue on page 3515 please? And just on the following

21 paragraph we just dealt with the material contravention issue Mr. Gilmartin:

22

23 "The planner would say prefer to get an application for outline permission in

24 the first instance as this would clear the way for detailed application later

12:29:52 25 an sort out the major problems at an early stage and at a minimum cost to

26 everybody."

27 Mr. Gilmartin know you will agree with me, that could only be given effect if

28 the material contravention process had been put in place or the completion of

29 the review of the plan had been concluded, isn't that right?

12:30:07 30 A. Incidentally I hired Ove Arup as civil engineers and that to do the reports for

12:30:15 1 me. Now they had various meetings with whoever they had the meetings with,
2 roads engineers and maybe planners and whatever, other than the report to me, I
3 wasn't party to some of the discussions they had with those people. So I don't
4 have first hand knowledge of what this is about. But the material
12:30:41 5 contravention at the time was not one of the options.

6 Q. 141 Mr. Gilmartin I appreciate that and I am not for one minute trying to expect
7 that you would, obviously you have a professional team advising you and on that
8 issue they would have been reporting to you that, well we can't make the
9 planning application outline in full, until we have the zoning in order, but
12:31:03 10 it's just a statement of fact from the planners to your professional team and I
11 appreciate your answer as is.

12
13 They just went on, "They indicated the need to be careful in make making the
14 application to give sufficient detail to avoid having the application refused
12:31:17 15 on a technicality or on a point of law. In particular"

16 A. Sorry.

17 Q. 142 Sorry go ahead.

18 A. Sorry.

19 Q. 143 "In particular the application should state where the access and egress points
12:31:30 20 were and should break down the areas allocated to various types of development.
21 So also should the advertisement in the newspapers". Well that's just a
22 statement of fact. We won't delay on that. Then a statement of fee of 7,500
23 and request that the application should be set out in a particular way. And
24 then just finally on that on page 3516.

12:31:53 25
26 They stated "That a recent application to the McCairn site in the north of the
27 city had given a projection of turnover for a proposed shopping centre on the
28 site together with a schedule of turnovers for other shopping centres in the
29 same catchment. The planner will expect a similar but more detailed schedule
12:32:14 30 for this development."

- 12:32:16 1
2 So that was something you would obviously have to attempt to the comply with I
3 presume. Do you agree with that?
- 4 A. They were advising if there was any technical detail missing, in other words
12:32:25 5 whether it be the measurement of the distances for any access and egress to the
6 various major intersections such as the Galway Road, that no stone would be
7 left unturned that we get that quite accurate. And make sure there was no
8 technicality on which the planning would be turned down other than this scheme
9 itself.
- 12:32:51 10 Q. 144 Sorry could I put the question back to you, maybe you misunderstand it
11 Mr. Gilmartin. You are stating here, like in your submission to give the
12 revenue turnovers of the shopping centre proposed, Westpark, and the projected
13 turnovers. I think it was more a concern on the disposable income subject for
14 possibly Tallaght, Blanchardstown, city centre and what impact they foresaw
12:33:20 15 Westpark having by way of it's projected sales revenues and how it might or
16 might not impact on the surrounding shopping areas, shopping centres that might
17 be within the catchment affected?
- 18 A. Yeah they were pointing out guidelines from other shopping areas, such as the
19 north side shopping centre, as far as I know. And they were making comparisons
12:33:53 20 they were discussing the comparisons in the impact.
- 21 Q. 145 Okay. Could we have 1624 please? Mr. Gilmartin, this is a letter from your
22 architects Taggart, to Lichfield Partners. Now would you have advertised
23 Taggarts on the brief to provide to Lichfield or how would that have gestated
24 or formulated itself?
- 12:34:26 25 A. Taggarts would have, from my instructions to them and the outline of my plans
26 to them, they would have drawn up a footprint of that and they would have
27 provided that to Lichfield. It was Taggarts appointed Lichfield as I said the
28 other day when Mr. Redmond was speaking to me.
- 29 Q. 146 And the brief for that the size, the scale, the concept, would that have been
12:35:02 30 Taggarts discussions with yourself?

12:35:04 1 A. Yes, they would have passed on all that from my, from what we had already
2 outlined from, what I outlined.

3 Q. 147 That all had been predated the letter of the 29th April 1988, is that correct?
4 A. That's correct I suppose. It must be right.

12:35:24 5 Q. 148 Well I won't dwell too long on it but I just go back to 1774 and 1795 please?
6 This is your letter Mr. Gilmartin, Mr. Redmond thanking for meeting with you
7 and if I could have along side that Mr. Michael Hartnett's reply.
8
9 We visited these letters already through Mr. Redmond or -- the situation is we
10 have just informed the Tribunal now that you had your planning brief and you
11 were appointing your international experts, Professor Lichfield and partners
12 and after that date in July you are corresponding about motorway facility which
13 is really not what you were about at all, that you had a much much bigger
14 scheme in play called Westpark, and no motorway facility was ever provided and
12:36:13 15 would you agree further that when the Westpark proposal emerged, there was no
16 motorway facility contained there in?
17 A. I am not quite with you Mr. Lawlor.

18 Q. 149 Okay. You are here talking to the County Manager looking for information on
19 lands and that, but you claim that you had already concluded your discussions
12:36:59 20 with your architects and they were in a position to write on the 29th of April
21 1988 to Mr. Jeffrey Smith at Lichfield and partners and you are here talking
22 about some very moderate motorway facility some month or so later, would you
23 agree with that?
24 A. Yeah but what's wrong with that.

12:37:19 25 Q. 150 Well you are just lying to the manager.
26 A. No. I said I already had an outline plan before I even bought, I have
27 reiterated that several times. I had a brochure which is not here, I don't
28 have it at the moment, the original brochure, that I prepared on that area, was
29 done long before we got involved. And I had Crichtons involved who drew up
12:37:47 30 that brochure, it was passed on by Taggarts to Nathaniel Lichfield to do an

- 12:37:55 1 economic input study long before we even started.
- 2 Q. 151 I just put the question to you that your correspondence is wholly misleading in
3 that it is only referring to a motorway facility. The motorway facilities that
4 we both agree are in existence are serviced facilities on the motorway where
12:38:15 5 you have a filling station, wash facilities maybe a motel, a restaurant.
- 6 A. No no, there was industrial area as well and a filling station as part of our
7 plan. And actually I had a brochure on the Quarryvale site before I ever
8 bought a piece of land on it because it was the only way I could discover
9 whether there was any interest in investment in Ireland, and it was on that
12:38:45 10 brochure that I persuaded a number of investors.
- 11 Q. 152 That brochure Mr. Gilmartin, I put to you, is the idea of Marks and Spencers
12 capitalised on by yourself, that's were from foreman --
- 13 A. That's a lie.
- 14 Q. 153 We'll deal with Mr. Foreman --
- 12:39:03 15 A. Marks and Spencers were not involved and if Taggarts care to appear here they
16 will tell you. I invited them and I showed them the site, so Marks and
17 Spencers had nothing whatever to do with Quarryvale until I showed the site to
18 Taggarts and Marks and Spencers, which was probably the best part of two years
19 after I planned the scheme in the first place.
- 12:39:33 20 Q. 154 Okay. Page 2383 please.
- 21 Mr. Gilmartin as you can see, this is the most crucial document associated with
22 your ambitions and plans, it's the report by Professor Lichfield and his
23 partners, planning and development and economic consultants based out of
24 London. They have an international reputation in this field as you have
12:40:00 25 already explained and they have been commissioned by Dublin Corporation for
26 some work, isn't that right?
- 27 A. I don't know what they are involved in with Dublin Corporation. They were
28 commissioned by me and by Taggarts to do the report on this, that was the first
29 time I had heard of them.
- 12:40:20 30 Q. 155 Okay page 2384 please? Mr. Chairman, this is the economic impact study and it

12:40:35 1 is of major significance for the consideration of the project and under the
2 first paragraph it sets out.

3
4 "This report examines the main economic impact of the proposed Westpark
12:40:48 5 regional shopping centre at Palmerstown to the west of Dublin. It specifically
6 examines the employment generation effects of the shopping centre and
7 associated commercial and leisure development and examines the retail impact
8 issues in terms of the effect on existing shopping centres."

9
12:41:05 10 Now do you recall what was the conclusion of that?

11 A. I don't know. You have to read the full report, I haven't seen it in years so.

12 Q. 156 Okay.

13 A. I think the conclusion of that was, if it's the answer you are looking for, was
14 that --

12:41:31 15 Q. 157 I'm not looking for any answer, I am asking you to tell the Tribunal
16 Mr. Gilmartin. I, you know, I have plenty of other things to be doing than
17 looking for your answers, but you have to tell the Tribunal and I have to ask
18 you.

19
12:41:43 20 CHAIRMAN: Mr. Gilmartin if you want to give an answer, give an answer.

21 A. As far as I know the conclusion of that was that they suggested at the end of
22 it that on the economic study that there were about 300,000 square feet or 3
23 50,000 square feet would be the appropriate scale of the shopping centre. If
24 that's what you want to know?

12:42:09 25 Q. 158 No, I am only asking you, you know you are the pioneer driving the whole scheme
26 and it was major importance as to what this report concluded, and how you could
27 go forward on the basis of the report because planning officers would have to
28 get it and study it and agree or disagree, so in section two it describes the
29 constituent elements of the proposal, section 3 examines the forecast
12:42:35 30 employment generation of the proposal, while the impact of this employment on

12:42:42 1 Dublin economy was considered in section 4. In Section 5 the retail impact
2 issues are addressed in section 5. This includes a description of the way in
3 which the proposal will trade, the qualitative benefits of the proposal and the
4 effects of trade diversion on competing centres. The study concludes and
12:43:02 5 summarised in section 6.
6

7 So if we can go to page 2385, and hear what has been said? Now Mr. Gilmartin,
8 the proposal:
9

12:43:18 10 "The location of the proposal is shown in plan 1 which also indicates committed
11 and proposed road improvements"

12 And obviously that's the road network that's going to be improved on the M50
13 junction with the Galway Road, which we are all familiar with and naturally you
14 and they saw this as a very major strategic location, isn't that right?

12:43:36 15 A. That's correct.

16 Q. 159 And then they go on to refer to the fact that -- now could I just put it to you
17 on that point, Mr. Gilmartin, that do you accept that your idea was of a
18 regional proportion?

19 A. That's correct and that's what I showed in the brochure.

12:43:56 20 Q. 160 And did you absorb the fact that it was serious contravention of the
21 Development Plan or was that a consideration that you gave detail to?

22 A. That was pointed out to me, but not by you Mr. Lawlor. You were all for it.

23 Q. 161 When we come to what I'm for, I have a statement given to the Tribunal, we'll
24 open that with your Mr. Gilmartin and go through every line of it and you can
12:44:21 25 comment on what I have told the Tribunal and have the opportunity to answer
26 questions. I am only asking you what, if any considerations did the impact of
27 a 1.5 million square foot centre did you think would have?

28 A. That didn't, it wasn't my priority to consider what impact it would have. But
29 I did commission people to do a report for me. And anyway, I was shown a
12:44:54 30 brochure, on the brochure I showed the number of interested retailers who was

12:44:59 1 interested in put their names down for to get shopping space in the area, so I
2 showed the brochure to show exactly what we could have brought in on that site.
3
4 The rest of it, if that's what you are coming at wasn't a matter for me. It
12:45:24 5 was a matter for the planners, what the planners would allow and we would have
6 adhered to whatever that was.

7 Q. 162 Okay. So the, if you follow that logic, if there was another interested group
8 of retailers that could have added another half a million, could there have
9 been a 2 million square foot centre, is that the logic?

12:45:45 10 A. I would have shown that in the brochure as to the actual interest there was in
11 the particular site and in the scheme. But that didn't mean to say that I was
12 using it as the Bible that the planners or the County Council or anybody else
13 had to go by. They were there to make decisions when the planning application
14 or any planning application would have been made, it was entirely their
12:46:15 15 decision and nothing whatever to do with me or my imagination.

16 Q. 163 Well more than your imagination Mr. Gilmartin, you had a brochure out telling
17 people that's what you wanted to provide.

18 A. That's what I could provide. I showed what I could provide.

19 Q. 164 Okay. We'll just stick with Professor Lichfield's report because on the basis
12:46:40 20 of that, that all decisions will be made in this matter. Now it goes on to say
21 it's intended a business park and attract high technology and other modern
22 industry and also office development while the shopping and leisure centre will
23 serve a regional function drawing trade primarily from the Dublin sub region
24 but also drawing more occasionally trips from the rest of Eire. What's your --
12:47:06 25 that's the centre you were hoping to provide was it?

26 A. That was my, that was should I say, not my imagination, but it was my, what I
27 knew we could provide if we were allowed.

28 Q. 165 Okay. Then the business park and high technology and other industrial and
29 office would have been highly desirable in that area and I compliment you on
12:47:33 30 wanted to do that for the area it would have been very welcome. We just go on.

12:47:37 1
2 "The proposal will contain approximately 50 acres of business park which could
3 generate about half a million square feet of business floor space. The
4 regional shopping centre would comprise approximately 1.9 million square feet
12:47:51 5 of gross retail floor space with ancillary car parking for up to 12,000 cars,
6 both at surface level and in multi-storey carparks"
7
8 So you would have had a net 1.5 million square feet of lettable space, isn't
9 that right?

12:48:07 10 A. I'm not quite sure.
11 Q. 166 Roughly.
12 A. 1.9 million but it would have been, the malls and all would have been taken out
13 of it, it was over 200,000 feet of malls and various other storage and other
14 things involved.

12:48:26 15 Q. 167 And then "The regional centre will also be served by public transports and the
16 provision will be made for covered bus set down points within the development."
17 A. Yeah.
18 Q. 168 Fine.
19 A. And there is, we were also going to provide free bus service, what we call in
12:48:42 20 England the "hopper stopper" type of small bus service for the general area of
21 Clondalkin and that, I think the brochure will show there was provision for
22 that as well, a free bus service.

23 Q. 169 Sorry. Page 2386 please. It goes on to say, Mr. Gilmartin.
24

12:49:06 25 "The bulk of the floor space will be contained in a covered shopping centre".
26 We are not going to waste time, it was one of these very modern intended
27 shopping centres, I think -- sorry, we are down now to 1.4 million square feet
28 which we both concur and then they have the add on figures which totals the 1.9
29 million square feet. Isn't that right? Physically integrated with the
12:49:30 30 regional shopping mall will be a leisure complex which will comprise of

12:49:33 1 approximately 300 thousand square feet and currently envisaged will contain an
2 ice rink, ten pin bowling alley, a multiplex cinema, children's play area,
3 fitness suite and a nightclub, restaurant. In addition the proposal will
4 contain the development of acres for housing and open space.

12:49:53 5
6 Now the housing and open space, that was to come later across into the Liffey
7 Valley, is that right?

8 A. That's correct.

9 Q. 170 And that's where you lost your deposit on the St. Patrick's Institution?

12:50:05 10 A. No, I didn't lose a deposit, I had an option. That's coming into the next
11 module.

12 Q. 171 Can you remember what you contracted to purchase St. Pat's for?

13 A. I didn't contract to purchase. There was no actual agreed purchase as such, I
14 had an option to include it because they asked me, through Ciaran O'Malley to
15 include it, so I took an option on the land. Which is, there is a different
16 story which we will come to in the next module, or in the next part of this
17 module.

18 Q. 172 Well, it's just in this module, there is a figure in the brief and I don't have
19 it here to hand, but you don't recall the figure you were prepared to pay by
12:50:52 20 exercising the option, no?

21 A. When and if the option was exercised I am not quite sure, it might have been 12
22 million, or something like that.

23 Q. 173 You are right, it was 12 and a quarter million, Mr. Gilmartin. Just going on.
24

12:51:07 25 In total the proposal will provide a large mixed development with commercial
26 and shopping elements, and will particularly benefit from accessibility in the
27 site in the future -- that was going to be a roads requirement, that were
28 affected by it.

29
12:51:21 30 Next page is just listening down -- sorry employment generation, which is

12:51:27 1 important obviously. 2387.

2

3 Not numbers put on it, but they are elsewhere you were going to create

4 employment in the business park, retailing, leisure, construction of course and

12:51:39 5 total employment; and they don't give a figure on that but we'll move on to

6 that. Just the next page for fullness, is 2388 and it is the employment impact

7 to follow the labour market, the draw of labour, the net effect and conclusion.

8

9 Then we go on to a very major aspect on 2389, Mr. Gilmartin, that's that this

12:52:04 10 section addresses the scale and function of the proposed development and

11 qualitative benefits. It then goes on to assess the probable retail impact

12 effects arising from trade diversion to the proposal. Now, could you offer to

13 the Tribunal any view on that particular vital aspect of the project that you

14 were proposing?

12:52:30 15 A. So what exactly do you want to know?

16 Q. 174 I want to know do you have any idea of the possible job losses that might be

17 created elsewhere?

18 A. In the, in doing the study, I hired Lichfield to do the study, I didn't see

19 actually there would be any job losses, because my opinion was that Dublin was

12:52:59 20 about seven times under shopped as it was.

21 Q. 175 Well --

22 A. And that was more than my opinion, there was other's opinion as well, as since

23 then I suppose to a degree has been proven to be the case, with a number of

24 shopping centres has gone up all over the place.

12:53:18 25 Q. 176 I appreciate that, Mr. Gilmartin, but trade diversion is a fancy set of words

26 for possible job losses associated with shopping centres, losing trade in the

27 region?

28 A. Trade diversion would be, they were hired to make these comments and to

29 investigate all these things, so I would have expected no less from them than

12:53:42 30 to comment on those.

- 12:53:44 1 Q. 177 But you have no understanding of what your conclusions, in association with
2 your consultants, were on the trade diversion numbers or issue, do you?
- 3 A. Yes. They done a report and they gave me the report. I studied the report and
4 would have taken it on board.
- 12:54:01 5 Q. 178 Would you appreciate, Mr. Gilmartin, that officially they would have to take
6 that into account in considering the project?
- 7 A. Of course, Mr. Lawlor. I'm sick telling you, we had never applied for planning
8 permission. So consequently the officials would have the last word. Not my
9 word. Not what I thought or what my hope value was, Mr. Lawlor. The last word
12:54:25 10 would be down to the officials. So I don't quite know what you are harping on
11 about.
- 12 Q. 179 I will tell you exactly now, Mr. Gilmartin. Are you now suggesting that the
13 Dublin planning office should tell you what sort of scheme you should apply
14 for?
- 12:54:39 15 A. The Dublin Planning Office would have the decision on it. That's, you are
16 twisting words again, Mr. Lawlor. It was down to the planning office when we
17 applied for planning permission to say yea or nay to these schemes, which we
18 would have no alternative but to take on board their decision.
- 19 Q. 180 But Mr. Gilmartin could I put it to you, if you lodged for what you were
12:55:03 20 proposing, there was only one decision forthcoming, a refusal?
- 21 A. That wasn't in your opinion Mr. Lawlor, but anyway that's another matter.
22 The -- it was down to the planners and it was up to us then to go back and
23 re-think and put in what we believed, you know, under what advice was given to
24 us, what we believe we might have got planning on.
- 12:55:29 25 Q. 181 But Mr. Gilmartin, can you tell the Tribunal --
- 26 A. I thought nothing. I thought absolutely nothing about planning, about anything
27 like that. The only thing I thought about was when I set up the scheme I was
28 asked after an awful lot of, should I say joking and laughter and what have you
29 at the idea of some people investing hundreds of millions in Ireland at the
12:55:56 30 time, I was - the gauntlet was thrown down to me, for me to come up with the

12:56:04 1 scheme they would invest in. I came up with the scheme that I believed they
2 would invest in and true enough I had numerous people lined up who were
3 prepared to invest in that particular scheme. It was not based on what the
4 obstacles were, or anything, they didn't come into my thinking, obstacles,
12:56:24 5 planners anything like that. I just showed to the government of the day what I
6 could bring in and what investment I could bring into Ireland.

7 Q. 182 Okay. Well --

8 A. And I never intended to wind up here. And neither did I intend to run into the
9 type of situation that I did.

12:56:46 10 Q. 183 Mr. Gilmartin, I will just ask you again, if you submitted -- you see the
11 planners are not silent on the subject, would you accept that?

12 A. I had no discussions with the planners whatsoever on whether or not my scheme
13 would get through. We'll have put a planning application in, in the ordinary
14 way, and it was up to the planners to make a decision on whether the, they
12:57:11 15 would say yes or no, or whether they wanted an alternative scheme. And we
16 would have complied with that. At all times we would have complied with the
17 authorities.

18 Q. 184 But would you accept then, Mr. Gilmartin --

19 A. I am not accepting anything Mr. Lawlor, other than what I am telling you. I
12:57:29 20 only set about bringing investment into Ireland. And whether or not I ever got
21 a penny out of it wasn't my criteria either, as has been suggested here, that I
22 was here to steal and run. I was not. I was prepared, the 12 million you just
23 talked on St. Patrick's land, this big 70 million that I was supposed to be
24 making would have gone towards that. The leisure centre which was, the leisure
12:57:57 25 complex across the road was another, what I call a "loss leader" and we would
26 have used the money to put that there. Which would be shown on my brochure.
27 As a matter of fact, the people of Clondalkin were deprived of it, and not for
28 honourable reasons.

29 Q. 185 Could I ask you, Mr. Gilmartin, is it your evidence to the Tribunal that you
12:58:25 30 would lodge a planning application for your scheme and you would expect the

12:58:30 1 planners to redesign it --

2 A. No, I would not expect the planners to redesign it. I would expect the

3 planners to say yes or no. And then we would reconsider our position and put

4 in what we believed or what we might have thought we might have got.

12:58:46 5 Q. 186 Well --

6 A. There is no question of me asking the planners to do anything for me. I did

7 not ask anybody to do anything for me. We would do it ourselves. And let them

8 decide within the rules they had to comply with.

9 Q. 187 Mr. Gilmartin, you were familiar that there was a County Development Plan, were

12:59:12 10 you?

11 A. I was advised there was a Development Plan from 19 whatever it was, '72 or '82,

12 '72 I think it was. I also was advised about the Myles Wright plan. So I was

13 aware that there was some plans, but I never bothered looking at them.

14 Q. 188 Okay. Well, we'll go on through your report because this is really what the

12:59:39 15 guideline of what you wanted to do and achieve, and these were the

16 international professionals --

17 A. I didn't want to do anything, Mr. Lawlor, other than present a picture where I

18 could create 20,000 jobs and bring in massive investment into Ireland. And

19 actually, even what's before here doesn't even show half of it.

12:59:59 20

21 CHAIRMAN: All right Mr. Lawlor. We are going to stop there. We are going to

22 sit again at 2 o'clock, but Mr. Gilmartin, you won't be required this

23 afternoon.

24 A. Thank you very much.

13:00:08 25

26 CHAIRMAN: All right. So we'll see you at, well you are free to stay of

27 course, but we'll see you in the witness box at half ten tomorrow.

28 A. Right.

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

13:00:28 30

13:00:28 1 **THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:**

2

3

MR. GALLAGHER: Senator Mary O'Rourke please.

4

14:01:52 5 MR. MCGARRY: Mr. Chairman just before Ms. O'Rourke is sworn, I have an
6 application for limited representation on her behalf, I am instructed by Hugh
7 Campbell & Company Solicitors and --

8

9

CHAIRMAN: Thank you Mr. McGarry.

14:02:13 10

11 **SENATOR MARY O'ROURKE HAVING BEEN SWORN**

12 **WAS EXAMINED AS FOLLOWS BY MR. GALLAGHER:**

13

14

MR. GALLAGHER: Good afternoon Senator

14:02:32 15 Q. 189 Senator O'Rourke would you sit down please. Thank you very much. Senator
16 O'Rourke I have some questions to ask, and you might, if you just speak into
17 the microphone.

18

19 As you are probably aware Senator O'Rourke there has been some unauthorised
14:03:01 20 disclosures of information circulated by the Tribunal, or material circulated
21 by the Tribunal, and in those circumstances the Tribunal directed that all the
22 witnesses to whom the brief had been circulated would be asked to state on oath
23 whether or not they had released or authorised the release of any such
24 information or documentation

14:03:21 25 A. I can certify that I did not release or authorise release of any documentation
26 relating to the Tribunal.

27

Q. 190 Thank you.

28

29 I briefly want to deal with your career as a politician before moving on to

14:03:40 30 events of 1989 or thereabouts. You, I think, have been in active politics for

- 14:03:50 1 many years going back to 1974, I think, am I right?
- 2 A. That was at local politics.
- 3 Q. 191 You became a member of Athlone and later west Meath County Council and I think
- 4 you have been a member of the Oireachtas continually since 1981?
- 14:04:03 5 A. That is correct.
- 6 Q. 192 And you are a leader of Seanad Eireann at present.
- 7 A. Yes.
- 8 Q. 193 Would you outline to the Tribunal the various Ministerial positions that you
- 9 have held over those, over the years in question?
- 14:04:21 10 A. I don't want to sound immodest but anyway. I was Minister for Education, for
- 11 five years. I was Minister for Health for 9 weeks. Then I was Minister of
- 12 State at enterprise but this then was industry and commerce, now Enterprise
- 13 Trade and Employment. Then I was Minister for Labour Affairs and then we were
- 14 in opposition. And then I was Minister for Public Enterprise from 1997 to
- 14:04:53 15 2002.
- 16 Q. 194 And you are the sister of the late Brian Lenihan who was also cabinet Minister
- 17 for many years and who unfortunately died some years ago, isn't that right?
- 18 A. That's correct.
- 19 Q. 195 Now in 1989 you were a Minister for Education, is that correct?
- 14:05:13 20 A. That is right.
- 21 Q. 196 Would you tell the Tribunal where your office or offices was or were located,
- 22 your ministerial offices?
- 23 A. Yes. You see there was a practice that if your Department Head Office was at a
- 24 venue which was far from Leinster House or at least far that you wouldn't get
- 14:05:36 25 back in time for a vote you had the facility of having what was called a
- 26 ministerial office on a ministerial floor in Dail Eireann and you went there
- 27 each morning because there would be votes all day, well particularly at that
- 28 period because it was a tight voting situation. So you stayed there and then
- 29 went back to the department. Now not every Minister had to do that, Ministers
- 14:06:00 30 with offices on Kildare Street were free to come and go.

- 14:06:03 1 Q. 197 Your ministerial office was in Marlborough Street?
- 2 A. Marlborough Street, yes.
- 3 Q. 198 Where the Department of Education has it's headquarters?
- 4 A. Yes.
- 14:06:11 5 Q. 199 You talked about the ministerial floor in Dail Eireann, what floor is that on?
- 6 A. That's floor 1.
- 7 Q. 200 And how do you get access to floor 1?
- 8 A. Well you can both --
- 9 Q. 201 Can I just perhaps, to add to the question, on the assumption that I come in
- 14:06:29 10 the Kildare Street entrance of Dail Eireann, how do I get to the ministerial
- 11 office, how would you get to your ministerial office?
- 12 A. You come in and you walk through the hall and down a corridor until you came to
- 13 stairs or you could go over to your right until you would come to a lift. You
- 14 could take either route, if you came to the stairs you walked up the stairs and
- 14:06:52 15 around in a sort of crescent shaped shape until you climbed three more, not
- 16 flights, three more stairs and at that point there before you took those three
- 17 you could, you were nearly parallel with the lift if you had taken the lift,
- 18 and then you went across what is called the "blue corridor" because there is
- 19 blue on the floor and you then, when you do that you come into what is called
- 14:07:18 20 the ministerial corridor, corridors there are two of them.
- 21 Q. 202 I see. And does one continue in a linear fashion into the other or at right
- 22 angles?
- 23 A. No, there was a corridor, then you went in through sort of a gap and then you
- 24 were in another corridor.
- 14:07:41 25 Q. 203 I see. More or less straight ahead from the front corridor?
- 26 A. Yes more or less. Slight angle.
- 27 Q. 204 All right. Now if instead of taking the stairs you went up the lift you would
- 28 go up to the first floor, I take it?
- 29 A. Yes and you come out of, you go to floor 1 and you would come out of that lift
- 14:08:00 30 just where your journey by stairs had ended.

14:08:03 1 Q. 205 Yes.

2 A. And then you proceeded along the blue corridor again.

3 Q. 206 And can you give the Tribunal any idea of the approx length of the corridor,
4 perhaps by reference to some part of this room?

14:08:17 5 A. From here, say to the end of where the Members of the Tribunal are seated.

6 Q. 207 I see.

7 A. Yes.

8 Q. 208 So you are talking about something of the order of perhaps 45, 50 feet or
9 something of that order -- I am not asking to you agree or disagree?

14:08:32 10 A. Not quite, I'm not big into measurements, yes.

11 Q. 209 Now you were written to by the Tribunal and you were asked for your
12 recollection of a meeting that may or may not have taken place in Dail Eireann
13 early in 1989. And you responded to that letter of the 12th of December, the
14 Tribunal had written to you in the following terms, it's 1037 please.

14:09:05 15

16 "The Tribunal understands from it's inquiry that is in or around early 1989
17 Mr. Thomas Gilmartin attended at Dail Eireann for a meeting with members of the
18 cabinet to discuss his plans for land at Quarryvale County Dublin."
19

14:09:18 20 I am reading from the fourth paragraph.

21

22 "The Tribunal understanding that you may have been present at the meeting, the
23 Tribunal believes this was not an official cabinet meeting.
24

14:09:31 25 I am now directed by the Members of the Tribunal to request that you provide to
26 the Tribunal a detail (sic) narrative statement to include the following
27 particulars regarding the meeting between Mr. Thomas Gilmartin and members of
28 the cabinet in or around February 1989, although any other matters you consider
29 relevant to the history of your involvement with Mr. Thomas Gilmartin should
14:09:50 30 also be included."

14:09:53 1
2 You responded to that letter on the 15th of January 2004, 1040 please. And if
3 we look at the third paragraph you say in response:
4

14:10:14 5 "I cannot indicate the date or approximate date of the meeting between
6 Mr. Thomas Gilmartin and member of the cabinet but I would be of the opinion
7 that approximately February 1989 would be accurate.
8

9 The meeting was not an arranged meeting as such at least not arranged to my
14:10:29 10 knowledge. I was at the time the Minister for Education and I was in my
11 ministerial Dail office attending to work in connection with my department.
12 There was a knock on my door and Mr. Pdraig Flynn the then Minister for the
13 Environment, came into my office and said would I could to an office across the
14 corridor where there was a man, Mr. Thomas Gilmartin who was going do provide
14:10:49 15 thousands of jobs for the Dublin area. I followed Mr. Flynn into an office
16 just across the corridor from my own office and found a number of ministerial
17 colleagues standing around the office. It did not seem to me to be a meeting
18 in the fullest sense in that nobody appeared to be sitting around the table and
19 there did not appear to be an agenda or printed papers of any kind. As far as
14:11:11 20 I can erect the following people were in the room Mr. Pdraig Flynn, Mr. Ray
21 Burke, Mr. Brian Lenihan, Mr. Bertie Ahern and the then Taoiseach Mr. Charles
22 Haughey, Mr. Thomas Gilmartin.
23

24 Where there was much coming and going and milling around the room so I indeed
14:11:29 25 may have inadvertantly left out the name of the some of the people who were
26 there and who came and went.
27

28 Mr. Pdraig Flynn said "Mr. Gilmartin this is the Minister for Education
29 Mrs. Mary O'Rourke" and I nodded and Mr. Gilmartin nodded and then I turn and
14:11:43 30 left the room and was not aware of the what the business of the meeting was,

14:11:46 1 only that it was in the earlier declaration by Mr. Padraig Flynn that it was
2 about jobs for County Dublin. I went back to my office across the corridor to
3 continue my departmental work but I have never seen or met Mr. Thomas Gilmartin
4 since that occasion".

14:12:01 5
6 Now I want you to tell the Tribunal where the office, where your ministerial
7 office was in relation to the room where you say this meeting took place.

8 A. Well as far as my memory, as far as I can remember Mr. Flynn as I said, knocked
9 on the door and said I'd like to you meet a man, and you read out that, who was
10 going to provide thousands of jobs for Dublin. And if I just may say it was a
11 time of huge unemployment in Dublin, 15 to 18 per cent and parts of Dublin
12 pockets of it up to 40/50 per cent, so it was night normal, it would be quite
13 normal to meet people and still would be, if they could give you, if they could
14 provide jobs. I saw nothing untoward and still cannot envisage anything
15 untoward about meeting somebody who was going to provide jobs.

16
17 Now you have asked me where my room was in reference to the room to which I was
18 brought, in my memory it was across the corridor and I went into that room and
19 there were the people whom you called out in the letter which I have written,
20 in that room. They were standing up, they were not sitting around or
21 discussing anything. It would seem to me the gathering and I think I would
22 have referred to it as a gathering, that the gathering had come to an end, it
23 seemed because they were people coming and going.

24 Q. 210 Can you say approximately what time elapsed between the time Mr. Flynn knocked
14:13:43 25 on your door to ask you to come across to the meeting and the time you actually
26 went across?

27 A. Maybe ten 5 and 10 seconds, it was very brisk.

28 Q. 211 I see. You went across immediately after you were asked?

29 A. I was doing my own work, I hadn't a deputation with me. He actually said to
14:14:03 30 me, Mr. Flynn did, this is a man, Mr. Gilmartin who is from your mother's own

- 14:14:08 1 county, my mother was from County Sligo. My mother had died at the very end of
2 November, and he actually, Mr. Flynn said a kind comment as we crossed, about
3 my mother's demise. That's how it sort of etched in my mind.
- 4 Q. 212 I see. Did you say anything to Mr. Gilmartin about his county of origin or
14:14:27 5 anything of that nature?
- 6 A. No because we didn't speak. I nodded and he nodded and I went off.
- 7 Q. 213 I see. Would you describe the room please in which the meeting or the
8 gathering took place?
- 9 A. An ordinary room. An ordinary office room, nothing remarkable.
- 14:14:52 10 Q. 214 Mr. Gilmartin has described it as a rectangular room with a rectangular table
11 and a number of doors into it.
- 12 A. There was certainly a table because all of those offices have a table in them.
- 13 Q. 215 Was the room known as the ministerial room or conference room or cabinet room
14 or was there any title given to it?
- 14:15:18 15 A. No it certainly wasn't a cabinet room that was in another section altogether.
16 An ordinary room. I cannot put any other description upon it.
- 17 Q. 216 It was a room for example where members of the parliamentary party might meet?
- 18 A. No, no.
- 19 Q. 217 Or anything of that nature?
- 14:15:35 20 A. No the parliamentary party room was on floor 5.
- 21 Q. 218 I see?
- 22 A. And we went to that just to go to the parliamentary party meeting, which was
23 once a week.
- 24 Q. 219 So this was an ordinary room, it was used for meetings presumably as necessary?
- 14:15:50 25 A. Yes or for people to have just a quick few words together or whatever. It
26 wasn't a particular titled room.
- 27 Q. 220 And it wasn't allocated to any particular Minister or any particular
28 department?
- 29 A. Not that I can, in my memory can recall.
- 14:16:07 30 Q. 221 Now Mr. Gilmartin has indicated that in addition to the individuals you have

14:16:20 1 mentioned that he recalls a number of others. He has said for example that he
2 recalls Mr. Seamus Brennan was at the meeting. Have you any recollection of
3 Mr. Brennan being at the meeting?

4 A. No I have not any memory of that. But as I said in my letter, I may indeed
14:16:39 5 have inadvertently left out some of the name of people who were there. You
6 have asked me a direct question I want to answer you directly. No I did not
7 have a memory of Mr. Seamus Brennan being there whilst I was there.

8 Q. 222 I see. Mr. Gilmartin also said Mr. Gerard Collins or a man he believes to have
9 been Mr. Gerard Collins who was the Minister for Justice I believe, was also
10 present and Mr. Albert Reynolds?

11 A. No, not to my memory.

12 Q. 223 Yes. Can the Tribunal take it that you entered the room almost simultaneously
13 with Mr. Flynn when you went to be introduced to Mr. Gilmartin, and he to you?

14 A. Yes, I suppose he would be to one side of me going in.

14:17:34 15 Q. 224 Yes. Were you told at that time or at any other time what was discussed at the
16 meeting?

17 A. No. I mean he had said, Mr. Flynn had said that this man is going to make
18 thousands of jobs for Dublin and I thought that was very worthy if it was going
19 to happen.

14:18:03 20 Q. 225 Did you discuss this meeting or Mr. Gilmartin's plans or proposals with any
21 other politician that you can remember subsequent to that meeting?

22 A. No. I can't remember. I was very busy in the Department of Education and
23 money was scarce in the department and I was, my mind was full of that really.
24 But I thought it quite a normal thing that people would meet people who were
14:18:40 25 going to provide jobs, and I still do. I can't find anything wrong with the
26 gathering.

27 Q. 226 And doing the best you can, your recollection is that this meeting took place
28 sometime in or around February of 1989, early February 1989?

29 A. I am not able to give a date because, well I did seek diaries from the
14:19:07 30 Department of Education and the Secretary General wrote back a letter to me

14:19:10 1 saying that they had searched but they weren't there. But it was then a
2 practice at that time that when a Minister changed they didn't keep diaries,
3 they do now, but they didn't then. But anyway, I hadn't known about it in
4 advance so it wouldn't have been in any diary. So I am not able to be of any
14:19:27 5 stronger help to you with regard to the date accept that -- and I have tried
6 ever since I got the letter from Ms. Gilvarry, the solicitor to the Tribunal, I
7 have tried to put it in a time frame in my mind. My mother had passed, if I
8 give personal details it is not for wanting to give them it is for being of
9 help to the Tribunal if I can. My mother had passed away in the end of
14:19:57 10 November, the very end of November of '88 and when Mr. Flynn asked me to come
11 with him to the room he, and having said he is from your mother's own county,
12 he made a kind remark about the demise of my mother.

13
14 And then my brother was there and the Easter that period was the end of March,
14:20:21 15 so and then April Brian, my brother wasn't well and then he went away to the
16 States for his operation. So I think we broke up in the Dail the 15th of
17 March, so that's as near a time frame as I can give you. Let's say the
18 beginning of February to the middle of March, but I cannot be any more
19 accurate.

14:20:42 20 Q. 227 Thank you very much. Can I just ask you one final question, did you see
21 anybody in the vicinity of the room in question, either as you entered it or as
22 you left it? Outside the room?

23 A. Well no, not particularly. I know to what you are referring or to whom you are
24 referring. But those corridors are a wee bit like a thoroughfare, people come
14:21:12 25 up and down. It's not a sort of, if you are coming on deputations people are
26 coming down the corridor or coming back up from deputations, there are usually
27 people coming and going. But if you asked me in particular do I remember
28 somebody outside the door, no I don't.

29 Q. 228 Does it mean that if members of the public go to meet a particular deputy or
14:21:37 30 particular Minister that they may very well have access to that corridor?

14:21:41 1 A. Oh, yes. You see let's say there was somebody coming to me about a school that
2 they wished to have a building or wanted to see me about a building. The
3 private secretary would go down and bring them up and they would come along
4 that corridor then and be brought into your office.

14:21:56 5 Q. 229 I see. I see. Thank you very much?

6 A. Thank you.

7

8 MR. GALLAGHER: Now Senator Mr. O'Rourke, Mr. Maguire is for Mr. Ahern.

9

14:22:06 10 **CONTINUATION OF CROSS-EXAMINATION OF**

11 **SENATOR O'ROURKE BY MR. MAGUIRE**

12

13 Q. 230 Mr. Maguire: I have some questions to ask you. Just in relation to the
14 description of the building which you have given us. I think the ministerial

14:22:17 15 office to which you refer is one that would be in the older building, in other
16 words the college of science building, isn't that right?

17 A. The blue corridor links the old to the.

18 Q. 231 You it's a Victorian type building, I think with offices?

19 A. Yes.

14:22:29 20 Q. 232 And there are offices on either side of the corridor?

21 A. Either side, yes that is correct.

22 Q. 233 And to get at that you have to go up this ramp which is a glass covered ramp or
23 bridge, is that correct?

24 A. Yeah the blue corridor I spoke about.

14:22:45 25 Q. 234 And that's the one with the glass on either side?

26 A. Either side.

27 Q. 235 And you walk up.

28 A. You walk through that, along it, through it and go through and there is a
29 porter there at a desk.

14:22:56 30 Q. 236 And the reason I am asking you some of these questions Mrs. O'Rourke is because

14:23:06 1 Mr. Gilmartin has said that first of all he denies crossing the glass wall
2 bridge or ramp, but you have to do that to get to your offices isn't that
3 correct?

4 A. Yes.

14:23:18 5 Q. 237 And he describes the meeting in a room that doesn't bear any relationship to
6 the corridor that you are taking about, the ministerial corridor. The 5th
7 floor and the 4th floor where the party rooms are, that's a 60s building or
8 more modern building, isn't that so?

9 A. Yes, I suppose so. But anyway it's on the 5th floor, it's not on the first
10 floor.

11 Q. 238 No. And that's what I was going to come to. Your office that you were
12 occupying is on the first floor and it's in this older type Victorian, I'm
13 saying Victorian type building?

14 A. Yes.

14:24:07 15 Q. 239 Entirely different. If I just ask you in relation to the meeting, the
16 description of the meeting that you give in your statement. You describe the
17 various people as standing around. You say you were there for very short time,
18 but they were standing around, is that right?

19 A. Yes that's correct. That's what I said in my letter.

14:24:26 20 Q. 240 And do you remember were there any people seated at a table?

21 A. No, anybody who was in the room was standing and I am quite clear on that.

22 Q. 241 And do you remember was there a large rectangular table?

23 A. There was a table in the room, I can't recall the shape of the table, but there
24 was a table in the room, all those rooms have tables in them.

14:24:55 25 Q. 242 But it's an office designed for, I suppose similar to the office that you are
26 occupying yourself is that correct?

27 A. Yes. Something of that nature.

28 Q. 243 Mr. Gilmartin describes going into the lobby area to two dark oak coloured
29 double doors, from which he went into a room. Are there any large oak coloured
14:25:20 30 double doors that you can recollect or think of in that corridor?

- 14:25:23 1 A. When you come off the blue corridor and you are going to go into the corridor
2 which would be a ministerial corridor you do go through doors.
- 3 Q. 244 Yes. But do you know any room that has two dark oak coloured doors?
4 A. Not in my memory, I can't.
- 14:25:40 5 Q. 245 And this room that you are talking about which was opposite your office how
6 many doors were into that room?
7 A. Just one door, the door I went in.
- 8 Q. 246 And facing you then you have I suppose a window, windows?
9 A. Well there certainly would be a window in the room, yes.
- 14:25:55 10 Q. 247 You say that you remember that Mr. Flynn came into your office and that he
11 asked you to go across the corridor, is that correct?
12 A. Yes.
- 13 Q. 248 And then did he introduce to you Mr. Gilmartin, is that correct?
14 A. Yes he said Mr. Gilmartin this is Mary O'Rourke, Minister for Education and he
14:26:27 15 nodded and I nodded.
- 16 Q. 249 In Mr. Gilmartin, has given a number of descriptions of the meeting. One of
17 those was in sworn evidence in the Sherwin trial, in other words Sherwin
18 against the Independent Newspapers and in that he says that she, meaning you.
19
14:26:46 20 "Came into the room, looked in your direction, walked out and took absolutely
21 no part in the meeting."
22 A. That's correct because I was only, I was trying to envisage how many, how long
23 I would have been there and I suppose it was -- the whole interlude would have
24 been no more than 10 seconds maybe a little more, because I was keen to get
14:27:08 25 back to what I was doing.
- 26 Q. 250 Yes. But he makes no mention there of being introduced to you?
27 A. Well if you, you know an introduction can be many things I suppose. There was
28 no handshake. There was -- but there was from both of us an acknowledgement.
- 29 Q. 251 And he makes no reference to Mr. Flynn bringing you into the room, in that
14:27:33 30 description. You've mentioned in relation to the circumstances in which you

- 14:27:47 1 would be in the ministerial office. Your office I think, your principle
2 departmental office was in Marlborough Street is that right?
- 3 A. Yes, yes.
- 4 Q. 252 And it would be on days that the Dail was sitting, is that correct?
- 14:27:58 5 A. Yes days the Dail would be sitting or you could also be there other days if you
6 had made particular arrangements to meet deputations, sometimes you would make
7 it for the Dail office and sometimes for Marlborough Street.
- 8 Q. 253 And you would be there for votes is that correct?
- 9 A. Sorry.
- 14:28:16 10 Q. 254 You would be there for votes in the house?
- 11 A. Oh you had to be there forever vote because we were very tight voting
12 situation.
- 13 Q. 255 And that was one of the reasons you would occupy the office in question?
- 14 A. In a functional capacity.
- 14:28:28 15 Q. 256 There is an overall security system, isn't that correct, in the Dail?
- 16 A. Oh, yes. I mean as you go into that corridor there is always and I have never
17 seen the seat or the table unoccupied, by a porter.
- 18 Q. 257 And if anybody wants to get access to this area you have to go through the
19 system of checking in at the door.
- 14:28:56 20 A. Checking in down stairs at the reception desk and then generally somebody from
21 the office, the private secretary or somebody whoever was there would go down
22 and fetch up the person or the deputations to meet you.
- 23 Q. 258 Yes you send somebody down?
- 24 A. Or you might go down yourself if you were free.
- 14:29:17 25 Q. 259 The TDs don't have offices in the area, this is a ministerial --
- 26 A. That's right it's a ministerial corridor yes.
- 27 Q. 260 There aren't any TDs offices in that area?
- 28 A. No.
- 29 Q. 261 And there is quite secure arrangement in relation to people being, an usher
14:29:35 30 being seated in the corridor?

14:29:37 1 A. Yes as you go through those double doors there is a person there at a desk.

2 Q. 262 Thanks Senator.

3 A. Thank you.

4

14:29:46 5 CHAIRMAN: Mr. Crowley do you want to ask questions?

6

7 MR. CROWLEY: No Chairman, I don't.

8

9 CHAIRMAN: Mr. McCabe, do you want to ask questions?

14:29:58 10

11 MR. McCABE: No, Chairman.

12

13 **CONTINUATION OF QUESTIONING OF SENATOR O'ROURKE BY MR. O'NEILL:**

14

14:29:58 15 Q. 263 MR. O'NEILL: Yes please. Good afternoon Senator O'Rourke. I appear on behalf
16 of Mr. Tom Gilmartin, I would like to ask you one or two questions.

17 In relation to the position of Lord Mayor of Dublin, now I think the convention

18 and you will correct me if I am wrong, the convention in the 1980s and I think

19 it continues to this date is that the position of Lord Mayor is rotated among

14:30:23 20 various political groupings, is that correct?

21 A. Well there have been variations, sometimes if a particular party was the

22 dominant party they might not share it. Sometimes they would come perhaps if

23 there was a more, near a balancing of votes between parties the parties might

24 come to an arrangement of sharing one year on and one year off and that way,

14:30:54 25 but there wasn't any set procedure about such a matter.

26 Q. 264 And I think you may be aware that Sean Haughey was elected Lord Mayor in the
27 beginning of July, I think the 3rd of July of 1989?

28 A. I remember when Sean Haughey was Lord Mayor, yes.

29 Q. 265 Do you remember who his predecessor was?

14:31:15 30 A. When we went into government in March of '87 the now Taoiseach, then Minister

14:31:22 1 for Labour Bertie Ahern was Lord Mayor and he just had, well perhaps two months
2 three months to play out before he, because he wouldn't have been able to keep
3 that up. But anyway his year was up in the June of that year, so he was
4 succeeded I do not know by whom.

14:31:41 5 Q. 266 There was someone between Mr. Ahern and Mr. Haughey?

6 A. There would be from June of '87 to June of '88 and then on to '89. It's a
7 yearly appointment.

8 Q. 267 And is it conceivable that in February of, we are's talking about July, an
9 appointment of the 3rd of July 1989, is it conceivable in February of 1989
10 first that the government would know or have some degree of certainty as to the
11 political allegiance of the person going to be appointed, in other words from
12 Fianna Fail or from some other grouping?

13 A. Well yes there would be talk. Parties would be revving themselves up as to who
14 was going to be their nominee for the position and there would be, it would be
14:32:42 15 reported in newspapers as to who might be, if it was going to be Fianna Fail's
16 turn or if it had been continuation of Fianna Fail, I can't exactly recollect
17 who would be, who was it continuous one or was it a divide up, but yes there
18 would be for some time beforehand general speculation as to who would be the
19 party nomination or whose turn it was, that's a better way of putting it I
14:33:06 20 think. Whose turn it was going to be to be the nomination of his or her party
21 to be Lord Mayor.

22 Q. 268 And if as appears to be the case it was Fianna Fail's turn in July of 1989?

23 A. Well you are saying that to me, I mean, I cannot have a memory of that. But if
24 you are saying it is well then --

14:33:28 25 Q. 269 Well I am asking you the question in terms of Mr. Haughey being appointed, Sean
26 Haughey being appointed Lord Mayor in July of 1989 presumably it was Fianna
27 Fail's "Turn"

28 A. Yes. There would be chat about it and there would be some writings about it,
29 yes there would be. From early on. Because they would be jockeying, jockeying
14:33:53 30 for position and there would be ideas about who might be -- you see if it's

14:33:59 1 going to be, let's say Fianna Fail's turn or Labours turn or whatever, then
2 within the party, the party will start to say whom they should wish to put
3 forward.

4 Q. 270 And before the date of the actual election in the chamber of the candidate for
14:34:16 5 Lord Mayor, in this case for example Fianna Fail would know who their nominee
6 is and would have a reasonable certainty, either as a result of a convention or
7 as a result of control of the council?

8 A. Oh they would.

9 Q. 271 Who was going to be appointed Lord Mayor.

14:34:32 10 A. Yes they would be a certainty before, that would be readied up before the
11 candidate, before the council members assembled in the chamber.

12 Q. 272 And within the Fianna Fail party itself, there could well be agreement as to
13 who the nominee for the position was going to be, sometime in advance, it may
14 not be released to the press or press may not be aware of it or the public at
14:35:01 15 large may not be aware of it, would that be fair to say?

16 A. Yes there would be -- it's difficult because it's not an exact science but
17 there would be people who would be seen as potential to be Lord, Lord Mayor to
18 be and then it would firm up as time went on, until finally it would be fully
19 known.

14:35:22 20 Q. 273 Thank you.

21 A. Thank you.

22

23 CHAIRMAN: Mr. Lawlor do you want to ask questions?

24

14:35:29 25 **CROSS-EXAMINATION OF SENATOR O'ROURKE**

26 **CONTINUED BY MR. LIAM LAWLOR**

27

28 MR. LAWLOR: Senator, I fully accept with your view that you a meeting with

29 Mr. Gilmartin when he was talking about creating thousands of jobs, sorry I'll

14:35:43 30 move down -- sorry I was just saying Senator that meeting Mr. Gilmartin who had

14:35:49 1 very ambitious plans was quite an appropriate function for us to be indulging
2 in, if we did. I just wanted to, the two oak doors I think Mr. Gilmartin was
3 referring to are the two down at the end of the ministerial corridor where you
4 went through to the Taoiseach's office, isn't there two oak doors there?

14:36:08 5 A. Well there are two doors when you come off the blue corridor as you know.
6 Q. 274 There is only one?
7 A. At that time there were two, that's a new door now.
8 Q. 275 Mr. Gilmartin has been specific there was two very large oak doors down the end
9 of the corridor, that would have been through where the then Taoiseach's office
10 was on the right, isn't that correct?
11 A. Well I don't know what he said when he was here. I can't comment on that.
12 Q. 276 No but the actual corridor itself, you get to the end of the ministerial
13 corridor and the blue oval shaped tunnel and there is two oak doors at the end
14 as you go through, isn't that correct?

14:36:40 15 A. Yes.
16 Q. 277 Yes. You see Mr. Gilmartin has said that he described the Fianna Fail
17 parliamentary party room on the 5th floor as the room he attended the meeting
18 with two doors one down at the former party leaders office and one as you came
19 out of the lift, and you have described if you like a spare office used for
20 receiving delegations, isn't that right?

14:37:00 21 A. I have described the office.
22 Q. 278 Yes.
23 A. Where I met Tom Gilmartin.
24 Q. 279 And you have also confirmed that there was a security usher there all the time.
14:37:13 25 Mr. Gilmartin has further said that I brought him to the meeting and remained
26 outside, did you see me that day in the hall?
27 A. I have no memory of seeing you while I was there.
28 Q. 280 And you didn't see any man wandering around with a 5 million dollar request on
29 his forehead no?
14:37:29 30 A. I have no memory of that.

14:37:30 1 Q. 281 No. Thank you.

2

3 MR. GALLAGHER: Mrs. O'Rourke sorry I just have one -- sorry John Gallagher

4 here, sorry. Mr. Maguire put it to you that Mr. Gilmartin has given a version

14:37:49 5 of, a different versions of the -- sorry have given versions on different

6 occasions of the meeting that he says took place and Mr. Gilmartin according to

7 Mr. Maguire made no mention of being introduced to you at the meeting. I just

8 wanted to put on the record what Mr. Gilmartin did say on day 458 at page 67.

9

14:38:15 10 Mr. Maguire: Sorry --

11

12 MR. GALLAGHER: Question 421

13

14 MR. MAGUIRE: Sorry Mr. Gallagher I put very specify what was said in the

14:38:27 15 Sherwin, Sean Sherwin trial.

16

17 JUDGE FAHERTY: I didn't, Mr. Maguire referred to the Sean Sherwin trial

18 Mr. Gallagher it wasn't day 458, as I understood as I noted his question and

19 the witness' response.

14:38:41 20

21 MR. GALLAGHER: Well I --

22

23 CHAIRMAN: It was the Sherwin. The question is in Mr. Gilmartin has given a

24 number of descriptions of the meeting one was these was given as sworn evidence

14:38:51 25 in the Sherwin trial, in other words Sherwin against Independent Newspapers and

26 in that he says: she meaning you "came into the room, looked in your direction,

27 walked out and took absolutely no part in the meeting."

28 Answer: That's correct because I was only, I was trying to envisage how many,

29 how long I would have been there and I suppose the whole interview, interlude

14:39:10 30 would have been no more than ten seconds maybe a little more because I was

14:39:14 1 keen, ongoing back to what I was doing

2 Question: Yes but he make no, sir mention there of being introduce to you"

3

4 Now if Mr. Maguire had intended and on re reading that I think that is what he

14:39:27 5 was intending that there was no reference in the Sherwin trial to being

6 introduced, but for completeness I think it is important to recognise that in

7 this Tribunal Mr. Gilmartin did say that, at page 67 on day 458 question 421

8 "You said Mr. Haughey came in --" sorry it should be on screen I think.

9

14:39:56 10 Question 421, page 67. You see question 421, Senator?

11 A. Yes I do.

12 Q. 282 I was asking questions of Mr. Gilmartin at that time and I said.

13 Question: You said that Mr. Haughey came in with Mr. Burke after you had

14 entered the --

14:40:26 15 Answer: No Mr. Burke came in first and then Mr. Haughey came in shortly

16 afterwards. Oh incidentally one thing I've omitted is that Mrs. O'Rourke

17 entered the room from the same area, which was about halfway up the room and

18 she went across to a table which was on the left hand side of the room and she

19 picked up some paper and she started and then Mr. Flynn said this is

14:40:48 20 Gilmartin, this is Mr. Gilmartin. So she just nodded and paused for a while

21 and she walked on out of the room."

22

23 Is that your recollection of the method by which, the introductions?

24 A. Certainly it's my recollection of the introduction because it wasn't a fulsome

14:41:06 25 introduction, it was brief, it was perfunctory. The I don't know what the

26 papers are that you are, that somebody is talking about here. "And she went

27 across to a table which was on the left hand of the room and she picked up some

28 papers" no I didn't have, I didn't pick up any papers, it may be perhaps I am

29 only just guessing, that maybe I had papers in my hand when I came in and put

14:41:31 30 them down and then picked them up as I was going out. But so that could have,

14:41:36 1 could have been --

2 Q. 283 But what I want to put to you really was that there was an introduction and you

3 nodded to each other?

4 A. Yes we did. I am quite clear of that. That Mr. Flynn you know, Mr. Flynn is

14:41:49 5 larger than life in every sense of the word I mean that in a positive way. And

6 he speaks in, declamatory tones sometimes and he said Mr. Gilmartin this is

7 Mary O'Rourke, Minister for Education and this is Tom Gilmartin, having earlier

8 yesterday said he was from my mother's own county and we nodded.

9

14:42:13 10 I didn't, you know, I was glad if my coming into the room somehow would help

11 towards getting the thousands of jobs, but and I came out. But just if I can

12 say Mr. Coughlan, to the Chairman, there are just a few things I am very sure

13 of. I am very sure I met Mr. Gilmartin, perfunctory as it was. I am very sure

14 it was Pdraig Flynn who made the introduction. I am very sure it was on the

14:42:42 15 ministerial corridor. And I am very sure about who was there at the period I

16 was there.

17 Q. 284 Thank you very much Senator.

18

19 Mr. Maguire: Chairman just in connection with that because this has been

14:42:54 20 introduced by way of completeness, I think it is fair also to say that at

21 question 414, the answer to question 414 and the subsequent questions that

22 Mr. Flynn is placed by Mr. Gilmartin in his description here, his description

23 given in this Tribunal at question 414 on the same transcript. Mr. Flynn is

24 being placed as being seated around the table with the other Ministers when the

14:43:17 25 introduction takes place, so if the, it is question of completeness that should

26 also be brought to the attention of the Tribunal.

27

28 CHAIRMAN: Sorry I should have asked Mr. McGarry do you want to ask any

29 question of your client?

14:43:32 30

14:43:32 1 MR. MCGARRY: No thank you Chairman.

2

3 CHAIRMAN: Senator O'Rourke just one matter, it's clear from your own evidence

4 that as far as you are concerned a meeting of some description took place in

14:43:45 5 this particular room at which amongst others Mr. Gilmartin was present

6 A. Correct, yes.

7

8 CHAIRMAN: That's your recollection

9

14:43:52 10 A. Yes that is my clear recollection.

11

12 CHAIRMAN: You say that room was on the first floor, is that right?

13

14 A. That's correct.

14:43:57 15

16 CHAIRMAN: And that could have been accessed as I understand it by either a

17 lift or stairs.

18

19 A. Or stairs.

14:44:04 20

21 CHAIRMAN: Or stairs. And you say that anyone coming into that room from

22 outside the building would have had to pass at least one security man?

23 A. Well in the hall he or she or a group or whatever would be, half to be signed

24 in and then they would have to be fetched up, brought up and then they would --

14:44:28 25 but passing the security man in the desk as you came out of the blue corridor,

26 you would not have to be checked again because whoever went down to bring you

27 up would be with you or with the deputation or with the person.

28

29 CHAIRMAN: Yes that's the next question. If, assuming that Mr. Gilmartin

14:44:49 30 somehow got to this room, must it have been that he was taken there by someone?

14:44:56 1 A. Oh, yes.
2
3 CHAIRMAN: Or is there anyway that he could have just been directed towards
4 the room and made his own way up?
14:45:03 5 A. Certainly not at any time, even then or now, there is excellent very good
6 security. You wouldn't be wandering a corridor like that, except if you were
7 in toe with somebody who was bringing you along, you wouldn't be walking along
8 on your own.
9
14:45:24 10 CHAIRMAN: And besides Ministers, who might have some reason to bring someone
11 into this room to meet other Ministers or whatever, who else would have been
12 entitled or might have from time to time brought someone like Mr. Gilmartin,
13 some outsider into the building and into this room to meet Ministers?
14 A. Well anybody who was going to see a Minister. Anybody who had an arrangement
14:45:54 15 or appointment to see a Minister would have to be validated by somebody in the
16 ground floor at the reception desk. You couldn't just March by and say "I'm
17 going to meet Mr. O or Mrs. X. You wouldn't get by on that premise, no you
18 wouldn't.
19
14:46:17 20 CHAIRMAN: And might that include a civil servant?
21 A. Yes civil servants or deputies or Ministers themselves, sometimes if you were
22 free you would go down bring up whoever was coming to meet you. Or civil
23 servants or deputies would often have a deputations from their constituency
24 that they would be keen, you would, they would have made an arrangement for you
14:46:39 25 to meet them and they would go down and meet the deputations and check them in
26 and bring them up.
27
28 CHAIRMAN: And outside this room that you say you entered where you met
29 Mr. Gilmartin, was there an area there for waiting or was it a lobby or just a
14:47:02 30 corridor?

14:47:02 1 A. Yes there was another room which was generally just a few doors down from that
2 which is generally used as sort of a lobby or waiting room. But often you
3 would see groups of people or persons waiting outside in the private
4 secretary's room until the Minister with, whoever was the Minister was free to
14:47:27 5 meet them.

6
7 CHAIRMAN: And that's another room with a door leading from the corridor
8 A. Yes the rooms are all the same along those corridors. There is very little
9 difference in them. They all have functional furniture and they are not very
14:47:43 10 ostentatious.

11
12 CHAIRMAN: Yes. And just the last things, if I can take you up to the 5th
13 floor, where the Fianna Fail parliamentary meeting room was, am I right?

14 A. The 5th floor, yes.

14:47:58 15
16 CHAIRMAN: And can you just describe the entrance into that room from the
17 corridor?

18 A. Well it's a long narrow corridor, it's at the end of it. Almost at the end of
19 it. You just go in a door and there is a table, a bench table like rather
14:48:21 20 like, not as grand as that, but rather like a table like that and that's where
21 the Chairman of the party and the Taoiseach of the day or if you are in
22 opposition the leader of the party and perhaps the whip and whatever would be
23 the Minister or the Minister in opposition would be talking about a bill that
24 would be coming. They sit behind that table and all of us parliamentary party,
14:48:46 25 TDs and Senators sit in front of them.

26
27 CHAIRMAN: And is this a sort of rostrum area with seating for people to -
28 A. No it's not a rostrum area, it's on the level where they seat, where they are
29 seated at this, like your own arrangement there but it's on the level.

14:49:05 30

14:49:05 1 CHAIRMAN: Then are there seats

2 A. In front of you there are seats.

3

4 CHAIRMAN: So and it's only use you say --

14:49:11 5 A. We have it once a week for the parliamentary party. Now it would be used,

6 let's say there was an environmental meeting or education meeting, it a

7 particular Minister or Minister in opposition the shadow or whatever would

8 convene a meeting of his or her committee and send notification to the TDs and

9 Senators and they would gather, but on a general full level it was only used

14:49:34 10 for the parliamentary party when they have their weekly meeting.

11

12 CHAIRMAN: If somebody like Mr. Gilmartin who was being brought in to meet the

13 various Ministers, an outsider in other words like Mr. Gilmartin, is there

14 anyway, or can you recall ever someone like that being taken to the

14:50:00 15 parliamentary meeting room on the 5th floor?

16 A. No I can't. I can't conceive of that. Because it was only used -- maybe I

17 could answer you another way. Ministers don't frequent that corridor except

18 they are going to the parliamentary party meeting or except they have a

19 particular committee meeting pertaining to their brief, when they would call a

14:50:28 20 meeting, but it would only be that Minister that would be there at that time.

21

22 CHAIRMAN: And if somebody like Mr. Gilmartin was to be brought in to meet

23 Ministers, in the way he described, where would you expect him to be taken?

24 A. Oh if, I mean there have been over the years, and I was at pains to say that at

14:50:50 25 the beginning, there is absolutely nothing untoward about anybody meeting

26 somebody who had ideas about jobs. And I suppose in 2004 we don't maybe

27 reflect enough on what it was like in '89. But they would be brought to meet a

28 Minister on the ministerial corridor or if the Minister had an office in

29 Kildare Street, if it was industry and commerce as it then was or agriculture,

14:51:19 30 they would be seen usually in their ministerial offices in their department.

14:51:24 1

2 CHAIRMAN: All right.

3

4 JUDGE FAHERTY: Just one or two matters Senator O'Rourke. If deputations were

14:51:31 5 going to visit you, a person or persons back in 1989 would they have required

6 name tags?

7 A. Sometimes name tags and sometimes not. I think now the name tag habit is quite

8 entrenched quite firmly there. But yeah by and large I suppose name tags are

9 used all the time. But sometimes if a Minister came down or if there was kind

14:52:01 10 of a rush of people maybe and you might be told, yes go along. But not very

11 often.

12

13 JUDGE FAHERTY: So you are saying if somebody was with the Minister for example?

14 A. Yes I would say, that's correct you would say I'm bringing up Joe brown and

14:52:19 15 that's fine. They would say that's fine.

16

17 JUDGE FAHERTY: And would that latitude extend to a Dail deputy?

18 A. Yeah, I just can't picture or put in context maybe in '89 what was the habit,

19 but there is a firm habit now anyway of everybody is tagged. But perhaps there

14:52:40 20 were occasions when if there was a rush or if the person was known very well to

21 the stewarts or to the people behind the reception that you would be sort of

22 waived on.

23

24 JUDGE FAHERTY: I see. Just one final matter. The room that you say you recall

14:52:59 25 meeting Mr. Gilmartin, was across you described that, and you went in a door

26 across from your office as I understand it. Did you recall any other door in

27 that room at the time?

28 A. No there isn't, there aren't any more doors, there is the door you go in and

29 there is the functional furniture of which I spoke and there is a window and

14:53:22 30 some of the offices I think might have two windows it depend where on the

14:53:25 1 corridors they were, but they are just quite ordinary offices.

2

3 JUDGE FAHERTY: Thank you.

4

14:53:33 5 JUDGE KEYS: Senator just two keys I want to ask you, can you recall what time
6 of the day this meeting took place which you attended. I know it's a long time
7 ago, morning, afternoon, evening?

8 A. Well I took the trouble of looking up or having somebody look up for me, I had
9 several deputations that day so, and they were about schools. It would be --
10 you see the morning was the Dail business of the order of the day and then
11 perhaps time for a cup of tea or coffee and generally speaking afternoon,
12 certainly would have been afternoon I think, but I am not clear know that.

13

14 JUDGE KEYS: I understand. It's unlikely to be in the morning time?

14:54:16 15 A. Yes I wouldn't think it was morning.

16

17 JUDGE KEYS: Sometimes in the afternoon. Just one other question, I think in
18 your evidence I got the impression from your evidence and you can correct me if
19 I am wrong, that when you attended the meeting you were under the impression
20 that it had more or less come to an end?

14:54:30

21 A. I had because they were standing and just, and there was a little -- there was
22 a flux. It seemed to me that people were kind of moving and talking and
23 shifting, so that looking back on it perhaps it was at an end.

24

14:54:49 25 JUDGE KEYS: Yes. That could suggest also it was at an end that other people
26 could have attended the meeting and left before you actually came.

27 A. I refer to that is correct the letter is gone now, I refer to that, I said
28 inadvertently, because I may have left out people who had been there before or
29 perhaps afterwards. You see my visit was just so very brief.

14:55:10 30

14:55:10 1 JUDGE KEYS: Very brief. Yes. Thank you very much.

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3

CONTINUATION OF CROSS EXAMINATION OF SENATOR O'ROURKE

4

BY MR. LAWLOR:

14:55:13 5

6 Q. 285 MR. LAWLOR: Sorry Chairman, just one final question because corridors are
7 important in this matter, Senator when you come out of the lift on the fifth
8 floor you have four or five paces to the door that you went enter the
9 parliamentary room into. Isn't that right?

14:55:27 10 A. Are you talking about floor five?

11 Q. 286 Yes.

12 A. Out of the lift yes.

13 Q. 287 I know you say there is a corridor which there is on the left-hand side but not
14 to confuse corridors, you just go straight into the party room?

14:55:38 15 A. Or up a corridor, you can go up a corridor and go in at the top.

16 Q. 288 The second door in the room.

17 A. Sorry.

18 Q. 289 You can go in a second door in the room, but there was no second door in the
19 room Mr. Gilmartin was in, that's the point.

14:55:51 20 A. Not the room that I was in. Where I met Mr. Gilmartin.

21 Q. 290 Yeah it was just one of the spare offices.

22 A. Yeah along that corridor they are all the same.

23 Q. 291 Exactly, you go in straight from the lift to the parliamentary party room or
24 down the corridor. Thank you.

14:56:07 25 A. Thank you.

26

27 CHAIRMAN: All right thank you very much Senator

28 A. Have I finished.

29

14:56:10 30 CHAIRMAN: Thank you

14:56:12 1 A. Thank you Chairman and thank you members.

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CHAIRMAN: Half ten tomorrow morning.

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14:56:17 5 **THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING DAY,**

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TUESDAY, 6TH APRIL, 2004 AT 10.30 AM.

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