

10:11:05 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,**
2 **1ST MAY 2008, AT 10:30 A.M:**

3

4

MR. QUINN: Good morning, Sir.

10:32:49 5

6

CHAIRMAN: Good morning.

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MR. QUINN: Mr. Joe Burke, please.

9

10:32:52 10 **MR. JOE BURKE, PREVIOUSLY SWORN, WAS QUESTIONED BY**
11 **MR. QUINN AS FOLLOWS:**

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13

CHAIRMAN: Good morning, Mr. Burke

14

10:33:08 15 Q. 1 MR. QUINN: Mr. Burke, you are already sworn.

16

17

Mr. Burke, this morning's hearing is going to deal with a matter raised by

18

Mr. Tom Gilmartin in evidence. I think you have already given evidence to the

19

Tribunal on day 499, in relation to your involvement with the sale of

10:33:30 20 corporation lands to Mr. Gilmartin. You recall giving that evidence?

21

A. I do.

22

Q. 2 Now, whilst giving evidence to the Tribunal, Mr. Gilmartin through his

23

solicitors on the 10th of March 2004, if I could have page 16144, please, wrote

24

to the Tribunal and you will be familiar with, I'm sure, the contents therefore

10:33:53 25 letter. Where he advised through his solicitors of a meeting which he said he

26

had with you in his offices in St. Stephen's Green. A meeting which he has

27

identified in evidence as having taken place in September 1990. And in the

28

course of that meeting Mr. Gilmartin alleges that whilst you didn't out rightly

29

ask him for money, that you hinted that he might make a contribution or a

10:34:18 30 payment and that you made that request or sought that money on behalf of

10:34:23 1 Mr. Ahern. You are familiar with that claim?

2 A. Yes, I am.

3 Q. 3 And that evidence given by Mr. Gilmartin. And this morning's short hearing is

4 to deal with your version of events in relation to that. Do you understand?

10:34:38 5

6 Now, just by way of background, I am going to summarise what I understand your

7 position is in relation to your intervention in Mr. Gilmartin's purchase in the

8 corporation lands. And in doing, that I am going to summarise what you have

9 told the Tribunal at private interview and in correspondence and in evidence.

10:34:54 10 And if I in any way misrepresent your position on the issue, please correct me.

11 Is that okay?

12 A. Yes.

13 Q. 4 I think you have advised the Tribunal that you were I think a member of Dublin

14 Corporation between 1985 and 1991, is that correct?

10:35:10 15 A. Yeah, that's right.

16 Q. 5 And I think you held at some stage during that period a position as Vice

17 Chairperson of the planning and development subcommittee of the corporation, is

18 that correct?

19 A. That's correct.

10:35:22 20 Q. 6 And I think that's a committee that would from time to time approve the sale of

21 corporation lands?

22 A. The committee recommended it to the Council.

23 Q. 7 Recommended it to the Council, yes. And I think it was in that context that at

24 some stage, and we'll come to it in more detail in a moment, in 1989 a

10:35:39 25 recommendation came before that committee that a tender for the sale of

26 corporation lands, selling lands is in the sum of 5.1 million to Mr. Gilmartin

27 ought to be approved, isn't that correct?

28 A. That's correct. But can I also say, in relation to all of this information

29 that has now been churned. This is all on the record already. I have already

10:35:59 30 said all of this.

- 10:36:00 1 Q. 8 I am only just putting the meeting between yourself and Mr. Gilmartin in
2 context. I am not going back over what's already --
- 3 A. By my contribution in relation to the meetings that I had with Mr. Gilmartin
4 are also on the record.
- 10:36:11 5 Q. 9 I understand.
- 6 A. So if the Tribunal wants to deal directly with the allegation that Mr.
7 Gilmartin said of me asking for half a million what I think was outrageous, I
8 will deal with that immediately.
- 9
- 10:36:24 10 CHAIRMAN: Mr.--
- 11 A. All of the stuff, Chairman --
- 12
- 13 CHAIRMAN: Mr. Quinn is just summarising it because we want to put it into
14 context. And we will be coming shortly to that very issue.
- 10:36:36 15 A. But it's already summarised, Chairman. It's already on the record.
- 16
- 17 CHAIRMAN: I know but ...
- 18 A. So I don't understand why I'm going back through all of this again.
- 19
- 10:36:44 20 CHAIRMAN: No, no. It's just for the purposes. It's been a long time since
21 that evidence was given and we are just summarising. Mr. Quinn is just
22 summarising what evidence has been given before and that's a practice that we
23 follow on a regular basis when witnesses return after a long period of absence.
- 24
- 10:37:03 25
- 26 Q. 10 MR. QUINN: I won't take very long, Mr. Burke. I think you've told the
27 Tribunal that you met with Mr. Gilmartin at the request of the then Minister
28 for Labour, Mr. Ahern, isn't that correct?
- 29 A. That's correct.
- 10:37:15 30 Q. 11 And I think you say that you had no detailed recollection of what transpired at

- 10:37:19 1 that meeting with Mr. Gilmartin, is that correct?
- 2 A. That's correct.
- 3 Q. 12 I think you have advised the Tribunal that it was your impression or belief
- 4 that Mr. Gilmartin had a perceived problem concerning the purchase of the
- 10:37:31 5 lands. His was the highest bidder and there was no problem, isn't that
- 6 correct?
- 7 A. Not only is that correct, Mr. Quinn, but the records of Dublin City Council
- 8 prove that it's correct.
- 9 Q. 13 Now, I think that the matter came before the Dublin City Council subcommittee
- 10:37:51 10 on the 26th of May 199 -- 1989, isn't that right?
- 11 A. If the records so state, that would be correct.
- 12 Q. 14 Yes. And then I think the recommendation that the lands be sold to Mr.
- 13 Gilmartin was approved at that committee meeting, isn't that right?
- 14 A. It was recommended to the City Council --
- 10:38:11 15 Q. 15 Yes.
- 16 A. -- without any vote or any motion, that is correct.
- 17 Q. 16 Yes. And we see that at 20119. It says "With reference to the proposed
- 18 disposal of the fee simple interest in lands at Irishtown, Clondalkin, Co.
- 19 Dublin to Mr. Thomas P Gilmartin per S Maguire & Solicitors, Blanchardstown
- 10:38:30 20 Dublin 15, order approved, recommend to Council" is that right?
- 21 A. That's correct, yes.
- 22 Q. 17 And I think the matter and that approval was circulated to the members of the
- 23 Dublin City Council by order signed by Mr. Morrissey, the assistant city
- 24 manager and housing co-ordinator on the 31st of May 1989. If we could have
- 10:38:53 25 20120.
- 26
- 27 I think the members of the Council were advised that the disposal was approved
- 28 by that subcommittee on the 26th of May '89. And you would have seen that.
- 29 And then at a meeting I think on the 12th of June 1989, attended by you and
- 10:39:10 30 others and we see the record of that meeting at 19893. And if we go to page

10:39:16 1 19894. Item 3:30 submitted report No. 186/1989 of assistant city manager and
2 housing co-ordinator, F Morrissey. With reference to the proposed disposal of
3 the fee simple interest in lands at Irishtown, Clondalkin, Co. Dublin to
4 Mr. Thomas P Gilmartin per S Maguire & Co. Solicitors, 10 Main Street,
10:39:37 5 Blanchardstown, Dublin 15. It was moved by Councillor Joseph Burke and
6 seconded by Councillor Delaney "that the Dublin City Council assent to the
7 proposed proposal outlined in report 186/1989 and the motion was put and
8 carried".

9 A. Can I also say that it was 330 is a motion in relation to the Bruton land. All
10 managerial recommendations to the City Council, as listed on that breviat, all
11 were approved, proposed and seconded by myself and Councillor Donnelly (sic).
12 So to take this one out of context and say that I actually deliberately
13 proposed and seconded all of the motions, as you will see on that breviat were
14 proposed and seconded by the same councillors.

10:40:30 15
16 So there is no great significance as to, I know the point that you are making
17 by saying that at that Council meeting it was approved. But the reference
18 there as to where it's Councillor Joseph Burke and seconded by Councillor
19 Delaney. If you check all other manager's items on the breviat for that night
10:40:47 20 were also taken adds block. No discussion, just one vote.

21 Q. 18 And I think you have also advised the Tribunal that you have no recollection of
22 any other or subsequent meeting with Mr. Gilmartin, other than that one meeting
23 that you had with him and that you gave evidence of in advance of this?

24 A. That's correct.

10:41:09 25 Q. 19 I don't think you are saying that there may not have been other meetings but
26 you have no recollection, is that your evidence, of other meetings?

27 A. I have no recollection, yes.

28 Q. 20 Now, if we could go back for a moment to that one meeting that you do have a
29 recollection of. That's a meeting that you attended with Mr. Gilmartin at
10:41:27 30 offices in St. Stephen's Green, isn't that correct?

10:41:33 1 A. That's correct.

2 Q. 21 And you have as I say, given evidence in relation to the circumstances under

3 which you came to visit Mr. Gilmartin on that occasion. Evidence has been

4 given, Mr. Burke, by Mr. Paul Sheerin, who is a friends of Mr. Gilmartin's.

10:41:47 5 That he met with you at that offices in Arlington for a few minutes on at least

6 one occasion. Do you have any recollection of meeting a Mr. Sheerin?

7 A. Mr. who?

8 Q. 22 Mr. Paul Sheerin. He was the manager of the Bank of Ireland in Blanchardstown

9 and a friend of Mr. Gilmartin's.

10:42:05 10 A. No.

11 Q. 23 You have no recollection of ever meeting --

12 A. No.

13 Q. 24 -- Mr. Sheerin. I think you are evidence to the Tribunal has been that that

14 meeting with Mr. Gilmartin was late on after an afternoon, you thought a Friday

10:42:16 15 afternoon, is that correct?

16 A. Yes, he did mention that he sought a lift or he was going to the airport.

17 Q. 25 Yes. He said that to you did he?

18 A. No, no I think he said it in his statement.

19 Q. 26 No, no. I am more interested in what he might have said to you?

10:42:29 20 A. To be quite honest with you, Mr. Quinn, I can't remember it's so long ago what

21 actually transpired. The only thing I do remember very clearly, that when I

22 arrived he did apologised that he couldn't even offer me a cup of tea because

23 his secretary was gone on an early afternoon or an afternoon off.

24 Q. 27 Now, when the allegation was brought to your attention of the 10th of March

10:42:51 25 2004, was brought to your attention, I think you responded on the 11th of March

26 2004. If I could have 20058 please. And I think it's only fair that I should

27 put your response on record at this stage. I think you made a statement as

28 follows.

29

10:43:05 30 "I have received a copy of a document headed "Evidence of Thomas P Gilmartin"

10:43:07 1 dated 10th of March 2004. At no time did I mention or solicit any sum from Mr.
2 Gilmartin. I have never solicited money on behalf of Mr. Bertie Ahern nor has
3 he ever asked me to. I deny categorically Mr. Gilmartin's evidence regarding
4 mention of a sum of half a million pounds or any sum being sought by me from
10:43:25 5 him on any occasion ".

6
7 I think for completeness I should also put on record at 20045, the position of
8 Mr. Ahern in relation to the same matter. Through his solicitors on the -- by
9 letter dated the 16th of March 2004, he has said the following:

10:43:50 10
11 "I write a in reply to your letter 10th of March 2004 and the enclosed
12 statement of Mr. Thomas Gilmartin of the same date. I note the allegations
13 made by Mr. Gilmartin in that statement. As far as I am aware, this allegation
14 has never before been raised 14 years this event is said to have occurred. In
10:44:06 15 particular it seems never to have been brought to the attention of the Tribunal
16 during the six-year period in which Mr. Gilmartin had any dealings -- had had
17 dealings with the Tribunal. My client's instructions, instructs me that he did
18 not directly or indirectly request money from Mr. Gilmartin in the manner
19 described or at all.

10:44:23 20
21 He did not ask Mr. Joe Burke to request money on his behalf from Mr. Gilmartin
22 nor does he believe that any such request was made by Mr. Joe Burke. The
23 allegations of Mr. Gilmartin's statement including his recounting of efforts to
24 locate my client in various public houses are both ridiculous and fanciful. My
10:44:41 25 client instructs me that he does not frequent the Deadman's Inn and that he
26 does not recall having any dealings with Mr. Gilmartin whatsoever during 1990."

27
28 Now, Mr. Gilmartin in that statement of the 10th of March, I think had
29 identified two licenced premises which he said that he was brought to by you on
10:44:57 30 that occasion. One of which he identified as the Deadman's Inn but which was

10:45:02 1 subsequently corrected in a statement in May to Fagan's in Drumcondra. And we
2 see that at 20042. This is further evidence of Mr. Gilmartin given by way of a
3 statement of 26th of May 2004, and again I think you will have seen that, isn't
4 that correct?

10:45:21 5 A. I don't remember seeing this but ...

6 Q. 28 I see. Well you can take it that it was furnished to your solicitors and I
7 think perhaps in fairness to you, I should read it to you at this stage just so
8 that you will be absolutely familiar with it. It's a follow on to the letter
9 of the 10th of March. And its as follows:

10:45:37 10
11 "This statement is made supplemental to --

12 A. Sorry, can I stop you, Mr. Quinn. In relation to -- the reference to Deadman's
13 Inn public house in the first line of paragraph 7 should read Fagan's pub in
14 Drumcondra. If I remember correctly in his statement to the Tribunal, not only
10:45:54 15 did he say the Deadman's Inn but he did mention Fagan's and he did mention the
16 Beaumont House.

17 Q. 29 Perhaps the best way of me dealing with this, Mr. Burke, is for me to read both
18 of Mr. Gilmartin's statements, the one of the 10th of March and this one of the
19 26th of May 2004.

10:46:09 20
21 If I could have 16144, please.

22
23 Mr. Gilmartin's statement reads as follows. It's headed evidence of Thomas P
24 Gilmartin. Mr. Gilmartin was giving evidence to the Tribunal it would have
10:46:23 25 been day 459 on the 10th of March 2004, his solicitors sent the following.

26
27 "I remember that Joe Burke came to meet me at my Arlington office located on
28 St. Stephen's Green sometime in September 1990. I recall that Mr. Burke
29 admired the model of the Quarryvale development which was on display in my
10:46:43 30 office. At that time Arlington had all but decided to withdraw from any

10:46:47 1 involvement in the Quarryvale project. On that account I wanted to move the
2 model from the office in Dublin and bring it back to England with me.

3
4 During the course of some chit chat with Mr. Burke he mentioned half a million
10:46:57 5 pounds. Before I could respond to him my telephone rang. It was Barry Boland
6 Arlington's representative in Dublin who was telephoning to ask me to turn off
7 the lights in the office when I left. Picking up again on my conversation with
8 Mr. Burke, I said to him that is I was not concerned about recovering the half
9 a million which was approximately the amount which I had submitted with my
10:47:17 10 tender for Dublin Corporation lands. I had thought that Mr. Burke was
11 referring to that transaction when he had made a reference to half a a million
12 pounds earlier.

13
14 I told him that even if my tender was refused I was confident that I would
10:47:29 15 recover that half a million. I remember that Mr. Burke followed up by saying
16 that he was not talking about the Dublin Corporation transaction but asked me
17 would I not be prepared to pay half a million pounds because I knew that Bertie
18 Ahern was looking after me. Naturally I was taken aback by the statement and I
19 thought that if the demand was being made on behalf of Mr. Ahern I should hear
10:47:49 20 it from him first hand. I told Mr. Burke that I would consider the request.

21 Mr. Burke then asked me whether or not I could meet with Bertie Ahern. I said
22 that I could not on this occasion because I had to go back to England that
23 evening and in fact I was about to leave for the airport. Mr. Burke offered to
24 take me to the airport and on the way he said that he would take me to meet
10:48:09 25 Mr. Ahern." At 16145.

26 A. Can I just comment on that letter, Mr. Quinn, if you wouldn't mind?

27 Q. 30 Perhaps if I --

28 A. No, no, I would like to just comment on that letter. In relation to --

29

10:48:24 30 CHAIRMAN: Wait now, Mr. Burke.

10:48:25 1 A. No, no. I'm sorry, Mr. Chairman, I don't have a pen and I don't have a piece
2 of paper to take notes. If we keep going on I will forget the point that I
3 want to make. So with your ...
4

10:48:34 5 CHAIRMAN: Okay.

6 A. In the letter that has just been read or the statement that has just been read
7 out and it's dated November or September 1990, is not correct.

8 Q. 31 MR. QUINN: No. What's being read out is a letter dated March 2004, but it
9 refers --

10:48:51 10 A. My meeting ...

11 Q. 32 September 1990.

12 A. But it is my understanding that the corporation files will show a letter from
13 the law agents to him earlier in the year stating that he had been successful
14 in his tender for the property and that would he send on his cheque of deposit
10:49:10 15 I think something in the region of 200,000 odd. So the point that I'm making
16 is --

17 Q. 33 If --

18 A. -- that when Mr. Gilmartin sat in this witness box and made that allegation,
19 that outrageous allegation against me. He couldn't have been talking about a
10:49:26 20 deposit to Dublin Corporation of half a million because he never paid half a
21 million.

22 Q. 34 Well I just correct the record slightly for you, Mr. Burke. The position was
23 that the approval came through in relation to the lands in June 1989. There
24 was 5 per cent deposit paid at that stage. A further 5 per cent was paid to
10:49:47 25 make up the full deposit. The sale closed in relation to the lands in February
26 1990.

27 A. So in September 1990, he is saying that I went into his office and asked him
28 for half a million and he wasn't worried about it because he'd get a deposit
29 back if the land deal hadn't gone through and the records state that the land
10:50:06 30 deal went through in February, months prior to this meeting.

10:50:09 1 Q. 35 The 19th of February 1990.
2 A. Months prior to this meeting.
3 Q. 36 The sale of the corporation lands --
4 A. Is that what the Tribunal is saying to me?
10:50:18 5 Q. 37 Well the Tribunal, Mr. Burke --
6
7 JUDGE KEYS: Isn't saying anything.
8 Q. 38 MR. QUINN -- giving you an opportunity to deal with the allegation. That's why
9 you're here. Do you understand?
10:50:27 10 A. But the allegation as stated by Mr. Gilmartin couldn't stand up if he is saying
11 that in September of '90 I went in looking for half a million from him. Which
12 I totally refute. And that he wasn't worried because he thought it was the --
13 I think it was the deposit he was going to get back from the land. Everybody
14 knows that the land deal was closed February of '89, several months prior to
10:50:49 15 it!
16 Q. 39 No. February of 1990, Mr. Burke.
17 A. Yes. Well still several months prior to this meeting. Now, does that make
18 sense to anybody?
19 Q. 40 Mr. Burke, if you bear with me I will just continue if I may.
10:51:01 20 A. Okay Mr. Quinn.
21 Q. 41 At 16145 he continues as follows "He then made arrangements to leave the office
22 and Mr. Burke gave me assistance to take from the office, the model of the
23 Quarryvale development which I was bringing back to England.
24
10:51:11 25 Mr. Burke then drove to the Deadman's Inn public house and he went inside. I
26 was concerned that I would miss my plane back to Luton. I recall that
27 Mr. Burke was in the pub for about 20 minutes. When he came out he told me
28 that Mr. Ahern was not inside but he thought that he might be in another pub.
29 I recall Mr. Burke then driving me to another pub located in the vicinity of
10:51:31 30 the Beaumont Hospital. Again, I remember Mr. Burke going inside and being in

10:51:41 1 the pub for about ten minutes while I waited outside in his car. When
2 Mr. Burke came out he told me that Mr. Ahern would be there shortly.
3
4 However, I was very anxious at that stage that I would miss my flight back to
10:51:45 5 Luton. I told Mr. Burke that I had a commitment to attend a meeting the
6 following morning which I could not miss and I had to insist that he drive me
7 immediately to the airport. Mr. Burke tried to persuade me to wait for
8 Mr. Ahern's arrival but when I refused to do so, Mr. Burke got very upset.
9 During the drive to the airport I recall Mr. Burke not saying very much and
10:52:06 10 that sort of unhappy silence was maintained before I left his car I said to
11 Mr. Burke in rather bitter terms that "this is a great little country isn't
12 it".
13

14 Now, as I say, that statement was clarified further in a statement of the 26th
10:52:23 15 of May 2004, if I could have 20062, please. And the statement commences as
16 follows "This statement is made supplemental to and for the purposes of
17 clarification of certain matters addressed in my statement to the Tribunal
18 dated 10th of March 2004.
19

10:52:39 20 At the time that I made the statement to the Tribunal I was in the middle of
21 cross-examination having reflected on that statement, I see there are a number
22 of inaccuracies which I now wish to correct as follows.
23

24 A. The reference to Quarryvale in line 4 of paragraph 1 should read
10:52:53 25 "Bachelor's Walk".
26

27 B. In paragraph six it is stated that I was bringing the model of the
28 Quarryvale development back to England. In fact the model was brought to a
29 storage unit in Arlington's offices located on St. Stephen's Green.

10:53:05 30 C. The reference to the Deadman's Inn public house in the first line of

10:53:09 1 paragraph 7 should read "Fagan's" public house."

2

3 And just to clarify the point raised by you, Mr. Burke, there wasn't reference
4 to Fagan's in the first statement.

10:53:17 5

6 "D. In paragraphs 8 and 9, I referred to Mr. Burke's car. However, I recall
7 that Mr. Burke was driving a pickup truck at that time.

8

9 I also wish to clarify the comments made by me about my conversation with Joe
10 Burke as follows.

10:53:30 10

11

12 As set out in my statement during the course of some chit chat with Joe Burke,
13 Mr. Burke mentioned the figure of 500,000 to me. The figure was mentioned on
14 several occasions by Mr. Burke during that conversation and I initially
10:53:42 15 believed that the reference to 500,000 was the deposit which I had paid for the
16 tender of the Dublin Corporation lands.

17

18 As the conversation developed I became aware that Mr. Burke seemed in a
19 roundabout fashion to be asking for 500,000 pounds. I did not let on to
10:53:55 20 Mr. Burke that I had formed that impression and the chitchat continued.

21

22 Mr. Burke later in that conversation clarified that he was not talking about
23 the Dublin Corporation transaction. He said Quarryvale was going to be a big
24 scheme and mentioned big bucks and said that surely Bertie's help was worth
10:54:15 25 something. I said to him "well I would pay 500,000 to get out of here if I got
26 my money back". (I was referring to the money that I had spent on assembling
the Quarryvale site).

27

28 Mr. Burke then said would you. And I replied would I what? Mr. Burke then
29 asked would you pay, and I understood this to mean would I pay 500,000 pounds.

10:54:32 30

Mr. Burke said you know you can trust Bertie and you know that Bertie is

10:54:36 1 looking after you. Mr. Burke then asked if I would meet Bertie Ahern and said
2 that he would meet him on the way to the airport. Therefore while Mr. Burke
3 did not specifically ask me to pay 500,000 pounds this is what I understood to
4 be the gist of the conversation.

10:54:50 5
6 I believed the money was being sought on behalf of Bertie Ahern. However, I
7 wanted to confirm whether it was Mr. Ahern or Mr. Burke himself who was
8 receiving the 500,000 pounds and therefore I agreed to go with Mr. Burke when
9 he offered to take me to see Mr. Ahern on the way to the airport."

10:55:05 10
11 Now, as I say, you deny, Mr. Burke, as I understand it, any such meeting, any
12 such conversation with Mr. Gilmartin. Is that correct?

13 A. Correct.

14 Q. 42 Now, by 1990 I think, Mr. Burke, you had been a member of Dublin City Council
15 for five years, isn't that right?

16 A. Correct.

17 Q. 43 I think you were elect in the 1985. And I think you have already given
18 evidence to the Tribunal that you were friendly with Mr. Ahern and you had
19 supported Mr. Ahern who I think had been elected to the Dail in 1977 and your
20 support and friendship would have predated that, isn't that right?

21 A. Correct.

22 Q. 44 You were also obviously a member of Fianna Fail yourself, isn't that correct?

23 A. That's right.

24 Q. 45 And I think at that stage Mr. Ahern and yourself would have been in the
25 constituency of, is it Dublin Central or Dublin North Central?

26 A. Mr. Ahern was in the constituency of Dublin Central. My Council ward straddled
27 Dublin North Central and Dublin Central.

28 Q. 46 Yes. And I think that as a member of Fianna Fail, I think you found yourself
29 at that stage the holder of some bank accounts, is that correct, for the
30 constituency?

- 10:56:22 1 A. Yes. Myself and Mr. Ahern was joint signatures on the bank accounts.
- 2 Q. 47 I was at the constituency No. 1 account?
- 3 A. I can't remember.
- 4 Q. 48 Okay. But in any event, I think you were also by 1989, 1990 a trustee of St.
- 10:56:39 5 Luke's and I think you would have been involved as I think the Chairperson of
- 6 the House Committee of St. Luke's, is that correct?
- 7 A. That's correct.
- 8 Q. 49 And in your capacity as either the Chairperson of the House Committee of St.
- 9 Luke's or trustee of St. Luke's, I think you would have been involved in some
- 10:56:59 10 fundraising activities on behalf of Fianna Fail, isn't that correct?
- 11 A. Correct.
- 12 Q. 50 And in that capacity would you from time to time have found yourself in a
- 13 situation where you would have been looking for funds for Fianna Fail or for
- 14 St. Luke's or for Mr. Ahern?
- 10:57:13 15 A. We, as Chairman of the House Committee, yes, we ran functions to raise funds to
- 16 run the ...
- 17 Q. 51 And one of these functions I think is a function referred to as the Kilmainham
- 18 dinner, is that correct?
- 19 A. That's correct.
- 10:57:24 20 Q. 52 As I understand it, we are not going into any detail in relation to it but as I
- 21 understand the Kilmainham dinner function. It is an annual function which the
- 22 table holders are invited and they contribute either for eight or ten persons
- 23 and they themselves then invite their guests to the function, is that correct?
- 24 A. That's correct.
- 10:57:44 25 Q. 53 And then the proceeds of that function then are applied or lodged can you
- 26 recall which account or how they are applied?
- 27 A. It could be lodged to the constituency account or the CODR account.
- 28 Q. 54 And then I think you would find yourself also I suggest at election time
- 29 looking for funds for elections, is that correct?
- 10:58:07 30 A. That's correct, yeah.

10:58:08 1 Q. 55 And again --

2 A. Can I just stress --

3 Q. 56 Yeah.

4 A. -- that these funds were in relation to Fianna Fail not in relation to any

10:58:16 5 individual.

6 Q. 57 Okay. And the funds in relation to Fianna Fail. Are they funds that you would

7 target people that you would seek subscriptions or support from?

8 A. They would in relation to election funds, people would be contacted and asked

9 would they be interested in making donation to the election funds.

10:58:38 10 Q. 58 Yes.

11 A. And if they did, they did if they didn't there was no ...

12 Q. 59 And presumably, if they did make a contribution on one occasion --

13 A. Like it happens in all pot political parties.

14 Q. 60 And presumably if they made a contribution on one occasion then they were more

10:58:51 15 likely to be contacted on subsequent occasions because they --

16 A. I can't verify that directly but it does happen, yes.

17 Q. 61 And in identifying people that you would seek funds from, presumably you would

18 have an eye for people whom you would regard as being in a position to make a

19 contribution?

10:59:10 20 A. Well, I am not quite sure in relation to the remark "have an eye for".

21 Q. 62 Okay. How would you determine whom you would approach for funds?

22 A. Well the thing about it is that you would basically contact some of the

23 business people in the community, in the constituency.

24 Q. 63 I see. Now, Mr. Gilmartin by 1990 had a reputation as a businessman, a

10:59:33 25 property developer, someone who was involved in a fairly substantial

26 development either on his own right or with Arlington in the city, isn't that

27 right?

28 A. I wouldn't have known enough to know whether he had a reputation as a developer

29 or not about him. So I couldn't really comment on it one way or another.

10:59:52 30 Q. 64 I see. So when you met Mr. Gilmartin in 1989, you didn't understand yourself

10:59:56 1 to be meeting with a developer even though he was likely to pay 5.1 million for
2 the purchase of corporation lands in Irishtown?

3 A. He could have been buying it on anybody's behalf. But the reason, if I
4 remember correctly, that Mr. Gilmartin is saying that I met him was that he was
11:00:14 5 having problems securing the land deal --

6 Q. 65 Yeah.

7 A. -- in relation to Liffey Valley project, whatever it was called in, those
8 times.

9 Q. 66 You have already said --

11:00:26 10 A. No, no. Let me finish the point, if you wouldn't mind, Mr. Quinn. But it
11 subsequently turned out that he didn't have a problem --

12 Q. 67 I --

13 A. The records show from the corporation and everything. So he really didn't have
14 a problem. But my recollection of the meeting, as far as I can remember, it's
11:00:54 15 quite a long time ago, was something to do with Arlington and the Bachelor's
16 Walk site. Where he was proposing to build a shopping centre and a bus station
17 on the first or second floor. And I did remember, I can't remember which
18 planner it was said to me at the time that if he was proposing to carry that
19 out, we would have to run a ramp from College Green right across to the Liffey
11:01:09 20 to get the buses up to it. For somebody to actually say that he was a
21 confident developer to come along with a proposal like that, I just find it
22 hard to believe but anyway.

23 Q. 68 But he was involved in two fairly substantial developments, isn't that right?
24 Irrespective of whether he was a competent developer or not. But he was
11:01:25 25 involved with two fairly substantial developments?

26 A. Oh, the papers and everything will subsequently say that, yes.

27 Q. 69 And he was spending quite substantial money, isn't that right?

28 A. I wouldn't know what he was spending. I had no dealings with him.

29 Q. 70 Well you knew that he was spending 5.1 on the Corporation lands?

11:01:40 30 A. Yes but he was he spending it or was it bank borrowings, that's what I don't

- 11:01:45 1 know.
- 2 Q. 71 Yes. And I think you have told the Tribunal and I think you have reiterated it
- 3 now, that you also knew that he had an involvement in Bachelor's Walk, isn't
- 4 that right?
- 11:01:56 5 A. Yes. That was in the city of Dublin which would be my concern not anything
- 6 happening in the county wasn't really -- would have been my concern.
- 7 Q. 72 Now, I think by 1990 in addition to being a member of the corporation, I think
- 8 in your own right you were a successful businessman and I think you were
- 9 involved in the construction business, is that correct?
- 11:02:18 10 A. That's correct.
- 11 Q. 73 I think at that stage were you in partnership or have you told the Tribunal you
- 12 were in partnership with a company known as T Roche Contractors Limited?
- 13 A. That's correct.
- 14 Q. 74 I think that was a construction company, is that right?
- 11:02:31 15 A. Yes.
- 16 Q. 75 And more recently I think you had your own construction company, is that
- 17 correct?
- 18 A. Yes.
- 19 Q. 76 Now, Mr. Gilmartin has advised the Tribunal that the mode of transport used by
- 11:02:43 20 you in taking him to the airport on that particular evening was a pickup truck,
- 21 isn't that right?
- 22 A. Oh, that's what he said yes. But did I have a pickup truck? No.
- 23 Q. 77 Well did you have a pickup truck available to you through your construction
- 24 company?
- 11:02:57 25 A. No. But we did have a truck but it certainly wasn't a pick up!
- 26 Q. 78 Okay. Well did you ever drive the truck that you had?
- 27 A. I certainly did on occasions when a driver was ill or we needed something in a
- 28 hurry but I certainly didn't drive it for to the airport nor did I pick Mr.
- 29 Gilmartin up in it.
- 11:03:15 30 Q. 79 As I understand it you have no recollection of taking Mr. Gilmartin to the

- 11:03:18 1 airport at any stage but you believe you may have done?
- 2 A. That is quite true. I don't have any recollection of taking him or a model.
- 3 And I mean, if -- from my experience in the industry. If you were to look at a
- 4 model for the scale of the size of Liffey Valley, you probably would need a
- 11:03:35 5 four axle truck to bring it, not by pushing it into the back of the car.
- 6 Q. 80 Mr. Burke --
- 7 A. But the point that I want to make is basically -- is that he said that he was
- 8 going to the airport and I have told the Tribunal that it wouldn't be unusual
- 9 for me to give somebody a lift to the airport since I lived in the vicinity of
- 11:03:50 10 it or near to it.
- 11 Q. 81 Just in relation to the model, Mr. Burke, you will have seen in that corrected
- 12 statement of the 26th of May 2004, where Mr. Gilmartin has said that in fact
- 13 the model was being taken to a storage unit in the Arlington offices. It
- 14 wasn't being taken to the airport?
- 11:04:08 15 A. With respect, Mr. O'Neill, (sic) sure maybe next week he will come into the
- 16 Tribunal correcting what he said in this one.
- 17 Q. 82 Now, you have also seen in his statement where he has said to you on that
- 18 occasion, on your way to the airport made efforts to locate Mr. Ahern, isn't
- 19 that right?
- 11:04:21 20 A. In my evidence to the Tribunal first time here I clearly stated and I will
- 21 state again, that I was one of the few people who had access to the then
- 22 Minister for Labour's mobile phone and I didn't have to drive around the city
- 23 like a headless chicken looking for him.
- 24 Q. 83 If I could have 20103 please. There is no doubt but from time to time
- 11:04:43 25 Mr. Ahern could be found in either Fagan's or Beaumont House, isn't that right?
- 26 A. That's true.
- 27 Q. 84 This is a note made by Mr. Gilmartin of a series of telephone numbers for
- 28 yourself and Mr. Ahern. Do you see the numbers entered into in that note for
- 29 Councillor Burke there were three in all?
- 11:05:03 30 A. Yes.

- 11:05:03 1 Q. 85 And then there are a number of phone numbers I don't know whether there if you
2 recognise the numbers in question from Mr. Ahern. Do you see there is a number
3 for Drumcondra, a number for the Department of Labour, a Dail number including
4 an extension and a further number, isn't that right? There are no mobile
11:05:31 5 numbers?
- 6 A. Mr. Burke. Yeah, Department of Labour and Dail extension, yeah.
- 7 Q. 86 There are no mobile numbers entered there, isn't that right?
- 8 A. That's correct, yeah. I don't see a mobile number there.
- 9 Q. 87 Now, when you were contacted initially in relation to the Quarryvale
11:05:46 10 development you were written to I think on the 20th of December 1999, at 20046.
11
12 And you were asked for a statement dealing with a number of matters. Firstly,
13 whether you had attended any public meetings in connection with the rezoning of
14 Quarryvale.
- 11:06:06 15
- 16 Secondly, whether you had attended any private meetings with any parties in
17 connection with the rezoning of Quarryvale. At 20047, whether you were
18 requested by any party to provide any assistance in connection with proposals
19 to rezone Quarryvale.
- 11:06:22 20
- 21 Whether you were lobbied in connection with the rezoning of Quarryvale or
22 whether you were requested to or did solicit the support of any other members
23 of Dublin County Council for the rezoning of Quarryvale or whether you were at
24 any time and for any purpose in receipt of any payments or donations in
11:06:37 25 relation to Quarryvale, isn't that right?
- 26 A. That's correct.
- 27 Q. 88 And I think you replied on the 27th of January 2000, through your solicitors
28 where you answered "no" to all of those questions, isn't that right?
- 29 A. That's right.
- 11:06:49 30 Q. 89 And you referred to an interview you had had with the Tribunal legal team on

11:06:52 1 the 16th of April 1999. And then at a subsequent stage you were again asked I
2 think of any involvement you might have with a number of named parties, isn't
3 that right?

4 A. Sorry any involvement I had with what?

11:07:06 5 Q. 90 With a number of named parties. If I could have 20059. This is a letter dated
6 27th of June 2001, to the Tribunal. And further statement from you and it
7 says:

8
9 "I have been requested by the Tribunal of Inquiry to provide detailed accounts
11:07:18 10 of all meetings if any, attended by any of the following" and the parties
11 identified included Mr. Dunlop, Mr. O'Callaghan, advisors to Owen O'Callaghan
12 or any persons on Owen O'Callaghan's behalf, Ambrose Kelly, Liam Lawlor,
13 Pdraig Flynn, Tom Gilmartin. And you said:

14
11:07:34 15 "That I have also been requested to furnish to the Tribunal all documents,
16 common records, diaries, business, personal, including electronically stored
17 records in my power possession or procurement in relation to the planning and
18 development of land at Lucan County Dublin for the period 1st of January '89 to
19 31st of December '96. And you say I do not have in my possession, power or
11:07:52 20 procurement any such documents, common records or diaries and none ever such
21 existed as I have no input or dealings with any party in relation to the
22 planning and development of lands at Quarryvale, Lucan, County Dublin."

23
24 And then you went on to say that "I did not attend any meetings with any of the
11:08:08 25 following parties in relation to the lands in Quarryvale or indeed in relation
26 to any other matters."

27
28 You identified that you had no dealings whatsoever with Mr. Frank Dunlop, Owen
29 O'Callaghan, advisors to Owen O'Callaghan, Ambrose Kelly, Liam Lawlor or
11:08:21 30 Pdraig Flynn. And then you referred to the prior statements you had made to

- 11:08:25 1 the Tribunal which you had meetings with Mr. Gilmartin, is that correct?
- 2 A. That's correct.
- 3 Q. 91 And can the Tribunal take it that you, it is your evidence to the Tribunal that
- 4 you never had any dealings with Mr. Dunlop or Mr. O'Callaghan or Mr. Kelly in
- 11:08:39 5 connection with Quarryvale or in any connection?
- 6 A. Correct.
- 7 Q. 92 And you never met Mr. O'Callaghan?
- 8 A. No.
- 9 Q. 93 No.
- 11:08:50 10 A. I met him recently but very recently at a rugby game but prior to that meeting,
- 11 no, I had never met him.
- 12 Q. 94 Now, just going back very briefly to the purchase by Mr. Gilmartin of these
- 13 lands. These were corporation lands?
- 14 A. The which?
- 11:09:10 15 Q. 95 The lands at Irishtown that you were involved in.
- 16 A. No, I wasn't involved in. I was a member of the Council that approved them.
- 17 Q. 96 Yes. But in approving those lands can I ask you, was there any discussion in
- 18 relation to the lands or were they, were they just approved without even
- 19 debate?
- 11:09:28 20 A. They were just approved.
- 21 Q. 97 At both meetings?
- 22 A. No discussion whatsoever.
- 23 Q. 98 You, were you aware at that stage that the corporation had already entered into
- 24 a contract for the sale of lands at Neilstown --
- 11:09:39 25 A. No.
- 26 Q. 99 -- to Mr. O'Callaghan?
- 27 A. No.
- 28 Q. 100 Were you aware that the Neilstown lands were zoned and were for the town centre
- 29 development?
- 11:09:48 30 A. I wouldn't be -- with respect, I wouldn't be aware of any rezoning in the

- 11:09:51 1 county. I was a member of the City Council.
- 2 Q. 101 But you would have known that Mr. Gilmartin's intention in acquiring those
- 3 lands was to site a shopping centre development at Quarryvale?
- 4 A. I am not sure whether the breviat spoke precisely to that point.
- 11:10:11 5 Q. 102 You but you know there was controversy subsequently in relation to the disposal
- 6 of lands?
- 7 A. Subsequently I know there was controversy, yes.
- 8 Q. 103 I mean, for example at 14118, I think on the 10th of June '91, after the first
- 9 rezoning of those lands the, there was controversy surrounding their sale for
- 11:10:29 10 5.1 million at a time when they had an industrial zoning when they now appeared
- 11 to behaving a shopping centre zoning and as a consequence would have been much
- 12 more valuable, isn't that right?
- 13
- 14 Queries were being raised as to when they were being sold, that a higher price
- 11:10:46 15 hadn't been obtained?
- 16 A. Well the way that the councillors took the recommendations of the valuers and
- 17 the city manager in relation to disposing of lands. And I wouldn't have been a
- 18 great person to be reading the papers and keeping up to see what happened lands
- 19 that was disposed of by the City Corporation.
- 11:11:04 20 Q. 104 And is it still your position, Mr. Burke, that you believe you only ever had
- 21 one meeting with Mr. Gilmartin?
- 22 A. I have only one meeting that I can recall, yes, yes. By the way in, his
- 23 statement of the allegation of the half a million. I think that he mentioned
- 24 that one of the meetings that I read that his solicitor, Mr. Maguire, attended
- 11:11:25 25 one of the meetings? And I understand that Mr. Maguire's evidence to this
- 26 Tribunal, that he never attended a meeting with me and Mr. Gilmartin.
- 27 Q. 105 If I could have 4345, please this. is a letter, Mr. Burke, written by Mr.
- 28 Gilmartin to his bank in September 1990. And just to give you by way of
- 29 background, the financial position of Mr. Gilmartin at this stage. Mr.
- 11:11:51 30 Gilmartin had borrowed monies, 8 and a half million from Allied Irish Bank in

11:11:57 1 February 1990. Those monies became due to the bank by the 31st of August 1990.
2 So he had overrun his loan period and there was almost eight and a half nine
3 million due on foot of his loan, do you understand? And he is here explaining
4 to the bank why he finds himself in a situation where he hasn't repaid the bank
11:12:17 5 within the term of the original facility.
6
7 Now, Mr. Gilmartin dates his meeting with you where you take him to the airport
8 to September 1990. And I am just giving you by way of background, what would
9 be happening vis-a-vis Mr. Gilmartin's financial position at that stage, do you
11:12:39 10 understand?
11 A. Yes.
12 Q. 106 Where you will see that that letter headed "Westpark" gives an address for
13 Barkhill Limited, which was Mr. Gilmartin's company as 25 St. Stephen's Green,
14 Dublin 2.
11:12:47 15 A. Yes.
16 Q. 107 And can we take it that that's where you met with Mr. Gilmartin?
17 A. Yeah.
18 Q. 108 On the occasion that you did meet with him?
19 A. From my memory, I couldn't tell you the number of the building but there was a
11:12:59 20 side gate to it and a carpark where he had organised for me to park my car.
21 The number I couldn't tell you.
22 Q. 109 And bring September 1990, Mr. Gilmartin owed the bank as I say, almost nine
23 million pounds. He owed Mr. O'Callaghan 1.35 million pounds. And he was
24 desperately anxious to try and get some outside financial support in order to
11:13:20 25 either take out Mr. O'Callaghan and/or the banks and develop the site, do you
26 understand?
27 A. I understand from what I have recently read in the papers.
28 Q. 110 Yes.
29 A. But I fail to understand what relation to me a letter from Mr. Gilmartin to AIB
11:13:37 30 banks are.

- 11:13:38 1 Q. 111 Well just to put it in context, it shows Mr. Gilmartin's position vis-a-vis his
2 finances at that stage and the dire straights he found himself in. Do you you
3 understand? It also shows that Mr. Gilmartin was still in St. Stephen's Green
4 in September 1990. Okay?
- 11:13:54 5
6 And Mr. Paul Sheerin has given evidence to the Tribunal where he says he met
7 with you in St. Stephen's Green with Mr. Gilmartin on one occasion. You say
8 there was, that when you met with Mr. Gilmartin --
- 9 A. If the man walked in in front of me I wouldn't know him. I wouldn't see him.
- 11:14:12 10 Q. 112 But as I understand your evidence, you say that the one occasion that you did
11 meet with Mr. Gilmartin in St. Stephen's Green, there was nobody else present
12 and nobody else came or went whilst you were with him?
- 13 A. Well I'm not sure whether there was anybody else present in the office. I
14 couldn't be sure but I do remember that he apologised that his secretary had
11:14:30 15 gone off, had taken the afternoon off and he couldn't offer me a cup of tea.
16 If there was other people working in the office or in or around the office, I
17 couldn't be sure.
- 18 Q. 113 And you say that you have no recollection of taking him to the airport but it's
19 possible that you may have done?
- 11:14:45 20 A. So exactly, it is possible, yeah. But I have no recollection of ever seeing a
21 model. And it is interesting, Mr. Quinn, that you make a point that I was
22 involved in the construction industry, right. And that if somebody was coming
23 in to show, discuss this major shopping centre. I might have had, had I been
24 importuned in to all of this I might have had some discussion about him in
11:15:06 25 relation to any work that we might have been able to obtain. But there is no
26 discussion of that. I never asked him for any work. I never asked him for
27 anything as a matter of interest.
- 28 Q. 114 But isn't it all certain, Mr. Burke, that if you met with Mr. Gilmartin in the
29 Arlington offices in St. Stephen's Green that you did, that he would have
11:15:26 30 introduced you to his project. And if he had available to him, either drawings

- 11:15:32 1 or a model that he would have shown it to you and you would have been
2 interested in it, out of curiosity alone having regard to your background and
3 your trade?
- 4 A. That's the precise point that I am making, Mr. Quinn, because of my background
11:15:43 5 and construction industry that I would have been interested had he shown it to
6 me and had he shown me the details of it. But I have no recollection of ever
7 seeing a model, never even seen the plans for the place.
- 8 Q. 115 Yes.
- 9 A. I am not sure whether they were drawn up at that stage.
- 11:15:56 10 Q. 116 They were and they had been the subject of some publicity from the previous
11 July 1990. But in any event, you say that you didn't meet him in September
12 1990?
- 13 A. No, I remember meeting him whatever it was on that Friday evening, I don't keep
14 diaries so I have no access to dates or -- but I do remember meeting him once.
- 11:16:23 15 Q. 117 Now --
- 16 A. All to my much regret now, by the way.
- 17 Q. 118 Yes. If you did meet him -- sorry. If you did take him to the airport and you
18 did stop, as he alleges, at two licenced premises en route, that's something
19 you that you would remember, isn't that right?
- 11:16:39 20 A. Yes.
- 21 Q. 119 You were effectively bringing to the airport, someone whom you had just met for
22 the first time and you were stopping off at two licenced premises en route,
23 isn't that right?
- 24 A. To say it would be unusual would be putting it mildly.
- 11:16:54 25 Q. 120 And you say you have no recollection of him introducing you to his plans or his
26 development or his models?
- 27 A. None whatsoever.
- 28 Q. 121 Thank you very much, Mr. Burke. If you would answer any questions.
29
- 11:17:09 30 CHAIRMAN: All right. Do you want to ask any questions?

11:17:11 1 MR. KEATING: No, Chairman.
2
3 CHAIRMAN: Do you want to ask your client?
4

11:17:16 5 MR. McGRATH: No, Chairman.
6
7 CHAIRMAN: Mr. Burke, can I just ask you in relation to this famous pickup
8 truck, you would have had a private car presumably?
9 A. Yes, I did.

11:17:23 10
11 CHAIRMAN: You mentioned that you had a truck.
12 A. Yes. In the company truck.
13
14 CHAIRMAN: Is that, can you describe?

11:17:29 15 A. If I remember correctly, Chairman, it was a dodge truck, something in the
16 region of about 18 foot long.
17
18 CHAIRMAN: Would that be one where you would have to pull yourself up into the
19 cab or --

11:17:43 20 A. Absolutely, yeah, a 'big one', yeah.
21
22 CHAIRMAN: All right. And had you, had the company or had you access to Jeeps
23 or smaller vehicles?
24 A. No.

11:17:52 25
26 CHAIRMAN: Vans or anything.
27 A. That was the only transport that the company had, other than a concrete mixer.
28
29 CHAIRMAN: So you had a car?
11:18:00 30 A. A private car, yes.

11:18:01 1 CHAIRMAN: Which was a saloon car I presume.

2 A. Yes.

3

4 CHAIRMAN: And you had this large truck?

11:18:05 5 A. The company had the large truck, Chairman.

6

7 CHAIRMAN: But you didn't have access to other vehicles?

8 A. No, no.

9

11:18:13 10 CHAIRMAN: All right.

11

12 JUDGE FAHERTY: No.

13

14 CHAIRMAN: Thank you very much, Mr. Burke.

11:18:17 15 A. Thank you, Chairman.

16

17 **THE WITNESS THEN WITHDREW.**

18

19 CHAIRMAN: Just before we rise today.

11:18:23 20

21 I would like to mention the retirement of the eminent journalist Mr. Jim

22 Morahan of the Irish examiner newspaper, and we are told retires tomorrow.

23

24 Mr. Morahan is one of a small number or small group of journalists from the

11:18:42 25 print and electronic media who faithfully attend the Tribunal's public hearings

26 day in, day out. Mr. Morahan and his colleagues undertake the often very

27 difficult task of condensing a number of hours of evidence into a few column

28 inches for their newspapers and into brief summaries for TV and radio. This is

29 it a most important service as it permits members of the public to follow the

11:19:11 30 proceedings of the Tribunal, which is a public inquiry and in circumstances

11:19:16 1 where the vast majority of the ordinary public cannot avail of the opportunity
2 to witness first hand.

3
4 Mr. Morahan's reporting of the evidence given to the Tribunal has always been
11:19:30 5 fair and comprehensive and very professionally summarised and reported. And we
6 would like to thank him for all of his valuable work and we wish him well in
7 his retirement.

8
9 We are sitting again on Tuesday.

11:19:51 10
11 MS. DILLON: 12 o'clock on on Tuesday, Sir.

12
13 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**
14 **TUESDAY, TUESDAY 6TH MAY 2008, AT 12:00.**

11:20:59 15
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