

1 THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 2ND MAY  
2 2003 AT 10 A.M:

3  
4 CHAIRMAN: Morning everyone.

5  
6 CROSS-EXAMINATION OF SENATOR LYDON BY MR. ALLEN  
7 CONTINUED AS FOLLOWS:

8  
9 Q.1 MR. ALLEN: Good morning Senator?

10 A. Good morning Mr. Allen.

11 Q.2 You will let me know if my voice drops and you are having any difficulty in  
12 hearing?

13 A. Thank you.

14 Q.3 Now at the close of yesterday's session, Senator, I had been suggesting to you  
15 that in the course of your evidence in response to questions from Mr. Gallagher  
16 over the past three days you have demonstrated a very significant inability to  
17 recall matters of fact, matters of -- and matters of detail.

18 Do you agree or disagree with that?

19 A. I can't say I agree with it. I mean, I think I remembered.

20 Q.4 You have told, just so that -- I don't want to trap you in any way, but you  
21 have yourself, may I remind you, told the Tribunal that you have a very poor  
22 memory?

23 A. For some things, yeah, other things no. The same as anybody, yeah.

24 Q.5 The memory, with respect, you do realise that we are here before this Tribunal,  
25 all of us carrying out our different roles dealing with particular issues;  
26 isn't that correct?

27 A. Yes.

28 Q.6 May I suggest to you, Senator, that it is in respect and in regard to those  
29 issues that your memory is seriously deficient and that you have so admitted to  
30 this Tribunal?

1 A. I never admitted to this Tribunal, in my opinion, that my memory was seriously  
2 deficient. Anything I could remember I told you, and the things I couldn't  
3 remember I couldn't remember.

4 Q.7 May I ask you then and I'm going to pass on from it because clearly there is no  
5 point in wasting my time and the Tribunal's time; may I ask you to indicate to  
6 the Tribunal whether it is your evidence now in response to this particular  
7 question from me that your memory in relation -- as demonstrated during the  
8 course of your answers to Mr. Gallagher has been both reliable, dependable and  
9 satisfactory? That is a question which permits of the answer yes or no,  
10 without any add-ons?

11 A. I'm afraid I have to add on something.

12 Q.8 Would you answer the question?

13 A. No, I have to add on. You must allow me to answer the question. I think that  
14 any question that I have been asked that I remember I answered honestly. There  
15 are some things I don't remember because they are so long ago, and other things  
16 I do. It is the same as anybody in this room. I have told you that in regard  
17 to important matters that are important to me, I never forget them.  
18 Unimportant things maybe fade.

19 Q.9 You say that in regard to important matters and in regard to matters which are  
20 important to you you never forget, is that your evidence? Is that your  
21 evidence?

22 A. Give me a chance, I have to think about it.

23 Q.10 It is what you just said.

24 A. That's the way it seems to be, yes. I -- when I'm dealing with people and  
25 their problems I remember those, usually forever. When I'm dealing with  
26 things, sometimes maybe I might forget.

27 Q.11 You have, Senator, a moment ago you would never forget something which was  
28 important to you?

29 A. Yes. I said that to you a moment ago.

30 Q.12 May I suggest to you, Sir, that two donations of 5,000 pounds each to yourself,

1 being the largest donations, which you confirmed to Mr. Gallagher that you ever  
2 received during the course of your political career, would be matters which  
3 would be important to yourself?

4 A. No, not really, no. They just fell into the category of donations. At the  
5 time it was probably great to get it, but if you are not concentrating on a  
6 particular area -- You see, one of the things about the Tribunal and since it  
7 started it has forced me to focus on issues that I would not normally focus  
8 upon.

9 Q.13 That's your evidence?

10 A. Yes.

11 Q.14 We will be dealing with it. For the moment you are telling the Tribunal that  
12 the receipt of two individual donations of 5,000 pounds each was not something  
13 that was of any import to you, notwithstanding the fact that as you confirmed  
14 to Mr. Gallagher, however reluctantly yesterday, they were the two largest  
15 donations, you say, that you ever received in the course of a political career  
16 which goes back to 1985?

17 A. You see, it is easily explained. If you are not concentrating on a particular  
18 thing you don't remember. At least that's the way I see it. I wasn't even  
19 thinking about these things.

20 Q.15 Is that your answer to the question?

21 A. Yes.

22 Q.16 I see. In relation to your memory and just pursuing this issue of your memory  
23 for a little longer, not too much longer, do you recall telling Mr. Gallagher  
24 of your secretarial situation within Seanad Eireann?

25 A. I do, yes.

26 Q.17 And do you recall, to be fair you did come back either yesterday or the day  
27 before yesterday and indicate that your current secretary, Ms. Reynolds,  
28 chastised you because she pointed out --

29 A. That's true, she did.

30 Q.18 -- she has been with you since 1992; isn't that correct?

1 A. Yes.

2 Q.19 Before that, in response to a question from Mr. Gallagher, you indicated that a  
3 secretary whom; putting as near a date as I can on it from reading what you say  
4 in the transcript, you had a secretary from 1990 whom you shared with Senator  
5 Mullooly, Brian Mullooly; do you remember that?

6 A. Yes, I think those were the years, something along those lines, yeah.

7 Q.20 Would it be fair to say that on the basis of what you told us about her, she  
8 sounds like the secretary from hell?

9 A. I wouldn't say that any way. But she wasn't the best secretary I ever had.

10 Q.21 You were at no pains, it didn't cost you a thought to say that you remembered  
11 her well for the following reason, Senator, that ever single letter that she  
12 ever typed for yourself or Senator Mullooly had to be typed again; isn't that  
13 correct?

14 A. Is it any wonder that I forgot her name? I mean, even if I knew her name at  
15 this stage I would have to write it down because she might hear of it.

16 Q.22 Nobody wants to obtain the lady's name, I'm suggesting to you that it is little  
17 short of remarkable that someone who caused you just angst in 1990 and who  
18 clearly was the matter of, the subject matter of constant conversation between  
19 yourself and Senator Mullooly who was suffering the same faith with his  
20 letters, that you told this Tribunal you cannot remember her name? She drove  
21 you draft, according to yourself, for more than a year?

22 A. I had other secretaries along the line, I don't remember them either. The one  
23 that impresses me most is my current secretary, she is excellent. Some of them  
24 I mightn't remember.

25 Q.23 Do you recall on another issue related to your memory, do you recall indicating  
26 on a number of occasions during the course of your evidence that Mr. Dunlop  
27 visited you with Mr. Eoin O'Callaghan at your offices in Stillorgan?

28 A. I'm almost certain Mr. Dunlop came with him.

29 Q.24 No, sorry, Senator. It is necessary for me at this point in time to ask you --  
30 firstly, to explain something to you, when I'm preparing overnight to

1 cross-examine you I read the transcript. Do you follow that first step? You  
2 do?

3 A. Oh yes, I'm sure you do. I'd say you prepare your work very well.

4 Q.25 I look at what you say because you are the individual whom I must  
5 cross-examine, that's what I'm here for. I'm therefore dependent upon what you  
6 you say for the particular day for the purposes of cross-examining you. I want  
7 to know if your evidence is going to shift, like the deckchairs of the Titanic  
8 from day-to-day. You said without contradiction or hesitation that Mr. Dunlop  
9 visited you with Mr. Eoin O'Callaghan?

10 A. That's my recollection.

11 Q.26 You say today that "I think he did", which is it?

12 A. I think he did.

13 Q.27 Which he did?

14 A. It's ordinary English. It's my recollection he did.

15 Q.28 Today, 2nd May, I think he did, the other days he did?

16 A. All right then.

17 Q.29 Is that the position?

18 A. Yes. We seem to be playing games here.

19 Q.30 No, we are not playing games?

20 A. As far as I know he came to see me with Eoin O'Callaghan, that's a fact. Well,  
21 it's the way I remember it any way.

22 Q.31 Do you have the minutes of a meeting which took place on Monday 8th May 2000 at  
23 2 o'clock? It is Tribunal reference Carrick 1, page 3676. This was 8th May  
24 2000, 8 o'clock. It was a meeting which took place between you and the members  
25 of the Fianna Fail committee who were appointed to carry out investigations  
26 following disclosures made by Mr. Dunlop at this Tribunal. Do you have that  
27 document?

28 A. Are you talking about the Fianna Fail inquiry?

29 Q.32 Yes?

30 A. I have a copy of it at home I don't have it here.

1 Q.33 I'm talking about the minutes of the meeting?

2 A. Sorry.

3 Q.34 They were given to your legal team?

4 A. I only saw it on the screen, I never saw it anywhere else.

5 Q.35 You didn't read it?

6 A. I read it when it was put up there, yeah.

7 Q.36 Can I refer you to the final paragraph of that document? Do you have it  
8 Chairman and your colleagues?

9

10 JUDGE FAHERTY: We have it, yes.

11

12 JUDGE MAHON: We have.

13

14 Q.37 MR. ALLEN: He said he received -- this is an account by the members of the  
15 committee, do you follow me?

16 A. Yes.

17 Q.38 Of what you said to them?

18 A. Yes.

19 Q.39 "He said he received 500 pounds or a 1,000 pounds from Monarch. That this was  
20 the maximum that he would have received at election time. He said that Monarch  
21 would have donated some monies to everybody. He recalls Eoin O'Callaghan  
22 coming out to the hospital where Don Lydon worked. Don Lydon vis-a-vis a post  
23 stadium project. He believes that that Bill O'Herlihy accompanied Eoin  
24 O'Callaghan."

25 A. I thought that at the time, you see. That's why I thought maybe Bill O'Herlihy  
26 did come on another day with somebody else. I thought it might have been him.  
27 The person -- I'll tell you what happened really. I was concentrating so much  
28 on Mr. O'Callahan and the lovely stadium, I kept the brochure for a long long  
29 time, the person in the background I'm assuming was Mr. Dunlop. That's why I  
30 answered your question --

1 Q.40 Senator Lydon, let us recap?

2 A. Yes.

3 Q.41 You were at a meeting with a committee set up by the Fianna Fail party at the  
4 behest of the Taoiseach, of which the Taoiseach certainly regarded as being an  
5 extremely important committee, with an extremely important function to  
6 discharge?

7 A. It was, yes.

8 Q.42 Isn't that correct?

9 A. That's correct.

10 Q.43 One must assume, therefore, or at least give you the benefit of the doubt, that  
11 in your attendance before that committee and in your endeavours to assist it,  
12 you prepared yourself and you thought carefully about the answers which you  
13 gave. Do you follow me?

14 A. I wouldn't assume that at all because I didn't know what I was going to be  
15 asked. I went into the committee all right and they asked me various questions  
16 and to the best of my ability at the time I answered them. You must remember  
17 this was a short time, I think it was the time when Mr. Dunlop made a  
18 statement, it wasn't that long afterwards I think, and I had at that time I  
19 don't think very many bank records. I had afterwards to research this and try  
20 and put them together. Really all this came together when the Tribunal kept  
21 looking for lodgments over 500 pounds and we eventually might discover the --

22 Q.44 It is a delight to listen to your dulcet tones. Can I bring you back to the  
23 question I asked you?

24 A. Please.

25 Q.45 Which has nothing to do with bank accounts and has everything to do with you  
26 telling the meeting of the Fianna Fail committee --

27 A. That's what I thought --

28 Q.46 Accompanied by Bill O'Herlihy; isn't that correct?

29 A. Yeah.

30 Q.47 Can we assume that that's what you believed at the time?

1 A. It must have been if I said it.

2 Q.48 That's your evidence here?

3 A. Yeah.

4 Q.49 Now, when you told Mr. Gallagher on a number of occasions that you visited,  
5 that you were visited by Mr. O'Callahan with Mr. Dunlop, did it occur to you to  
6 refer the Tribunal's attention to the fact that, you know, I told Fianna Fail  
7 that I went with -- that it was Bill O'Herlihy who was with Mr. O'Callahan but  
8 now having thought about it and you have having focused me so rigidly on these  
9 matters, it has dawned on me it was Mr. Dunlop and not Mr. O'Herlihy?

10 A. It didn't occur to me to say that, no.

11 Q.50 I don't wish to be offensive?

12 A. No, no.

13 Q.51 Isn't that absolutely typical of your approach to the giving of evidence here?

14 I have to suggest to you that you don't take it seriously at all?

15 A. I don't take what seriously?

16 Q.52 You don't appear to treat the business of giving evidence on oath with any  
17 seriousness?

18 A. I take it very seriously. It is extremely serious. I'm on oath. I do take it  
19 seriously.

20 Q.53 You feel that your answers reflect the gravity which you attach to the evidence  
21 you have given?

22 A. I try to answer every question as honestly as I can.

23 Q.54 Do you think you are succeeding?

24 A. I do, yes.

25 Q.55 I see. We will come back to the question of funding and that particular Fianna  
26 Fail investigation shortly, Senator, but I would now like to turn to a matter  
27 which was canvassed yesterday; and I think that you should have available to  
28 you for this purpose the transcript of yesterday's evidence commencing at page  
29 29, that would be page 29 of the Tribunal's pagination; I will be dealing with  
30 what is on contained on pages 29, 30, 31 and 32. Finishing with something that

1 was put to you by Judge Mahon?

2 A. Yeah.

3 Q.56 Do you follow me?

4 A. Go on please. Yes I do, that's on 31.

5 Q.57 It's on 32 actually. Do you have that portion of the transcript?

6 A. I have, yeah.

7 Q.58 There are a number of questions I want to ask you in relation to this and I  
8 want to make one or two suggestions to you. Mr. Gallagher questioned you in  
9 relation to an extraordinary incident which occurred on 19th February 1993 at a  
10 meeting of Dublin County Council; isn't that correct?

11 A. That's correct, yes.

12 Q.59 And I have carefully, myself, read the answers which you gave, both to  
13 Mr. Gallagher and to Judge Mahon when he had one or two matters which he sought  
14 to clarify with you; and may I put this to you, Senator, it is clear from the  
15 answers and from a scrutiny of the answers which you gave to Mr. Gallagher that  
16 you were deliberately attempting, I suggest to you, to play down an incident  
17 which was both serious and sinister by using words such as "craic; "a bit of a  
18 laugh", etc to characterise what happened in that chamber. That's the first  
19 question and would you answer it please?

20 A. There was nothing sinister about it whatsoever.

21 Q.60 I see.

22 A. It was something that I shouldn't have done, but it wasn't sinister in any way.

23 Q.61 Would you regard it as normal?

24 A. Normal?

25 Q.62 Let's try and avoid the psycho babble as to what normal means?

26 A. It is a very hard question.

27 Q.63 It isn't.

28 A. It is of course. It wouldn't be my characteristic mode of responding.

29 Q.64 It wouldn't be your characteristic mode of responding to what?

30 A. To anything. I mean, if you say something to me now, that you insult me - I'm

1 not going to go down and grab you by the collar.

2 Q.65 I'm sure you might wish to do it?

3 A. I admire you, actually.

4 Q.66 Grab me by the throat, and happily I have some mode of protection. I have to  
5 say to you that this was, in fact, an extremely serious and sinister manoeuvre  
6 on your part?

7 A. Sinister?

8 Q.67 Yes.

9 A. How could it be sinister?

10 Q.68 Let me explain to you the manner in which it could be viewed sinister. You  
11 were, and continue to be, an elected representative?

12 A. That's correct, yes.

13 Q.69 You were attending a meeting which was made up of elected representatives of  
14 Dublin, of the people of Dublin; isn't that correct?

15 A. Correct.

16 Q.70 One of those elected representatives from a party other than your own, produced  
17 a cheque, it would appear, for a hundred pounds, do you follow me?

18 A. Yes.

19 Q.71 And asked had anyone else received those cheques, a cheque such as that. Do  
20 you follow me?

21 A. Yes.

22 Q.72 No, no, no?

23 A. Yes, that's correct.

24 Q.73 Let's try and keep it simple?

25 A. All right.

26 Q.74 That's what happened, is it not?

27 A. Yes.

28 Q.75 Now, the response to that question being asked by an elected representative,  
29 and let's try and keep it to you and your particular response, was to grab him,  
30 according to yourself, from the back and to seek to extract by grabbing with

1 force, the cheque from his hand; isn't that correct?

2 A. That's correct.

3 Q.76 Now, I hesitate given your views on normal to ask the question --

4 A. Well we didn't define it, if you remember.

5 Q.77 Would you regard that as normal conduct?

6 A. No, not really, no. It wouldn't be usual conduct, no.

7 Q.78 Is it normal conduct or is it not?

8 A. It is not normal in chamber to --

9 Q.79 Is it acceptable conduct?

10 A. Certainly not. That's why I apologised to him later. In fact I met Trevor  
11 last night in the Dail.

12 Q.80 Really?

13 A. Yes.

14 Q.81 Did you pray together?

15 A. Pardon?

16 Q.82 Did you pray together?

17 A. No. The prayer meetings are always held in the morning.

18 Q.83 I see.

19 A. He said to me, we are chatting, he said "you made me famous again". He was  
20 very good humoured. He is a very nice man. Very religious man and good  
21 gaelgoir.

22 Q.84 He has good Irish, doesn't he?

23 A. Yes, he does.

24 Q.85 So --

25 A. I can tell you --

26 Q.86 Senator please.

27 A. It's important that you know what happened at that meeting.

28 Q.87 Senator?

29 A. At that meeting we were discussing I believe Cherrywood, it wasn't my

30 motivation but I know when he held up the cheque other councillors thought that

1 this was something to do with Monarch Properties and they thought that the  
2 cheque was from Monarch Properties and they wanted to see the cheque and he  
3 wouldn't show it to them. That's what happened.

4 Q.88 So, poor old Councillor Lydon, tilting at windmills, the poor councillors  
5 couldn't get sight of the cheque. They thought was from Monarch, but brave  
6 Senator Lydon thought he'd sort it out?

7 A. That's right. It was a stupid thing to do.

8 Q.89 It was much worse than stupid, can I bring you to question 198.

9 "Why were you so concerned to get the cheque?" This is on page 29 of the  
10 Tribunal's documentation?

11 A. I have got it.

12 Q.90 Answer: "I wasn't. I suppose for devilment. The fact that he didn't show it,  
13 I wanted to see it."

14 A. Yeah.

15 Q.91 May I suggest to you, as I already have, that it wasn't for devilment as is  
16 evident from that answer?

17 A. What is?

18 Q.92 Would you please look at what you say, because it appears you don't attach any  
19 great importance to what you say from day to day, what you say is.

20 "Just I suppose for devilment, the fact he didn't show it, I wanted to see it".  
21 I. Not the rest of the councillors. I, Senator Don Lydon, wanted to see the  
22 cheque?

23 A. We all wanted to see it.

24 Q.93 Would you now tell the Chairman and his colleagues why you wanted to see that  
25 cheque?

26 A. I suppose the same as the rest of them; to see who it came from, that's all.

27 Q.94 Can you give any logical -- Senator?

28 A. That's a habit of mine and do I apologise.

29 Q.95 In your own interest don't answer a question before it has been asked or  
30 completed. What possible or conceivable legitimate, to use a word which has

1           been bandied around these hallowed halls, what possible legitimate interest had  
2           you in establishing who the cheque was from? None, I suggest to you?

3 A.   Probably not. No legitimate reason, no.

4 Q.96 No legitimate reason. Notwithstanding which you physically assaulted a fellow  
5           councillor?

6 A.   Now I didn't physically assault him. I grabbed him. But in a technical sense,  
7           yes, but it was a most uncharacteristic gesture. I have no explanation for it.  
8           I did it at the time and as far as Trevor and I, it's long gone.

9 Q.97 Wasn't it also a piece -- didn't it also represent, I suggest to you, I regret  
10          having to say this to you, didn't it represent and didn't your actions at that  
11          meeting of the Council represent an enormous piece of duplicity and mendacity  
12          on your part?

13 A.   I don't follow that.

14 Q.98 You will recall that Judge Mahon raised this matter with you yesterday and  
15          that's a matter entirely for Judge Mahon, I want to put it to you on another  
16          basis, which is this: You have the unfortunate Councillor Sargent clutched  
17          around the back. That's being kind. There are those who suggest you greeted  
18          him warmly by the throat. You had him clutched around the back and you were  
19          trying to extract something from him with which he didn't wish to part?

20 A.   That's correct.

21 Q.99 Isn't that correct?

22 A.   As far as I remember, yeah.

23 Q.100 We don't have to rely on your memory because there is an accurate report of  
24          what happened from people who were in the chamber. Isn't it the case that at  
25          that time while the unfortunate Councillor Sargent produced a cheque and asks  
26          questions about it, you yourself had received thousands of pounds from  
27          developers?

28 A.   At that time, yes.

29 Q.101 Absolutely, yes. If you had so disclosed in the heat of this melee you  
30          wouldn't have got out with a stitch of clothing on your back such was the

1 anxiety, according to yourself, who you got money from?

2 A. That's if I got cheques, any money I got.

3 Q.102Are you seriously suggesting, Senator, that it was sort of the old routine  
4 amongst yourself and your colleagues that you sit around, have an old chin wag  
5 and say, "do you know I got five grand from Joe today"?, Jesus I got two from  
6 Mick, and what did you get, did he send you anything?"

7 A. Yes, that often happened. That often happens as a matter of fact.

8 Q.103I thought you had no time to do anything at election time except you running up  
9 the road and your wife running up the other side of the road?

10 A. Coming up to election you might discuss something like -- like in the 1999  
11 election I remember we had a discussion about who we would write to. I can't  
12 remember much about it, I know we did that. We discussed it after the fact, I  
13 suppose.

14 Q.104Can I suggest to you, Senator, that the real reason that you lost control of  
15 yourself on this occasion was because what Councillor Sargent was addressing  
16 touched upon the issue of corruption in the planning process and it infuriated  
17 you?

18 A. It didn't infuriate me at all.

19 Q.105Why did you grab the unfortunate fellow around the back if it didn't infuriate  
20 you, and try to take something from him which he didn't want taken from him?

21 A. I'll try and explain it to you. It wasn't what he got it was the fact that he  
22 wouldn't show us who it was from, that's all.

23 Q.106Are you reducing public life, Senator, to the concept "you show me yours I'll  
24 show you mine"

25 A. Now --

26 Q.107Are you?

27 A. Not at all.

28 Q.108With respect that's what it sounds like?

29 A. I don't think it does.

30 Q.109We are also talking about a situation in which it was deemed necessary as a

1 result of your conduct and that of others, but led by you, you were the head of  
2 the band, it was deemed necessary for Mr. Sargent to be removed for his own  
3 safety and security?

4 A. No. You see the other people started shouting at him and I remember going up  
5 behind him and trying to grab the cheque to see who it was from. This fellow  
6 sent him that, that's all.

7 Q.110 Are you saying in fact you were motivated, are we now to believe that your  
8 launching yourself on the unfortunate Mr. Sargent was with a view to grabbing  
9 the cheque so you could calm the troops by telling them who the cheque was  
10 from?

11 A. No. Maybe just to show it, say who it was from, because he wouldn't say it,  
12 that's all, it had nothing to do with the rest of the troops.

13 Q.111 Isn't the reality of the situation Senator, and we will pass from it because it  
14 is perfectly clear you not going to alter your view --

15 A. Why would I alter the view if I believe it?

16 Q.112 Isn't the reality of this situation that there is no legitimate explanation for  
17 what you did on 19th February 1993 in the council chamber?

18 A. Just impulse I had, a gesture, that was a stupid thing to do, and was never  
19 done before and hasn't been done since, that's all.

20

21 JUDGE MAHON: Mr. Allen, just before you leave that point. It puzzles me,  
22 why did you want to see who the cheque was from, if you had got the cheque and  
23 it was from Monarch Properties, for example?

24 A. Yes. We could then -- all the councillors would then know that Monarch  
25 Properties had something going through on that day, would be sending it to  
26 Sargent to try and persuade him. He presented the cheque as if this was  
27 something from some company or whatever trying to influence him, you see. So  
28 if the cheque was from Monarch and there was a Monarch thing going through we'd  
29 probably say "there you are, this is what they are trying to do". He wouldn't  
30 show it. It's like me saying "I have a piece of evidence here, I know it's

1 true but I won't show it to the Tribunal". That's the sort of thing that  
2 happened.

3

4 JUDGE MAHON: Were you motivated in your outburst on the day, were you  
5 motivated because you felt, and the other councillors felt a sense of insult,  
6 that it was being suggested that a developer or developers were sending money  
7 to councillors? Was that the motivation behind your --

8 A. That's -- there's two bits to this. That wasn't my particular motivation. I  
9 know a lot of councillors were upset about it. I know that afterwards the  
10 Monarch representative, I think, visited Mr. Sargent along with that solicitor  
11 Noel Smith to make sure there was no connection with Monarch. I didn't find  
12 this out until afterwards. My sole motivation at the time was who the cheque  
13 was from. It was "Smart Alecy" thing to do. I went up behind and tried to  
14 grab it.

15

16 JUDGE MAHON: I accept that it was an outburst that it wouldn't be your  
17 normal reaction.

18 A. I hope not, no.

19

20 JUDGE MAHON: What we are keen to know is whether it was motivated and  
21 whether the anger of you and the other councillors was motivated because  
22 Mr. Sargent was suggesting that a developer or developers were paying money to  
23 councillors?

24 A. I would have to say to you, Your Honour, that the anger would be a bit hyped up  
25 you know, false. Somebody produced a cheque, how dare you, are you  
26 suggesting -- I think one in fact, of the councillors sued one of the  
27 newspapers.

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29 JUDGE MAHON: Was the purpose of the outburst --

30 A. My outburst, no?

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JUDGE MAHON: Was the purpose of the anger and outburst; was the purpose to indicate a degree of insult or upset by the councillors that it was being suggested by one of you that developers were paying money?

A. I think that was the motivation of people shouting all right. My pure motivation was just to grab the cheque and had I got it in one go, I'd maybe say "this is from so and so" and if I hadn't, you saw what happened.

JUDGE MAHON: Would you have disclosed at that time even privately to your colleagues who were angered by Mr. Sargent's suggestion, would have you disclosed to them even privately that you had got thousand of pounds?

A. After election oh yeah, I probably would yeah. I dont know if I --

JUDGE MAHON: You wouldn't see any contradiction between what happened on that day and the fact that you were privately getting money from developers?

A. But sure, no. Because everybody there was getting money from developers for elections. I mean it's possible to read more into this than actually happened.

JUDGE MAHON: All right.

A. It's, you know. I'm sure you see cases before you every day at certain courts were people do things and possibly regret it afterwards. That's all that was in it.

CHAIRMAN: Senator --

A. Yes Chairman?

CHAIRMAN: Why do you think developers were giving councillors money

A. I believe, as I think I said yesterday, I believe Chairman that they hoped to influence you. That's my firm belief. They did it then, they did it before, they do it now.

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CHAIRMAN: Does it follow from that that if you thought they did influence they would repeat the process?

A. I didn't get the last part of your question?

CHAIRMAN: I beg your pardon. Does it follow that if they felt they had influenced you that they would repeat the process on other occasions and on other transactions?

A. No, Chairman. They would repeat it any way. You see we are dealing with people here who generally have millions and millions of pounds and stand to make millions and millions of pounds, and they throw away money like confetti and they buy meals. It doesn't matter to them. I believe that they try to create a goodwill factor in you and they hope that you then, if there is something coming up, that they do it. I mean I can give you an example; for years I got -- until a few years ago I used to get a hamper from a certain company every year, a very good hamper and I never, to the best of my knowledge ever met the man who sent it to me, I have never spoken to him, I don't know what he looks like. I think in one or two later years he used to put a card, I don't believe I ever voted for him for anything. Maybe I did, I don't know. But the hamper was just one example of the way they work. I used to give -- when I got these hampers I used to give them away, mostly to poor families.

CHAIRMAN: A hamper is one thing, 5,000 pounds is rather different.

A. I was only illustrating the approach. I believe the approach agrees with your own ideas.

CHAIRMAN: Did it ever occur to you to remonstrate, to say this is a most improper course of conduct to a public representative?

A. With regard to donations or hampers?

1 CHAIRMAN: With regard to donations.

2 A. No, because that is the way the political system is funded. I did say I would  
3 prefer it is funded another way. Even though today -- you saw in the paper  
4 today or the day before, all the donations of people, TDs, they have to  
5 collect it to run the show. It would be much better if there was somebody  
6 doing it. I can't make it up for you, I'm telling you the way I see it.

7

8 CHAIRMAN: Thank you. Sorry Mr. Allen, I interrupted you.

9 Q.113MR. ALLEN: Just to attempt to achieve closure on this particular matter; do I  
10 understand you to have said to Judge Mahon, Senator, that you believe that the  
11 motivation of the posse as opposed to yourself, was indignation?

12 A. Indignation.

13 Q.114Yeah. That it was being suggested by Sargent, and there is nothing to suggest  
14 that that was actually the case, that it was being suggested by Mr. Sargent  
15 that they were being paid?

16 A. Mr. Allen, there was an indignation but I'd say there was a slight degree of  
17 feigned indignation.

18 Q.115It would have to be feigned indignation if we are to accept your evidence  
19 because you told the Tribunal in response to a question, or a series of  
20 questions from me yesterday, that it was your belief that developers, not  
21 developers, but the councillors took money on a regular, monies on a regular  
22 basis?

23 A. At election time, yeah. Or other times.

24 Q.116You didn't restrict it to election times?

25 A. Well --

26 Q.117-- from people who wanted them to do things, and you also went on to say that  
27 you didn't believe in many instances that they then proceeded to do what was  
28 required of them, isn't that the case?

29 A. I don't think they ever did.

30 Q.118I see.

1 A. The indignation, I'm sure many people in there, there was genuine indignation.  
2 But it's like when something arises at council meetings, the person opposite  
3 hypes it up a bit. It's good publicity. That's the way we carry --

4 Q.119 You told us now it was feigned indignation, so what you are saying is some form  
5 of comedy was played out by a number of councillors pretending to be indignant  
6 at something Mr. Sargent had said to them. Isn't that the effect of what you  
7 just now said?

8 A. I can't speak for the other councillors. I'm sure if you got Betty Coffey in  
9 here she might say "I was thoroughly indignant" and believe it and say it.

10 Q.120 Moving on if we may, may I ask you this, you indicated that it was your habit  
11 to discuss the donations which you received with other councillors?

12 A. Yeah, probably after election time we'd all discuss that.

13 Q.121 In the first instance you said you would discuss it and then you said you would  
14 discuss it after elections when I suggested to you that you had already told us  
15 that you had no time for anything during election?

16 A. In answer to your question; we have no hesitation in discussing with one  
17 another what we would receive.

18 Q.122 Would you tell the Tribunal please with what councillors you discussed your  
19 donations?

20 A. At that time?

21 Q.123 I'm entirely in the hands of the Tribunal as to how this is done, and the names  
22 can be written?

23 A. At that time, is it?

24 Q.124 At that or any time.

25 A. Well, recent times --

26 Q.125 Let's do recent times?

27 A. We take Dun Laoghaire/Rathdown. Probably all the Fianna Fail group and some of  
28 the Fine Gael group. It's nothing that we hide. I wouldn't pretend I got a  
29 thousand pounds from Mr. Allen and not tell anybody. I'd say "Colm gave me a  
30 thousand, what did you get."

1 Q.126He didn't, as you know.

2 A. Maybe I shouldn't give your name. I know Mr. Hanratty gave a thousand pounds  
3 to a councillor. Perfectly legitimate. Barristers give money to politicians  
4 all the time, there's nothing wrong with it. This is the way the system  
5 operates. There is no secret.

6 Q.127That is not the answer to the question I asked you. Remind me of the names  
7 that you told me you discussed?

8 A. I'm sure I have discussed donations I have received, maybe not all donations,  
9 but all -- I could name the Fianna Fail councillors for you out in Dun  
10 Laoghaire and I'm sure any of them, if you brought them in here and say "did  
11 you ever discuss donations" would say "yes."

12

13 MR. GALLAGHER: In order to correct something that I think has been stated  
14 and is incorrect, and I apologise for interrupting Mr. Allen. Senator Lydon  
15 has mentioned the name of a colleague of mine, who was formerly a member of the  
16 legal team of this Tribunal. He said that colleague had paid a thousand pounds  
17 to a candidate, that it was perfectly legitimate because barristers give money  
18 to politicians all the time. That is not a true account of what happened.  
19 What happened was that Mrs. Hanratty, Mrs. Eileen Hanratty, gave a donation to  
20 her sister in law.

21 A. To a sister in law.

22

23 MR. GALLAGHER: Yes.

24 A. Yes.

25

26 MR. GALLAGHER: That's not what you said.

27 A. What did I say?

28

29 MR. GALLAGHER: You suggested that Mr. Hanratty gave a donation without  
30 attribution or without identifying the individual to whom the money was given.

1 That was given legitimately.

2 A. Absolutely.

3

4 MR. GALLAGHER: I wanted to make it clear.

5 A. I'm happy to clarify that.

6

7 MR. GALLAGHER: Lest any other implication --

8 A. There is no implication at all. All I'm illustrating is that it is a perfectly  
9 legitimate thing to do.

10

11 MR. GALLAGHER: Lest my implication is drawn; I want to be clear that this  
12 was legitimate donation from Mrs. Hanratty to her sister in law, who is --

13 A. There is nothing wrong about that.

14 Q.128Lest any other implication would be drawn from it.

15 A. I didn't mean anything else. It happens all the time. It is legitimate and  
16 usual.

17 Q.129MR. ALLEN: Could I just suggest this to you, Senator, and I don't want to  
18 spend any great deal more time on it, I certainly understood from the tenure of  
19 your evidence over the last few days, and it is certainly my understanding of  
20 the peculiar nature of the attitude of Irish people towards political  
21 donations. It being that people don't normally like other people to know what  
22 donation, if any, they give; isn't that correct?

23 A. I don't think that's correct at all.

24 Q.130I suggest to you that it is. And that the dogs in the street know it. I  
25 suggest to you that one of the reasons why most donations are under a certain  
26 limit is so that they don't have to be disclosed under the current legislation?

27 A. You are talking about the people who give donations.

28 Q.131Yes?

29 A. Yes, that's right. I'd say a lot of people who give donations nowadays don't  
30 like to have them disclosed at all. I was responding to a question about

1 politicians.

2 Q.132Are you seriously suggesting that people give political donations in the belief  
3 that you and people like you, people from the -- fellow councillors etc, go  
4 around exchanging notes as to who gave what?

5 A. We don't exchange notes. But you asked me --

6 Q.133But you just said to the Tribunal that you talk about it?

7 A. We would discuss it certainly, if somebody asked me I would tell them. We  
8 don't keep it a secret in order, and I --

9 Q.134I see. Senator, I'd like you to turn your attention please to the Fianna Fail  
10 report -- the Fianna Fail investigation following upon the disclosures made by  
11 Mr. Dunlop before this Tribunal, and to your involvement in that investigation.  
12 We know that the purposes of the investigation as set out at Clause 201 were to  
13 establish whether Fianna Fail councillors were in receipt of donation from  
14 Frank Dunlop and/or other developers. Do you have this document in front of  
15 you because it seems to me at the very least you should have for your own  
16 protection, if anything else.

17 A. Yeah.

18 Q.135It's on the screen now I take it?

19 A. Yes, I see that.

20 Q.136Do you see that "Whether Fianna Fail councillors were in receipt of donations  
21 from Frank Dunlop and/or other developers."

22 A. Yes I see it, yes.

23 Q.137Good. "Whether Fianna Fail councillors who were in receipt of such donations  
24 were thereby influenced by their voting and whether Fianna Fail councillors had  
25 any information about corrupt activities in relation to planning matters." Do  
26 you see that?

27 A. I do, yes.

28 Q.138I want to spend a little bit of time, as little as possible I hasten to add, on  
29 the first purpose of this investigation. Which was "Whether Fianna Fail  
30 councillors were in receipt of donations from Frank Dunlop and/or developers."

1 Do you follow that?

2 A. Yes.

3 Q.139Do you accept that in ordinary English that makes a distinction between Frank  
4 Dunlop on the one hand and third parties, developers, for want of a better  
5 description, on the other?

6 A. Yes.

7 Q.140It is your evidence, as I understand it, to this Tribunal that you co-operated  
8 wholeheartedly and fully with the Tribunal?

9 A. I did.

10 Q.141Is that correct?

11 A. I did.

12 Q.142We have, it would appear, the evidence of the extent of that cooperation  
13 contained in a document entitled, to which I have already made reference this  
14 morning, a document entitled "Minutes for Councillor Don Lydon, Monday 8th May  
15 2000 at 2.00 p.m." Could that be put on the screen if the Senator has left his  
16 copy of this particular document at home?

17 A. I never got a copy of it. My solicitor probably has one.

18 Q.143It is page 4676. Tribunal reference Carrick 1. Do you have that?

19 A. I don't, but --

20 Q.144If your legal team has it perhaps they would give it to you.

21

22 JUDGE MAHON: He has it now.

23 A. It's on now.

24 Q.145MR. ALLEN: Now, this is a memorandum prepared by the members of the committee  
25 who were the current Ceann Comhairle, the former Minister for Foreign Affairs  
26 Michael Andrews, Dick Roche TD, now a member of the government, and Martin  
27 Macken, then Secretary of the party. Isn't that correct?

28 A. Yes.

29 Q.146They prepared or somebody on their behalf prepared with their approval the  
30 minutes of a meeting which took place between you and themselves on Monday 8th

1 May 2000 and it reads as follows:

2 "Don Lydon stated that he received either 420 or 430 from Frank Dunlop at the  
3 last local elections. After Frank Dunlop had received a fundraising  
4 letter/circular from Don Lydon. He recalls that in 1991/1992 he had received a  
5 cheque for 1,000 pounds to the best of his recollection from Frank Dunlop, this  
6 was unsolicited.

7

8 Frank Dunlop had informed Don Lydon that he had received this cheque. Don said  
9 he was elected in '85 and subsequent in '91 and '99. He said he was not  
10 present for the Quarryvale vote but would have voted for it if he was there.  
11 He recalls that --" I'm moving down "He recalls that Ray Burke" this is the  
12 last sentence.

13 A. I see it.

14 Q.147"He recalls that Ray Burke was a good chairman and put an ordered structure on  
15 the situation." Do you see that there.

16 A. Yes.

17 Q.148In fact the words that you used in your evidence, if I recall it correctly in  
18 response to Mr. Gallagher, you told the Tribunal that Mr. Ray Burke was a  
19 brilliant chairman?

20 A. He was one of the best chairmen I ever seen direct a meeting.

21 Q.149Can I say to you and I would ask you to reflect before you answer this question  
22 that Mr. Burke had a very particular style of operation?

23 A. He surely had.

24 Q.150Yes. A highly individualised style of operation?

25 A. Yes.

26 Q.151And that things ran like clockwork when he was chairman?

27 A. That's correct. They did.

28 Q.152That everyone knew exactly where they stood. I'm talking about the members of  
29 the Fianna Fail party on the Council?

30 A. He was very efficient, yeah. Very efficient man.

1 Q.153Isn't it the case that you would meet with the then chairman and you would have  
2 your lists of the motions which were coming up etc, do you recall that?

3 A. In Conway's, yes.

4 Q.154Yes. Isn't it the case that Chairman Burke would indicate to you and your  
5 fellow colleagues which motions he would be voting for and which motions he  
6 would not be voting for?

7 A. I don't know that he did that now.

8 Q.155May I suggest to you that he would start at the beginning and say, we are  
9 voting for that. Next, we are voting for that. Next, we are not voting for  
10 that F-ing blue church?

11 A. I don't know if he did that to be honest.

12 Q.156You don't know. Are you saying therefore that it is possible that he did and  
13 that this is how business was conducted?

14 A. At our group meetings.

15 Q.157Yes. Under his brilliant chairmanship?

16 A. I was talking about his chairmanship of the County Council.

17 Q.158You think he was bog standard leader of the Fianna Fail group; is that it?

18 A. Which?

19 Q.159The leader of the Fianna Fail group, his influence at this time I suggest to  
20 you extended way beyond leadership of the Council. He told you what to do at  
21 the meetings in Conway's. You effectively agreed it a minute ago, unless you  
22 want to withdraw from that now?

23 A. I agreed that he told us what to do.

24 Q.160Yeah?

25 A. I don't think he told us what to do. My recollection of those meetings, you  
26 see, I wasn't always in time for them. In fact I was never in time for them.

27 Q.161Actually what you did say, Senator, that you were rarely if ever at them?

28 A. That's right. Because I couldn't get there in time for them. I'd get there  
29 for the tail end probably. He wasn't a man that would put up with any nonsense  
30 or he wouldn't balk any challenge much. He was a tough guy, yeah.

1 Q.162He would have made Saddam Hussein look like Mother Theresa, wouldn't he?

2 A. God he would, he would, yes.

3 Q.163You agree with me?

4 A. Yes.

5 Q.164That is now on the record?

6 A. You can put it on the record certainly, I would say it to his face. In the  
7 chair, people who were talking rubbish he would cut them off, he was a great  
8 chairman.

9 Q.165I suggest what you mean is that if people were talking what Chairman Burke  
10 regarded as rubbish, he would cut them off?

11 A. He was Chairman, naturally.

12 Q.166Moving on from that and going back to the document. Could I refer you to the  
13 final paragraph of the document?

14 A. Yes.

15 Q.167"He said he received 500 or 1,000 pounds from Monarch and that this was the  
16 maximum that he would have received at election time." Do you see that  
17 sentence?

18 A. Yes, I do.

19 Q.168I haven't even asked you a question please don't get yourself into trouble. I  
20 have to suggest to you, Senator Lydon, and I regret having to suggest to you  
21 that that was inaccurate, putting it at it's kindest, and known by you to be  
22 inaccurate when you gave that information to the Tribunal?

23 A. Did you say knowingly inaccurate?

24 Q.169Yes?

25 A. No.

26 Q.170You had at that time, at the time the investigation was carried out, received  
27 to our knowledge two notations of 5,000 pounds each?

28 A. Yes.

29 Q.171I accept one of them was not from a developer, one of them was unquestionably  
30 from a developer, isn't that the case?

1 A. I'm not sure he was a developer, but his land was developed, yes. I don't  
2 think he is in the business of developing.

3 Q.172I want to nail that particular version of events which you give in relation to  
4 that and your attempts to wriggle out of what is an absolutely clear situation.  
5 You on your version of events walk into a pub, the Goat, nothing wrong with  
6 that, it's a good pub, a fellow you know is there, and he says "I must give you  
7 a few bob for the election", it was at election time. This is your version of  
8 events. He gives you 5,000. According to yourself because you don't remember  
9 things like this, that would have been at biggest donation you had at that  
10 stage received. An employee of his, an employee of his, his farm manager you  
11 described them as yesterday?

12 A. I think --

13 Q.173Subsequently was delegated by him to approach you to support a rezoning of his  
14 lands which you did and which was successful; isn't that correct?

15 A. The only bit that mightn't -- I think it was probably before that maybe. I'm  
16 not -- you know. I think it was before it.

17 Q.174Are you familiar with the sort of cause and effect syndrome?

18 A. Yes.

19 Q.175I have to suggest to you, you see, that there was a direct linkage between the  
20 payment and --

21 A. Donation.

22 Q.176-- and the subsequent act?

23 A. There wasn't, you see.

24 Q.177There wasn't, that's your evidence?

25 A. No, there wasn't really.

26 Q.178It would be entirely unreasonable for the Members of the Tribunal in the  
27 following circumstances where on 8th May 2000 you told the Fianna Fail party,  
28 your own party, that 500 or a 1,000 pounds would have been the maximum that had  
29 you ever received at election time. That at the time that you told your own  
30 party colleagues that you had received a sum of 5,000 pounds from a gentleman

1 who had lands which he wanted rezoned, the rezoning of which you proposed. So,  
2 it would be paranoid on the part of the Tribunal, paranoia on the part of the  
3 Tribunal, would it be, do you say, to infer that there might be any connection  
4 between the chance meeting in the Goat in for a quick meal, I presume, it  
5 wouldn't qualify as dinner, and the subsequent rezoning of the land; in  
6 circumstances where you concealed that the donation from your own party?

7 A. There are a few things there. Firstly, the sentence there "the largest he  
8 received at election time" I explained to Mr. Gallagher that that referred to  
9 Monarch. It mightn't have been written in it, but that's what it meant. The  
10 second thing is that I didn't conceal anything from these guys. Firstly, they  
11 only asked me, and I have checked this out, they have only asked me about three  
12 things. You can see on another part of that report you showed me earlier on  
13 the beginning of it, that they were to check out Citywest, Quarryvale and  
14 something else I can't remember. That's what they did. They didn't go about a  
15 wide ranging trawl about everything you got. I never thought about them. Nor  
16 did other people as it transpired, subsequently. But they did ask me about  
17 specific things, and to the best of my knowledge I answered them truthfully.

18 Q.179 Can I refer you, Senator, to the introduction to the report and the first  
19 paragraph of that introduction, because I want to put the report in context and  
20 the seriousness of the report in context. This is page number 4679. Senator  
21 just bear with me. "There are few if any occupations in which the public  
22 require a higher standard of conduct and ethical behaviour than that of  
23 politics. Fianna Fail utterly repudiates any betrayal of public trust and  
24 affirms that there is no room in Fianna Fail for anyone who betrays that trust.  
25 Unfortunately there is currently a significant loss of confidence by the Irish  
26 people in the political process and this now needs to be addressed by all  
27 political parties in the state. As the largest party in the State it is  
28 particularly incumbent on Fianna Fail to be to the forefront in restoring and  
29 underpinning public confidence in politics and public life."

30 A. Sure isn't that why we set up the Tribunal?

1 Q.180Correct. Those were very compelling reasons for the setting up of the Inquiry;  
2 Isn't that correct, the internal Fianna Fail inquiry?

3 A. Yes.

4 Q.181It behoved you and anybody else who was called before that Tribunal to answer  
5 both honestly and fully, and it may be that we will have to make a distinction,  
6 between acts of commission and acts of omission so far as the truth is  
7 concerned, do you follow that?

8 A. I do, indeed.

9 Q.182Can I suggest to you that it is inconceivable that any member of that committee  
10 who heard from you that you received 500 or a thousand from Monarch and that  
11 this was the maximum that you would have received at election time, thought  
12 anything other than that you were telling them that that was the maximum amount  
13 that you would receive by way of contribution from anyone, not just Monarch?

14 A. No.

15 Q.183Can I refer you back to the fact that it was "and other developers"?

16 A. If you go back to that document where it says and/or other developers for a  
17 moment; I can refer you down the page a bit, and you'd see what is really  
18 happening. Would you do that for me?

19 Q.184Certainly. If this is an answer to something?

20 A. I think it is.

21 Q.185Answer away?

22 A. I want to show you something.

23 Q.186I don't want to be shown anything. I want an answer?

24 A. I can't give you an answer until I show you something.

25 Q.187Show it to me?

26 A. I'm waiting for it to come up.

27 Q.188Beam me up Scotty.

28

29 CHAIRMAN: It will be three or four headings, four basic units of inquiry I  
30 think. Is that correct?

1 A. It's the initial.

2

3 CHAIRMAN: The four subparagraphs?

4 A. That's right.

5

6 JUDGE FAHERTY: 4676.

7

8 MR. O TUATHAIL: 4671.

9

10 MR. ALLEN: I have that.

11

12 CHAIRMAN: It's on screen there.

13 A. If you look at 2.02.

14

15 CHAIRMAN: 201?

16 A. No 202. Regarding Quarryvale, Cherrywood, Citywest, those were the ones that  
17 were important to them. For example somewhere in this answer I made to them  
18 they said "did you have anything to do with Quarryvale" I said I don't think I  
19 voted for it, but if I was there I would. I subsequently discovered again that  
20 there was two votes on Quarryvale and the first one was I there and the second  
21 one I wasn't and I voted. I didn't know that at the time. They didn't ask any  
22 other questions and it didn't occur to me. I checked that out with other  
23 people that were there.

24 Q.189Who have you checked it out with?

25 A. I checked it out with Betty Coffey.

26 Q.190Who else?

27 A. Michael Ahern.

28 Q.191Who was a member of the committee?

29 A. Yeah.

30 Q.192When did you do that?

1 A. Recently. I rang him up and said "what were you doing at that committee" he  
2 said "no we only asked two or three things and it wasn't a general trawl". It  
3 really wasn't.

4 Q.193But it is represented in that case --

5 A. Pardon?

6 Q.194MR. ALLEN: It is clearly represented and was held out to the public as an  
7 extensive and thorough investigation by the Fianna Fail party?

8 A. The things that were contentious were the ones linked to Mr. Dunlop; namely,  
9 Citywest, Quarryvale and Paisley Park. They asked me about Paisley Park.

10 Q.195Can I refer you to 203 and read it to you, it's on the same page.

11 A. Yeah.

12 Q.196"The committee does not have any legal authority, but it does have the  
13 necessary political authority to expect and demand on behalf of the Fianna Fail  
14 organisation that Fianna Fail representatives respect the responsibilities of  
15 public service at all times and ensure that the public trust is never betrayed.  
16 This responsibility includes an obligation on Fianna Fail representatives to  
17 cooperate with and assist in good faith"?

18 A. Exactly.

19 Q.197-- "any inquiry carried out by Fianna Fail. This cooperation and assistance is  
20 essential to Fianna Fail discharging an investigative role for the purposes of  
21 ensuring conformity with proper political standards."

22

23 I simply want to ask you this question: Is it your evidence to the Tribunal,  
24 and is it what you asked the Chairman and his colleagues to accept that you  
25 cooperated, as is reflected in the minutes of your meeting of the 8th May 2000;  
26 that you co-operated with this inquiry in good faith, and for the avoidance of  
27 doubt when I say "this inquiry" I'm referring to the Fianna Fail inquiry?

28 A. I know the one.

29 Q.198Are you asking the Tribunal to accept that is what you did?

30 A. That's exactly what I did.

1 Q.199I have no desire to be offensive to anybody in this room. I have to suggest to  
2 you that far from cooperating with them, far from approaching them and dealing  
3 with them in good faith you dealt with them mala fides and you concealed from  
4 them sums of money which you had received, which you could not have forgotten?

5 A. That's not true at all. You must remember the time lag of this time for a  
6 start, and secondly the fact -- I mean one of those 5,000's for example I told  
7 the Tribunal, I must repeat it, that I didn't know what it was. I couldn't  
8 remember what it was. And the bank actually wrote to me and told me that the  
9 microfiche was burned for that day and I couldn't get it. It was only in  
10 recent times that I found it and it then came back to me. This is not a yarn,  
11 this is the truth. When I went into that Fianna Fail inquiry any question they  
12 asked me I answered honestly, from the bottom of my heart. I have no reason to  
13 conceal. I mean had they gone through my bank records they might have seen  
14 lodgments of these things and said "what's that?" It's not a secret.

15 Q.200I don't want to dwell on this too long, Senator, and I can assure the Chairman  
16 that I won't, but could I suggest to you that it was clear from the evidence  
17 that you gave in response to certain questions from Mr. Gallagher yesterday  
18 that you described yourself as a bit of a wheeler dealer, and I don't use that  
19 term of art in any offensive way, you liked to wheel and deal. You spoke about  
20 cash and having cash with you and you'd always get a better deal for cash, etc?

21 A. I always get a better deal for cash, yes.

22 Q.201You are a person who fairly -- sorry Chairman?

23

24 CHAIRMAN: Before we go any further, did you receive and read the Fianna  
25 Fail, the document before that -- the Terms of Reference, can I have it on the  
26 screen please? The actual Terms of Reference?

27 A. I can't honestly say whether I received it or not.

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29 CHAIRMAN: What?

30 A. I can't say I did or not. I think we went in and answered questions.

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CHAIRMAN: Fianna Fail decides to carry out an investigation and you say, as a member of Fianna Fail, that you were not circulated with the Terms of Reference and that you did not read or enquire into what they were?

A. I can't remember if it was circulated or not. I really don't know. If I got them I probably would have read them.

CHAIRMAN: This is only two years ago.

A. Yeah.

CHAIRMAN: And - -

A. If I got them I would have read them and gone in and answered the questions honestly.

CHAIRMAN: Would you look at the screen please? The committee interviewed Fianna Fail members of Dublin County Council who were members of the Council during the period from 1985 to the local election in 1999. In order to inquire under its Term of Reference, they then defined what "donation" is; whether Fianna Fail councillors were in receipt of donations from (a) Frank Dunlop and (b) other developers.

A. Yes.

CHAIRMAN: When you are apprised of that, and I have very little doubt that any inquiry would apprise you of that principle of the inquiry, it was a matter of duty to you to disclose anything you knew about -- in relation to yourself now, I'm not talking about anybody else.

A. I agree.

CHAIRMAN: Any donation you received from developers.

A. That's correct.

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CHAIRMAN: One of those donations was the -- sorry was the 5,000 pounds which you received from a man who was involved in having lands developed.

A. Yes.

CHAIRMAN: Why did you not disclose that payment to that inquiry?

A. Because I never thought of it.

CHAIRMAN: But there was the Terms of Reference, surely as a man of conscience it was implicit that you should tell your governing body, if I use that phrase --

A. Yes.

CHAIRMAN: -- precisely what happened to you in the past. That was the purpose of the inquiry.

A. If I may answer that.

CHAIRMAN: Rather not what happened to you, what you did in the past; receive a sum a money from a person who was a developer. That's all I want to know.

A. Well, there were many other donations as well that I didn't even think about at the time. Some people had spotless records and they handed them in and they received most of the same donations as I did. They had their records there and they said "this is it." About two people I think had those records. Other people hadn't an idea what they got and it was subsequently discovered. I was in the same boat. When you sit here in the room with legal documents it appears black and white. It's not like that at all. I went --

CHAIRMAN: Is this Tribunal to understand that sums of 4,000 or 5,000 pounds dropped into your lap and you forgot about it?

A. Yes.

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CHAIRMAN: Okay.

A. That's the truth.

CHAIRMAN: I think we will take a break.

A. I didn't think of any of the 5,000's, I got two of them.

CHAIRMAN: The break will be a short break.

MR. ALLEN: Did you indicate the ten minutes?

CHAIRMAN: Ten minutes.

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

AND RESUMED AGAIN AS FOLLOWS:

MR. ALLEN: May I proceed Chairman?

CHAIRMAN: Yes.

Q.202MR. ALLEN: Senator, one final point on the Fianna Fail report, if I may, I want to draw your attention and that of the Tribunal to an answer which you gave to Mr. Gallagher at the beginning of his examination of yesterday morning. It appears at the bottom of -- it is question 5 of yesterday, and it's your answer to question five which appears at the top, which concludes at the top of page two, that would be the pagination, Sir, of the Tribunal's transcript?

A. Yes, I have it.

Q.203Do you see where at question five Mr. Gallagher asks you "Why did you not tell the Inquiry about the 5,000 pounds you had received from a developer in the Goat Grill?"

A. Yes.

1 Q.204To which you replied "To be quite honest with you they never asked any  
2 questions about these things at all. I checked with a colleague of mine last  
3 night. She has the same opinion. They only asked us about one, two, or three  
4 things. That's about what happened. They asked us about Paisley Park,  
5 Cherrywood and the other place, Quarryvale. I told them what I knew and that's  
6 it."

7 If you go over then to page two you will find, I presume the words, they should  
8 appear, I take it we would agree on that "They asked me if I got money from  
9 Frank Dunlop or Monarch and I said I did." Do you see that?

10 A. Yes.

11 Q.205Is it your evidence that the members of this committee ignored, in their  
12 dealings with you, their own Terms of Reference?

13 A. That's a very interesting question.

14 Q.206Well I'd like an answer?

15 A. I'd think they probably may have. I think they saw it as examining the  
16 allegations relating to Frank Dunlop mainly. They didn't do a complete trawl  
17 of every donation you got, or what you voted for or anything else, they dealt  
18 with specific issues with everybody, not just with me.

19 Q.207That's a serious allegation to make?

20 A. I'm not making an allegation about them.

21 Q.208You are expressing an opinion?

22 A. That's different.

23 Q.209Is it your opinion then, I put the question in that way, that this group of  
24 four distinguished individuals ignored their own Terms of Reference, the Terms  
25 of Reference which had been set for them?

26 A. Well, I don't know whether -- you see, it's a bit like this Tribunal here. One  
27 of the prominent members of that Tribunal was -- I think he is a Senior  
28 Counsel, David Andrews, fairly reputable Counsel --

29 Q.210Utterly. For the avoidance of doubt I am not suggesting that -- Each and every  
30 member of this committee was, and is, an individual of the highest probity?

1 A. I'd say they did exactly what you are doing here. They didn't examine the  
2 whole gamut of things. They focused in on what was the main focus at the time.  
3 If that wasn't entirely in keeping with the preamble or whatever you call it,  
4 then so be it.

5 Q.211 There is one thing I want to ask you about there, one final matter, because I  
6 can see that we are travelling speedily up a cul-de-sac, go back to page one  
7 and the beginning of your answer to Mr. Gallagher. Now, remember  
8 Mr. Gallagher's question was "Why did you not tell the inquiry about the 5,000  
9 pounds you had received from a developer in the Goat Grill? To be quite honest  
10 they never asked me any questions about these things at all."  
11 So on its face it would -- please. On its face it would appear that what you  
12 were saying there is that the only reason you didn't tell them about the 5,000  
13 pounds is because they didn't ask you. My understanding is that you had sworn  
14 that you hadn't remembered it at that stage?

15 A. There are two reasons. They never asked me and I never thought of it.

16 Q.212 That's not what you say?

17 A. It is.

18 Q.213 It isn't what you say?

19 A. Quite honestly they never asked any questions about that thing at all.

20 Q.214 Read to the Tribunal where you told them yesterday on oath "I never remembered  
21 it" you were very particular in what you said. "They never asked any questions  
22 about these things at all?"

23 A. That's correct.

24 Q.215 You didn't say yesterday when had you the opportunity to say and one would have  
25 expected you to say "and anyway if they had asked me I wouldn't have remembered  
26 because after all 5,000, what's 5,000? I only remember things to me that were  
27 important"?

28 A. Sure aren't I telling you I didn't remember it until I got the things from the  
29 bank recently? It's only a recent thing that came up. These guys were asking  
30 me questions like you are asking me -- you have me here tomorrow and say "look

1 it, you didn't tell me about that" and I could say "you didn't ask me."

2 Q.216Let me promise you I won't have you here tomorrow.

3 A. I'm glad to hear that.

4 Q.217I thought you might be. Moving on Senator, you are aware of the -- one of the  
5 central issues of conflict between the evidence tendered by Mr. Dunlop and the  
6 evidence tendered in contradiction by you, is that he paid a sum of 3,000  
7 pounds in cash in return for your proposing the zoning of the Paisley Park  
8 lands; isn't that correct?

9 A. That's his evidence.

10 Q.218I want to ask you a number of questions in relation to that. Firstly, do you  
11 think that there is -- that's it normal practice and acceptable practice for an  
12 elected representative, and you as you were at the time, not just a member of  
13 the Council but also a member of Seanad Eireann, holding a portfolio if I'm  
14 correct, do you think it is appropriate that the individual whom -- and the  
15 manner in which you described Mr. Dunlop, Mr. Dunlop the lobbyist, should  
16 arrive with a typed resolution for signature willy nilly, by you, in relation  
17 to the rezoning of lands. Do you think that is appropriate conduct for a  
18 member of Seanad Eireann?

19 A. He didn't arrive willy nilly. It didn't happen like that.

20 Q.219I see. Let's withdraw willy and nilly?

21 A. Okay.

22 Q.220Let's take them out of the equation, so we are now in a willyless and nillyless  
23 state --

24 A. Before I signed the motion I went and looked at the land, it wasn't willy nilly  
25 or casual thing.

26 Q.221Your evidence in relation to the lands was that you have told us about your  
27 trip up and how you reckoned you had got the lie of the land, you weren't  
28 absolutely certain where they began and ended, you felt you had a good feel of  
29 where the lands were?

30 A. I had.

1 Q.222Would you answer the question I which asked you: Do you think it is  
2 appropriate for you, as a member of Seanad Eireann and as an elected  
3 representative to the County Council, to be signing resolutions handed to you  
4 by lobbyists which have the effect, which in this instance had the ultimate  
5 effect of rezoning I think it was 108 acres was it not, and achieving very  
6 considerable enrichment for unidentified individuals. Do you think that's  
7 appropriate?

8 A. I said before I have nothing, no trouble at all with people getting rich. It  
9 was entirely appropriate.

10 Q.223That of course is not the question I asked you?

11 A. It was part of your question.

12 Q.224Would you focus on answering the question which I asked you?

13 A. Is it appropriate to sign a motion.

14 Q.225Is it your evidence to this Tribunal and are you asking the Tribunal to accept  
15 that it is appropriate for a member of Seanad Eireann, a member of the County  
16 Council to be handed a piece of paper which has been prepared by a lobbyist  
17 with vested interests, and to sign it?

18 A. Sure, that's what we are there for.

19 Q.226You are there as a rubber stamp, are you?

20 A. We are there to propose motions for people. We are the only people who could  
21 do it. Frank couldn't do it.

22 Q.227Is that your answer?

23 A. Of course.

24 Q.228If that is your answer so be it.

25 A. Yes. I was quite happy at the time to propose that motion for him and as I  
26 said before, I'd do it again tomorrow because it's a very good proposal.

27 Q.229Now, could I ask you this, Senator Lydon: Why do you think that Mr. Dunlop  
28 selected you for the kosh, as it were, in saying that he gave you 3000 pounds,  
29 he could have said anything couldn't he?

30 A. I don't think I could assume it because I signed the motion.

1 Q.230Why did you choose the venue where he gave you the money, he could have said  
2 anywhere?

3 A. He -- I have no idea. It's a question you will have to address to him.

4 Q.231The question has been addressed to him -- the question has been addressed to  
5 him at great length, your own counsel asked him about it for some three days. I  
6 intend no criticism of my colleague Mr. O Tuathail, that was his job. He was  
7 questioned about it by Mr. Gallagher, that was Mr. Gallagher's job. His  
8 evidence is before this Tribunal. His evidence is that he gave you 3000 pounds  
9 in cash?

10 A. Yes.

11 Q.232His evidence further is that you looked for 5,000?

12 A. Yes, I read that, yeah.

13 Q.233We now know that 5,000 pounds wasn't exactly a foreign figure to you; isn't  
14 that right, because --

15 A. That's a nice way of putting it, yeah.

16 Q.234Well, it wasn't.

17 A. Yeah.

18 Q.235Because two lovely gentlemen had dropped five each in your direction, isn't  
19 that right?

20 A. Except that neither of them was requested.

21 Q.236Yes. Well, if you had allowed me to finish the question without any  
22 solicitation?

23 A. Correct.

24 Q.237I'm only concerned with one because there is no question for the first name,  
25 being a developer or having any conceivable interest in any -- conceivable  
26 improper interest in the matter. But it is beyond contradiction that the  
27 second individual had a very clear interest, which manifested itself very  
28 quickly. So you were no stranger to figures of 5,000; isn't that right?

29 A. I think those 5,000's were at the time of the Senate election, long after Mr.  
30 Dunlop alleged that I asked him for 5,000, maybe six months later or something.

1 So it would be wrong to say that I was no stranger to the figures.

2 Q.238 In relation to -- you have produced, well it was produced quite  
3 melodramatically, again I intend no criticism to Mr. O Tuathail, when he  
4 indicated that he had hundreds of corporate treasurers to say that certain  
5 matters couldn't have happened on a particular day. Let's talk for a minute  
6 about the famous europhobia by you to the Irish Association of Corporate  
7 Treasurers. I'd like to recall very briefly the evidence which you gave in  
8 response to questions from Mr. Gallagher in that regard.

9  
10 You said that you probably would have gone down to hear the then Minister for  
11 Finance, who is our current Taoiseach, Mr. Bertie Ahern; isn't that correct?

12 A. Yes.

13 Q.239 What I said was probably --

14 A. Mmm.

15 Q.240 You weren't due to speak till --

16 A. Just after 2 o'clock, five past two. Not very long after two.

17 Q.241 Your normal -- you indicated in your evidence that your normal contribution was  
18 in the order of 40 to 45 minutes; isn't that correct?

19 A. Usually.

20 Q.242 So the then Minister for Finance would have spoken for something of the order  
21 of five, ten minutes and you had nothing to do between then and lunchtime;  
22 isn't that correct? You say you attended the lunch?

23 A. That's right.

24 Q.243 You were speaking after lunch?

25 A. Yeah.

26 Q.244 And once you had spoken, you finished at 2.45 and there was a drinks reception  
27 at 5.30. Now, you were going to Donegal that evening; isn't that right?

28 A. Yes.

29 Q.245 Because I recall you saying that you didn't have too many drinks because you  
30 had a long drive ahead of you?

1 A. Something; maybe one, two maximum.

2 Q.246I'm just reminding you of the fact that this is what you said. You also told  
3 us about the fact that you might have spent some of the time sitting in the  
4 back of the hall doing the Irish Times crossword, do you remember that?

5 A. I do.

6 Q.247Also, insofar as my memory serves me, you gave an indication that you might  
7 have spent some time pressing the flesh, as it were?

8 A. Yes.

9 Q.248I think that was your expression?

10 A. There is another thing I would have done as well. Whenever I speak I try to  
11 get a quiet place sometime in the hotel where I just sit on my own and go  
12 through the whole speech beginning to end, try and rehearse what I'm going to  
13 say. It's impossible to do sometimes, but I do it.

14 Q.249Whose flesh were you pressing?

15 A. Any of the lads that were there.

16 Q.250Were you grabbing them by the hand?

17 A. Mr. Allen --

18

19 CHAIRMAN: Mr. Allen, please keep the conversation serious, questions on a  
20 serious basis.

21

22 Q.251MR. ALLEN: Forgive me Senator.

23 A. If you can't have a laugh, life isn't worth living.

24 Q.252You see I have to suggest to you, Senator, that your account, and I want to be  
25 as polite as possible about it, that your account of that particular day is  
26 utterly unreliable and that there is nothing that could have prevented you from  
27 going back at the times within the timeframe testified to by Mr. Dunlop, for  
28 the purposes of going back to your offices and being back in time for the  
29 drinks reception?

30 A. It would be hard going but it could have been done, yeah.

1 Q.253It wouldn't have been hard going?

2 A. It would. I don't know what time Seamus Healy said I was there till, I think  
3 he said twenty-five to four or twenty to four. Mr. Dunlop said he met me at  
4 half three, even if he hung around for half an hour -- it was Friday evening it  
5 was raining, blowy and all that sort of stuff. Then he said he met, I think,  
6 Mr. Hand about half four, it's possible I suppose but --

7 Q.254I'm suggesting --

8 A. I'm prepared to accept that it is possible but I'm not prepared to accept the  
9 fact that I did it.

10 Q.255But you don't, I appreciate the position you are adopting, but you accept that  
11 it could have happened?

12 A. It probably could.

13 Q.256You are saying it didn't happen, I accept that. I don't want to be unfair to  
14 you but are you accepting that it could have happened whilst affirming that --

15 A. It would be hard going I think. If I did that I could have met him maybe for a  
16 minute, yeah.

17 Q.257As to your receipt of the monies, the sum of 3,000 pounds in cash, do you  
18 recall Mr. Gallagher questioning you yesterday about certain financial records  
19 and going through lodgments etc with you?

20 A. Oh I do, yeah.

21 Q.258Are you familiar with the -- Chairman, this is not an attempt at, lest you feel  
22 it necessary to interrupt me, this is not an attempt at levity. Are you  
23 familiar with the Irish tune "Lannigan's Ball"?

24 A. "He stepped in and I stepped out."

25 Q.259"I stepped out, she stepped in again, learning to dance for Lannigan's Ball."  
26 Might I suggest to you Senator Lydon that your accounts, your account given on  
27 oath to Mr. Gallagher as by way of explanation for lodgments and withdrawals  
28 from your bank accounts coinciding with the time when Mr. Dunlop says he gave  
29 you 3,000 pounds in cash was the banking equivalent of Lannigan's Ball?

30 A. Yeah. Sounds like that.

1 Q.260It does, doesn't it?

2 A. Yes.

3 Q.261Could I take that a little further?

4 A. It's the way I operate. I take money out, I put money in all the time. It's  
5 my money. There's nothing with it.

6 Q.262I'm fascinated with that. You see, like presumably everybody in the room it's  
7 difficult for anybody to operate without a bank account. Difficult if not  
8 impossible. Now, one assumes one or two principle things in relation to a bank  
9 account. One puts money in and one takes it out and one can take it out in  
10 various different ways. You can actually take it out when you are lodging  
11 because you can have a lodgment and you can credit so much to your account and  
12 be given cash; isn't that right?

13 A. Yes.

14 Q.263So for most normal people, other than the payment of bills by direct debit and  
15 more sophisticated commercial transactions, what is involved with in everyday  
16 banking is the putting in of money and the taking out of money; isn't that  
17 right?

18 A. I'd say so, yeah.

19 Q.264Would you agree with me Senator that it is, to say the least, rather unusual  
20 for someone to be taking money out and to be claiming to be putting the same  
21 money back in in a few day's time?

22 A. I don't -- I think probably people do it all the time.

23 Q.265Really?

24 A. I don't -- I know what I do, I know what my wife does. We frequently take  
25 money out of one account and put it back into another account. I was going to  
26 give an example the other day, nobody would let me.

27 Q.266Bear with me for a moment. We are not talking about taking money out of one  
28 account and putting money into another account. I do recall and I'm sure the  
29 Tribunal recalls the evidence which you gave yesterday to the effect that it  
30 was necessary for you, on occasions, to top up the small accounts, and I don't

1 say that in any disparaging way, that were operated by your wife, because she  
2 was being harassed by the business centre, your words not mine?

3 A. Yes.

4 Q.267Harassed by the business centre in Dundrum I think you said; isn't that right?

5 A. That's right, yes. I think that -- that's right.

6 Q.268Just so that you understand fully, Senator, I want you to be clear that I'm not  
7 talking about that, and I'm not talking about the portion of the evidence which  
8 relate to that. I'm talking about the coincidence, and I'm being polite, of  
9 cash lodgments to your own accounts coinciding with the period, the time at  
10 which you got 3,000 pounds in cash from Mr. Dunlop, on my instructions?

11 A. No, there is one thing there, I didn't get 3,000 pounds from Mr. Dunlop and it  
12 doesn't show up anywhere in my accounts.

13 Q.269No. 3,000 doesn't show up, I accept that. But we see significant cash  
14 lodgments, a thousand for example, of unexplained cash?

15 A. There is no unexplained cash. It came out of A and went back in B. It's not  
16 unexplained. It's there in black and white.

17 Q.270Again, that's your evidence; isn't that right? It's as clear as muck?

18 A. Even, in fact, last night, on Today FM at 5-7 Live they said there is some  
19 inconsistency. My wife went spare, there are no inconsistency in our accounts  
20 anywhere. Everything is as clear as day. We took money out and we put it in.  
21 It's simple. It mightn't be the way you operate, that's the way we operate.

22 Q.271Did you ever spend any money?

23 A. Pardon?

24 Q.272Did you ever spend any money?

25 A. Now and again.

26 Q.273I'm not being facetious, one takes out of the bank what one has a need for;  
27 walking around money, of which you are particularly fond of, you told us that?

28 A. I don't have -- I don't drink very much, I don't smoke, I don't gamble, we have  
29 no children, I don't have a lot of expenses if you know what I mean. If I want  
30 a bit of money, I have often take 40 out of the bank to buy a meal in the Dail

1 or cash a cheque. The other money I have separate. I take it out usually with  
2 a mind to do something. You know, that I might be going to some particular  
3 place or whatever.

4 Q.274I just want to say to you insofar as this is concerned Senator, that it is that  
5 your explanation of the cash and the appearance of cash coinciding with the  
6 time when Mr. Dunlop says he gave you cash is inaccurate and not an honest  
7 portrayal of what happened and where the money came from.

8 A. That's absolutely accurate, my accounts are absolutely accurate. I have an  
9 accountant of impeccable credentials. There is nothing untoward in our  
10 accounts. Any of them. There is only small amounts in -- there is nothing  
11 untoward. It comes out of there, in to there, in to there. There is  
12 nothing -- these people had a team of accountants going through, they never  
13 found anything that was wrong, I have all my taxes up-to-date, I have tax free  
14 certs. My wife takes grave exception to this, they are impeccable.

15 Q.275I have not said anything about your wife, nor has anybody in the Tribunal?

16 A. I'm giving her views on the attack on the accounts. The accounts are  
17 absolutely clear. There is no other monies except the monies that I earned or  
18 got. Everything that I had was declared. It's in there. It would show up  
19 somewhere. It didn't. Nothing.

20 Q.276Senator, do you recall when I began questioning you yesterday, it was  
21 yesterday, wasn't it? Yes. When I began questioning you yesterday, Senator, I  
22 put certain propositions to you to the effect that there were various matters  
23 which I suggested the Tribunal could, or should, take into account in  
24 determining what weight they should lend to your evidence, the evidence which  
25 you have given on oath, as opposed for example to the evidence given by Mr.  
26 Dunlop on oath?

27 A. I remember that, yeah.

28 Q.277I want to conclude my cross-examination, if I may, by recapitulating and  
29 putting to you a number of factors which I say weigh heavily against you in  
30 terms of the bulk of what you have said to this Tribunal on the critical

1 matters being accepted as representing the truth?

2 A. That's your job, yes.

3 Q.278I want to say the following to you, I want to suggest the following to you:

4 You are asking the Tribunal, and have given us your sworn testimony, that you  
5 did not remember two payments of 5,000 pounds each, two contributions?

6 A. Didn't remember them when? I didn't remember either of those at Flood -- not  
7 the Flood, at the Fianna Fail inquiry. I remember one of them subsequently. I  
8 got it in a bank thing, the other one I didn't remember until recently. That's  
9 the God's truth.

10 Q.279You are asking the Tribunal to suggest that -- I am asking the Tribunal that --

11 I am suggesting to you that that defies belief?

12 A. We have to agree to differ on that.

13 Q.280You have told the Tribunal that and you have told the Tribunal that they were

14 the two largest contributions that you ever received?

15 A. But sure, why would I hide them? There is no secret about this.

16 Q.281But you did hide them?

17 A. I didn't hide them.

18 Q.282Not for me to determine why you hid him?

19 A. No, I didn't hide them from anybody.

20 Q.283You hid them and concealed them. You are asking this Tribunal to believe that

21 you didn't remember them, is that your evidence?

22 A. I didn't remember them, but I didn't hide them. I did not.

23 Q.284I suggest to you further that you deliberately, and again I regret having to

24 put it in this way, mislead --

25 A. That's your job.

26 Q.285I would like to maintain a level of politeness to you, Sir, you are a member of

27 the Seanad. I have to put it to you that you deliberately mislead your

28 colleagues who formed the Fianna Fail Committee of Inquiry in the matters which

29 they inquired, having regard to the Terms of Reference of that committee. That

30 you allowed them to believe that the largest contribution you had ever received

1 was between 500 and a thousand pounds, when you well knew that you had received  
2 on your own admission two payments of 5,000 pounds?

3 A. You are putting that to me.

4 Q.286Yes, I am and that --

5 A. I told you before that that phrase in the report was the largest amount from  
6 Monarch and that was wrong even then. I did not conceal anything from the  
7 Fianna Fail inquiry ever. I mean I think if you brought the five of them in  
8 here and asked them "what do you think of the way he answered", they'd say "he  
9 told the truth and done his best".

10 Q.287Are you seriously suggesting that with the benefit of hindsight and what  
11 emerged that any of those gentlemen would consider that you had been open to  
12 them and candid with them --

13 A. I'd --

14 Q.288Or that any of them would accept that they understood you to confine your  
15 evidence to Monarch when they were specifically delegated to inquire about  
16 other developers, Monarch is a single developer?

17 A. No. The phrase used was "the maximum received ever", that referred to Monarch.  
18 They said, they did ask me also, ask essentially about Frank Dunlop, about  
19 Quarryvale, I knew nothing about Citywest, they asked me I think briefly about  
20 Paisley Park or else I told them, and they asked me about Cherrywood, and  
21 that's it. It wasn't a fairly -- it certainly wasn't like this Tribunal. I  
22 mean I remember even in the middle of it David Andrews, for a joke, he said  
23 "you voted for Hannifan, didn't you?" That's the sort of way it was conducted,  
24 it was a serious thing, but it was among friends and I answered every bit as  
25 honestly as I could answer it --

26 Q.289Give me that again. It was a serious thing amongst friends?

27 A. Sure we all knew each other.

28 Q.290The report doesn't reflect that. The report is a serious document?

29 A. Yes, these people took the job seriously.

30 Q.291And I think is entitled to be treated seriously?

1 A. That's exactly what I did.

2 Q.292 I know it was treated seriously by this Tribunal and I accept it was treated  
3 seriously by the Fianna Fail party.

4 A. I was no different to anybody -- I went into that inquiry. They asked me every  
5 question, I answered every question. I didn't conceal anything. Anything I  
6 remembered I told them. There was a whole pile of things I didn't think about  
7 and that was it. You can read that any way you like. I can't make it up any  
8 other way. That's it.

9 Q.293 Could I suggest to you, Senator, that it is demonstrably clear on the basis of  
10 what have we have listened to for the last four days from you, that you are a  
11 man of quick wit --

12 A. Pardon?

13 Q.294 Quick wit; I don't mean that you are funny, because I don't find you funny, and  
14 I don't mean that in any offensive way. You are quick witted, intelligent and  
15 articulate; isn't that correct?

16 A. I wouldn't like to compliment myself.

17 Q.295 I'm attributing those qualities to you and I'm saying that you have wrapped  
18 yourself in those qualities and used your quick wittedness, used your ability  
19 to articulate in an endeavour, and again I don't wish to be offensive, in an  
20 endeavour to cover up your own misconduct and to seek to discredit the  
21 testimony given by Mr. Dunlop, which undoubtedly puts you at the epicentre of  
22 this aspect of this module of this Tribunal?

23 A. Mr. Dunlop said he came along on a Friday to meet me. I didn't know whether he  
24 did or not, I have no memories of that. And third parties came along and said  
25 "look this guy wasn't there". I couldn't have been. It's the same on the  
26 Monday, and I have no recollection, good, bad or indifferent, of remembering  
27 this money. This man did not give me 3,000 pounds. That's it. He just didn't  
28 do it. You can pull me up and go through one sentence and weigh the one  
29 against the other, the fact remains it doesn't matter how you phrase it or what  
30 you do or how you try to bully me, I will not acknowledge something that I

1 believe didn't happen.

2 Q.296Are you accusing me of attempting to bully you?

3 A. No. Maybe in a subtle way. No, you are not.

4

5 CHAIRMAN: Let us not pursue that line of -- the conduct has been absolutely  
6 fair to date.

7

8 Q.297MR. ALLEN: Because I have gone to extreme lengths, Senator, to treat you with  
9 courtesy and politeness and I would be wounded if you thought that you felt I  
10 was bullying you.

11 A. You have a reputation of being one of the top counsel in the county. You don't  
12 get paid your kind of money -- you are very good. You complimented me;  
13 Senator; I'm returning the compliment.

14 Q.298May I say the rumours you have heard about my earnings are greatly exaggerated.

15 In any event, may I also suggest this to you: That it is clear and again I  
16 regret having to be critical of you in this regard, that could I suggest that  
17 just from observing you and from observing the manner in which you have given  
18 your evidence, it would be unfair to say that you have approached the giving of  
19 evidence to this Tribunal in a cavalier fashion; but I suggest to you that you  
20 had been bordering on the casual as opposed to the cavalier, and let me explain  
21 to you -- let me illustrate by way of example.

22

23 A document, the receipt of which promoted some measure of criticism, the timing  
24 of the document was the memo of your meeting of the 8th May together with the  
25 documents which were appended to that memo. This is the documentation which  
26 was given out the morning, on Wednesday morning to the various legal teams when  
27 we arrived. There was an attempt by Mr. Gallagher, perfectly proper attempt by  
28 Mr. Gallagher to pursue that document with you coming towards the end of his  
29 examination of you on Wednesday, do you recall that?

30 A. The document, what did the document say?

1 Q.299It is the minute of the 8th May 2000, your meeting with the Fianna Fail  
2 Committee?

3 A. Sorry, yes. I hadn't seen that before. You say I treat that in a cavalier  
4 fashion?

5 Q.300Bear with me for a moment?

6 A. Certainly.

7 Q.301Your own counsel, Mr. O Tuathail, quite properly interjected and because you  
8 hadn't seen it, because you hadn't seen it, suggested to the Tribunal that in  
9 fairness to you, you should have the opportunity to consider it over night;  
10 isn't that correct?

11 A. Yes.

12 Q.302One assumes therefore and one could only agree with him that Mr. O Tuathail  
13 recognised this was a document of considerable importance. Do you follow me?

14 A. That mightn't be a correct assumption.

15 Q.303I see. You don't think it was a document of any great importance?

16 A. I didn't say that, but Mr. O Tuathail might have been following some legal  
17 thing that should have been introduced earlier, I don't know. That's just --

18 Q.304I see. What I have to put to you, Senator, is that when I asked you about it  
19 this morning you hadn't -- you told us you hadn't read it?

20 A. I read it there --

21 Q.305You said you saw it on the screen, you hadn't -- just listen to me before you  
22 commit yourself to an answer. You hadn't taken the trouble after you had read  
23 it on the screen, you hadn't taken up the trouble to pick up the document and  
24 study it and see any implications it had for you and formulate answers to the  
25 questions, which I suggest to you would inevitably follow from those that read  
26 the document. That is indicative to the casual manner in which you adopt  
27 towards your evidence in this Tribunal?

28 A. I'm never sure what "cavalier attitude" means.

29 Q.306I said casual, I said I was specifically distinguishing between cavalier and  
30 casual?

1 A. If you replay it, at one stage you said to me "symbolic of your cavalier or  
2 casual", no? All right. You did use the word in some respect. I'm not casual  
3 in this approach. I'm -- I may not look it but I'm terrified out of my wits  
4 being here. I don't want to be here.

5 Q.307Neither do I.

6 A. This is wearing me out. Certainly not a casual approach. I have tried to read  
7 over the last few days and night as much as I could of this stuff.

8 Q.308The final matter I want to put to you, there are many matters but  
9 Mr. Gallagher's examination, which was completely impartial and very  
10 comprehensive, as was necessary coming from him as leader of the legal team to  
11 the Tribunal, the final matter I want to put to you is that you have  
12 demonstrated, I put this to you before but I'm concluding with it, you have  
13 demonstrated to the Tribunal a memory which is seriously flawed in relation to  
14 many of the matters which are material to the deliberations of this Tribunal.  
15 I did put to another witness, whom I had the somewhat unpleasant task of  
16 cross-examining, the number of times which he had utilised the answer "I don't  
17 know; I can't remember" etc?

18 A. I remember that.

19 Q.309I can tell you that having checked, you are streets and streets ahead.

20 A. Really?

21 Q.310The number of times that you have told this Tribunal that you don't know, that  
22 you can't remember, that you have wracked your brains etc is very considerable.  
23 And we are -- I'm closing with you on this basis, that allied to the various  
24 other matters which I have put to you, you are asking this Tribunal in the  
25 light of all the facts which have emerged, to accept your version of events;  
26 which even on the basis upon which you put it, is a combination of "maybes,  
27 possiblities, perhaps I don't know, I don't recall, I can't remember, I didn't  
28 know, I'm wracking my mind".  
29 Thank you, Senator.

30 A. But sure Lord God, you don't want me to make it up. If I don't remember I

1 can't say it. I can't invent answers for you. I have told the truth to this  
2 Tribunal. I have told the truth to the Fianna Fail inquiry. That's all I can  
3 do. It's my perception, the next counsel in may have a totally different view,  
4 but I can't do anything about that.

5 Q.311I have no further questions.

6

7 CHAIRMAN: Thank you. I don't think there is anybody else in priority.  
8 Mr. O Tuathail, to you?

9

10 MR. O TUATHAIL: Well then I will undertake the burden of re-examining, if  
11 that is all right?

12

13 CHAIRMAN: Certainly.

14

15 DONAL LYDON WAS EXAMINED AS FOLLOWS BY MR. O TUATHAIL:

16

17 Q.312I have a short number of questions to put.

18

19 CHAIRMAN: Certainly.

20

21 Q.313MR. O TUATHAIL -- to my client, Senator Lydon.

22 The first issue I would like to raise is a matter raised by Mr. Gallagher, I  
23 think the phrase used yesterday and the day before was "enrichment" and I think  
24 the phrase "unjust enrichment" was used. I just want to deal with that in  
25 relation to zoning. And Senator Lydon just "enrichment," if you familiar with  
26 the term, it is a legal term, it may also be a religious type of term --

27

28 MR. ALLEN: Chairman, I am most reluctant and I apologise to My Friend for  
29 interrupting. I wanted to ask if I could be permitted to leave, I have a  
30 personal difficulty and I didn't want to -- I intend no discourtesy.

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CHAIRMAN: Your junior takes over. Thank you.

Q.314MR. O TUATHAIL: The -- when -- I'd just like to ask you to confirm the following. As an elected councillor, Senator Lydon, you play a part in the planning process; isn't that correct?

A. Yes.

Q.315And --

A. Well --

Q.316Yes?

A. To some extent. Planning is usually done by planners. I don't want to get into --

Q.317Terms of reserved functions as a councillor, you deal with the Draft Development Plan and the Development Plan; isn't that so?

A. I do.

Q.318Yes. And I can, I think, recall your evidence that the -- if we are talking about the 1993 plan, which was ultimately ratified in December of '93, in -- there were -- can you recall how many meetings were scheduled between April of '92 and June of '93 to deal specifically with planning, with the objections brought in?

A. I haven't an idea, but there were many meetings. I remember that much. I couldn't tell you.

Q.319I think the figures given were 50 meetings were scheduled?

A. I wouldn't be surprised. That was just to deal with the Development Plan. You must remember there were many other meetings.

Q.320It was on top of normal council meetings?

A. That's why the Council staff found it so difficult.

Q.321They had a difficulty because they had to deal with upwards of 20,000 objections?

A. I think it was 25,000.

1 Q.322That's the period in which you describe the relative chaos that obtained at  
2 council meetings, isn't that correct?

3 A. When I say relative chaos, that's what it was. I don't want to cast aspersions  
4 on the work of the Council. They did their best and so did the staff. It was  
5 a difficult situation and everybody did their best.

6 Q.323Mr. Gallagher asked you why didn't you do something about the conditions  
7 pertaining in that period, can you recollect that question?

8 A. I do. I don't know what I said. Really that is the job of management.

9 Q.324I'm simply eliciting that. Would it have been affected by the fact that the  
10 Council knew it was leaving those premises in O'Connell Street on 1st January  
11 '94 when the split up occurred?

12 A. I think they knew it was coming already and they all went out and built new  
13 premises. Tallaght is a fabulous one and we extended the Town Hall, spent  
14 millions on it. The same out in Fingal and the one that we used to use is now  
15 used by the Dublin Regional Authority, of which I'm a member.

16 Q.325Would that have been a reason for the councillors putting up with the bad  
17 conditions, that they knew that by a certain deadline these conditions would be  
18 passed and you'd have three separate councils operating in the same region?

19 A. It might have been. I'm not allowed to ask you questions but there was  
20 something that came up about enrichment, I'm not sure what you are referring  
21 to.

22 Q.326I'm coming back to that. The position, can you compare and contrast, it was  
23 put to you as well there was an inference or suggestion that because the Fianna  
24 Fail group on the Council met in Conway's Pub that there was something maybe  
25 bad about this or something, it shouldn't have happened, could you compare and  
26 contrast from your recollection the facilities available in the County Council  
27 office for party meetings and the facilities available in Conway's Pub?

28 A. The facility in the council chamber, it was a little room I'd say it was eight  
29 foot by maybe 15 feet, Fine Gael had one and we had one. I don't think the  
30 other groups had any at all. There was about 40 of us I think in that room.

1 There was no windows. No outside light. Nothing. There was no facilities at  
2 all. We didn't just meet in Conway's. That's a thing mentioned often. We  
3 also had meetings in the Royal Dublin. We used to take a room upstairs. We  
4 met in Conway's because it was a handy place to get a bit of lunch in a hurry.

5 Q.327How big was the room in Conway's in contrast with the County Council  
6 facilities?

7 A. Quarter the size of that room I'd say. It was big upstairs room, maybe not a  
8 quarter --

9 Q.328In sizewise how did it compare?

10 A. There was no comparison. There was light, food, facilities.

11 Q.329How many people might fit in it?

12 A. The whole lot of us. We used to have a Christmas party up there where people  
13 used to come and there would be a lot of room.

14 Q.330It is a norm in politics even today, I know you don't hold clinics, people who  
15 hold clinics do so very often in public houses at weekends?

16 A. Naturally, yes, because it is local meeting place.

17 Q.331That's general throughout the country?

18 A. I think nowadays in rural areas yes, but nowadays I think a lot of Teach Dala's  
19 have offices. That's why they run so many fundraisers and things to keep up  
20 these things.

21 Q.332There is nothing particularly unusual about that, about either Conway's Pub or  
22 the Royal Dublin?

23 A. Not that I know of, no.

24 Q.333Just in light of the questions I just wanted to go back on that. If I come  
25 back to this issue of enrichment, I'm dealing with the allegation made to you  
26 that when you voted or when you proposed a rezoning anywhere in Dublin County  
27 that people were unjustly enriched by that action. Isn't it, first of all  
28 isn't it the fact that there is a public duty laid down by law on councillors  
29 to vote on zoning issues?

30 A. Yes.

1 Q.334And --

2 A. I'm not entirely sure what you are asking me.

3 Q.335I'm coming to it?

4 A. I beg your pardon.

5 Q.336And I mean I'm following to -- I'm highlighting your own evidence in the  
6 matter. Isn't there -- and that is the system that is applied universally  
7 throughout the State?

8 A. Yes.

9 Q.337That is the law on the Planning Act. On your evidence the very first step in  
10 relation to let's say bare agricultural land is to rezone it either  
11 residential, amenity or business?

12 A. You mean what they call a greenfield site.

13 Q.338Yes?

14 A. Yes. Yes.

15 Q.339Because, I'm asking you the question of the interrelationship then between your  
16 action rezoning, or the councillors action rezoning in any particular case and  
17 the services. What do you see is the relationship between the act of rezoning  
18 by the councillors in any particular site and the provision of services by the  
19 Local Authority?

20 A. Well, our job as I think I explained, I gave an example of somebody coming in  
21 asking for a field to be rezoned to build houses. My job is to rezone it. The  
22 planners, then when the planning application goes in, the planners' job is  
23 to -- the manager's job first is to point out either the deficiency or benefits  
24 of the site. Sometimes he says it's a good site, sometimes a deficiency,  
25 people don't understand that we continue to zone against his advice. He has to  
26 say you can't get into these blooming fields. The planners then come along and  
27 give planning permission and they say "we will give planning permission, but as  
28 the manager pointed out there is no access to that field" or something. "We  
29 will give you permission to build your houses and we might even double"  
30 sometimes "provided you build the access into the build or you provide the

1 sewer or water or something". That's the way it works.

2 Q.340We found that Mr. Doran's report yesterday in relation to water services, that  
3 developers would be asked to contribute to the provision of such services?

4 A. Yes, I remember that. Yes.

5 Q.341I think in response to a query by the Chairman yesterday, I think the Chairman  
6 suggested to you that the first action should be to put in the services and  
7 that the zoning would follow or could follow. What's your --

8 A. No. You don't do that no. No.

9 Q.342What's your experience on that?

10 A. That's not the way it works, no. Sure if there was services in you wouldn't  
11 probably need to rezone it. You put in the services to facilitate what has  
12 been zoned. When the planning application goes in the facilities follow.  
13 That's the way it has worked all over the county and country.

14 Q.343And the planning in which you have no involvement as councillor, but the  
15 planning people make it conditional, very often, on development?

16 A. If you keep it a lot simpler. If you go to get planning permission on your  
17 house they may say it is too near to the corner, you pay for it, you have to  
18 have the thing done. That's how it works. I know a situation outside Donegal  
19 town where there is two people on the far side of the road looking for planning  
20 permission, but they get it on condition they smooth off the corner going into  
21 the town.

22 Q.344Or they get it on condition they sterilise certain lands they have?

23 A. That happens now and again, on the piece of land there could be an  
24 archeological site. You wouldn't know it at the time or it could turn up in,  
25 say in Carrickmines, I think I mentioned Section 138, that's the way it works.  
26 They can freeze it or they can put into their planning permission any  
27 conditions they want to.

28 Q.345If we take a typical meeting where rezoning is in prospect and a motion has  
29 been put down and the manager comes in and recommends against it, isn't that  
30 recommendation made by a prior report to the councillors before they come to

1 the meeting and then at the meeting again?

2 A. Usually yes, but sometimes in the middle of Development Plan it happens that  
3 the manager would have to come in at the time. For example the current  
4 Development Plan in Dun Laoghaire, the manager's report was not given until the  
5 councillors spoke. He wouldn't give his report until he heard what they said.  
6 "I have a report here but I am not putting that now because I haven't listened  
7 to your arguments, and they were good and I'm not listening to that --"

8

9 CHAIRMAN: Mr. O Tuathail, I propose to rise at half past 12 now and we will  
10 be ultimately concluding, we hope, at 3 o'clock. We will sit again at half  
11 past one.

12

13 MR. O TUATHAIL: That should be more than sufficient time in my timescale.

14

15 CHAIRMAN: I'm trying to facilitate everybody. Very good then. Half past  
16 one.

17

18 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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1 THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

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4 CHAIRMAN: Mr. O Tuathail, when you are ready Sir.

5

6 MR. O TUATHAIL: Yes, thank you, Mr. Chairman.

7

8 EXAMINATION OF SENATOR LYDON BY MR. O TUATHAIL CONTINUED

9 AS FOLLOWS:

10 Q.346MR. O TUATHAIL: Now, Senator Lydon, looking at the minutes of a lot of these  
11 Council meetings, in general the reports of what happened at the Council  
12 meetings, are the comments and speeches or whatever of councillors actually  
13 noted or given in these minutes?

14 A. You mean what we say at the minutes or our contributions.

15 Q.347Yes, are they recorded?

16 A. No, just recorded if you speak. But it is not what you say that is recorded,  
17 no.

18 Q.348Yes. And that's a disadvantage to somebody reading back into these reports of  
19 meetings in terms of knowing what the councillors said on any given occasion?

20 A. Well, it could be seen in that light. For example, you might see contribution  
21 by A, B, C D, you have no idea whether they are for or against or what they are  
22 saying.

23 Q.349Yes, but you would have the manager's reports in full?

24 A. In full.

25 Q.350You would have available to you the manager's reports tendered for those  
26 meetings?

27 A. I mentioned to you I think earlier on today that is not always true. You get  
28 it mostly but sometimes, as in recent Development Plan, the manager's reply was  
29 not circulated until after the councillors spoke, he would take note of what we  
30 said and then amend his report accordingly. An unusual approach but just for

1 the sake of completeness.

2 Q.351What I am saying at cross purposes, what I am eliciting, if you check up at a  
3 meeting in 1992 what you will find is the voting, the attendance at the  
4 meeting, voting of the councillors, whether or not councillors spoke but not  
5 what the various councillors said. But you would also find the manager's  
6 reports tended at the meeting or before, whether withheld or not at the time;  
7 isn't that right?

8 A. That's correct, yes.

9 Q.352I just want to clarify that. Now coming back to the matter that I was dealing  
10 with there briefly before lunch, we were dealing with the relationship of  
11 zoning to the provision of services by the local authority?

12 A. Yes.

13 Q.353And I am simply enquiring in relation, if the manager were to propose a  
14 rezoning let's say --

15 A. Yes, that often happens.

16 Q.354And -- I want to give you an example if I may, a very brief example -- let's  
17 say you had a ten acre site in the north of County Dublin and it was fully  
18 serviced already, or the services were available to go on site, and the  
19 manager, we'll say, proposes that that ten acre site be rezoned and you second  
20 it we'll say as a councillor, and let's say the individual who owns the land is  
21 maybe reluctant to deal with the lands or to -- he wants to stay on as a farmer  
22 let's say. Now, if that land, that putative ten acres is rezoned residential  
23 or industrial as the case may be, I think it is your position that the  
24 potential of that land rises fairly steeply, isn't that -- the potential value  
25 of the lands rises?

26 A. Yeah. Well, there are really two questions I see there. First of all, if the  
27 manager wanted the land re zoned he brings forward a report. In it he says "I  
28 believe this should be rezoned agriculture", whatever it happens to be. It is  
29 up to a member of the council to propose and somebody else to second if  
30 everybody agrees it goes through.

1  
2 Your question about raising the potential value of the land --

3 Q.355The potential value of the land.

4 A. If it went from agriculture to what?

5 Q.356Let's say industrial or residential.

6 A. Residential is worth more than industrial, of course it enhances it  
7 immeasurably, no it doesn't -- I think the value is based on the potential of  
8 the land rather than --

9 Q.357Yes.

10 A. It is usually not much good until --

11 Q.358What you are in effect saying is it is the interaction between the rezoning on  
12 the one hand and the market in land on the other that raises its potential at  
13 that point?

14 A. I suppose that's true. You see, the amount of land that's zoned determines the  
15 price of it.

16 Q.359Yeah, well, that's it. In your area, you are a member for Stillorgan and  
17 Glencullen, where Carrickmines is situated is the next ward to yours?

18 A. That's right, yes. We were both in the Dun Laoghaire/Rathdown area.

19 Q.360Yeah. Now, in the early 1990s if you leave Cherrywood out of it, in the early  
20 1990s was the Carrickmines Valley the only major area left unzoned in the area  
21 or available for industrial zoning or residential zoning?

22 A. No -- well, essentially it was, yes. There were small, there were other areas  
23 that could have been zoned residential around the place at that time.

24 Q.361Right.

25 A. Like St. Helen's, Booterstown, I think bits in Killiney. But the major area  
26 would be around the whole Carrickmines Valley from Stepside right down to  
27 Bride's Glen or Rathmichael.

28 Q.362Yes.

29 A. That's if I understand your question correctly.

30 Q.363Yes. And the, I think the sewage arrived in that valley in 1996, is that

1 correct?

2 A. I think it was just -- which part of the valley now are you talking about?

3 Q.364 Well, running through the valley, it was known in 19 -- it arrived in 1996, the  
4 question is when was it decided or when was it known that it would be going  
5 through the valley?

6 A. It was known ages ago I think, but it didn't actually arrive, I am not sure it  
7 arrived in some parts of it yet, but it's -- it would be known that it would go  
8 into it all right.

9 Q.365 Yes.

10 A. If that's --

11 Q.366 Yes. Well then --

12 A. There was a motion I think or a wayleave sought of the Jackson Way lands about  
13 1995 or '96.

14 Q.367 Yes.

15 A. And they, the Council, entered an agreement with them, that if they put in the  
16 sewer that there would be always sufficient capacity to supply or to take the  
17 sewage off those lands. Now, I am not an expert in that area, so that's my  
18 opinion but --

19 Q.368 Yes. In one of the manager's reports there was an indication that the  
20 Sandyford Industrial Estate, which is one of the nearest to Dun Laoghaire, it  
21 was reaching capacity in or around 1991, do you recollect that?

22 A. I don't recollect the report but I know that it was, yeah. Because that was  
23 an -- it was a major concern at the time. I have said this a few times without  
24 the course of this week. We didn't have any decent industrial base in Dun  
25 Laoghaire/Rathdown and I think we lost City West maybe and all we really had  
26 was the Sandyford Industrial Estate and that was gradually being taken up and  
27 there wasn't I don't think an awful lot left.

28 Q.369 Yes. And wasn't it your position that the rezoning of Carrickmines would  
29 contribute to the rates boom ultimately?

30 A. Just when you say now Carrickmines I just -- I want to make sure I answer it

1 correctly. You mean Carrickmines one the lands we are dealing with?

2 Q.370Yes.

3 A. Well, yes. Oh yeah, the rates would have an important part to play as well.  
4 Because as I saw it, in Dun Laoghaire the commercial rate payers in Dun  
5 Laoghaire town and in Dundrum were being squeezed and the only bit we got rates  
6 from was the Sandyford Industrial Estate, we needed to broaden that base I  
7 would think.

8 Q.371Yes. And I think in those reports, sorry -- the general conclusion was that  
9 there was a surplus of zoned lands in the county generally, do you recollect  
10 that aspect?

11 A. I think Mr. Gallagher presented reports to that effect, yes. I think he was  
12 correct.

13 Q.372Yes, but that same report indicated in the Dun Laoghaire/Rathdown area there  
14 may have been a developing shortage of zoned land?

15 A. To be honest I don't think that's accurate. There was a lot of zoned lands as  
16 far as -- this is as far as I understand it. There was plenty of land zoned  
17 industrial but, and I think none of it, that would be a big bunch together  
18 which could be used for an industrial park, I think that's correct.

19 Q.373Yes. Now but generally on another aspect of this, the relationship of zoning  
20 to the market or to the value of lands, if let's say a large surplus of zoned  
21 lands in Dublin rather than a small, rather than a tight situation, if it was a  
22 large surplus in your sense of it, would that -- how would that impact on the  
23 market the value of these?

24 A. It was the same as any other market thing. If there was, what's the word I am  
25 looking for? If there is a glut in the market the prices drop, sure that's --  
26 that stands to reason.

27 Q.374Yeah, yeah. And just generally in relation to zoning, I mean zoning is  
28 provided for and allowed for by the Planning Acts, isn't that so, rezoning?

29 A. Yes.

30 Q.375And the planning aspect follows, if lands are rezoned and the owner of the

1 lands wants to apply for some particular project they must apply to the  
2 planning authorities?

3 A. Yes.

4 Q.376 So that if there is a complaint generally or if there is a complaint that  
5 rezoning leads to enrichment or unjust enrichment, is that simply a feature of  
6 the system, of the statutory system in Ireland rather than a complaint to be  
7 laid at the door of councillors anywhere in the country?

8 A. I think it applies anywhere in the country. If you have a piece of  
9 agricultural land and it is rezoned residential or industrial, and provided  
10 there is a need for it, the value goes up and very substantially I believe. I  
11 don't know the exact proportion, but I know it costs a lot more than  
12 agricultural land, surely.

13 Q.377 Yes. Yeah. So that enrichment in relation to zoning would not be in anyway  
14 unique to any decision made even in Dublin County, it would affect any county  
15 in the country?

16 A. I hope I am answering these questions correctly. But if you zone land it goes  
17 up in value, that's what I see it. I mean, it has to go up in value.

18 Q.378 Yes.

19 A. But there is nothing peculiar about this because that's, I suppose, why people  
20 get land zoned. Our position is we have to decide whether it needs to be  
21 zoned. That's always a job facing the councillors.

22 Q.379 Yes.

23 A. Because anybody can come in and demand to have land zoned but sometimes you  
24 just say no, we can't do it or we do this -- our position is to zone if we  
25 think it is prudent having looked at everything. The fact that the person gets  
26 rich is purely incidental, nothing to do with it at all.

27 Q.380 Yes. But certainly if that is seen as a problem, and many commentators see  
28 that as an issue, because of the present housing shortage and very high price  
29 of houses at the moment, if that is an issue, how could it be dealt with, can  
30 you suggest?

1 A. Well like I suppose one way is to rezone more land, if you -- if there is a  
2 need for a thousand houses and you rezone land for 2,000 houses obviously the  
3 price for the thousand houses drops. I am not an economist. I did mention  
4 somewhere along the line I know nothing about these matters, but that's the way  
5 I see it.

6 Q.381 Thank you very much, Senator Lydon, I think I will finish at that.

7

8 CHAIRMAN: Mr. Gallagher, do you wish to go first before the Tribunal?

9

10 MR. GALLAGHER: Well, Sir, I am entirely in your hands.

11

12 CHAIRMAN: I think it is preferable that you do.

13

14 MR. GALLAGHER: Indeed, that's fine. I will not be long but there are a  
15 number of questions I do want to put.

16

17 SENATOR LYDON WAS THEN RE-EXAMINED BY MR. GALLAGHER

18 AS FOLLOWS:

19 Q.382 MR. GALLAGHER: Senator Lydon, in the first instance I want to come back to  
20 something that Mr. O Tuathail put to you in his examination of you. And just  
21 for clarity he has suggested to you that there was a public duty on councillors  
22 to zone in zoning issues, to vote in zoning issues. He put that to you as a  
23 proposition, as a fact, that that is your duty.

24 A. One of my duties is to zone.

25 Q.383 No. Was to vote. Is to vote on zoning issues.

26 A. Yes.

27 Q.384 I would suggest that that is incorrect. What your duty is, is to review the  
28 Development Plan on a regular basis?

29 A. All right.

30 Q.385 That's, just to be factually correct on that, would you accept that?

1 A. I will accept that.

2 Q.386Yes. Now, you have given evidence about the effect of rezoning and what you  
3 saw as the relationship between the act of rezoning and the provision of  
4 services by the local authority.

5 A. Yeah.

6 Q.387Mr. O Tuathail asked you about this.

7 A. Yes.

8 Q.388And he asked you specifically at question 339 today: "What do you see is the  
9 relationship between the act of rezoning by the councillors in any particular  
10 site and the provision of services by the local authority?" And I am taking  
11 out part of your answer, but it is a reflection of what you actually said?

12 A. That's fine, Mr. Gallagher.

13 Q.389As part of the answer to that: "My job is to rezone it. The planners then  
14 come along and give planning permission and they say we'll give planning  
15 permission provided you build the access into the build or you provide the  
16 sewer or water or something, that's the way it works."

17 A. That was a broad answer to the question, yes.

18 Q.390That's what you said. Then you said the question was, 341: "I think in  
19 response to a query by the Chairman yesterday I think the Chairman suggested to  
20 you that the first action should be to put in the services and that the zoning  
21 would follow or could follow."

22 A. Yes, the Chairman did ask me that.

23 Q.391Then you said: "No, you don't do that. No, no. Question: What's your  
24 experience on that? Answer: That's not the way it works, no. Sure if there  
25 was services in you wouldn't probably need to rezone it. You put in the  
26 services to facilitate what has been zoned. When the planning application goes  
27 in the facilities follow, that's the way it has worked all over the county and  
28 country."

29

30 Now I suggest to you --

1 A. Sorry.

2 Q.392I suggest that that view of yours is incorrect. And it displays a fundamental  
3 misunderstanding of the duty of councillors in the making of a Development  
4 Plan?

5 A. Well, I bow to your superior knowledge, Sir.

6 Q.393Because I suggest that what you are saying is that the councillors would  
7 rezone, should and do, and the practice has been to rezone lands and leave it  
8 then to the developers to finance the infrastructure needed to serve that land?

9 A. That has happened a lot, yeah.

10 Q.394And you say that that is done by the planners when they impose conditions in  
11 relation to their planning permission?

12 A. Well, they do that, yeah.

13 Q.395I suggest to you that that is in fact not what happens. What happens is that a  
14 levy or a contribution is required in respect of a development, a planning  
15 permission. So if we take, for example, the Carrickmines sewer.

16 A. Yes.

17 Q.396Just as a hypothetical example.

18 A. All right.

19 Q.397If the Carrickmines sewer cost say 50 million pounds, just by way of example, I  
20 don't know what it cost.

21 A. That's all right, yeah.

22 Q.398Say 50 million pounds, what would happen is that that would be financed out of  
23 the State coffers, the DOE would provide grants to enable that be provided in  
24 the first instance; isn't that right?

25 A. Mm-hmm.

26 Q.399Isn't that correct?

27 A. That's the way it happens. That's correct, yeah.

28 Q.400Then when developers such as Monarch, Dunloe Ewart or any other developers  
29 coming into Carrickmines Valley are involved they would be required to pay a  
30 contribution towards the provision of sewage facilities and sewerage services;

1 isn't that correct?

2 A. That's correct, yes.

3 Q.401But in the first instance the financing of the infrastructure, and we are  
4 talking about that particular sewer, has to come from the DOE?

5 A. From the which?

6 Q.402Department of the Environment?

7 A. Yes.

8 Q.403Isn't that right?

9 A. That's usually the way, yes.

10 Q.404So it isn't a question of rezoning and giving the responsibility for funding  
11 the provision of infrastructure to the developer, the developer contributes to  
12 --

13 A. Portion.

14 Q.405-- a portion of monies already expended by the State?

15 A. I agree entirely with that. In fact, I think I referred to that in one of the  
16 questions talking about Wyattville junction, County Council and Neville  
17 Builders and Dunloe Ewart all contributed, none of them built it on their own.  
18 Yeah.

19 Q.406I want to put to you, if I may, what the Minister for the Environment said in  
20 his speech in Tallaght in 1993. He was addressing Tallaght Chamber of Commerce  
21 on the 26 of May 1993 and he said as follows, may I have page 20th of November,  
22 page, day 329. It's -- page 45 please on screen?

23

24 MR. O TUATHAIL: Can I have the date of that, please, if possible?

25

26 MR. GALLAGHER: The 20th of November, it is page 329.

27 A. I think he said something about putting extra cost on the Exchequer, is that  
28 it? Yeah, I think I remember that.

29 Q.407Day 329, page 45. Perhaps we can scroll down, the next paragraph -- just at  
30 the bottom paragraph of the bottom I will just quote what he said:

1 "Plans are intended to embody well thought out coordinated strategies which  
2 will give a solid bases for growth and development and which will reflect a  
3 consensus among all parties concerned with the varies aspects of environment  
4 and development in the area.

5  
6 We must strive to produce plans representing agreement on what is best for the  
7 community as a whole and which can be reviewed and updated at regular five  
8 yearly intervals as the 1963 Act requires.

9  
10 The review of the Development Plan is a necessary part of the orderly planning  
11 and rezonings will be part of this process. We need to zone new areas for  
12 development to meet needs which can not be accommodated by redevelopment or by  
13 changes of use in existing built up areas, but the rezonings must be decided on  
14 the context of strategic thinking for the capital as a whole."

15 A. Yes.

16 Q.408 And then skip down a paragraph: "I understand that some 5,000 acres of land  
17 zoned and serviced for residential development in County Dublin are as yet  
18 undeveloped. Much of this land is in the vicinity of satellite towns and its  
19 orderly development is vital if these areas are reach their full potential."

20  
21 I commented, then I paused, that's my objection.

22  
23 Next paragraph I go on the following paragraph, quoting from Mr. Smith's  
24 speech:

25 "Zoning of additional lands may well be needed but we need to be clear as to  
26 the reasons which would justify this. I have seen suggestions that the zoning  
27 of vast new areas is necessary because no one will build on existing zoned land  
28 and because that has to be fatalistically accepted. This ignores the  
29 fundamental purpose of zoning which is to guide and direct development to where  
30 it is needed, where it can best be re-accommodated and where it can do most

1 good for the broader community. Most emphatically zoning is not to be seen as  
2 the means of opening up new areas in anticipation of attracting speculative  
3 development."

4 A. That's correct, yes.

5 Q.409 Now insofar as the Paisley Park lands were concerned wouldn't it be fair to say  
6 on the basis of that statement that it was the view of the Minister for the  
7 Environment that zoning was not to be seen, zoning of those lands was not to be  
8 seen as a means of opening up new areas as a means of attract speculative new  
9 development?

10 A. The answer I make is clear, that's the original manager's plan.

11 Q.410 I am asking you, senator, please if you address the question I am asked. I am  
12 asking is it not clear from that statement that Minister Smith would have  
13 regarded the zoning of the Paisley Park lands as a zoning that should not have  
14 been carried out because it was a meaning of opening up areas in anticipation  
15 of attracting speculative development.

16

17 MR. O TUATHAIL: Chairman, I am reluctant to intervene at all or in any way  
18 interrupt Mr. Gallagher. What he is putting to the witness now is pure  
19 speculation and he is doing that having stopped the witness from giving the  
20 reply he asked. I would ask the witness be allowed to reply and that no --

21

22 CHAIRMAN: First of all, let the witness give the reply. I don't in any way  
23 disagree with what Mr. Gallagher is saying, the witness must give the reply  
24 first.

25

26 Q.411 MR. GALLAGHER: In the light of that statement by the Minister would you not  
27 accept that it would be his view that the Paisley Park rezoning should not be  
28 put through because it would involve the opening up of new areas in  
29 anticipation of attracting speculative development

30 A. The answer to that is as follows: If you don't open up areas to new

1 speculative development, you can say the same about City West for example, when  
2 it opens up it is speculative, same with the Science and Technology Park in  
3 Cherrywood. But the other answer to it, and the one I really believe and  
4 always stated, is that this was part of a basic fundamental plan for the whole  
5 valley. There was industrial around the Carrickmines Interchange, that there  
6 was a bit of agriculture, a golf course and science and technology park and  
7 residential, and there was up in Stepside more houses.

8 Q.412 Senator Lydon, I hesitate to interrupt you, but you are talking about a  
9 proposal that was abandoned way back in 1990 at a meeting which you didn't  
10 attend. Now the question I am asking you is, do you accept on the basis of  
11 that statement -- the answer is capable of being answered either, you accept it  
12 or don't accept it, the answer can be either yes or no, and I would ask you to  
13 answer it in that way and if you don't we'll pass on from it.

14 A. It is very easy to say no --

15 Q.413 Do you accept that in the light of that statement --

16 A. I don't accept that.

17 Q.414 You don't, all right.

18 A. But I have to say something else. I am just lost the train of it there now.  
19 Yes, you said the manager abandoned that plan long ago, he still hasn't  
20 abandoned it. He still hasn't abandoned it not even today.

21

22 JUDGE FAHERTY: Senator Lydon, sorry to interrupt you, you said it was a  
23 blanket plan for the valley, you are talking about October, November '90.

24 A. Yes.

25

26 JUDGE FAHERTY: Could I just remind you of one thing? The manager, the report  
27 on the 16th of November said that the scale of the development zoning suggested  
28 is intended to represent the ultimate Development Plan. It would take place  
29 over many years, but in accordance with overall plan, a phasing arrangement  
30 could be put in place arising out of an order of priority for development which

1 would be written into the Development Plan. A blanket plan even in October '90  
2 or November '90 wasn't envisaged, would you accept that? Even the manager was  
3 putting a phasing --

4 A. Yes, I see that, all right. But you see, as I said, you have to start  
5 somewhere. The plan was for the valley as a whole. The ultimate plan, which  
6 is nearly out now in fact. And it doesn't matter where you start, you can  
7 start at Stepside or Cherrywood or in the middle, but every bit that was zoned  
8 fitted into the plan. The manager on one hand says it must be phased and on  
9 the other hand says it can't be haphazard. And, in fact, as I said before I  
10 never envisaged that the whole valley be done together. It has to be done bit  
11 by bit and this was one bit. That's the way it works in my mind.

12 Q.415MR. GALLAGHER: Senator Lydon, I want to return to the balance of the  
13 Minister's statement, he says as follows:

14 "Thousands of zoned acres in Dublin has been serviced at a very significant  
15 cost to the State. On foot of a long term overall strategic view of what is  
16 needed for the better development of our capital and its satellite towns. The  
17 State and the ordinary taxpayer cannot be expected willy nilly to foot the bill  
18 of servicing extensive new zonings and to acquiesce in the writing off of our  
19 investment to date."

20

21 What do you want to say about that in the context of the rezoning?

22 A. I would say most of those lands are now being built on.

23 Q.416Pardon?

24 A. Most of those land have now been developed. You have to begin somewhere.

25 Q.417I see.

26 A. I mean --

27 Q.418And you think that notwithstanding that view of the situation in relation to  
28 zoning, that the Paisley Park proposal was justified?

29 A. You see, I accept --

30 Q.419I just want to --

1 A. Yes, it was justified.

2 Q.420You do?

3 A. And I would like to say this, Ministers come and go and they have different  
4 views and so do managers. For example, when we were told long ago we shouldn't  
5 zone lands around north County Dublin, the current manager's produced report  
6 saying they should have been zoned long ago. We were told we shouldn't zone  
7 Cherrywood or Carrickmines or other places, and the current manager now says  
8 they should have been zoned long ago again. You know -- I don't see the  
9 problem there really.

10 Q.421I see.

11 A. Because people change, views change, reports change, populations change. And  
12 as a councillor you just have to do the best you can to try and foresee, which  
13 is impossible, into the future. Look at all the available reports that you  
14 have and do the best you can, that's all I do.

15 Q.422I want to put very briefly to you one further paragraph on that statement.

16

17 This is the Minister speaking:

18 "I want to make it absolutely clear that I will not be making grants available  
19 to service lands which have been the subject of ill considered and haphazard  
20 zoning decisions."

21

22 And the evidence from the professional planners that we have here before the  
23 Tribunal is that this proposal of yours involved haphazard planning. Now you  
24 may disagree with that but that is their view.

25

26 He continued: "The cost of servicing land with roads, water, sewers etcetera  
27 should be integral to the consideration of the Development Plan."

28

29 Do you accept that that is -- do you accept that proposition?

30 A. I do of course, yes.

1 Q.423Why did you not do it?

2 A. Didn't put in the Development Plan?

3 Q.424Yes. "The cost of servicing lands with roads, water, sewers etcetera should be  
4 integral to the consideration of the Development Plan." If you agree that that  
5 is, with that proposition why did you not do it in 1992/93 and again in 1998?

6 A. It's very simple. I've told you a number of times and I will repeat it for  
7 you. I saw this as a good development which would provide the particular -- no  
8 listen to me --

9 Q.425I am not talking about this particular development, I am talking about the cost  
10 of servicing land with roads, why was that not an integral part of the  
11 Development Plan which you were promoting and making?

12 A. There was no still no cost of servicing those lands to anybody yet.

13 Q.426But there will be. When the roads is provided it will be provided as part of  
14 an interchange or link to an interchange which will have to link up to the  
15 Carrickmines interchange approximately half a mile away from those lands and  
16 that will be at public cost?

17 A. It will and what will be the result? The result will be the industrial  
18 development which was so long wanted, and the jobs are there. I mean if you  
19 said you were putting a new road up to the Sandyford Industrial Estate there  
20 wouldn't be a word about it.

21 Q.427But the result, I suggest to you, is that a claim for compensation has been  
22 submitted to Dun Laoghaire/Rathdown County Council of the order of 90 million  
23 Euro, I suggest Euro, I suggest if these lands were not rezoned the amount of  
24 compensation that would be likely to be paid for the lands acquired would be  
25 significantly less?

26 A. I explained that I think yesterday. The reason that there was a compensation  
27 claim put in was because the Council reneged on their idea of providing  
28 provision -- I don't know the ins and outs of this.

29 Q.428Can I put it to you that the reason the compensation claim was put in was  
30 because lands were being compulsorily acquired from Paisley Park or Jackson

1 Way?

2 A. We can talk about it, this, I prefer to talk just about '92, that's the only  
3 one I proposed.

4 Q.429I will just finish this paragraph, the Minister says, and I quote:

5 "The time to take proper account of this cost is before rezoning decisions are  
6 made. As I said on another occasion, no one is entitled to make the kind of  
7 decision that leaves the concern and responsibility for the inevitable cost to  
8 somebody else."

9 A. Right.

10 Q.430Now isn't that what you were doing in proposing and promoting this Paisley Park  
11 motion?

12 A. No, no. There hasn't been any cost to anybody about these land yet. None.  
13 And the provision of services -- the original plan was for a spur off the road  
14 from the Carrickmines onto the road, that has now been provided. That wasn't  
15 an extra cost anyway. There is no compensation requiring road. It was left  
16 out of the '88 acres, that was rezoned. The road piece for the road was left  
17 out of their proposal. The sewers coming up from the valley anyway, that's it.  
18 It seems quite --

19 Q.431From the question of costs, don't you agree with me that the fact that there  
20 has been no development on the lands in question indicates that your  
21 proposal --

22 A. But sure --

23 Q.432As far back as 1992 was premature?

24 A. No. Like as Kevin O'Sullivan said, there is a ten year lag in any of these  
25 things. You must remember that the south east motorway was held up because of  
26 a couple of court cases with the Southern Cross, if they hadn't taken place  
27 the Southern Cross would be there years ago and the interchange would have been  
28 built and the road would have been through. You know that as well as I do.

29 Q.433I want to give you an opportunity to comment on evidence that has been given by  
30 Mr. Enda Conway in relation to the role of planners and officials of the

1 Council in relation to the rezoning.

2

3 MR. O TUATHAIL: Sorry, could we have the date again there please?

4

5 MR. GALLAGHER: The date was the 8th of December. Sorry the 5th of December I  
6 am told. Sorry the 5th of December I am told, yes. It's day 337. Mr. Conway  
7 gives evidence and he, having referred to the supplemental report which we  
8 dealt with yesterday, which concluded:

9 "That the bank of undeveloped industrial lands would be increased considerably  
10 by the current review proposals, they would now be 700 hectares compared to the  
11 960 hectares provide in the 1983 plan."

12

13 That is what you were being told, you and your colleagues were being told in  
14 April 1991, sorry April 1992. And I just want to put Mr. Conway's statement  
15 about his feelings.

16

17 He says: "Despite all the effort listed above on numerous occasions when a  
18 significant rezoning proposal was discussed the detailed reports published by  
19 staff were set aside and voted against. Before and during meetings the  
20 entrance lobby to the Council office were crowded with landowners, builders,  
21 agents, auctioneers and other lobbyists, lobbying and seeking out councillors."

22 A. I agree entirely.

23 Q.434He says -- you agree with that. He says: "The frenzy of external pressure  
24 was --" There such external pressure, was there a frenzy, would you read that?

25 A. I said that from my very first statement.

26 Q.435You would agree, he talks about acrimonious atmosphere in the chamber?

27 A. Absolutely, it was appalling.

28 Q.436And the marshalling of party whips, do you agree with that?

29 A. Yes, I told you that.

30 Q.437"Was very alien to what would reasonably be perceived as the appropriate

1 atmosphere in which the democratic statutory obligation of making of a  
2 Development Plan ought to be conducted. Many of the decisions were illogical  
3 and totally unjustified. The size and shape of plots voted on were indicated  
4 only by the boundaries of the sponsorer or owner. I would express the core  
5 concern of the staff in the following scenario. A landowner, developer or  
6 agent approaches a councillor seeking the zoning of an agricultural zoning to  
7 development zoning. The councillor sponsors a motion which is discussed in the  
8 chamber. The manager's report on the motion recommends against the proposal.  
9 The report, including the professional advice of planners, engineers and  
10 manager, all arguing against the proposal for specific reasons. On many  
11 occasions the public proposed -- opposed a proposal. Despite all this the  
12 councillors insist on pressing the proposal, the result is a bad planning  
13 decision, invariably incurring unnecessary community cost. The sole  
14 beneficiary is the landowner whose lands has been substantially increased in  
15 value.

16  
17 The situation poses the question why should elected councillors go against all  
18 professional advice, even oppose the people who elected them into power to  
19 achieve a financial gain for a single interest?"

20  
21 Now, that's a question that has been posed by Mr. Conway. I would pose the  
22 question to you directly in relation to the Paisley Park/Jackson Way lands and  
23 ask you to answer that question.

24 A. What did you say? Asking me the question --

25 Q.438 Why did you and the elected councillors who voted for this proposal go against  
26 all professional advice, even opposing people who elected you into power to  
27 achieve a financial gain for a single interest?

28 A. First of all, what is contained in that report was almost exactly what I wrote  
29 in my original document to the Tribunal. I agree wholeheartedly with the man.  
30 Secondly, it did result in a financial gain for the owner of the land I would

1 say, as all rezoning did. But there is also a benefit to the consumer. If the  
2 land is not rezoned and no houses built or no industry built, there will always  
3 be a gain for the consumer -- as I mentioned to you yesterday thousands and  
4 thousands of houses are built in this country and most taken up by first time  
5 buyers. When the land is zoned it is eventually built on and the benefit is to  
6 the ordinary public who want houses and to the people who want jobs. That's  
7 the main idea behind it all. If you are complaining about the people who own  
8 Paisley Park, I am not saying you are complaining, but if it is a complaint  
9 that they get rich because the land is zoned that's an inevitable consequence  
10 of land being zoned. As I said before it is like putting an extension on your  
11 house, it enhances the value. There was a need for this particular park in my  
12 opinion, it fitted into an overall idea, and I believe it was a good decision.

13 Q.439 Sir, can I just interrupt to say that there are two typographical errors in  
14 that portion of the transcript, the word "logical" is referred to, it should be  
15 "illogical" in the original statement of Mr. Conway, it makes that clear.

16 A. I think I spotted that one time.

17 Q.440 And the word "proposed" should be "opposed", that's on line 18. "On many  
18 occasions the public opposed the proposal."

19  
20 Now I just --

21 A. That's the thing about in the preamble to the Fianna Fail Inquiry that  
22 Mr. Allen was talking about where Mr. Ahern said sometimes you have to take  
23 difficult decisions and sometimes you had to do this in the face of ferocious  
24 opposition. And the picture Mr. Conway paints there of the hall of the lobby  
25 of the County Council is to me a terrible indictment of the thing at the time  
26 and an exact description, it is exactly what I said in my original document in  
27 the handwritten bit to the Tribunal.

28 Q.441 You gave evidence in the course of this week in relation to various bank  
29 accounts and accounts in building societies, and we had a discussion with you  
30 and you gave evidence in relation to an account that you had in the First

1 Active Building Society or First National Building Society?

2 A. That's right, yeah.

3 Q.442Where was that opened?

4 A. Athenry.

5 Q.443Athenry. And you said that it was opened by a friend of yours?

6 A. Yes.

7 Q.444Yes.

8 A. Well, yes, it was. That's right.

9 Q.445The Tribunal had inquired about that account and has been told that the  
10 lodgement of 1,000 pounds made on the 1st of May 1992 was a lodgement of cash?

11 A. That's correct.

12 Q.446Can you tell the Tribunal where and by whom that lodgement of cash was made?

13 A. I can but I don't want to drag the man -- if I could write down the name for  
14 you.

15 Q.447You can write down the name. First of all, before you write down the name,  
16 just explain where and in what circumstances that lodgement was made?

17 A. Yes. This man, he has another job, but he has an agency or he had for the  
18 First National.

19 Q.448I see.

20 A. He has very little to do this, there is no secret, I just don't want his name  
21 bandied about.

22 Q.449I see. Are you saying you gave him 1,000 pounds?

23 A. That's right. Maybe a few days or a week beforehand, whatever it was, and he  
24 brought it to Athenry and opened it.

25 Q.450The account for you in Athenry?

26 A. Yeah. I signed an application form sometime before that.

27 Q.451The Tribunal is aware that the computer records of the building society show  
28 that the lodgement was a cash lodgement made there at the Athenry agency on the  
29 1st of May?

30 A. That would be the day it was opened, yeah. The application had been signed

1           sometime before that. I don't know how many days; two, three, four, something  
2           like that.

3 Q.452 Just to, one final question, you mentioned the facilities that were available  
4           in Conways's and the fact that Conway's was the venue of the Christmas party.  
5           Would Mr. Dunlop be an invitee or a guest or an attendee at that Christmas  
6           party?

7 A.    I don't remember him attending.

8 Q.453 Would other developers be --

9 A.    No, I don't think so. This was purely one for the lads where we used to sing  
10       songs and I don't think there was any spouses or friends, just the councillors.  
11       That's the way I remember it.

12 Q.454 I see.

13 A.    Just sandwiches and a few drinks, it was a harmless enough affair.

14 Q.455 Thank you, senator.

15 A.    Thank you, Mr. Gallagher.

16

17 JUDGE MAHON: Senator Lydon, I just want to ask you a couple of things, I won't  
18       keep you for too long.

19 A.    Yes, Your Honour.

20

21 JUDGE MAHON: Earlier in your evidence, possibly the first day of your  
22       evidence, you were asked about the, or it was put to you that the role you had  
23       as a counsellor in promoting motions to rezone or in voting for or against  
24       rezoning motions, that you were acting in a quasi judicial function, and I  
25       think you were asked did you understand what that meant and I think you said  
26       you did.

27 A.    Well I -- I hope I have a rough idea.

28

29 JUDGE MAHON: That's a legal term, so you wouldn't be expected to know  
30       precisely. But in layman's terms would you agree, if you disagree please say

1 so, would you agree or disagree that in fact what that means is that a  
2 councillor, an elected councillor approaching a motion to zone or to rezone and  
3 in deciding what he or she should do in relation to such a motion must approach  
4 it in much the same way as a judge would be expected to approach a court case?

5 A. I understood it to mean that you have to take all factors into consideration in  
6 making the decision. And I have one difficulty with that. That was with the  
7 number of submissions we received. I think in law you are supposed to read  
8 every submission and I think that's why they grouped them into bundles of  
9 submissions. You see, if I can just explain to your Honour, if there is a  
10 piece of land going to be developed here, and there is an objection by two or  
11 three people, there may be four or 500 letters all the same but with different  
12 signatures. Now you can't physically read them all, but if you the Council  
13 puts them together, to get the jist of it, as it were, that there is a resident  
14 group or combined resident group complaining or supporting or whatever. And  
15 they do support as well.

16

17 JUDGE MAHON: But you would accept, I think, in general terms you would be  
18 expected to inform yourself to a reasonable degree about what was being  
19 proposed.

20 A. Yes.

21

22 JUDGE MAHON: And then to approach it on that basis. And I am sure you would  
23 agree that, for example, if you owned lands which was to, which was part of the  
24 rezoning or the area to be rezoned or of land if land was owned by a relative  
25 or close friends, would you agree that the appropriate thing to do as a  
26 councillor would be to abstain from that particular motion?

27 A. That always happened. I mean usually before that would happen, I can think of  
28 the late Jim Murphy, God rest his soul, had a piece of lands that was zoned at  
29 one time, normally you declare, Eithne Fitzgerald had some --

30

1 JUDGE MAHON: Well there are instances --

2 A. Normally what happened is the councillor would stand up and say I have an  
3 interest in this, I wish to be excused from the chamber for the particular vote  
4 or whatever.

5

6 JUDGE MAHON: And the purpose of approaching it in that way, I am sure you  
7 would agree, is that you would be in a completely disinterested mode insofar as  
8 an interest in the land or in the outcome of the rezoning was concerned, in  
9 terms of gaining a profit or anything.

10 A. That's correct. It is a bit like, I suppose, like as you said, a judge, you  
11 couldn't very well, I think the phrase is *in causa*, you can't judge  
12 in your own case, something similar to that.

13

14 JUDGE MAHON: And I think you have accepted that if you agreed to vote in  
15 return, if you agreed to vote a particular way, in return for a payment of  
16 money it would be very very wrong.

17 A. Oh yeah.

18

19 JUDGE MAHON: And it would be contrary to the approach which you accept is  
20 correct

21 A. It just would be wrong. Basically wrong.

22

23 JUDGE MAHON: Now you accept, having accepted all of those contentions, you  
24 then went on in your evidence to say that when people were giving you money,  
25 and I am thinking, not talking about hampers or --

26 A. I know.

27

28 JUDGE MAHON: Or 50 pounds or even a hundred pounds, I am talking specifically  
29 or more specifically about donations such as the 5,000 pounds from the  
30 developer, whose name we haven't disclosed, and the 2,500 from Monarch

1 Properties.

2 A. Yes.

3

4 JUDGE MAHON: And the one thousand from Dunlop.

5 A. Basically from developers is what you are saying.

6

7 JUDGE MAHON: All right. And you, I think, said in your evidence that it was  
8 quite clear in your own mind that when these people were giving you money, they  
9 were acting -- they were either acting for themselves as developers or on  
10 behalf of developers in the case of Mr. Dunlop. And that in their mind and as  
11 far as they were concerned and their motivation in giving you the money was to  
12 buy a favour.

13 A. Well, I can't say -- but I would assume that they were as the saying goes  
14 trying to sweet end your cough, I would assume that.

15

16 JUDGE MAHON: So that when a motion would come up or the opportunity to promote  
17 a motion to rezone their land which would make them very very wealthy, that  
18 having given you the money they would, this would be in their own mind --

19 A. Yeah.

20

21 JUDGE MAHON: -- they would be expecting you to perform and to vote  
22 accordingly, that's your assumption of what was going on in their mind.

23 A. My assumption, yes.

24

25 JUDGE MAHON: You said in your evidence that notwithstanding that that you felt  
26 free to take the money from them. Again, I am talking about the bigger sums  
27 that I have mentioned. You felt free to take the money from them, to vote as  
28 they wished you to vote.

29 A. No. I would accept money from them, but I wished to vote as I wished to vote.

30

1 JUDGE MAHON: We know for a fact that in relation to the three larger sums of  
2 money and I think we mustn't forget the fact that in today's terms we can  
3 nearly double 5,000 pounds --

4 A. It would be a substantial gift.

5

6 JUDGE MAHON: Close to nine or 10,000 pounds now. What I am suggesting to you  
7 is, what's clear is in those particular instances having taken the money from  
8 them, having acknowledged that they were, that in their minds they were giving  
9 it to you to buy a favour as it were, the fact is that in each of those  
10 instances you then either promoted or supported the particular venture in  
11 question; isn't that right?

12 A. Except that with the second gentleman there, I use the word gentleman  
13 advisedly, I don't think that ever entered his head. He is not that type of  
14 man.

15

16 JUDGE MAHON: No, no, I am just talking about --

17 A. In general?

18

19 JUDGE MAHON: Yes. That insofar as those three incidents are concerned you did  
20 as they would have wished you to do?

21 A. That's right, yeah.

22

23 JUDGE MAHON: Either promote or support a rezoning of their property.

24 A. Yeah.

25

26 JUDGE MAHON: Isn't that right?

27 A. And I believed they were all good zonings.

28

29 JUDGE MAHON: Yeah. Well, that's -- what I am suggesting to you is, or what I  
30 want to suggest to you is that in the light of your acknowledgement that you

1 have to approach these rezoning motions much in the same way as a judge would  
2 be expected to approach a court case.

3 A. Yes.

4

5 JUDGE MAHON: The hearing of a court case. Do you not see it as strange or  
6 inconsistent or contradictory or a contradiction that you would fail to  
7 disclose the interest that you had in the lands in the sense that you had taken  
8 money in good faith from the people who were likely to benefit from the  
9 particular motion?

10 A. Well, I just make an answer to this. I happened to be aware of -- many  
11 companies, for example, gave to everybody at election time. I don't mean some  
12 people. I mean, they gave to practically every member of the Council of all  
13 shades, hews and so on. So, the fact that they have voted, many people voted  
14 for these motions, I really don't believe -- I have discussed this with  
15 Council, I really don't believe they were influenced. You see, the people that  
16 influenced me in voting are the people who elect me. Not the people from whom  
17 I got donations. That is a fact.

18

19 JUDGE MAHON: But do you not see the contradiction in, on the one hand, saying  
20 that if you are promoting the rezoning of land which includes say -- or which  
21 will result in the increase in value of, say, the land of a relative or even  
22 land belonging to you, what's the difference between that and taking money from  
23 a developer and then voting in favour of his particular project? It may mean  
24 that -- I'm not suggesting for a minute that you didn't believe that the  
25 particular rezoning was warranted for a good decision, but do you not see that  
26 in the eyes of the average member of the public --

27 A. Yes, it could --

28

29 JUDGE MAHON: -- that to take the money and then soon after or within a  
30 reasonable period of time afterwards, and this was a large sum of money, to

1 then promote or support that development, do you not see where --

2 A. It could be misinterpreted surely, yeah.

3

4 JUDGE MAHON: But would you not agree it is likely to be misinterpreted by  
5 almost anybody?

6 A. Anybody except a politician because that's the only place we get our donations  
7 from.

8

9 JUDGE MAHON: So other than politicians you would accept that doing business in  
10 this way is likely to cause concern or upset in the eyes of the public?

11 A. It's reputed to be, but in fact I don't think most of the public give a hoot.  
12 I have never been -- I have canvassed all over the country and I have canvassed  
13 thousands of houses in Dublin, only a very few people ever mentioned anything  
14 like that. They don't bother. It doesn't bother them at all.

15

16 JUDGE MAHON: But you didn't tell the people that you were canvassing that you  
17 were, you would be rezoning property of people from whom you were taking sums  
18 like two, two and a half or 5,000 pounds.

19 A. You see, the fact is that I might have proposed it, but if you -- I know you  
20 are only dealing with me perhaps here. If you take any one development you  
21 will find maybe half the Council voted, you will also find half the Council got  
22 donations from this particular developer but there is no -- I know it is hard  
23 to believe that there is no relationship, I said that yesterday I think in  
24 response to Mr. Allen. When it comes to election time you take a donation from  
25 anybody or even between election times, but when you go in to vote you do the  
26 best you can, I always did anyway. That's all I can tell you.

27

28 JUDGE MAHON: If you were operating next month or the month after in a  
29 situation where you had to, or where there was a vote to rezone land and you  
30 had taken in the last few weeks five or 10,000 pounds from a particular

1 developer whose lands was being rezoned would you now, would you now act in the  
2 way that you did in the early 1990s and take the money, number one, and then  
3 not -- then proceed to support that --

4 A. In answer to your question, your Honour, since the setting up of the Tribunal  
5 everybody has been more circumspect in what they do. They look at it more  
6 clearly and say, my God, if I do this somebody is going to say something about  
7 me. I wouldn't see anything wrong in it, but I wouldn't do it now.

8

9 JUDGE MAHON: Is it for fear of being caught out that people wouldn't do it  
10 now?

11 A. Not for fear of being caught out, but for fear of being spoken about really, I  
12 suppose.

13

14 JUDGE MAHON: But do you not see it is inherently wrong to approach business on  
15 that basis?

16 A. I don't see it is wrong. Maybe it is wrong but that's the way that we got our  
17 donations. And that's the way all political parties got donations. I mean you  
18 may have seen in the paper yesterday the number of donations that TDs get, huge  
19 amount of money they collect because there is no other way of getting it. Some  
20 people that contact would be developers, some landowners, so on. It extends  
21 not just to zoning but right across the whole spectrum of public --

22

23 JUDGE MAHON: But you have to accept, I think, Senator Lydon, that a councillor  
24 who is in a position to promote rezoning is in a significantly more powerful  
25 position than your average TD who doesn't have that type of power -- Anyway,  
26 that's just by way of comment.

27

28 Just on a slightly different subject, in the Fianna Fail Inquiry in the minutes  
29 which recorded what you said to your colleagues on that occasion, one of the --  
30 one thing you said was that in your opinion 90 per cent of councillors were not

1 aware about what they were voting for, do you recall saying that?

2 A. That was -- I would say that was --

3

4 JUDGE MAHON: 90 per cent of councillors were not particularly aware of what  
5 they were voting for.

6 A. Perhaps I am a little effusive in my speech, but that's --

7

8 JUDGE MAHON: But even if it is 80 per cent, isn't that --

9 A. Even if it is ten per cent that's terrible.

10

11 JUDGE MAHON: And this was said now two or three years ago. Would you not  
12 accept that that amounts to a huge betrayal of responsibility on the part --

13 A. If it was true it was. But you see --

14

15 JUDGE MAHON: Wait now, are you saying, Senator Lydon, that it is not true? I  
16 am not holding you to 90 per cent, but are you now suggesting that it wasn't  
17 the vast majority of councillors, as you indicated to the Inquiry then, that  
18 didn't know what they were voting for?

19 A. I would say that that sometimes happened. I said that in my initial statement  
20 as well. It happened to me as well. If I went into the chamber and I happened  
21 to be late or hadn't attended a group meeting and an issue came up, I would  
22 have to ask the people around me, did we adopt any view on this? What's the  
23 story here?

24

25 JUDGE MAHON: But isn't that a huge betrayal of your responsibility?

26 A. Oh yeah. Shocking. Shocking. That's why I really detested the situation.  
27 That's why I was so happy to get out to Dun Laoghaire. Other people I know in  
28 Fingal and South Dublin, they are just three different ordinary working  
29 Councils.

30

1 JUDGE MAHON: But that's nothing to do with the Council being over crowded or  
2 that nature, that's your own attitude or your own approach to the business of  
3 rezoning and --

4 A. No. It was to do with the amount of people really, you know, and the way the  
5 thing was run and there was so many meetings. I think somebody mentioned this  
6 morning 50 Development Plan meetings on top of -- there was days when there was  
7 three meetings one after the other. It was just unbelievable.

8  
9 Out in Dun Laoghaire/Rathdown, for example, if we have discussions about  
10 everything, everything is out in the open, everything is clear, we meet  
11 beforehand, we discuss it. You cannot, as I said in my report one time, you  
12 cannot not be informed.

13

14 JUDGE MAHON: Why not abstain in situations where you couldn't make a decision  
15 in your own mind as to whether --

16 A. I suppose you should but peer pressure -- I mean, if you are sitting in the  
17 middle of four fellows and you listen and they do ta ta ta, you say what's the  
18 story, they say we have discussed this and it's a good proposal you would be  
19 inclined to vote for it.

20

21 JUDGE MAHON: Can I just ask you finally, this is my last question, you met,  
22 you said you met Mr. Dunlop in your office in John of God's in Stillorgan?

23 A. On a number of times.

24

25 JUDGE MAHON: On a number of occasions?

26 A. Not a number -- maybe three or four I suppose.

27

28 JUDGE MAHON: And can I ask you why would you meet a lobbyist who is not a  
29 constituent in your office in John of God's? You said in your evidence on a  
30 number of occasions that you would frequently see him around the Council.

1 A. Oh yeah, yeah.

2

3 JUDGE MAHON: And on occasion in the pub close to the Council.

4 A. He probably asked to see me and -- you see --

5

6 JUDGE MAHON: But you knew what he was, what he wanted you for.

7 A. Oh yeah, of course. He wanted me to vote for something, that's the reason he  
8 would visit me, although I must say --

9

10 JUDGE MAHON: And why did you afford him the very special attention of meeting  
11 him in your office?

12 A. To find -- I suppose he might be -- one of the things that he did or all these  
13 fellows do is they go around the councillors over and -- by his own evidence,  
14 around and around they will go, if there is a Council here they go there, if  
15 there is a golf classic they go, if there is an outing they go, if they want to  
16 meet in the office they meet in the office, if they want a coffee they buy a  
17 coffee. Their life is consumed with councillors trying to get them on side and  
18 hoping to do what they want to do.

19

20 JUDGE MAHON: You knew that was his only interest in coming to you.

21 A. He was a lobbyist, that was his job. He might say I am promoting this  
22 particular development, I want you to vote for it. I don't know what he asked  
23 me to tell you at this stage, because -- I know that on one or two occasions  
24 he -- at least two he spent a long time talking to me not about anything to do  
25 with that --

26

27 JUDGE MAHON: I presume he would meet you in yours office following an  
28 appointment, following an arrangement with you to meet him?

29 A. I don't think he would arrive out of the blue. I am not sure, I can't swear to  
30 that but if he was, say, I don't know, visiting someone in Dun Laoghaire like

1 Larry Butler he might say I will drop up to Lydon. I don't know. I know he  
2 did spend a long time talking to me on two occasions. He had a particularly  
3 sad family situation with his little child and we discussed that on one or two  
4 occasions.

5

6 JUDGE MAHON: But you never told him politely or otherwise to go away?

7 A. Not at all. Why would I? He never did anything to me.

8

9 JUDGE MAHON: All right. Thank you, Senator Lydon.

10

11 JUDGE FAHERTY: Senator Lydon, I think it was yesterday Mr. Gallagher and  
12 indeed Mr. Allen, I think quoted, they quoted the introduction to the Fianna  
13 Fail Committee Inquiry.

14 A. We had that today sometime.

15

16 JUDGE FAHERTY: Yes. It was yesterday, I think. Mr. Allen. And I think on  
17 one of those, in that I think there was a quotation from the Taoiseach; is that  
18 correct?

19 A. Yes. At the summary, a sort of preamble thing to it I think.

20

21 JUDGE FAHERTY: And there was a reference to the trust in a public, of the  
22 public is the most precious thing.

23 A. Very important, yes.

24

25 JUDGE FAHERTY: And I think you agreed wholeheartedly with that.

26 A. Absolutely, yes.

27

28 JUDGE FAHERTY: I just want to ask you about that in the context of a couple of  
29 replies you gave to I think it was Mr. Gallagher.

30 A. Sure.

1

2 JUDGE FAHERTY: You explained that why you thought lobbyists like Mr. Dunlop  
3 and others and indeed developers would give you money, would give councillors  
4 money to keep them happy and on side, and there might be something coming down  
5 the line.

6 A. That's what I assumed, yes.

7

8 JUDGE FAHERTY: That's what you are assuming, yes. And Mr. Gallagher was  
9 asking you -- I think you agreed with Mr. Gallagher that this could be open to  
10 abuse.

11 A. Oh, of course it could, yes.

12

13 JUDGE FAHERTY: And I think you stated to Mr. Gallagher that it never occurred  
14 to you to say to Mr. Dunlop desist don't do this. You took the money or you  
15 would take the money if he was giving you a donation; is that correct?

16 A. Yeah, he -- I got two donations from him, yeah.

17

18 JUDGE FAHERTY: I am talking generally about lobbyists, you would take money or  
19 councillors would take money and there was nothing wrong with it as far as you  
20 were concerned?

21 A. No, because stacks of them did, yeah.

22

23 JUDGE FAHERTY: And Mr. Gallagher put it to you, this was question 431, it was  
24 the 29th of April: "Did it ever occur to you that if you knew Mr. Dunlop was  
25 attending every special meeting in the Council and was keeping a role call and  
26 ticking off his clip board or whatever it was he was doing, did it ever occur  
27 to you by accepting a cheque for a thousand or I am sure, generally that you  
28 might be leaving yourself open or compromising yourself or -- this is what I  
29 want to ask you about, there might be a perception that you were compromising  
30 yourself." You recall that question?

1 A. I don't but I take your word for it, all right, yeah.

2

3 JUDGE FAHERTY: Day 387 question --

4 A. There could be a perception that I would be leaving myself open.

5

6 JUDGE FAHERTY: Yes. Your answer I want to get to, senator, you stated then:

7 "There might be a perception. That wouldn't bother me. I mean it never

8 compromised me, so it didn't make any difference, from anybody."

9

10 Now when you were elected I think you represent the people; isn't that correct?

11 A. Yes, absolutely.

12

13 JUDGE FAHERTY: Yes. And you recall that all of those series of questions came

14 in light of Mr. Gallagher asking you, or putting it to you that the sort of

15 scenario we have been discussing here would give rise to suspicions among

16 ordinary thinking people.

17 A. A lot of it would have, yeah. I am sure that's true.

18

19 JUDGE FAHERTY: You have already accepted, I think, that anybody paying or

20 accepting money to vote or to do a particular thing at the behest of a

21 developer would be corruption; is that correct?

22 A. I would say so, yes.

23

24 JUDGE FAHERTY: And that would be a breach of trust would you --

25 A. It would of course.

26

27 JUDGE FAHERTY: Would you agree with me there would be other types of breach of

28 trust?

29 A. I am sure if you have something in mind I don't --

30

1 JUDGE FAHERTY: What I am asking you I suppose, Senator Lydon, would you not  
2 agree that if that perception was among ordinary people or among people that  
3 this was happening and it didn't bother you that that was effectively a breach  
4 of trust on your part? Not to give, to give -- to have concern for the  
5 public's perception?

6 A. I am not sure I follow you fully now. And I don't want to delay --

7  
8 JUDGE FAHERTY: It is very clear. If you were -- you have said it didn't  
9 bother you that there was a lack of perception among the public, those are your  
10 words.

11 A. That's right. It's one of these Catch 22 things. It's like going to a  
12 residents meeting. Some people will perceive you one way, other people --  
13 people have different conflicting demands. Really you have to be your own  
14 person and just stand up and say I believe this road should go through here or  
15 I believe that shed should be closed. Some people perceive all kinds of  
16 ulterior motives. They say, he is in with the fellow down the bottom of the  
17 road. That's what Mr. Ahern referred to in May. As I referred to sometimes  
18 you just have to ride out the perceptions.

19  
20 JUDGE FAHERTY: But you really -- that -- you put me on to my next question,  
21 Senator Lydon, it may well, you were a senator as well as a County Councillor  
22 for all of this period.

23 A. That's correct.

24

25 JUDGE FAHERTY: You said you didn't believe that it was corruption.

26 A. No not in the way it is defined.

27

28 JUDGE FAHERTY: But you heard rumours; is that correct?

29 A. Yeah, I remember the newspapers approached me one time talking about this.

30

1 JUDGE FAHERTY: There was a lot of debate in the early 1990s.

2 A. Oh yeah.

3

4 JUDGE FAHERTY: And do you believe that somewhere or something somewhere was  
5 giving rise to a great deal of print and comment in the media?

6 A. I do, you see.

7

8 JUDGE FAHERTY: And comment by Minister Smith, the then Minister, I think he  
9 was responding to the media pressure as well.

10 A. I do, you see. I do

11

12 JUDGE FAHERTY: Did you ever think to put this to yourself as a senator, to  
13 give vent to this to comment on it, you had loads of opportunities in the  
14 Seanad, would you not?

15 A. I did. I believe I discussed this with party officials as well, yeah.

16

17 JUDGE FAHERTY: But discussing it with party officials would be a difference,  
18 you could be discussing with party officials but that might not in any way  
19 alleviate any perception or suspicions the public might have, you understand  
20 that?

21 A. If I stood up in the senate tomorrow and said there is no corruption in Dublin  
22 I don't know what people would think, they would think he is trying to hide  
23 something, you know.

24

25 JUDGE FAHERTY: But you weren't calling, you knew there was a lot of concern  
26 and rumour.

27 A. But a lot of it was media driven you see. I have to ask you your Honour  
28 respectfully to put yourself in the place of someone sitting down the bottom of  
29 the room and see all these people coming in voting en mass one way, and the  
30 other crowd the other way. Place full of developers, residents group, people

1 banging the doors. What would you think yourself? You think this is really  
2 far out.

3

4 JUDGE FAHERTY: But really what I am suggesting to you, senator, is you were  
5 the people making the decisions.

6 A. Yes.

7

8 JUDGE FAHERTY: You are being candid here describing to Judge Mahon and the  
9 Tribunal the chaotic conditions and all of that, and the way in which votes  
10 were -- matters were voted on without thought, but the only people who could  
11 cure that were the County Councillors.

12 A. I didn't say without thought, I said without sufficient knowledge at times. I  
13 don't mean to correct you --

14

15 JUDGE FAHERTY: I accept that.

16 A. And I would not say it was an ideal situation, but I do honestly and seriously  
17 from the bottom of my heart believe that the majority of councillors voted the  
18 way they saw fit as best to do it, you know. I know I did and most of the  
19 people I talked to. I am very friendly with a good number of councillors and I  
20 know they wouldn't be swayed by motives that were not right.

21

22 JUDGE FAHERTY: Now you told Mr. Gallagher he asked you and you said that maps  
23 and motions were a/c signed in the hall of the County Council as a favour with  
24 little thought and those are your words

25 A. That's correct yeah.

26

27 JUDGE FAHERTY: That was your experience, you saw that. And I think then you  
28 went on to say that you yourself wouldn't do that, but you would do it if you  
29 were seconding or adding a third signature to the motion.

30 A. Yeah. I would never propose something unless I knew what it was all about. If

1 someone came and said I want another signature on that, I can't say that I did  
2 that but I would have done it if I was asked, maybe I did, I don't know.

3

4 JUDGE FAHERTY: You said if I was only seconding a motion I would be putting it  
5 on the card or chlair, just facilitating it going on the chlair for discussion;  
6 is that correct?

7 A. That's correct.

8

9 JUDGE FAHERTY: You were seconding a motion that meant somebody else would have  
10 to be proposing it or signing it, isn't that right, normally?

11 A. Correct.

12

13 JUDGE FAHERTY: So it wouldn't just be going on for discussion, if you were  
14 seconding a motion?

15 A. No, I wouldn't. I mightn't even speak on it at all.

16

17 JUDGE FAHERTY: But the point I am putting to you, senator, is that it wasn't  
18 just facilitating a discussion that motion would ultimately be voted on in some  
19 way.

20 A. It might, sometimes it could be withdrawn as well.

21

22 JUDGE FAHERTY: Assuming it went for full debate.

23 A. But if you just look at Deputy O'Connor's evidence, he signed the thing, I  
24 think he did it quite casually.

25

26 JUDGE FAHERTY: He was quite forthcoming about how he did it.

27 A. I don't think he had any interest, he might have said a few words about it. I  
28 don't think whether he did or not. He withdrew it then when there was no  
29 support for it.

30

1 JUDGE FAHERTY: But my basic point is this, even if you are seconding  
2 something, if you are adding your signature --

3 A. But you wouldn't be -- it was just -- they might have got, when I say a  
4 seconder I might be the second name, there could be a third or fourth name, I  
5 could be the third or fourth name.

6

7 JUDGE FAHERTY: Absolutely.

8 A. It wasn't just I --

9

10 JUDGE FAHERTY: Are you saying or are you telling the Tribunal that it would be  
11 up to the first signatory on the motion to do all the running in relation --

12 A. Oh yeah. He would be the proposer, like I was the proposer in Paisley Park.

13

14 JUDGE FAHERTY: Coming to that in a minute. If you are a -- are you saying you  
15 would leave it to whoever it was to do all the work?

16 A. I am only saying that that might have happened in some cases, if you were a  
17 seconder of a motion and you were interested in the motion you speak on it, if  
18 somebody came up in the hall and asked you to sign something, I am putting in  
19 this map, I want a signature, his was on it already or hers, you might just  
20 sign it, that happened. I think I said in my statement that would have  
21 happened from time to time.

22

23 JUDGE FAHERTY: Now you said that if you were the proposer or signing a motion  
24 that you take it seriously.

25 A. Oh yeah. I would anyway, I am sure.

26

27 JUDGE FAHERTY: I want to ask you about that in the context of the evidence and  
28 you can correct me if -- I am giving a summary of what you said you did in  
29 relation to Paisley Park and if I misrepresent you please advise me. I am sure  
30 your counsel will.

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I am going at my memory for the moment. You had a discussion, you say, with the late Mr. Hand. He mentioned that there might be a motion and Frank Dunlop might be talking to you, is that correct? And, indeed, you agree Mr. Dunlop did talk to you.

A. Yes, he did.

JUDGE FAHERTY: I think sometime you thought in or about the Council chambers.

A. I don't know where it was, it could have been anyway.

JUDGE FAHERTY: Yes. You agreed you signed the motion; isn't that correct?

A. Oh yeah.

JUDGE FAHERTY: And you have also agreed that the motion obviously came on for debate, you don't know where exactly you signed the motion or when you signed the motion contrary to what Mr. Dunlop says.

A. I don't.

JUDGE FAHERTY: And you have also given evidence I think and agreed that Mr. Dunlop when he spoke to you, as I understand it, when he asked you to sign the motion he had a document, a one page document, I think it was described something --

A. I said I wasn't sure whether he had speaking notes or not, he did give me that one page.

JUDGE FAHERTY: That was where Paisley Park -- some reference to it not being in liquidation.

A. Yeah.

JUDGE FAHERTY: And some reference to it, reference to a business park.

1 A. That's right, yeah. And there was a business park manager mentioned or  
2 something.

3

4 JUDGE FAHERTY: And I recall you saying that what you did and -- what you did  
5 in relation to that was go to, you would have a look at the lands.

6 A. I did

7

8 JUDGE FAHERTY: And you did, that's your evidence.

9 A. Yes, I did.

10

11 JUDGE FAHERTY: And then you, did you sign the most after looking at the lands?

12 A. I did, yes.

13

14 JUDGE FAHERTY: And then it came up, you proposed it then in the chamber?

15 A. That's right, yeah. And I subsequently voted for it again in December.

16

17 JUDGE FAHERTY: We'll leave that aside for the moment. Is that my summary of  
18 what you did in relation to the motion?

19 A. That's roughly it, yes.

20

21 JUDGE FAHERTY: I just want to ask you, from what we have heard to date from  
22 last December or last November Mr. Dunlop seems to have done a lot of work in  
23 relation to the matters. He was lobbying or spoke to a lot of County  
24 Councillors. He spoke to the land developers and liaised with other people.

25 A. Well he -- he engaged with councillors, I don't know what he did with other  
26 people.

27

28 JUDGE FAHERTY: It would appear from evidence we have heard that the landowners  
29 themselves went to a lot of trouble to get this ready, they had submissions  
30 prepared and furnished to the County Council.

1 A. Yeah. Well, see, we would never know any of that, all this information in all  
2 these documents about all these lands, solicitors writing to one another, none  
3 of that impinged upon us.

4

5 JUDGE FAHERTY: As I understand it, before a motion, normally a motion would be  
6 after a submission going in or I think what's classed as a representation, the  
7 landowners would make a representation --

8 A. But that was just, did you ever see one of these in the minutes, it is just  
9 representation land 449 or something, but we wouldn't know all of that, I mean  
10 I actually think --

11

12 JUDGE FAHERTY: Do you know what REP, for example 972 that was the number of  
13 the representation, did you know what REP, it was written on a motion --

14 A. R?

15

16 JUDGE FAHERTY: REP.

17 A. Yes, I do. REP.

18

19 JUDGE FAHERTY: But you would know what that was?

20 A. Somebody on behalf of the lands made a representation about it, I think that's  
21 what it means, yeah.

22

23 JUDGE FAHERTY: Yes. Now you have told us yesterday that you would take  
24 anything you were doing proposing seriously.

25 A. Yes.

26

27 JUDGE FAHERTY: Now on the motion you had, you signed, it was drafted already,  
28 wasn't it?

29 A. It was what?

30

1 JUDGE FAHERTY: Drafted already, you had it there.

2 A. I didn't draft it, no. The motion -- there was -- somebody had drafted the  
3 motion, probably Frank Dunlop had drafted it I suppose.

4

5 JUDGE FAHERTY: Did it ever occur to you to go to the submission or the  
6 representation and see what Paisley Park or the engineers or the -- were saying  
7 about the merits or otherwise of the development?

8 A. To be honest, no, I didn't, no.

9

10 JUDGE FAHERTY: Why didn't you?

11 A. It just wasn't the way things were done. As far as I know it never occurred.  
12 I thought I was doing a good job looking at the lands, most fellows -- sorry, I  
13 was going to assume that a lot of people would just -- I went and looked at the  
14 place. I thought this was a good idea. I mean I actually went one area and  
15 then to the other side of it. I thought, yes, we could zone this land. It  
16 will fill into the overall plan and it will be a good idea. That's why I  
17 proposed it.

18

19 JUDGE FAHERTY: But you knew, you had two clues if I put it like that, two  
20 triggers, Senator Lydon; you had the piece of paper that Mr. Dunlop had  
21 proffered you which referred to a business park and you had subsequently the  
22 draft motion.

23 A. Yeah.

24

25 JUDGE FAHERTY: Where --

26 A. They may not have come together.

27

28 JUDGE FAHERTY: I accept that, but before you got the motion to sign, so you  
29 had the motion before you signed it?

30 A. I had the motion before I signed it, no, no.

1

2 JUDGE FAHERTY: Well you had the piece of paper.

3 A. No. You see the piece of paper, let's deal with the two things separately/the  
4 piece of paper with the names on it, I would say he probably handed me that  
5 maybe going into the chamber a day before. I don't know when I got it. These  
6 are the guys that own the land, that sort of stuff, the other, the motion --  
7 It's going back a long way, this is the best I can remember it. When he asked  
8 me to sign the motion I asked "what do you want me to propose?" He had a map,  
9 I know it wasn't the 90/123 map.

10

11 JUDGE FAHERTY: You know it was or wasn't?

12 A. Wasn't. I remember. As far as I know it was a black and white map. He told  
13 me where it was. I don't think he knew himself where it was. I don't think he  
14 was ever this. I said "I will go and look at this thing" and I did. It wasn't  
15 any more complicated than that or any more -- the only reason I went to look is  
16 because any time I every ever proposed anything I went and looked at it first.

17

18 JUDGE FAHERTY: It is perfectly laudable for you to look at it, Senator Lydon.  
19 I am not in any way disparaging that. But I would have thought that as a  
20 public representative being asked by a lobbyist who was acting for a landowner  
21 to propose a zoning, that you would want to know the merits or otherwise of the  
22 proposal --

23 A. But sure --

24

25 JUDGE FAHERTY: -- in some detail.

26 A. When you put the proposal the manager comes forward with merits or demerits and  
27 he would have a report on it. I looked at that and knew it fitted into the  
28 90/123 plan. That's my word, you know what I mean. I thought this is part of  
29 a good plan for the whole valley. It will be a good business park. We need  
30 it. Let's propose it. That's -- I mean we can go around the houses for a

1 month, but that was only my motivation. I mean, when you look back on these  
2 things you say why in the name of God did you do it, but that was the reason I  
3 did it.

4

5 JUDGE FAHERTY: Your plan, you keep referring to the 1990 plan, you agree, you  
6 have agreed with Mr. Gallagher that was voted against wasn't by the County  
7 Council on the 24th of May 1991.

8 A. Except I didn't vote for it.

9

10 JUDGE FAHERTY: Yes. You did, but you didn't speak at that meeting, Senator  
11 Lydon. Why not?

12 A. If I answer this you will probably faint, but the real reason I didn't speak at  
13 most of these things is I didn't want to prolong the meeting any longer than  
14 necessary. Do you know some of these meetings went on for nine hours?

15

16 JUDGE FAHERTY: You see I have some difficulty understanding where you got your  
17 knowledge of the DP 90/123 because you weren't at any of the meetings, you have  
18 said in evidence that you -- hear me out for a moment, would have gotten a lot  
19 of documents in bundles from the Council. The minutes of the meetings would  
20 suggest that the documents were actually only circulated at the meetings on the  
21 18th of October and 16th of November. You weren't there on the 6th of December  
22 when option one the 1992 plan with updates was adopted. So if you wanted to  
23 have a public debate about the merits of the earlier plan, the 24th of May 1991  
24 would have been your opportunity.

25 A. Yeah, but sure was I not there, is that it?

26

27 JUDGE FAHERTY: You were there, you didn't make any contribution/

28 A. Maybe other people, probably what happened some people spoke before me and said  
29 what I was going to say. If I could just say this to you very respectfully  
30 again. Some of these meetings were, I can't think of the word, but the same

1 people or different people said the same thing over and over again. It was to  
2 make a point. We still do it in fact. Fianna Fail fellow speaks, a Labour and  
3 a Green speaks. They all say the same thing and start again. I just thought  
4 to myself what is the point.

5

6 JUDGE FAHERTY: I would agree with you on that, senator, because if you look at  
7 the minutes of the particular meeting if memory --

8 A. The minute were always --

9

10 JUDGE FAHERTY: If I recall of the people who spoke the majority spoke in  
11 favour of option one and presumably against DP 90/123.

12 A. They would be the people, probably mostly either Labour people I think or else  
13 people up around the area, they would represent the area where the people were  
14 opposed to it, whereas other councillors from the area which were for it.

15

16 JUDGE FAHERTY: I recall members of your own party I think who would have  
17 spoken against option two and in favour of option one.

18 A. Probably yeah, I remember --

19

20 JUDGE FAHERTY: I think there were only three people against option one that  
21 spoke at the meeting; one was the late Councillor Hand. I can't recall the  
22 names of the other two.

23 A. From Fianna Fail?

24

25 JUDGE FAHERTY: Yes. Only three people that spoke against the meeting, against  
26 option one the '83 plan.

27 A. I think it was only lost by two votes; is that right?

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29 JUDGE FAHERTY: No, no, no. This is different, the 24 of May.

30 A. I do beg your pardon. I get confused.

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JUDGE FAHERTY: I am just asking that was your opportunity to re-introduce the debate on the manager's previous proposal but you didn't speak.

A. No, no. But I voted for it.

JUDGE FAHERTY: Yes, I know that.

A. I am consistent all the way along.

JUDGE FAHERTY: Just one more. Now you have agreed I think with Mr. Allen and, indeed, Judge Mahon that corruption in the planning system if people were paid that would be corruption.

A. I would say that's as good a definition as any, yes.

JUDGE FAHERTY: And you said in response to Mr. Allen yesterday you don't think there was corruption in the planning system, what I understand by corruption in the planning system is that people were paid to do certain things, that wouldn't be my belief exactly.

A. I tried to go back last night on what I was thinking, but I would say -- I believe that because I don't ever come across a councillor who voted for -- I have no record of this, no -- not a record, is the wrong word, but no evidence that a councillor from any party ever voted in a certain way because he or she were paid. I just -- I don't, I didn't see it and I don't think anybody else found it either way.

JUDGE FAHERTY: Yes. Would you agree with this proposition: That you have set out what you believe to be corruption, that somebody was paid specifically for their vote or for their signing a motion and agreed to take money, that's corruption?

A. Well, yeah, you are not supposed -- it's axiomatic, as Judge Mahon -- if you exercise this quasi judicial function you can't have a fellow paying you for

1 it.

2

3 JUDGE FAHERTY: Would you agree if somebody took money in such circumstances  
4 that that corruption couldn't in any way by any later action be negatived or  
5 diluted?

6 A. I don't think so. It is a bit like murder or something, you murder them once  
7 and that's it.

8

9 JUDGE FAHERTY: That's the point.

10 A. That's what I think.

11

12 JUDGE FAHERTY: I got the impression from one of the your answers to Mr. Allen  
13 yesterday that if in the minds of the person that they changed their mind about  
14 doing a certain thing that it could be in some way negatived or diluted having  
15 taken money to do a specific act.

16 A. Yeah.

17

18 JUDGE FAHERTY: Do you believe that or -- I don't want to misquote you.

19 A. If you just run across one time -- I am not quite sure what I said there, that  
20 if -- you needn't put it up.

21

22 JUDGE FAHERTY: "What I understood about corruption in the planning system is  
23 that people were paid to do certain things, that wouldn't be my belief exactly.  
24 I believe that people got money but I think you may see as time goes they  
25 didn't always do or I don't think if they ever did what they were alleged to  
26 have done for the money."

27

28 And I am just asking you, do you believe that if somebody was paid to do a  
29 certain act that that was corruption and you have said yes.

30 A. Yes. But if they were paid and they didn't do it, it is still corruption.

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JUDGE FAHERTY: I just want to clarify that.

A. If they took it for ulterior motives surely, you can't do that.

JUDGE FAHERTY: Very well. Just one final thing, you said in response to Mr. Gallagher today, Senator Lydon, that most of the lands that were zoned in the 1990s have been built on.

A. That's my opinion, but I don't haven't facts.

JUDGE FAHERTY: Yes. Because Mr. Cremmins who was here in December said if he took the land bank as it was in 1996 and together with the zonings in '97/98 that to date, that was as of December 2002, less than half the zoned lands had been built on.

A. That's probably true, yeah. I can't dispute that. I am sure it is. In fact, I know in Dun Laoghaire/Rathdown --

JUDGE FAHERTY: So you accept that there is a lot of -- still is a lot of land zoned but not developed?

A. Of course there is. I think in Dun Laoghaire/Rathdown we have some land banks, some builders who owned aren't building and other people next door are building away. Yeah.

JUDGE FAHERTY: I asked Mr. O'Connor this and perhaps the other councillors who have given evidence, did you ever of your own volition take up the cudgels and suggest that lands that were zoned should be developed? Did you ever --

A. I don't think so, no.

JUDGE FAHERTY: Why not?

A. It is like a lot of the questions I was asked since I came here, it is just something, I don't think it is something we do. I am not saying we shouldn't,

1 it is like being asked why didn't you do something about the chamber we were  
2 sitting in, the reason is it is just at the time nobody did it, and -- there  
3 was no particular reason I guess.

4

5 JUDGE FAHERTY: Very well.

6

7 CHAIRMAN: Senator, as a County Councillor you were effectively an unpaid  
8 public representative.

9 A. You could nearly say that, yes.

10

11 CHAIRMAN: I mean, yes, I know you got expenses, but you got no remuneration as  
12 such.

13 A. No, that only started in recent times.

14

15 CHAIRMAN: And as far as you were concerned you were not interested in personal  
16 enrichment?

17 A. In personal enrichment?

18

19 CHAIRMAN: In personal enrichment as a result of your services to the public?

20 A. No, no.

21

22 CHAIRMAN: So may I put it to you this way, that your status was like Caesar's  
23 wife, you had to be above reproach, but I say that is as a fair description of  
24 the standard which you were seeking to achieve.

25 A. Yes.

26

27 CHAIRMAN: Now you accepted payments from Mr. Dunlop, a man, a lobbyist with  
28 what I described as a manifest and patent agenda.

29 A. I just accept one thing, Chairman, the word payments, I accepted donations from  
30 him.

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CHAIRMAN: Donations. I am quite happy to accept that. From a man that had literally manifest and patent agenda, he was a lobbyist for, you knew, a particular group or as the case may be depending on where you were dealing --

A. But there were other lobbyists, he was just the most active.

CHAIRMAN: I accept that. I accept that.

A. Yes.

CHAIRMAN: Now you also accepted a substantial payment by admission yourself from a person involved in a development, the 500,000 -- not 500,000, 50 thousand, sorry 5,000, isn't that so?

A. Chairman, yes. I did mention that with regard to those two large donations one from a friend and one from somebody else, there were --

CHAIRMAN: When you --

A. There were other reasons I got that as well.

CHAIRMAN: When you received these donations/payments did it ever occur to you to question why you were being given them? What were the potential motives? Having regard to who was giving them to you?

A. No because --

CHAIRMAN: Now let's get this clear, if you walk down to number 19 Eaton Terrace and you are canvassing and somebody says, senator, there is a 50 Euro note to help your -- that's one thing. Here is a man who has a manifest intent to seek the success of a particular proposition and he is making you --

A. There is an answer.

CHAIRMAN: -- consistently, consistently making you "donations" and I am not

1 defining what donations mean in that context. But I want to know from you, you  
2 accepted those payment, can you hand on heart say you were still like Caesar's  
3 wife, above reproach?

4 A. I was and there is a particular -- I would have to write it down for you,  
5 because there is a third party involved in both of those particular donations  
6 and --

7  
8 CHAIRMAN: Well the donations are donations in general, I happen to chose those  
9 two that come to my recollection.

10 A. I see. But donations in general, no, I would have no hesitation in taking  
11 donations.

12  
13 CHAIRMAN: Would it ever strike you to analyse the fact that he was a man who  
14 had given you donations and again donations --

15 A. A man generally, yes.

16  
17 CHAIRMAN: And here was a man coming to you with a motion to rezone a  
18 particular plot of land owned by a person whom you did not know, isn't that so?

19 A. The owners I had no idea, no.

20  
21 CHAIRMAN: You had no idea. He gave me some names but they meant nothing.

22  
23 CHAIRMAN: Meant nothing. Did it ever occur to you to enquire into his motives  
24 as to whether it were in the interests of society or the interests of his  
25 client?

26 A. Yes. I did -- I assumed that this zoning and development would be in the  
27 interests of society or I wouldn't have done it.

28  
29 CHAIRMAN: If you assumed it was in the interests of society may I take it that  
30 it would be in the relatively immediate interests of society, i.e. the republic

1 of Dun Laoghaire or Carrickmines 1? In the light of what the County Manager  
2 said in 1991 I think I have that right -- 1991 in his report in '91, can you  
3 honestly say that that could be in the interests of the locality at the time?  
4

5 Now, I do appreciate the premise which you advance that services follow  
6 rezoning, but they must exist to follow. The premise are perfectly valid, I  
7 can understand that if the services exist. But if they manifestly do not exist  
8 and cannot exist because the infrastructure does not exist, are you genuine in  
9 your premise that you voted for the good of society or locality?

10 A. That I did, yeah -- you see the manager probably said it was premature. But  
11 the manager said in '97, he said about many developments it is premature. I  
12 want to explain again with the greatest respect to you, Chairman, there are  
13 phrases that managers use - it is premature, there is no access, there is no  
14 water - knowing full well that these lands need to be rezoned, he has to point  
15 these things out. It is his job to point the deficiency in the system. Then  
16 they follow along. He is not lying. He is just telling -- you can't build  
17 that there because there is no access to the motorway, knowing full well that  
18 access will come to the motorway. Now if he said there will -- he may,  
19 sometimes said it will arrive in time or ten years down the line or five years  
20 or whatever. As I said many times. Kevin O'Sullivan will tell you, any major  
21 development there is a ten year lag but they did come and will come, but you  
22 just have to start somewhere.  
23

24 CHAIRMAN: On the evidence that we have heard to date the facility particularly  
25 the, I think it is the sewer --

26 A. Yes.  
27

28 CHAIRMAN: -- will not be functional, it may be the water -- water will not be  
29 available until at minimum 2008.

30 A. That's the Sandyford high level, yes, that's true.

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CHAIRMAN: And that motion, that statement of premature was made in 1991. Would it be a reasonable premise to suggest to you that that was a valid proposition, being made by the manager in the context of the historical future that opened up? 1991 to 2008 is something of the order of 17 years, I beg your pardon it is '92 then it is 16 years. If you had to wait for 16 years do you think you were acting in the public interest by supporting a motion to rezone and thereby creating presumably a diversion of public funds to that area so that it can really function?

A. I say it is exactly the -- if you just move about two or three miles down the valley you reach Cherrywood which was exactly analogous a hilly site, no services, and it is now almost developed. Where did they get the water from? They pump in their own. Where did they get the roadway? They helped build part of it. Where did they get the sewer? It came up through the valley. That's what -- that's the way I look at things. I mean --

CHAIRMAN: Well I don't want to go into Cherrywood because that's going to be the subject matter of an inquiry within it's own right and I don't want to use that -- I don't want to express any opinion in relation to it.

A. Very well.

CHAIRMAN: I am merely looking at this particular plot of land, the 108 acres, no exit, no entry, no sewer, no water, land locked in almost every sense of the word, and yet because there was a good promotional expert, he gets it rezoned 20 years in advance of it's potential use, roughly when I say 20 years in the broadest sense.

A. I think it is just a slight exaggeration. But you see if the Southern Cross had not been held up by the court cases it would be at the Carrickmines much sooner and the roadway and access would have been developed, in which case other services would have been rushed along. I mean -- people can do anything

1 if they have a will and you know -- sorry, I don't mean to speak like this to  
2 you, but you know as well as I do that if you have a piece of land and it is  
3 zoned and you have access to it and you want to make money, you will provide or  
4 buy a sewer. You will do anything. As people have done over and over again.  
5 If you look at the LUAS line runs through that, if you look at the Cherrywood  
6 site but the other sites that lie along that line, a number of businessmen have  
7 contributed 60 million pounds or something, that headed up Willie Murray, the  
8 former planner, they are powering their own money into LUAS to bring it out as  
9 far as Cherrywood so that it will service their lands. That's a typical  
10 example of how it happens. This is going to happen and the Cherrywood -- you  
11 told me not to mention --

12

13 CHAIRMAN: I am not saying not to mention, I said I won't comment because I  
14 have to consider it.

15 A. That started off the same way at the other end of the valley as this started  
16 this way. I know if it had been zoned by then something might be done by now.  
17 Monarch are a thrusting forward company, they had all sorts of people. They  
18 now have a science and technology park of which we own a third. They have a  
19 town centre going to build and they have houses all over the place. The only  
20 reason they did it was because they started with a greenfield site. I know it  
21 was a greenfield site. I walked the land there as well as I mentioned one day  
22 I think. They said they are going to do it and now they have the services. If  
23 you go out there today, people, life in the houses, they have water, sewers,  
24 electricity, lights and access and the thing isn't even half completed and they  
25 have to -- don't ask me how they do it. But they did it.

26

27 CHAIRMAN: Thank you very much. Thank you.

28

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30

1 MR. GALLAGHER: Sir, one just one item that arises from the evidence given  
2 earlier today by this witness, I just for the purpose of correcting the record  
3 would ask liberty to put it to this witness, two or three questions.

4

5 CHAIRMAN: Certainly.

6

7 SENATOR LYDON WAS THEN FURTHER RE-EXAMINED BY MR. GALLAGHER:

8 Q.456MR. GALLAGHER: Senator Lydon, earlier today in response to questions by  
9 Mr. Allen I think you said that the altercation, for want of a better  
10 description, in the Council chamber on the 19th of February 1993 occurred in  
11 the context of a discussion on a Monarch motion.

12 A. I think so, yeah.

13 Q.457I must put it to you that that is factually incorrect. What was being  
14 discussed at that meeting, may I have 743 please -- we have the minutes. You  
15 attended that meeting on the 19th of February. 4753. Lands at  
16 St. Edmondsbury, land at Woodville, lands at Fonthill and lands at Astagob and  
17 Laraghcon, 4754?

18 A. Was one of those Monarch lands by any chance?

19 Q.458No. All in the Lucan, St. Edmondsbury, Fonthill, Woodhill area in Lucan?

20 A. I don't know where they are.

21 Q.459You can take it that --

22 A. That's fine and fair enough.

23 Q.460I want to for the record clarify that. You will see if I may go 4755, you will  
24 see that a motion was proposed by Councillor O'Connor, seconded by Councillor  
25 Hand, resolving that lands at Astagob comprising 77 acres be zoned A  
26 residential and 668 acre be zoned high amenity, there was a debate at the  
27 bottom of the page --

28 A. I was of the opinion that some of the lands being discussed at the time was --  
29 this is what I was told I don't -- it's -- you call it hearsay or third party.

30 Q.461You see at the bottom of the page the minutes record: "Due to disorder in the

1 chamber the Chairman adjourned the meeting at 5.10 pm."

2 A. Thank you very much.

3 Q.462Thank you.

4

5 CHAIRMAN: Mr. O Tuathail, I beg your pardon.

6

7 MR. O TUATHAIL: Arising out of the ultimate re-examination by Mr. Gallagher  
8 and one question arising out of your dealings with the witness --

9

10 CHAIRMAN: Certainly, no reason why not.

11

12 SENATOR LYDON WAS THEN FURTHER EXAMINED BY MR. O TUATHAIL:

13 Q.463MR. O TUATHAIL: Now the more serious one is the one, I think, arising out of  
14 your own examination of the witness. It is just to clarify a point, in  
15 relation to the two businessmen or two parties two gave you 5,000 pounds each,  
16 Senator Lydon.

17 A. Yes.

18 Q.464I think you said much earlier to Mr. Gallagher, you said and you said to the  
19 Chairman here presently, you had other reasons in relation to one of those  
20 5,000 pounds donations?

21 A. Both of them.

22 Q.465Why you received it?

23 A. Both of them.

24 Q.466Both of them? Now can you -- I know that it is a professional difficulty you  
25 may have, but can you in any way indicate to the Tribunal why those, why those  
26 other reasons might attach to those two payments? That's up to you.

27 A. I can't in public but I can maybe write a private letter to the Chairman, I  
28 don't know if that's allowed but --

29 Q.467It is crossing --

30 A. It involves other people and in both cases very -- but I could write a letter

1 to the judges.

2 Q.468I don't know if they will accept that.

3 A. I don't know.

4

5 CHAIRMAN: No reason why you can't deal with it when I use the word anonymously  
6 for the simple reason, you don't have to name persons, it is a state of affairs  
7 that Mr. O Tuathail wants to bring to our notice. Is that so Mr. O Tuathail?

8

9 MR. O TUATHAIL: Yes, that's so but --

10

11 CHAIRMAN: I don't want to actually know the individuals concerned in public.

12

13 MR. O TUATHAIL: There may be a complication on even that because of a matter  
14 which -- I think Judge Faherty has the point --

15

16 CHAIRMAN: Is this a matter in relation to professional etiquette of your  
17 profession?

18 A. Yes.

19

20 CHAIRMAN: In those circumstances I don't think they should be gone into. I  
21 have no wish to rule them out, but certainly I will not require any witness to  
22 break a professional relationship in public without consent of the individuals  
23 concerned. No question of that.

24

25 MR. O TUATHAIL: I am simply establishing that there are the other reasons  
26 concerning his other life, his other professional life.

27

28 CHAIRMAN: Yes.

29

30 MR. O TUATHAIL: Thank you.

1 Q.469 Now, Mr. Gallagher after lunch he read to you, Senator Lydon, an extract from  
2 the evidence of Enda Conway, one of the chief planners who gave evidence here  
3 in November?

4 A. Yes.

5 Q.470 And he put to you an entire paragraph, really the description of the chaos of  
6 the County Council, you agreed entirely with it. You said that to  
7 Mr. Gallagher, you accepted it entirely. But in the middle of that paragraph,  
8 which contained many sub paragraphs, Mr. Conway mentions the marshalling of  
9 party whips?

10 A. Yes.

11 Q.471 Now, when you -- I am simply trying to clarify with you, that your acceptance  
12 of that general statement and description by Mr. Conway does not mean that you  
13 accept that the --

14

15 MR. GALLAGHER: Sorry, that is not a question it is a statement, it is not  
16 seeking clarification.

17

18 CHAIRMAN: I agree with that.

19

20 MR. GALLAGHER: With respect --

21

22 CHAIRMAN: I agree with that submission absolutely. That is a statement, not a  
23 question.

24

25 MR. O TUATHAIL: Sorry, if I could phrase it then differently.

26

27 CHAIRMAN: Well rephrase it.

28

29 Q.472 MR. O TUATHAIL: I will indeed. When you agree with the phrase from

30 Mr. Conway's statement as put to you by Mr. Gallagher "Marshalling of party

1 whips" are you agreeing that on planning review matters a whip was enforced?

2 A. No, I think I made it clear -- I am sorry if I didn't.

3 Q.473That's I'm seeking to --

4 A. There was no obligation on you and I don't believe this applies to any party,  
5 maybe the Labour Party, but even then you were free to vote any way you like.  
6 That's the whole basis of my belief. However, the whips are -- or whoever it  
7 was, I remember our whip and I think the other party running around trying to  
8 get people into the chamber that was to get them in, that was to get in them,  
9 they used to do this before meeting, after --

10 Q.474Marshalling can be understood by you in that context, but not in the context --

11 A. They marshalled the troops but you voted on your own.

12 Q.475Okay, final question. Again arising out of a statement made by Mr. Conway, he  
13 is making complaint generally about the councillors that they were going  
14 against all professional advices and this included engineers, planners and --  
15 now do you recollect at any time in the early '90s or mid '90s, did the manager  
16 or any person, any official who could do it, was there any general statement or  
17 reprimand made to the councillors about this complaint at that time in the  
18 early '90s?

19 A. No, not that I recall anyway, no.

20 Q.476Thank you. Sorry Chairman.

21

22 CHAIRMAN: I rising from the witness' request to write to the Tribunal my  
23 colleagues and I are agreed if he wishes to do so he can write to me care of --  
24 me as the Tribunal with information he does not wish to disclose. But on terms  
25 that if he does so the Tribunal reserves the right to recall him to give  
26 evidence in relation thereto and will do so if it is material and he should  
27 have his patients', if I use that phrase, consent.

28 A. Thank you.

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30 CHAIRMAN: It is a matter for yourself, nothing more or less.

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MR. O TUATHAIL: Thank you very much, Chairman, for that.

CHAIRMAN: Now, first of all, may I say thank you for your attendance over the last number of days. It may well be that you may be back in the Tribunal under different circumstances, but thank you for the moment.

A. Mr. Chairman, may I thank you and the other Members of the Tribunal for the courtesy you have afforded me while I was here.

CHAIRMAN: Thank you.

At this stage we'll adjourn the Tribunal to --

MR. GALLAGHER: I believe on next Tuesday week, Sir.

CHAIRMAN: Next Tuesday week.

CHAIRMAN: But we'll not be dealing with this module as such.

MR. GALLAGHER: That is so.

CHAIRMAN: With another matter.

MR. GALLAGHER: The question of costs in relation to the past.

CHAIRMAN: Past modules and we'll notify all parties concerned well in advance of the future, of the continuance of this module.

MR. GALLAGHER: Yes, I think at this stage it is likely to be not before next Tuesday.

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CHAIRMAN: Three weeks.

MR. GALLAGHER: Next Tuesday three weeks.

CHAIRMAN: All going well. And thank you very much indeed.

MR. GALLAGHER: Thank you.

CHAIRMAN: Thank you.

THE TRIBUNAL THEN ADJOURNED TO TUESDAY THE 12TH MAY, 2003  
AT 11 AM.

