

1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,**

2 **8TH JULY, 2004 AT 10.30 A.M.**

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4 CHAIRMAN: Good morning. Before commencing the day's work, it is appropriate
5 that we make reference to the judgment of the High Court of yesterday in the
6 judicial review proceedings taken by Mr. Owen O'Callaghan. The net effect of
7 the decision of the High Court is that all statements made in confidence by
8 Mr. Gilmartin relevant to this module, must be circulated so that Mr. Gilmartin
9 can be cross-examined with reference to them.

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11 The High Court also placed a stay on its judgment to enable the Tribunal
12 prosecution appeal to the Supreme Court and there's a period of 21 days
13 available in which to lodge and serve a Notice of Appeal. The effect of the
14 stay is to maintain the status quo until such time as the appeal is determined
15 by the Supreme Court.

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18 MR. GALLAGHER: I understand, Chairman, that there's an application for limited
19 representation by Mr. Russell on behalf of Mr. Lawlor?

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21 MR. RUSSELL: Good morning, your Lordships, I have a couple of short matters,
22 first of all, on behalf of Mr. Lawlor, I appear instructed by Mr. Patrick
23 Delaney and Company Solicitors. My first application is that for the
24 examination and re-examination of Mr. Lawlor in this module which has been
25 diaried for this week, that Mr. Lawlor would have legal representation for both
26 his examination and re-examination and that the application will be restricted
27 to that evidence of Mr. Lawlor and the examination by the Tribunal. It is
28 Mr. Lawlor's intention to continue to represent himself in relation to the
29 other witnesses, Mr. O' Callaghan and Mr. Kaye and Mr. Chambers, who would
30 appear before Mr. Lawlor so my application is that; for those restricted

1 periods that Mr. Lawlor would be granted legal representation.

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3 CHAIRMAN: Yes, that's fine, Mr. Russell, thank you.

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5 MR. RUSSELL: Further, in relation to the matter you have just alluded to, the
6 judgment of the High Court, I have just recently been briefed in this and first
7 of all, formally we would like to request the documentation and I understand
8 until such time as you have resolved the matter of the stay, the documents will
9 not be circulate but nevertheless, I want to put on the record our application
10 for access to those documents. Mr. Lawlor I believe in a personal capacity
11 made an application previously which was rejected by the Tribunal on terms
12 similar to those of Mr. O' Callaghan.

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14 However, I would say that it would be most helpful to my examination or
15 re-examination of Mr. Lawlor to have those documents available to me prior to
16 his examination. And on that basis, I would make a further application that
17 until such time as it's determined as to the attitude of the Tribunal to the
18 release of these documents, that Mr. Lawlor's examination would be postponed.

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20 Further to that, with regard to time, myself and Mr. Delaney have been briefed
21 in this matter within the last week. We have been provided with documents from
22 the Tribunal which is effectively our brief, which contain 4,800 pages of
23 information and that is just the information from the Tribunal.

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25 That's independent of any consultations, notes or further documents we may
26 require from Mr. Lawlor, and on that basis I'm making an application to the
27 Tribunal this morning that Mr. Lawlor's examination would be put back some time
28 to give us time to be properly briefed. I appreciate the anxiousness of the
29 Tribunal to complete the module, that this is involved in, but on the basis of
30 the very serious allegations that have been made by Mr. Gilmartin against my

1 client and the peril at which he may or may not put himself in his examination
2 or re-examination, I would ask the Tribunal's indulgence to give us some time.
3 Ideally, I would prefer, given that Mr. Gilmartin has to be re-examined and
4 particularly may be re-examined on the documentation the subject matter of the
5 High Court decision yesterday, that Mr. Lawlor would be examined after
6 Mr. Gilmartin is re-examined.

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8 Now, I appreciate I have been informed that Mr. Gilmartin has to all intents
9 and purposes been excused by the Tribunal until the autumn and I am conscious
10 of the fact that the Tribunal is anxious to complete this module, but I would
11 formally ask the Tribunal to consider postponing Mr. Lawlor's examination and
12 re-examination until this matter has been determined. First of all in regard
13 to the documentation and secondly in regard to any re-examination of
14 Mr. Gilmartin and I would ask, in particular, that the Tribunal give cognizance
15 of the allegations made by Mr. Gilmartin about Mr. Lawlor and that the
16 substance of this Tribunal in terms of Mr. Lawlor's attendance really, the
17 nexus of that, of his, of his potential peril in the Tribunal will revolve
18 around the re-examination of Mr. Gilmartin and Mr. Lawlor's examination and
19 re-examination.

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21 So to summarise, my application is first of all that we would have the
22 documents, obviously recognising there's a stay on the judgment. Secondly,
23 that we would be given some time in general to be briefed properly and thirdly,
24 that the Tribunal would consider rescheduling Mr. Lawlor's examination and
25 re-examination until after Mr. Gilmartin has been re-examined.

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27 CHAIRMAN: Thank you.

28 Ms. Dillon, when or Mr. Gallagher, when is Mr. Lawlor due to?

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30 MR. GALLAGHER: Tomorrow.

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CHAIRMAN: And obviously Mr. O' Callaghan will be giving evidence for most today.

MR. GALLAGHER: Yes and there are some other witnesses fixed for this afternoon. For not before 2 o'clock.

CHAIRMAN: All right. Just to deal with the applications on behalf of Mr. Lawlor, I am going to rise, the Tribunal will grant limited representation as you request, there's no difficulty about that in respect of Mr. Lawlor's evidence, all right?

MR. GALLAGHER: Before the Tribunal rises, might it enquire if there are any other applications?

CHAIRMAN: Yes. There's none. All right, we'll rise for ten minutes.

**THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND
RESUMED AS FOLLOWS:**

CHAIRMAN: The Tribunal is not prepared to reschedule the evidence of Mr. Lawlor or any other witness until after the conclusion of the appeal or until Mr. Gilmartin is recalled. Mr. Lawlor will be given an opportunity to cross-examine Mr. Gilmartin in relation to any additional documentation that might be circulated, consequent upon any decision of the Supreme Court in due course and to that extent he will not be prejudiced. Equally he will be provided with an opportunity to give additional evidence under oath following upon the recall of Mr. Gilmartin, should some matter in relation to him arise in further cross-examination of Mr. Gilmartin.

1 Finally on the application by Mr. Russell that he and his solicitor be given
2 some additional time to prepare themselves for Mr. Lawlor's direct evidence
3 which was due to commence tomorrow, the Tribunal is prepared to put his
4 evidence back to next Tuesday or Wednesday. The precise date will be
5 communicated during the course of the today.

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7 MR. RUSSEL: Thank you, your Lordship, but I wonder if I could ask the
8 indulgence of the Tribunal that Mr. Redmond is now listed for Thursday and
9 Mr. Lawlor is out of the country on Monday and Tuesday. If we could perhaps be
10 fitted in on Friday of next week. I don't think that would discommode the
11 Tribunal too much. It would give us a full week to prepare.

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13 CHAIRMAN: Thursday ...

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15 MR. GALLAGHER: Mr. Quinn I think has a commitment next week.

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17 CHAIRMAN: Who has?

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19 MR. GALLAGHER: Mr. Quinn.

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21 MR. RUSSELL: Well would early the following week be available? I mean we are
22 anxious to be of assistance to the Tribunal and I don't want to be in a
23 situation where we are not properly prepared.

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25 CHAIRMAN: Well we'll have to deal with it after lunch, we'll have to just
26 check our witness list for the next few days. Mr. Russell I'm sure the
27 Tribunal could appreciate the pure volume irrespective of the content of the
28 documentation in relation to this module.

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30 CHAIRMAN: Mr. Lawlor, you say he is away next week? Mr. Russell the early

1 part of the week, he is away until Tuesday evening.

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3 CHAIRMAN: He would almost certainly not have concluded his evidence on
4 Friday.

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6 MR. RUSSELL: He was originally listed I think for Wednesday and it's been
7 pushed back due to Mr. Redmond's unavailability.

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9 CHAIRMAN: We'll see what we can do. We'll deal with it at two o'clock.

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11 MR. RUSSELL: Very good, I'm obliged to you.

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13 MR. GALLAGHER: Mr. O' Callaghan please.

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CONTINUATION OF QUESTIONING OF OWEN O'CALLAGHAN**BY MR. GALLAGHER:**

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- 4 Q 1 MR. GALLAGHER: Good morning, Mr. O' Callaghan.
- 5 A Good morning.
- 6 Q 2 Yesterday you gave evidence in relation to the letter of the 7th December of
- 7 1988. You made reference to correspondence that had passed in your original
- 8 statement and that was a letter that you quoted from Mr. Connolly's article.
- 9 Do you remember that?
- 10 A Yes.
- 11 Q 3 Can the Tribunal take it that you didn't have a copy of that letter available
- 12 to you when you prepared this statement?
- 13 A That is correct I think, yes.
- 14 Q 4 Have you since come across a copy of that letter?
- 15 A Which letter are we talking about?
- 16 Q 5 The letter that, the letter of the 7th of October -- sorry the 7th of December
- 17 that you wrote to Mr. Gilmartin immediately following 1996 please. Sorry, the
- 18 8th December, not the 7th. It's the letter immediately following the meeting
- 19 on the 7th.
- 20 A Yes.
- 21 Q 6 You referred to that letter in your statement and you referred to it in the
- 22 context of an article written in the Sunday Business Post and you pointed out
- 23 that you do not have copies of this correspondence?
- 24 A Yes, correct.
- 25 Q 7 Have you since come across copies of the correspondence?
- 26 A I'm not quite sure, but I have seen it, it's possibly in my statement, I think,
- 27 is it?
- 28 Q 8 It's referred to in in your statement at page 973. May I have 973 please. You
- 29 referred to it at the top of the page you say "I do not have copies of this
- 30 correspondence".

1 A I am not sure if I had or not. I am not sure. But I'm aware of it of course.

2 Q 9 Well it has been circulated by the Tribunal so it's been part of the brief for
3 a considerable time.

4 In your statement, you said that you were prepared to continue to allow to
5 consider allowing Tom Gilmartin to complete the agreement and that you even
6 wrote at his request to Minister Flynn on the 5th February 1990 and you enclose
7 a copy of that letter. May I have page 2679 please. In relation to that
8 letter, you said as follows:

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10 "I even wrote at Tom Gilmartin's request to Minister Flynn on 15th February
11 1990 confirming that fact" that is the fact that you were still prepared to
12 allowing Tom Gilmartin to complete the agreement "and also fact that Tom
13 Gilmartin had confirmed that he would complete the transaction that week. Tom
14 Gilmartin I believe, had told the minister that he had an agreement with me to
15 buy out an interest in the Neilstown site which was properly zoned for retail.
16 Apparently the minister asked Tom Gilmartin for come confirmation that such
17 arrangements were in place. Tom Gilmartin asked me to give the necessary
18 confirmation to the minister which I did."

19
20 This letter was written on the 15th February 1990, some 12 months after the
21 option agreement was signed?

22 A That's correct.

23 Q 10 And you had said "Dear minister, how are you keeping. As you aware, Tom
24 Gilmartin and I had an agreement whereby I would not proceed with my proposal
25 for my site at Clondalkin to enable Tom to proceed with the development of his
26 lands at Palmerstown. This agreement expired on the 31st October last.
27 However, I'm prepared to reinstate this agreement and withdraw the present
28 planning application made to Dublin County Council provided Tom completes his
29 side of the agreement this week. This he has confirmed he will do. Yours
30 sincerely, Owen O'Callaghan."

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2 Now, Mr. Gilmartin says he did not ask you to write this letter. Can you tell
3 the Tribunal where and in that circumstances he asked you to write the letter?

4 A Tom Gilmartin rang me, and asked me if I would confirm that the minister that
5 our deal was still on because the date had expired.

6 Q 11 He says that you wrote that letter in order to confuse the minister about
7 zoning.

8 A That's completely wrong, sir, completely wrong.

9 Q 12 Were you endeavouring at that stage to do anything about zoning on the
10 Neilstown lands either to protect it or to secure zoning on to the Quarryvale
11 lands?

12 A No. At that stage I decided to deal with Tom Gilmartin and I wasn't doing
13 anything about the Balgaddy site.

14 Q 13 I want to put to you some things Mr. Gilmartin said that that you can deal with
15 them in your evidence. He said on day 464, that you wrote that letter as a
16 stroke, it was a complete stroke to confuse the Minister for the Environment
17 about zoning.

18 A It's completely -- doesn't even make sense Sir. That statement doesn't even
19 make sense.

20 Q 14 He says that you went in for planning permission contrary to your contract with
21 him and that you went into Dublin Corporation before that to create confusion
22 as so as to block the zoning happening, that's the zoning of Quarryvale?

23 A Yes.

24 Q 15 What do you say about that?

25 A If we had not applied in December of 1989, the planning permission for the
26 Balgaddy site, it could have been taken back from us by Dublin Corporation and
27 put on the market again and possibly purchased by Green Properties or somebody
28 like that, who would not have treated Tom Gilmartin in the same way we treated
29 him. Tom was completely aware of that fact.

30 Q 16 Mr. Gilmartin has told the Tribunal that you did not press him for the money

1 and that contrary to what was put to him by Mr. Sreenan, you did not ask him
2 for the money and you did not press for it.

3 A I would say on a two weekly basis I asked him for it, it's embarrassing, to be
4 frank.

5 Q 17 He says he never wanted you to contact the minister, Minister Flynn, and that
6 it was a well orchestrated stroke by you to do so?

7 A That is completely untrue. I would not -- I did not have the same access to
8 ministers as Tom Gilmartin alleged he had. I would not have written that
9 letter if he asked, why should I.

10 Q 18 He said you wrote your letter to Mr. Flynn to create confusion, pretending that
11 you were going to do something with Neilstown which you had no intention of
12 doing?

13 A With regard to Neilstown or Balgaddy, if Tom Gilmartin had not got involved in
14 the Quarryvale site, if he had stayed away from the Quarryvale location, at
15 that stage I probably could have started development on Balgaddy, even at that
16 particular time. It was intention to develop Balgaddy. It was the obvious
17 site to deal with. It was a site with zoning on it.

18 Q 19 You say in your statement at page 975, that "despite being given a number of
19 extensions, Tom Gilmartin still did not complete the purchase. Following Tom
20 Gilmartin's failure to complete, I finally decided that I had no option but to
21 continue with the development of the Neilstown site". You did obtain planning
22 permission for that site in 1990, isn't that right?

23 A Yes.

24 Q 20 Did you --

25 A Sorry, that is not strictly correct. We received a grant of permission, sorry
26 an intention of notification to grant permission by the local authority, we
27 appealed it ourselves.

28 Q 21 You appealed that yourselves. The effect of that appeal of course was to defer
29 the period of closing of the sale from Dublin Corporation?

30 A It was indeed, yes.

- 1 Q 22 And was the appeal ultimately withdrawn by O'Callaghan Properties before it was
2 determined?
- 3 A Yes, it was.
- 4 Q 23 I see. When was that?
- 5 A I'm not sure of the precise date.
- 6 Q 24 Approximately?
- 7 A I can't remember. I just can't remember.
- 8 Q 25 Would it be within a year or two of the decision of the Dublin Corporation
9 which was, Dublin County Council which was on the --
- 10 A It would have been. Yes, nine months, 12 months, it would have been within
11 that period.
- 12 Q 26 A decision to grant permission was made by Dublin County Council on the 28th
13 September 1990, may I have 2629 please. So you say that the appeal was
14 withdrawn then from An Bord Pleanala, perhaps a years year later?
- 15 A Well, I'm assuming that.
- 16 Q 27 Yes. I think that site was the subject of a planning application in respect of
17 a sports stadium, is that correct?
- 18 A It was indeed.
- 19 Q 28 Was that in 199 -- the mid 1990s?
- 20 A Early 1990s, '92, '93. I think. It had at least three, if not four stadium
21 planning applications made on it. I think the first one was possibly '92/'93.
- 22 Q 29 I don't want to get into detail as, I just want to as it were complete the
23 history of the Neilstown site in very broad terms.
- 24 A Yes.
- 25 Q 30 There were a number of planning applications, was permission granted for a
26 stadium on that site?
- 27 A Yes, it was.
- 28 Q 31 And the effect of withdrawing the appeal to An Bord Pleanala meant that the
29 decision of Dublin County Council stood in relation to the development of the
30 site, is that correct?

1 A Yes.

2 Q 32 So there was permission which was operable and valid and capable of being
3 capable of being implemented from sometime in or about 1991 or thereabouts for
4 the shopping centre?

5 A Yes.

6 Q 33 But it wasn't developed?

7 A No.

8 Q 34 Ever?

9 A No, still the same.

10 Q 35 Still the same. And it wasn't developed for a sports complex or sports stadium
11 wasn't ever built on it?

12 A For some very good reasons.

13 Q 36 But just to factually, that is the situation so the Tribunal will know. And I
14 think that in fact the sale of those lands to Merrygrove was not concluded
15 until sometime about the year 2000 or thereabouts following specific
16 performance proceedings taken by Merrygrove against Dublin Corporation that
17 compelled them to sell the lands in accordance with the agreement of the 21st
18 November 1988?

19 A That's correct.

20 Q 37 And am I correct in thinking that to date, nothing has happened on that site in
21 terms of development?

22 A Absolutely correct.

23 Q 38 Among the people that Mr. Gilmartin spoke to was a Mr. McMullen and you, I
24 think, spoke to him at the behest or at the request of Mr. Gilmartin, is that
25 correct?

26 A In finance or --

27 Q 39 Yes. And he was in contact with AIB in 1991 in connection with the closing of
28 the sale of the Neilstown lands.

29 A Together with providing finance for Tom Gilmartin for his Quarryvale
30 development, yes, I believe so.

1 Q 40 And I don't want to get into it in any detail at this stage, but just to ask
2 you to confirm that in February 1991, Mr. McMullen wrote to Mr. Kaye referring
3 to an agreement which, to the option agreement and omissions in the option
4 agreement which he referred to and you responded within a few days, you
5 responded on the 12th February 1991.

6 A We responded.

7 Q 41 32 -- 3923, I am not going to go into it in any detail?

8 A Yes, we did respond.

9 Q 42 And the letter from Mr. McMullen to Mr. Kaye which refers to a conversation
10 that Mr. McMullen had with you is to be to be found at page 2935. Mr. O'
11 Callaghan, did you ever know about or experience corruption in the planning
12 process in the Dublin area?

13 A When are we talking about here?

14 Q 43 We are talking about the period up to early 1990?

15 A No experience.

16 Q 44 Did you know anything about it?

17 A No.

18 Q 45 Have you been told of -- have you been made aware of allegations of corruption
19 in the planning process?

20 A During the period, '88, '89, '90, I would have had very, very little to do with
21 planning, politicians in the Dublin area. If you think about it, my site, the
22 first site was Cooldrinagh, the only politician I met was Paddy Hickey or
23 Balgaddy site was a properly zoned site, probably the only site in the country
24 that anybody could, almost safely say, was guaranteed planning permission. I
25 did not have to deal with politicians in Balgaddy, it was the politicians to
26 who made sure I went ahead with it because it was a site that everybody wanted
27 developed. In January 1989 we sold our interests in Balgaddy to Tom
28 Gilmartin. So I had nothing to do with development in Dublin during '89 and
29 '90.

30 Q 46 Were you told of any demands for money by any politicians in that period?

- 1 A I was not.
- 2 Q 47 Did Mr. Gilmartin ever tell you of an occasion in the Dail when he alleges that
3 he was asked for 5 million pounds to be put into an offshore account in the
4 Isle of Man?
- 5 A I'm completely amazed by that, sir, because I knew Gilmartin pretty well from
6 '88 to '96 and I had to read about that in the press. The famous 5 million
7 pounds.
- 8 Q 48 So can the Tribunal take it, you knew nothing about allegation until you read
9 it in the press some time ago?
- 10 A Absolutely correct.
- 11 Q 49 Did Mr. Gilmartin ever tell you that he had been asked for 100,000 pounds by
12 Mr. Lawlor?
- 13 A By Mr. Lawlor, no, sir.
- 14 Q 50 Did he ever say that he was asked for a payment of 100,000 pounds by Mr. Lawlor
15 in the presence of Mr. George Redmond?
- 16 A No, sir, not to me.
- 17 Q 51 Did you ever speak to Mr. Sean Haughey?
- 18 A Yes, I did indeed, I spoke to Mr. Sean Haughey at Tom Gilmartin's request.
- 19 Q 52 May I have page 998 please. This is the statement put up yesterday that I read
20 into the record yesterday, Mr. O' Callaghan. You say that, it's a statement of
21 the 24th November 2003, you say that:
22
23 "At some point during the course of 1989 on a specific date that I cannot
24 recall, I met with Mr. Sean Haughey at Mr. Haughey's request at his office in
25 Dublin."
- 26 A Well it was Mr. Haughey or Mr. Haughey's secretary contacted me to meet him but
27 it was Tom Gilmartin requested Mr. Haughey to meet him.
- 28 Q 53 Why did you not say that?
- 29 A Sorry.
- 30 Q 54 Why did you say it was at Mr. Gilmartin request?

1 A Because officially it is at Mr. Gilmartin request, Mr. Gilmartin asked
2 Mr. Haughey to ask me to meet him.

3 Q 55 Now, Mr. Haughey told me that Mr. Gilmartin had made comments to him as
4 follows, that "he, Mr. Gilmartin, was having difficulties involving George
5 Redmond and Liam Lawlor among others, concerning his attempt to develop lands
6 at Irishtown/Quarryvale".

7 What did Mr. Haughey tell you about those difficulties? Or alleged
8 difficulties?

9 A Well, Mr. Haughey mentioned to me that -- first of all Mr. Haughey asked me to
10 meet him, as I said, at Mr. Gilmartin's request.

11
12 Mr. Haughey was quite vague about his statement when I met him. He told me
13 that Tom Gilmartin had told him he had some difficulties with Liam Lawlor and
14 with George Redmond to be to try be as specific as I can, what he said to me
15 was Mr. Gilmartin said to him that Liam Lawlor was trying to get involved in
16 his company and Arlington in particular, and also trying to get involved in
17 Quarryvale at some level. He wasn't quite sure but he had said Mr. Gilmartin
18 had made that statement.

19
20 He also said to me that the best of my knowledge, it's a long time ago, that
21 Mr. Gilmartin was claiming that Mr. Redmond had together with Mr. Lawlor had
22 tipped off John Corcoran to purchase land at Quarryvale etc. And he asked me
23 was I aware of that. I told Mr. Haughey my awareness extended to Tom Gilmartin
24 telling me about this and that yes, he had made those statements to me as well.

25 Q 56 When did Mr. Gilmartin tell you to or make those statements to you?

26 A Well I met Mr. Gilmartin early in December of 1988. I would say in particular
27 at the meeting I had on the 7th December and probably three or four times on
28 the telephone, Tom Gilmartin used to ring me every second night on the
29 telephone. So probably two or three times on the telephone.

30 Q 57 And what did he tell you?

1 A What I have said to you, what he said to Mr. Haughey.

2 Q 58 Did he say anything else in relation to either of these two gentlemen?

3 A No, that was the general trend, he was continually cribbing, to be blunt about
4 it, but it was the same thing all the time.

5 Q 59 You say that you were told by Mr. Haughey that Mr. Gilmartin had alleged that
6 Dublin was awash with corruption, that one could not do anything in Dublin
7 without spending money, i.e. if one wanted anything done, the councillors were
8 the people with the power and had to be paid. And you say in your statement
9 that you indicated to Mr. Haughey had that Mr. Gilmartin had made comments to
10 you similar to those outlined by Mr. Haughey and made by Mr. Gilmartin to
11 Mr. Haughey at 2 above, you told him you were not in a position to either
12 confirm or contradict the nature of the comments made by Mr. Gilmartin to Mr.
13 Haughey as you had no familiarity whatever with how matters operated in Dublin
14 and you have told him that your only experience was in Cork and Limerick where
15 the system operated in a different way perceived by Mr. Gilmartin as applying
16 to Dublin where in Cork and Limerick the manager's words were final."

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18 May I have page 655 please. In his statement to the Tribunal, Mr. Haughey said
19 as follows: "My impression of Gilmartin at this stage, and I do not mean it in
20 any derogatory manner was that he looked like a big country man coming into the
21 office but of course he was a highly successful developer in Luton.

22 Nevertheless, there was a bull in the China shop attitude about him. I thought
23 he was genuinely taken aback by what he had encountered. I was reinforced in
24 that view after I had interviewed Owen O'Callaghan, which I did after Gilmartin
25 said that he would verify what Gilmartin was saying.

26
27 O'Callaghan had said to me that he felt down that down in Cork or Limerick
28 where he had done developments, that the city manager was the boss and if he
29 said it would happen, it would happen whereas that was the way it was in Dublin
30 according to him. According to O'Callaghan, Dublin appeared to be run by

1 politicians and was corrupt or words to that effect. He obviously believed
2 Gilmartin was having a bit of trouble with politicians."

3
4 That's Mr. Haughey's recollection of his discussion with you on what you told
5 him.

6 A Yes.

7 Q 60 Do you accept that that's what you told him?

8 A I was telling Mr. Haughey was what Mr. Gilmartin told me. I was repeating Tom
9 Gilmartin's conversations with me to Mr. Haughey.

10 Q 61 But he is not saying that you recounted or repeated what Tom Gilmartin said.
11 He said that you reinforced the view that Tom Gilmartin had given to him?

12 A I reinforced the view that the conversation Tom Gilmartin had with him, Tom
13 Gilmartin also had with me on quite a few occasions.

14 Q 62 At page 658, Mr. Haughey says as follows "In relation to the meeting with Owen
15 O'Callaghan on the 23rd or 24th February 1989. Would you accept it was on the
16 23rd or 24th February 1989?

17 A I don't know what date it was.

18 Q 63 You had no reason to doubt --

19 A No, I don't doubt it, no.

20 Q 64 This had of course come about at my request after Tom Gilmartin --

21 A Sorry, I haven't got it.

22 Q 65 658.

23 A Yes, I have it.

24 Q 66 "On the 23rd or 24th February 1989, this had of course came about at my request
25 after Tom Gilmartin suggested that I could verify that what he was saying with
26 O'Callaghan. I did not in fact know O'Callaghan had stage although I had heard
27 of him. I rang him up and he came to my office. My intention was to check
28 with him the concerning the veracity of Gilmartin's allegations insofar as I
29 could remember them. I might have had notes drawn up but at this stage, but I
30 cannot remember whether I did. My memory of this meeting is rather vague but I

1 think mentioned his experiences in Dublin. I was mainly concerned to see what
2 he thought of Gilmartin and what Gilmartin had told me was true or not. As far
3 as I remember, O'Callaghan did not contradict anything that I told him
4 Gilmartin had said. As previous mentioned, O'Callaghan thought Dublin was
5 awatch with corruption compared to say Cork or Limerick. I should also say
6 that both Gilmartin and O'Callaghan had a business arrangement between then
7 whereby O'Callaghan was not to do anything further with his lands in Clondalkin
8 for a period of nine months or so. O'Callaghan had apparently taken over
9 Gubay's option on the Neilstown lands in Clondalkin at that time. In any
10 event, going back to the meeting with O'Callaghan, he had said that the
11 manager's words were final in Cork or Limerick, whereas in Dublin you would
12 have to deal with councillors". Did you say that?

13 A I can't remember.

14 Q 67 Does that mean that you may well have said it?

15 A I can't remember what I said, I just can't remember exactly what I said.

16 Q 68 I see. "He said they seemed to be ones with the power and that you have to pay
17 for everything and cannot do anything without spending money". Did you say
18 that?

19 A I certainly would not have said that.

20 Q 69 You didn't say it?

21 A No.

22 Q 70 How is it that you can remember that you didn't say that when you can't
23 remember whether you said that the manager's words are final in Cork and
24 Limerick, whereas in Dublin you have to deal with Councillors?

25 A Would I never have said that, sir, I could tell you that. I wouldn't have made
26 that statement.

27 Q 71 Is there any reason that you can advance why Mr. Haughey might record you as
28 making that statement?

29 A I don't know, all I can say to you, sir, is that I did confirm to him that the
30 conversation we had Mr. Tom Gilmartin, that Tom Gilmartin had similar

1 conversations with me and that was the extent of that meeting. That's what
2 that meeting was about.

3 Q 72 Mr. Haughey goes on to say I took this mean -- he says he told that the
4 councillors are the ones with the power and that you have to pay for everything
5 and cannot do anything without spending money. "I took it to mean that
6 O'Callaghan was suggesting that if you wanted to get anything done, the
7 councillors had to be paid".

8 A I had no experience of Dublin at that time, how could I make a statement like
9 that? As I explained to you at the outset, I had no absolutely no reason to
10 deal with politicians in Dublin. The only reason the statement come about is
11 reason I gave you, I'm repeating what Tom Gilmartin said to me.

12 Q 73 This interview appears to have taken place in or about the same time as
13 Mr. Gilmartin met Mr. Haughey and Mr. Feeley and made the allegations which we
14 have heard in evidence here earlier.

15 A Hmm, yes, I think was a after that I was contactable by Mr. Haughey.

16 Q 74 Did you Mr. Gilmartin had made complaints to Mr. Feeley and to Mr. Haughey?

17 A Oh yes, because Mr. Gilmartin rang to tell me.

18 Q 75 Did he tell you what complaints he had made?

19 A Yes he did.

20 Q 76 What complaints were they?

21 A The ones we have gone through, the same complaints.

22 Q 77 Did he itemize the complaints and give you any detail.

23 A Just in general, the same type of things, same type of conversation. He told
24 me that he had been to see the senior managers, was the way he put it, in
25 Dublin and he asked me if Mr. Haughey contacted me, or was I prepared to go and
26 meet him and confirmed to Haughey this conversation that he had with himself.
27 He was looking for back up and that was me and all I was doing was repeating
28 what Tom Gilmartin had said to me.

29 Q 78 Did Mr. Flynn ever ask you to do anything to assist Mr. Gilmartin?

30 A No, sir, he did not.

- 1 Q 79 Were you interviewed by Superintendent Burns at any stage, Mr. O' Callaghan?
- 2 A Yes, I was.
- 3 Q 80 What did Mr. Mr. Burns tell you when he interviewed you?
- 4 A What did he tell me?
- 5 Q 81 Yes. He interviewed you and did he tell you why he was interviewing you and
- 6 what you assistance he was looking for.
- 7 A Yes, he asked me in particular about again Mr. Lawlor and Mr. Redmond. He came
- 8 to Cork to ask me about other people.
- 9 Q 82 What did he ask you about him?
- 10 A He asked me what did I know about the Dail Deputy Liam Lawlor. I told him I
- 11 did not know an awful lot about him, but that any communication I had with him,
- 12 I found him to be extremely helpful. He asked me about Mr. Redmond. I had
- 13 never met Mr. Redmond.
- 14 Q 83 Did he ask you anything else?
- 15 A He asked me did I know Tom Gilmartin and what were my dealings with Tom
- 16 Gilmartin and I explained to him I had known Tom for quite a while, sometime,
- 17 and I explained to him what was happening in Dublin with our two sites, the
- 18 Quarryvale site an the Balgaddy site.
- 19 Q 84 And what was happening at that stage?
- 20 A I haven't that letter in front of me, have you a memo of that.
- 21 Q 85 I'm asking you to recall?
- 22 A You are now going back to 1988, I think it's a bit much to ask me. Is there a
- 23 copy of the memo, can I see it?
- 24 Q 86 I'm we'll come to that in just a moment, but I'm asking you first of all to
- 25 give the Tribunal your recollection of it was?
- 26 A I have just given you my recollection 16 years ago, I don't think that's too
- 27 bad.
- 28 Q 87 Did he tell you about any of the allegations that Mr. Gilmartin had made?
- 29 A I think I'm trying to recollect, I think he mentioned -- he did, yes, mention
- 30 Tom Gilmartin's allegations, again about Mr. Lawlor and Mr. Redmond, those two

1 people were specifically who he was speaking about and I think mainly

2 Mr. Lawlor.

3 Q 88 Did he ask you to elicit the assistance of Mr. Gilmartin in his investigations?

4 A Yes, he did, yes.

5 Q 89 And did you do so?

6 A Yes. I rang Tom, I told the inspector that I would contact Tom because he
7 could not contact Tom at the time. Tom would go off the air every so often and
8 be missing for a couple of weeks and would not be contactable. So, I
9 eventually contacted him and I asked him would speak to the inspector and I
10 told him what happened and we met and asked him to speak with the inspector
11 because he was anxious to speak to him and he said he wasn't going to get
12 involved in that any more and refused.

13 Q 90 May I have page 2808 please. This is a copy of the report by Detective
14 Superintendent Burns prepared in May 1990 following his investigation. This is
15 what he said about Owen O'Callaghan. I take it you have seen this before?

16 A I have read this before.

17 Q 91 You have read it as part of the brief I take it?

18 A Yes.

19 Q 92 "Owen O'Callaghan is managing director of O'Callaghan Properties, 81 South Mall
20 Cork. On the 5th of April 1989 I interviewed him at his office in 20 Lavitts
21 Quay, Cork, his company was then completing a very large business development
22 at Patrick Street, Cork and also had projects in Limerick and London.

23
24 I outlined to Mr. Callaghan sufficient details of the nature of the inquiry and
25 asked him for information concerning his operations in Dublin and dealings with
26 officials of Dublin County Council." Did he ask you about your dealings with
27 officials in Dublin County Council?

28 A I'm not quite sure.

29 Q 93 Did he ask you about your operations in Dublin?

30 A He did, so he must have asked me, yes.

- 1 Q 94 Owen O'Callaghan --
- 2 A Sorry, that's a broad statement, dealings with officials of Dublin, presumably
- 3 he did, yes.
- 4 Q 95 "Owen O'Callaghan said that about three years ago, his first purchased land at
- 5 Cooldrinagh, Lucan County Dublin. This land is midway between Lucan and
- 6 Leixlip and astride the end of the N 4 western motorway. His intention was to
- 7 build a top class shopping centre. The land was not zoned for this purpose.
- 8 He was advised by one of his architects that the land could be rezoned by a
- 9 majority of Dublin County Council, commonly known as Section 4 motion, he did
- 10 not follow this course and let the site go." Is that what you told him?
- 11 A Yes, well I explained it in more detail, that's just a very short version of
- 12 what I would have more than likely said to him. And I'm guessing here, is that
- 13 we did attempt to get the site rezoned and we didn't succeed so we dropped it.
- 14 Q 96 He said you told I am you were told by one of your architects the land could be
- 15 rezoned by a majority of Dublin County Council?
- 16 A Yes.
- 17 Q 97 Did you tell him that?
- 18 A I'm pretty sure I did.
- 19 Q 98 I thought you told the Tribunal that you were told here by a solicitor for the
- 20 vendor that a Section 4 could be obtained and that my recollection again, and I
- 21 am subject to correction on this?
- 22 A You are correct.
- 23 Q 99 And you said that you did not consult your architects about it and we are not
- 24 told --
- 25 A My architect would have agreed to that possibility that we could, there was a
- 26 possibility of zoning through a Section 4.
- 27 Q 100 I see. You say you did not follow this course and let the site go. But in
- 28 fact you did put in a Section 4?
- 29 A Yes we did, yes, but what I mean by that is that we did not follow it all the
- 30 way through. We did not continue and hope to or succeed in getting a Section 4

1 and eventually developing that site.

2 Q 101 But the full truth was, that you had attempted to have the lands rezoned by a
3 Section 4?

4 A And did not succeed.

5 Q 102 And withdraw it before the council voted on it?

6 A That's right. Yes.

7 Q 103 That was the full story?

8 A Correct.

9 Q 104 It appears that Mr. Burns did not report that or did not understand that or was
10 not told that?

11 A Well, I would say that in that case not told that, I didn't go through all the
12 detail because he was not interested in it.

13 Q 105 Well he was interested enough to report on it, some 13 or 14 months later?

14 A It is quite possible that I gave him the full detail on the whole Cooldrinagh
15 saga and he short circuited to what you have there in that memo. He didn't
16 show great interest in Cooldrinagh or the planning or zoning of Cooldrinagh.

17 Q 106 May I have page 3076 please. This is a further or another report by Mr. Burns
18 concerning the same interview. He says at 5 p.m. (on the 5/4/1989) "I
19 interviewed Mr. Owen O'Callaghan at his office at 20 Lavitts Quay in Cork. He
20 is managing director of O'Callaghan Properties Limited, 81 South Mall. Cork.
21 His company is currently completing a very large business development at
22 Patrick Street, Cork. The firm are also building in Limerick and London. I
23 also outlined to Mr. O'Callaghan (this is on 3077) sufficient details of the
24 nature of the inquiry and asked him for information concerning his operation in
25 Dublin and dealing with officials of Dublin County Council".

26
27 Then goes on to say "Mr. O' Callaghan said that about three years ago his firm
28 purchased lands at Cooldrinagh and Lucan, County Dublin. The land is midway
29 between Lucan and Leixlip and astride to the end of the N4 Western motorway.
30 His intention was to build a top class shopping centre, he was advised by one

1 of his architects" and he continues the quotation, it's the same as already
2 dealt with.

3
4 He goes on to deal with your acquiring the lands from Mr. Gubay, etc. and page
5 3078 he says "According to Mr. Callaghan, the two projects, i.e. O'Callaghan's
6 and Mr. Gilmartin's could not go ahead together. According to Mr. O'
7 Callaghan, government ministers were anxious that Mr. Gilmartin's project went
8 ahead and states that Mr. Padraig Flynn, TD, Minister for the Environment,
9 asked him to step aside and let Gilmartin's project go ahead. As a result of
10 this, he, Mr. O'Callaghan, came to an agreement with Gilmartin that the latter
11 project went ahead".

12 Did you tell Superintendent Burns that government ministers were anxious that
13 Mr. Gilmartin's project would go ahead?

14 A I told Superintendent Burns that Tom Gilmartin told me, that government
15 ministers were anxious that his project would go ahead.

16 Q 107 Well, according to Mr. Burns, the way he has written this report, he says that
17 according to you, government ministers were anxious that Mr. Gilmartin's
18 project would go ahead?

19 A That is not correct.

20
21 MR. SREENAN: I think in fairness to Mr. O' Callaghan, it should be drawn to his
22 attention when Mr. Burns gave evidence, he said it's quite possible there may
23 have been some misunderstanding.

24
25 MR. GALLAGHER: We'll come to that in a moment. I'll deal with the
26 examination, Mr. Sreenan can point out anything he wishes to point out when he
27 comes to examine his client.

28

29

30

1 MR. SREENAN: Chairman, my objection is --

2
3 MR. GALLAGHER: I will deal with it sequentially and I will deal with it
4 thoroughly, in my own way.

5
6 MR. SREENAN: My objection, Chairman, to be clear, is it was put to the witness
7 as an absolute proposition as to what Inspector Burns' evidence was without
8 giving the important qualification without giving what appeared in his oral
9 testimony.

10
11 MR. GALLAGHER: It has been put to the witness that it is an absolutely fact
12 that Superintendent Burns reported to his superiors in, in the period in
13 question at set out on page 3078, what he said or did not say in evidence the
14 Tribunal will deal with separately.

15
16 CHAIRMAN: But sorry just one thing, insofar as it's been put to Mr.
17 O'Callaghan at this stage what this statement contains.

18
19 MR. GALLAGHER: I'm asking him did he make that statement to Superintendent
20 Burns?

21
22 CHAIRMAN: But insofar as inquiring as to what was meant by Mr. Burns, it is
23 appropriate if it was clarified subsequently in oral evidence, that that would
24 be --

25
26 MR. GALLAGHER: I don't think it was clarified subsequently, it was conceded it
27 may the precisely what was said, I am asking this witness what I was said,
28 because according to what I read here, Mr. O' Callaghan was asserting that
29 Mr. Government ministers were anxious that Mr. Gilmartin's project went ahead.
30 Did you so assert to or so state to Mr. Burns in the course of his interview

1 with you?

2 A No, sir, I did not.

3 Q 108 Did you not. Did you say that Mr. Pdraig Flynn had asked to step aside -- I
4 beg your pardon, did you tell Superintendent Burns that Mr. Pdraig Flynn,
5 Minister for the Environment, asked you to step aside and let Mr. Gilmartin's
6 project go ahead?

7 A No, I did not.

8 Q 109 And he says that as a result of this request, you, Mr. O' Callaghan, came to an
9 agreement with Mr. Gilmartin that the latter's project went ahead. Did you say
10 to that to Superintendent Burns?

11 A What I probably said to him in that chase, was because Mr. Gilmartin had been
12 asked because Minister Flynn had asked Mr. Gilmartin for me to step aside, that
13 Mr. Flynn had asked Mr. Gilmartin for me -- Gilmartin told me that Mr. Flynn
14 asked me to step aside because of that. That was one of the reasons that I
15 decided to proceed with, one of the many reasons I decided to sell the
16 interests to Tom Gilmartin.

17 Q 110 And you did this without consulting with Mr. Flynn or without having any
18 communication with him?

19 A Absolutely, sir, I would not have the access, and I repeat this, I would not
20 have the access to Mr. Flynn that Mr. Gilmartin alleged he had.

21 Q 111 Did you have access to Mr. Flynn?

22 A Very very limited.

23 Q 112 What access did you have to him?

24 A I would be very, very slow to pick up the telephone and ring his secretary to
25 make an appointment. I hardly knew the man.

26 Q 113 Did you ever make an appointment with Mr. Flynn?

27 A Yes, I did.

28 Q 114 When?

29 A I made an appointment with Mr. Flynn, I invited him to Limerick to a tapping
30 out ceremony of the Limerick, the Arthur's Quay shopping centre in Limerick.

- 1 Q 115 Did he accept that invitation?
- 2 A Yes.
- 3 Q 116 When was that?
- 4 A The 16th March 1989, if I got the right year correct.
- 5 Q 117 When did you telephone Mr. Flynn to issue that invitation?
- 6 A Probably three or four weeks before that, together with Limerick corporation,
7 not just me on my own.
- 8 Q 118 Did you make contact with Mr. Flynn?
- 9 A Yes, I did and as well as the city manager.
- 10 Q 119 On what basis did you do it, what I mean is, what priority contact if any did
11 you have with Mr. Flynn that allowed you to telephone Mr. Flynn to invite him
12 to --
- 13 A Because in this particular case, sir, Limerick corporation and ourselves
14 applied to Mr. Flynn's department for 4 million pounds to build a multi story
15 carpark in the centre of the Limerick city and Mr. Flynn made that money
16 available to us, to assist the project, Mr. Flynn's department made that money
17 available to us to assist the Arthur's Quay project. We did not take that
18 money up because we did not need it. We put it together privately and because
19 of his, at the time because of his interest in getting that particular project
20 off the ground, and his support for it, even though it wasn't taken up, we
21 invited him to carry out the tapping out ceremony on that.
- 22 Q 120 When did Mr. Flynn make the 4 million pounds available?
- 23 A Sometime possibly in '88 or '89.
- 24 Q 121 Did you meet him in connection with that application?
- 25 A No, sir I did not.
- 26 Q 122 Did you meet his officials in connection with that?
- 27 A No, members of Limerick Corporation, I believe, met him instead of me.
- 28 Q 123 Did anybody else on your behalf meet him or make representations to him?
- 29 A I can't recall.
- 30 Q 124 Pardon?

- 1 A I can't recall.
- 2 Q 125 Had you met him prior to telephoning him on the 16th March 1989 or thereabouts?
- 3 A Yes, I had.
- 4 Q 126 In what circumstances?
- 5 A I met minister Flynn sometime socially in 1988.
- 6 Q 127 Yes, how many times?
- 7 A Once.
- 8 Q 128 Where was that?
- 9 A I met him in the Burlington Hotel in Dublin, together with his brother.
- 10 Q 129 So, Mr. Flynn was known to you and you were known to him?
- 11 A Yes.
- 12 Q 130 And when you wrote the letter to him on the 5th February of 1990, when you said
- 13 "Dear Minister, how are you keeping" or words to that effect, was a reflection
- 14 of the fact that you were personally known to each other?
- 15 A I would say so.
- 16 Q 131 It was a semi-personal letter to the minister?
- 17 A I would not have known minister very well but yes I knew him.
- 18 Q 132 Was Superintendent Burns alone at that meeting or was he accompanied by any
- 19 other officer?
- 20 A I'm not sure of that. Sorry, there was a possibility that I'm not sure that
- 21 local Garda inspector was with him but I'm not sure, from Cork, I think.
- 22 Q 133 Page 3078, Superintendent Burns records you or reports as follows to his
- 23 superiors:
- 24 "According to Mr. O' Callaghan, the two projects, i.e. O'Callaghan and
- 25 Mr. Gilmartin's could not go ahead together." Did you tell him that?
- 26 A Yes.
- 27 Q 134 "According to Mr. O' Callaghan, government ministers were anxious that
- 28 Mr. Gilmartin's project went ahead and states that Mr. Pdraig Flynn, Minister
- 29 for the Environment asked him to step aside and let Gilmartin's project go
- 30 ahead. As a result of this, he O'Callaghan came to an agreement with

- 1 Mr. Gilmartin that the latter's project went ahead. They agreed to work
2 together."
- 3 A That is also incorrect, we ask not agree to work together.
- 4 Q 135 Can you give any explanation as to why Mr. Burns should make this statement
5 when you say it was incorrect?
- 6 A I just don't know. Why I had agreed to sell the interests of the Balgaddy site
7 to Tom Gilmartin, that wasn't working either.
- 8 Q 136 Did you indicate to Superintendent Burns that you had agreed to work together.
- 9 A No.
- 10 Q 137 Now, he says that as he is aware, you are aware of Tom Gilmartin's problems and
11 of the latter's complaints and efforts to solve them.
- 12 A Yes.
- 13 Q 138 Did he tell you anything other than what you have already told us about
14 Mr. Gilmartin's complaints and Mr. Gilmartin's efforts to solve them?
- 15 A The very same.
- 16 Q 139 Did he tell you that Mr. Gilmartin had made a detailed complaints to Mr. Sean
17 Haughey and to Mr. Frank Feeley?
- 18 A I'm not sure of that, if he told me that.
- 19 Q 140 Mr. O' Callaghan said he was friendly with Tom Gilmartin and he was in frequent
20 contact with him, it was planned they meet in England in two weeks time. I
21 told O'Callaghan of our dealings with Mr. Gilmartin and our failure to meet him
22 due to the latter's reluctance but asked Mr. O' Callaghan to try and persuade
23 Thomas Gilmartin to meet with senior gardai dealing with the matter. If
24 necessary on an informal basis to discuss his complaints and difficulties. Mr.
25 O'Callaghan agreed to do this and I stressed the urgency and importance of the
26 matter." Is that correct?
- 27 A That is correct and he suggested he would travel to Luton or wherever Tom
28 Gilmartin was located.
- 29 Q 141 So, he is correct in that statement and that paragraph?
- 30 A Yes.

1 Q 142 But he is not correct in the preceding paragraph?

2 A Elements of it, two elements in particular.

3 Q 143 He says "On the 18th April 1989 Mr. O' Callaghan telephoned me and said he had
4 spoken to Mr. Gilmartin on three occasions". Had you done so?

5 A Yes.

6 Q 144 According to Mr. O'Callaghan, Tom Gilmartin told me that he will not discuss
7 the matter further and also intends to go ahead with his project in west Dublin
8 if planning permission is forthcoming."

9

10 Now, Mr. Gilmartin says that you did not ask him to cooperate with the Tribunal
11 but on the contrary, you told him that he was shooting himself in the foot by
12 making complaints. I am not sure whether he meant those words, that you used
13 those words literally or whether it was a euphemism for doing damage to himself
14 and intention to develop the project by making the complaints such as he had
15 made?

16 A What's the question?

17 Q 145 The question is did you tell him that he was shooting himself in the foot by
18 making complaints such as he had made?

19 A No, Sir I did not.

20 Q 146 He says that you told him that on at least four occasions.

21 A That is not true. I would suggest he is getting that mixed up possibly with
22 somebody else but it's not me.

23 Q 147 He says that you told him he was green in this environment and he didn't know
24 how business was done here, this is day 464, page 83 "he says you did not
25 encourage him to go to the Gardai, he says you did the complete reverse". Is
26 that true?

27 A In fact sir, if I can just say this, Tom Gilmartin told me he was continuously
28 going to -- that he was complaining to ministers. I don't think he ever told
29 me he going to the Gardai till he asked me about Mr. Haughey.

30 Q 148 In the course of his evidence on day 494, Superintendent Burns said that you

- 1 told him that you were aware of both the problems and complaints that
2 Mr. Gilmartin had?
- 3 A Yes, Mr. Gilmartin used to tell me once a week about them.
- 4 Q 149 And he would have outlined in a general way to you the problems that Tom
5 Gilmartin had brought forward, is that right?
- 6 A What does --
- 7 Q 150 That Superintendent Burns would have outlined to you in a general way the
8 complaints that Mr. Gilmartin had made.
- 9 A The Superintendent Burns, yes, yes.
- 10 Q 151 Did he tell you that Tom Gilmartin was complaining about corruption in Dublin?
- 11 A I wouldn't put it that strong.
- 12 Q 152 What was he complaining about?
- 13 A He was complaining about two particular people continuously.
- 14 Q 153 What was he come make about? There must have been something that was causing,
15 that he felt was of such seriousness as to warrant a Garda investigation? What
16 was that that?
- 17 A Well he seemed to have four problems, Tom seemed to have four continuous
18 problems and when he was talking to me and I would get them once a week, as I
19 said. One was Mr. Redmond, who he accused of selling publicly owned land by I
20 found hard to understand really, what his difficulty was with that and secondly
21 was John Corcoran for getting involved in purchasing it. Third was Liam Lawlor
22 and I have mentioned his name and the fourth was Finbar Hanrahan and that sir
23 was the extent of Tom's conversation and it would be repeated on a weekly
24 basis.
- 25 Q 154 Superintendent Burns said that he said as follows, the question he was asked on
26 day 494, page 37 was as follows "So you outlined to Mr. O' Callaghan with which
27 he did not apparently demur was that Mr. Gilmartin had made complaints in
28 relation to corruption in the planning process, that people were requiring
29 payment in respect of his development and that a local authority official,
30 albeit he did not name, was involved together with a member of the Dail.

- 1 Answer: That's right."
- 2 A Yes.
- 3 Q 155 Is that what he told you?
- 4 A Yes, I think what's what he said.
- 5 Q 156 So he, Superintendent Burns told you that Mr. Gilmartin had made complaints in
6 relation to corruption?
- 7 A Could I see it on the screen please.
- 8 Q 157 Day 494, page 37. It's on screen now. Question 219, do you see that?
- 9 A I have it, yes.
- 10 Q 158 Is that correct? Do you agree with Superintendent Burns' evidence that he
11 outlined to you and you didn't in any way disagree with what he said, that
12 Mr. Gilmartin had made complaints in relation to corruption in the planning
13 process and that people were requiring payment in respect of development and
14 that a local authority official which Superintendent Burns did not name was
15 involved together with a member of the Dail."
- 16 A That is what Tom Gilmartin was, had made said to me.
- 17 Q 159 Did you who Tom Gilmartin was referring to, did he name the people concerned?
- 18 A He named two people.
- 19 Q 160 Who did he name?
- 20 A He named Mr. Redmond and Mr. Lawlor.
- 21 Q 161 So you say that Mr. Gilmartin told you that Mr. Redmond and Mr. Lawlor were
22 requiring payment in respect of his development?
- 23 A He continuously complained about both people, sir.
- 24 Q 162 The question I have asked you, just tell me, did he complain to you and did you
25 tell Superintendent Burns that Mr. Gilmartin had complained to you that
26 Mr. Lawlor and Mr. Redmond were requiring payment in respect of his
27 development?
- 28 A Not in those terms.
- 29 Q 163 Well the answer is no?
- 30 A Yes, today the answer is no, but not in those terms.

1 Q 164 Would you explain then in what terms?

2 A Again, Tom was not that specific, what Tom would have said about both people
3 and I thought I explained this to Mr. Burns as best as possible. When he was
4 making complaints about both people, Mr. Lawlor was trying to get involved in
5 his development in Arlington and also Quarryvale and I think the word he
6 probably used to use was "Muscling in" on his project and he complained about
7 Mr. Redmond because he believed that he had actually tried to sell the land at
8 Quarryvale, a very important piece of land in Quarryvale to John Corcoran or
9 tipped off John Corcoran, I think was the word he used. But he was never
10 specific about mentioning money to me, it's like the 5 million pounds he
11 mentioned a while ago, I never heard those figures, he was never specific about
12 any figures, any particular figures with the exception of one occasion and
13 that's the Hanrahan occasion. Otherwise it was general chat. general
14 complaints, not just chat about people I mentioned to you.

15 Q 165 Did he ever tell you that he had received a map from George Redmond?

16 A No, I never heard about that map, until I read about that map.

17 Q 166 Now, to go back to Superintendent Burn's evidence on day 494 question 223, it
18 was put as follows to Superintendent Burns:

19
20 "So it would appear therefore that your note confirmed records Mr. O'
21 Callaghan -- sorry, I haven't got this question yet, which one is it?

22 Q 167 Page 38, sorry.

23 A What number is it?

24 Q 168 223, "So it would appear therefore your note confirmed, records Mr. O'Callaghan
25 in effect confirming his own knowledge of Mr. Gilmartin's problems and
26 complaints and the efforts he made to solve them.

27 Answer: That's right, yes.

28 Question: Did you get the impression from speaking with Mr. O' Callaghan that
29 he was not hearing all of this for the first time?

30 Answer: Yes."

1
2 Now, on page 494 at question 880, Mr. Burns was asked as follows: "First of
3 all in relation to Mr. Were Callaghan, when you interviewed Mr. O' Callaghan,
4 did you know that Mr. O' Callaghan knew prior to his interview that
5 Mr. Gilmartin was complaining that Mr. Hanrahan asked him for 100,000 pounds
6 Superintendent Burns: I didn't actually. No.

7 Question did Mr. O'Callaghan confirm to you that Mr. Gilmartin had immediately
8 after the time met Mr. O' Hanrahan told Mr. O'Callaghan that he, Mr. Gilmartin,
9 had asked for 100,000 pounds by Mr. Hanrahan.

10 Answer: No, I had no recollection. Mr. Callaghan, as far as I can
11 recollection replied in general terms that he was aware of Gilmartin's
12 problems."

13
14 You knew at the time you were interviewed by Superintendent Burns on the
15 5th/4/89, that Mr. Gilmartin had told you, in or in the vicinity of Buswells
16 Hotel that Mr. Hanrahan had asked him for 10,000 for his support for the
17 Quarryvale project. At a meeting which you observed taking place, is that
18 right?

19 A Yes.

20 Q 169 Did you tell Superintendent Burns about that when he interviewed you?

21 A No, I did not.

22 Q 170 Why did you not?

23 A Because I didn't fully believe the claim that Tom Gilmartin said Finbar
24 Hanrahan made.

25 Q 171 I thake it your intention was at all times to assist the Gardai?

26 A Yes, very much so.

27 Q 172 This was an an informal interview where the Gardai were seeking your
28 assistance?

29 A Would you call it informal?

30 Q 173 Well, you tell the Tribunal.

- 1 A I don't think so, I thought it was a formal interview.
- 2 Q 174 Were you asked to make a statement?
- 3 A Yes.
- 4 Q 175 Did you make a statement?
- 5 A I made a statement to --
- 6 Q 176 Did you make a written statement?
- 7 A No.
- 8 Q 177 Were you asked to make a written statement?
- 9 A No.
- 10 Q 178 Were you cautioned?
- 11 A I can't remember.
- 12 Q 179 Well there's nothing in the report to suggest that it was other than an
13 informal discussion with you?
- 14 A I treated it as pretty formal.
- 15 Q 180 Okay.
- 16 A It was pretty formal for a superintendent to travel from Dublin to interview me
17 in Cork.
- 18 Q 181 And he was seeking your assistance?
- 19 A Yes.
- 20 Q 182 You could have insisted him into his investigation into corruption at that time
21 by telling him, that what you had been told by Mr. Gilmartin, although you
22 weren't sure about the veracity of what you were being told but you were being
23 told by Mr. Gilmartin that immediately following interview or a interview you
24 had witnessed, that he had been asked for 100,000 pounds by a county councillor
25 whom you know, isn't that right?
- 26 A Yes.
- 27 Q 183 Did not tell the Gardai about that to assist them at that time putting in
28 whatever caveat you wanted in relation to the reliability or accuracy of the
29 claim made by Mr. Gilmartin?
- 30 A Because I was very concerned, sir, that I would be spreading scandal and

- 1 spreading rumour that I wasn't sure was correct. And I wasn't prepared to take
2 that risk and put somebody's good name to risk and in particular when
3 Mr. Gilmartin was not prepared a sign statement to that effect.
- 4 Q 184 Mr. Gilmartin had no difficulty about telling the Gardai in person or chief
5 superintendent Sreenan on the telephone and Mr. Haughey and Mr. Frank Feeley
6 and face to face interviews about what he says happened.
- 7 A That is correct.
- 8 Q 185 Did you not offer to give the Gardai this information on an off the record
9 basis or informal basis or confidential basis to assist them in their
10 inquiries?
- 11 A Simply because I did not believe the story.
- 12 Q 186 You didn't believe the story?
- 13 A Yes, I couldn't, I wasn't 100 per cent certain of what Mr. Gilmartin said to me
14 was correct and I couldn't take the risk of spreading scandal like that around.
- 15 Q 187 There are two things you say what you were told by Mr. Gilmartin. One is that
16 you weren't a hundred percent certain when he said was correct and the other
17 was that you did not believe his story?
- 18 A I wasn't, I didn't not believe his story a hundred percent, I cannot accept it
19 was totally correct.
- 20 Q 188 How much do you accept it was correct, do you say it was 80 percent correct?
- 21 A I couldn't put a percentage on it, Sir.
- 22 Q 189 Did you believe him when he told you?
- 23 A I wasn't sure because I had reasons for not believing him.
- 24 Q 190 Why did you not say that's an outrageous suggestion if you didn't believe him,
25 I am going back to Finbar Hanrahan, my friend, who has --
- 26 A I'm sorry, sir, Finbar Hanrahan was not my friend. You said before -- he was a
27 major supporter of a project, not of me.
- 28 Q 191 All right, I withdraw the suggestion of friend, but he was somebody who was
29 known to you and who had been your major supporter --
- 30 A He was a bare acquaintance of my mine, I wouldn't dare go back and ask him that

1 question in particular when I did not fully believe what had been said.

2

3 JUDGE FAHERTY: You said a moment ago you had reasons for not believing him,
4 could I just elaborate on that perhaps what you meant by that?

5 A Well judge, I had prior to this, prior to the 31st January meeting, I had had
6 two very lengthy meetings with Tom Gilmartin, prior to that.

7 One was them was on the 7th December which lasted probably four or five hours
8 and the second was on the, the meeting in early January in the Airport Hotel.

9 When we finalised if you like the actual Balgaddy deal and that lasted from ten
10 o'clock until 6 o'clock, that's probably about eight hours I think in total.

11 That's a total of about 13 hours altogether. For that length of time, I spent

12 that length of time listening to Tom Gilmartin, listening to Tom Gilmartin

13 telling me about his life story and his whole life story and his whole life

14 story in the UK since he went to England. He seemed to be exaggerating a

15 little bit and he seemed to be boasting quite a bit and it was a long time to

16 be talking to anybody, I suppose. So I had doubt in my mind, so when I did

17 hear the Hanrahan claim, I didn't believe it a hundred percent at the time.

18

19 JUDGE FAHERTY: Just in, you told Mr. Superintendent Burns as I understand it

20 when he was interviewing you, you repeated basically what Mr. Gilmartin had

21 said to you as I understand it about Mr. Lawlor and Mr. Redmond.

22 A Yes.

23 Q 192 Now you have already told us prior to that, that in your dealings with

24 Mr. Lawlor, you found himself vis-a-vis your own projects but nevertheless, you

25 didn't have any compunction about him repeating Mr. Gilmartin's complaints

26 about Mr. Lawlor and Mr. Redmond to the Superintendent Burns. And I'm just

27 wondering then why in the same context did you not mention what Mr. Gilmartin

28 had said to you regarding Mr. Hanrahan, and with whatever caveat you wish to

29 put on it Mr. O' Callaghan. You seem to have distinguished in the information

30 you gave if you like to Mr, so Superintendent Burns and I think these what

1 Mr. Gallagher is trying to ascertain, the reasoning for that distinction that
2 you made.

3 A Yes. With the claim that Mr. Gilmartin made about Mr. Hanrahan was a serious
4 claim and with the knowledge I had and the meetings I had with him before that
5 on a one to one basis, I believed at the time immediately when Tom Gilmartin
6 told me that that he exaggerating.

7 Q 193 But the claim about -- complaints about Mr. Lawlor, who was a sitting TD and I
8 think a county councillor, I am not diminishing Mr. Hanrahan's status at the
9 time and indeed Mr. Redmond who was a high ranking official within the county
10 council. And again they were all serious allegations?

11 A Yes, they were. When you say serious, the remarks that Tom Gilmartin made to
12 me about Mr. Redmond was strictly about selling public land in Quarryvale.
13 Which I believed, I didn't see anything wrong with that.

14
15 JUDGE FAHERTY: In fairness Mr. Lawlor's delegations were played by Mr. Lawlor,
16 I am not sure he used the words or Mr. Gallagher, that he was trying to muscle
17 in on Mr. Gilmartin's -- a sitting TD or a county councillor trying to muscle
18 in on Mr. Gilmartin's projects in Quarryvale and perhaps Ireland. That was not
19 something that one would take lightly, presumably.

20 A No, no, but the superintendent put that to me. All I could say I confirmed
21 that that was what Tom Gilmartin had said to me. In Finbar Hanrahan's cases it
22 was a very serious allegation and I had too many doubts in my mind, in fact to
23 this day and as time goes on more and more, I'm coming to the belief that it
24 did not happen at all. That I'm glad that I did not pass that information on
25 to anyone.

26
27 JUDGE FAHERTY: Okay.

28 A Sorry, with the exception of John Deane, he is the only person I mentioned it
29 to.

30

1 JUDGE FAHERTY: It's all right Mr. Gallagher, I will leave it for a while.

2

3 Q 194 MR. GALLAGHER: Mr. O' Callaghan, you have used the word exaggeration, that you
4 felt that Mr. Gilmartin had exaggerated what had happened in Buswells Hotel.
5 Is that correct?

6 A Yes.

7 Q 195 You know the difference and you understand the difference between an
8 exaggerated fact and an untrue fact?

9 A Yes.

10 Q 196 In what way did you feel that Mr. Gilmartin had exaggerated what had been said
11 Mr. Hanrahan?

12 A It's possible because Mr. Gilmartin mentioned this to me as well that Finbar
13 Hanrahan did not offer his support for this project but it's possible, it is
14 possible, because Mr. Gilmartin was upset that he would have introduced the
15 subject.

16 Q 197 In other words would have introduced an untruth about Mr. Hanrahan?

17 A That is a possibility.

18 Q 198 Did you believe that?

19 A I wasn't sure what to believe, that's the difficulty. You see, sir, I had
20 spent quite a bit of time with Mr. Gilmartin prior to this and some of the
21 exaggeration that I had heard from him were quite -- it was difficult to
22 believe certain things he would say to you after that.

23 Q 199 Did you tell that to Superintendent Burns?

24 A No, I did not.

25 Q 200 Why not?

26 A Well again I wasn't, I didn't want to be -- this is the first time I mentioned
27 this, I didn't want to be making statements I wasn't a hundred percent certain
28 of.

29 Q 201 You had clearly formed the view that Mr. Gilmartin was a person who was capable
30 of exaggerating and you have told the Tribunal that notwithstanding his claim

1 made to you immediately after you saw him meet Councillor Hanrahan, that you
2 didn't believe what he had told you. Did you not feel you had a duty to --

3 A I'm sorry, I said that I did not fully believe.

4 Q 202 Fully believe, well you partly believe what he told you and I have a difficulty
5 to find out the distinction fully believing him and partly believing him?

6 A If I had fully believed him, I would have told the superintendent because I did
7 not fully believe it, I did not want to pass the message on.

8 Q 203 Why did you not tell the superintendent, listen, I have known this man for some
9 time and between you and I, I find that he exaggerates and he says things and
10 has said things to me that I did not fully believe or was not prepared to
11 accept. Why didn't you say that?

12 A Mr. Gallagher, you know as well as I do, between you and me, you know what that
13 means, there's no such thing.

14 Q 204 I imagine that sometimes in your lengthy business career and your career
15 generally you would have had, you would have had spoken those words, you would
16 have said between you and me, I tell you in confidence or something to that
17 effect?

18 A Of course you would but not to a superintendent writing down a statement.

19 Q 205 Why did you not go to Mr. Deane and say I think that we should do something
20 about this interview and I would like you, Mr. Deane, as a solicitor to write
21 in whatever appropriate fashion to alert the Gardai that I think Mr. Gilmartin
22 is exaggerating or telling an untruth about Mr. Hanrahan?

23 A If Mr. Gilmartin was prepared to sign a statement to that effect, of course I
24 would have done that but added to that, Mr. Gilmartin was telling everybody at
25 this stage but he was doing nothing about it.

26 Q 206 If he had signed a statement along the lines of the statement that he made to
27 Mr. Feeley and Mr. Haughey, what would you have said in any statement you would
28 have signed?

29 A I would have seriously considered at that stage if Mr. Gilmartin was prepared
30 to sign a statement.

1 Q 207 Would you have then said in that statement I find that Mr. Gilmartin
2 exaggerates and that I didn't believe what he said about Mr. Hanrahan?

3 A I would seriously consider it, because yes, I would still have taken into my
4 mind that Mr. Gilmartin does exaggerate.

5 Q 208 Would you have felt it your duty to do that in order to support, as it were,
6 Mr. Hanrahan?

7 A Not to support Mr. Hanrahan, I wasn't supporting Mr. Hanrahan.

8 Q 209 You would be showing that Mr. Gilmartin was a man who exaggerated, whose
9 statements couldn't be fully relied upon?

10 A If he had signed a statement to that effect himself, yes, I would have
11 seriously considered my situation if Tom Gilmartin had signed his statement,
12 instead of just talking about it.

13 Q 210 You would have told the Gardai he was somebody who exaggerated and could not be
14 relied on?

15 A I would consider it and possibly would have done that, yes.

16 Q 211 I wonder, perhaps, could we have a break for just two minutes.
17

18 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK.**

19 **AND RESUMED AS FOLLOWS:**

20
21 Q 212 MR. GALLAGHER: Mr. O' Callaghan, I want to turn, if I may, to the meeting in
22 Buswells Hotel. You have dealt with this meeting in the two statements of the
23 1st March which you furnished, which I read yesterday, and you say that
24 Mr. Hanrahan had come to your office in the second half of 1989, that was dealt
25 with yesterday. And you say that you had met Mr. Hanrahan at a local function
26 in Lucan, Clondalkin, probably in the middle of 1988 and he was one of the
27 councillors and you say you believe the next time you met him was when he
28 arrived unexpectedly at your office in the second half of 1989. But he did --
29 you did speak with him in early November 1988, the 4th November 1988 and I
30 think although your memo records you spoke with him in Cork, you say you spoke

1 with him on the telephone and he was in Dublin.

2 A Correct.

3 Q 213 Would you remind the Tribunal the reason why you spoke with him in Dublin in
4 November or spoke with him in Cork, whatever, spoke with him in the beginning
5 of November of 1988?

6 A I spoke to him on the telephone from Cork in the beginning of November 1988.
7 That was in connection with when had I heard again that Sharpe lands that was
8 called in Quarryvale that it had a possibility of getting an exit on to the
9 Galway Road for residential purposes and that Tom Gilmartin had either
10 purchased it or had an option on it and at that stage at that rate, if that was
11 sold, if that was correct, that Tom could have it converted to retail and it
12 would mean that -- this probably wasn't correct -- but it would mean the
13 Quarryvale site on on its way to get a retail permission with an exit on to the
14 Galway Road. That, of course, would have played havoc with the Balgaddy site,
15 it could lead to serious trouble, in particular with the condition of the
16 Fonthill Road, and I wasn't sure what to do about this and it did concern me a
17 lot and I remember that Finbar Hanrahan had mentioned the word Sharpe land to
18 me previously and he was probably the only person I knew who knew anything
19 about that piece of land so I rang him and he outlined the status and that's
20 exactly as I have outlined in the memo of the 4th November.

21 Q 214 You say that Mr. Gilmartin asked you to introduce him to Finbar Hanrahan and
22 that this happened in 1989?

23 A Yes.

24 Q 215 Would you outline to the Tribunal where, when and in what circumstances and for
25 what reason Mr. Gilmartin asked you to introduce him to Mr. Hanrahan?

26 A Well, I was never sure as to who made the phone call but from reading the
27 transcripts there, it was Tom Gilmartin made the appointment with Finbar
28 Hanrahan actually. The circumstances were that after the signing of the
29 agreement on the 21st January 1989, the Balgaddy agreement with Tom, we all
30 left pretty quickly to go to different appointments and I said to Tom -- we

1 left on very good terms actually -- I said to Tom I would like to meet him
2 sometime when he comes to Dublin just to more or less celebrate the, well the
3 agreement really. It happened that I was in Dublin sometime in February, I
4 haven't got the date, and I contacted Tom and he told me he was in Dublin as
5 well and we arranged to meet. I haven't got the actual date in February itself
6 but we arranged to meet. John Deane was travelling with me and I arranged to
7 call into Tom's office at about, I think somewhere around 4 o'clock. It was my
8 second time in there, he had a small office in the larger Arlington office in
9 Stephen's Green, it was John Dean's first time in the office, I went to meet
10 him and shake hands with him and hope that we would probably go and have a
11 drink or a meal afterwards as previously arranged.

12
13 Tom suggested to me or said to me that he had an appointment at some time in
14 the afternoon with Finbar Hanrahan in Buswells Hotel, that he didn't know him
15 and asked me if I knew him and I said I knew him and I could recognise him and
16 he asked me would I mind introducing him, pointing out Finbar Hanrahan to Tom
17 Gilmartin. We had a chat for a while, and then Tom and John and myself walked
18 down from Stephen's Green to Buswells Hotel where the appointment was. The
19 three of us walked in together. We did not go down any stairs actually, we
20 walked into the ground floor of Buswells Hotel and at that time in 1980s, there
21 was a room in Buswells Hotel to the left-hand side of the entrance lobby with a
22 pair of doors on it. It's an elongated room, 30 feet long, with a bar at one
23 end of it. I walked in there and Finbar Hanrahan was seated at one end of the
24 room and I pointed him out to Tom and I pointed him out and went off and he
25 introduced himself and shook hands with Finbar Hanrahan.

26
27 John Deane and myself proceeded to the bar at the other end of the room and we
28 had a cup of coffee or a drink, I am not too sure what we had. Tom and Finbar
29 Hanrahan were together about 15 minutes and eventually Tom got up in a bit of a
30 huff and walked out of the room, back out through those double doors and on to

1 the street outside. He did not pass me on the way out because I was on the
2 other end of the room but I could see him and I left after him.

3 Q 216 Did you speak to him after you left?

4 A Yes, I did.

5 Q 217 What did you say to him?

6 A I followed him straight out on to the street. I asked him what was wrong
7 because he looked quite ruffled. And he said, the words he said that after all
8 my efforts, something to that effect, that I have put into bringing the
9 barefoot Irish back to Dublin from Luton and this so-and-so asks me for 100,000
10 pounds. John Deane followed us out, he just came up to us, we were chatting
11 and I think he also saw that Tom might have been a bit upset so I actually said
12 to John when he asked me what Tom had said and John decided, said to me that he
13 was going back to Cork so he headed off, got a taxi to the airport to get his
14 flight back home. Tom walked up along the street and I walked up after him and
15 both of us, I think both of us ended up in the Shelbourne Hotel, I am not a
16 hundred percent certain because I think we ended up in the Shelbourne Hotel.
17 Because I must have stayed with Tom because I got the last night back to Cork
18 that night.

19 Q 218 Why did you not go to Mr. Hanrahan that day, the man you knew, to shake hands
20 and say hello Finbar, nice to see you again, I understand you are meeting Tom
21 Gilmartin, we'll talk again or words to that effect?

22 A I would have liked to have done that actually.

23 Q 219 Why didn't you do that?

24 A Well I had one or two occasions prior to that where I would have introduced Tom
25 to somebody, I would have met somebody during the few meetings we had and Tom
26 was always a man who, he would kind of push you aside and take over when he
27 didn't want me there. I don't think he wanted me around any more. As far as
28 he was concerned, he had bought the Balgaddy site and I was gone. I had served
29 my purpose, I had showed him who Finbar Hanrahan was and he wanted me to go
30 away. That's the type of Tom I knew so I wasn't going to walk down, for want

1 of a better word and be insulted so I just let them off and that's exactly how
2 it happened.

3 Q 220 Perhaps to go back just a little, what was your purpose in coming to Dublin on
4 that occasion?

5 A I have thought hard about that sir, first of all, we come to Dublin quite a
6 lot. But on that particular occasion, the reason I came to Dublin was to tell
7 our architects that the Balgaddy project was not now going ahead, that we had
8 sold our interest on to somebody else.

9 Q 221 And did you tell your architects that?

10 A Yes, I did.

11 Q 222 Where did you tell them that?

12 A In their office.

13 Q 223 And who did you tell?

14 A I Ambrose Kelly. I told him on the telephone before this but it was just to
15 break it -- you have got to bear in mind this was the second time now we had
16 aborted a project.

17 Q 224 Why did you feel you had to come to tell him face to face, given that he had
18 worked with you and for you since the early 1980s and presumably would continue
19 to work for you and with you into the future?

20 A Well it was a very big thing to happen. He was kind of hopeful that the
21 Cooldrinagh project was going ahead, he would have had six or eight or ten
22 people, architects involved in that, it was aborted because of mainly my own
23 fault, the Balgaddy site was now gone as well, he would have a similar team on
24 that. You don't just pick up the phone and tell somebody it was all over, this
25 was a three or four year project we were talking about.

26 Q 225 Did Mr. Deane come along with you for the purpose of breaking the news to
27 Mr. Kelly also?

28 A No.

29 Q 226 Why did Mr. Deane come along?

30 A Well I usually get the nice jobs, sir. He wasn't with me, he was in Dublin

1 with me but he didn't come to that meeting.

2 Q 227 Was he in Dublin on business which related to you or to any of your companies,
3 the companies he was associated with?

4 A I don't know. And I have told John Deane why we came to Dublin and why he came
5 to Dublin, he can't remember. He doesn't know. He doesn't remember my
6 meeting. The reason why, he doesn't remember the reason why he came to Dublin
7 that day.

8 Q 228 How did you come to visit Mr. Gilmartin in his office, what arrangement was
9 made about that?

10 A Well I told Tom that I was in Dublin, as I said to you, when we left our
11 meeting on the 31st January, we left pretty quickly and I spoke to him on the
12 telephone and I suggested to him we would be in town, the next time two of us
13 were in Dublin together, that we would meet. I obviously rang and told him I
14 was in Dublin and could we meet and he said he was there too, it was as simple
15 as that.

16 Q 229 Are you sure you met Mr. Gilmartin in his office in St. Stephen's Green on that
17 occasion?

18 A I'm certain, sir, yes, because I brought John Deane in to show him the office
19 actually. He had never been in there before.

20 Q 230 Mr. Gilmartin has given evidence to the Tribunal that the meeting took place on
21 the 28th December 1988 and he has an entry into his diary which suggests, if
22 it's accurate and which was made at the time and if it was contemporaneous,
23 that that was the date on which the meeting was held, you are aware of that?

24 A Yes.

25 Q 231 You have seen that diary entry?

26 A Yes, yes.

27 Q 232 And he says that, I'm summarising, but my recollection of his evidence is that
28 he had set up an appointment with Mr. Hanrahan and that when he arrived at the
29 hotel he found that you were there. That he went to the hotel alone. That
30 when he arrived at Buswells Hotel, he found that you were there and that you

1 were in the company of Mr. Deane and Mr. Lawlor and Mr. Kelly and Mr. Hanrahan.

2 You are aware of that?

3 A Yes, I am.

4 Q 233 You are aware he said that. And he suggests that when he entered into the bar
5 area, that you nodded in the direction of Mr. Hanrahan to him. And he went and
6 spoke with Mr. Hanrahan. Now, do you agree or disagree with his evidence that
7 Mr. Lawlor and -- well, Mr. Lawlor was present first of all, we'll take them
8 one by one. Was Mr. Lawlor present on that occasion?

9 A No.

10 Q 234 Was Mr. Kelly present on that occasion?

11 A No.

12 Q 235 Mr. Deane was present, you say, and Mr. Hanrahan and Mr. Gilmartin.

13 A Correct.

14 Q 236 But you say that you and Mr. Deane accompanied Mr. Gilmartin from his office at
15 25 St. Stephen's Green where you had earlier met him?

16 A Yes.

17 Q 237 Mr. Gilmartin says that that was not so, that to the best of his recollection,
18 you were never in the office on St. Stephen's Green, you are aware of that?

19 A Oh yes, I am, sir, yes.

20 Q 238 Do you have any diary, record or memorandum or other note that might assist the
21 Tribunal in establishing when this meeting took place?

22 A Sorry, I have not.

23 Q 239 In your statement, you said that you felt whilst you didn't know the date of
24 the meeting, you felt that it probably took place -- and again I'm paraphrasing
25 what you said -- you were reasonably confident, you said, that it was not
26 before the 31st January 1989.

27 A Yes.

28 Q 240 Given that Mr. Gilmartin made complaints to Mr. Haughey in or about the 22nd,
29 23rd, 24th February or in or about that time, and made a complaint about
30 Mr. Hanrahan, it would seem almost certain that the meeting in Buswells Hotel

1 must have taken place before that time?

2 A Yes.

3 Q 241 Whether it took place on the 28th December 1988 or some subsequent date, it
4 certainly would appear to have taken place sometime before the, say, the 23rd
5 February 1989.

6 A Yes.

7 Q 242 Now, as I say, Mr. Gilmartin says he believes that you were never in the
8 premises in St. Stephen's Green. And he says that he went alone to Buswells
9 Hotel. The Tribunal today received -- sorry, at 19.20 last night, received by
10 fax a number of documents which it hadn't seen before, they were furnished by
11 Messrs. Goodbodys and apparently they had been obtained by Hickey Beauchamp
12 Kirwan O'Reilly, I don't know whether you've had an opportunity of seeing them.
13 Perhaps you can have a look at them at lunch time. But what they indicate is
14 that, and I should say that although discovery was obtained from Messrs. Hickey
15 Beauchamp Kirwan and O'Reilly, only one of these documents, a letter of the
16 31st January 1989 from Mr. Dadley to Mr. Kirwan was discovered, but there are
17 two further documents furnished to the Tribunal by fax last night at 19.20
18 hours, which indicate that the sale of 25 St. Stephen's Green closed on Friday,
19 3rd March 1989.

20
21 May I have 4865 please. This document and the other documents have been
22 circulated here this morning, sir. This is a letter written by Hickey
23 Beauchamp Kirwan and O'Reilly to Barry Boland at Arlington Securities, 25 St.
24 Stephen's Green, confirming the sale had closed on Friday, 3rd March and
25 pointing out, in the penultimate paragraph, "I received a set of keys on
26 closing. If you wish me to send the keys by courier, please let me know. If
27 not, I will leave them at reception for collection by you." And the Tribunal
28 was also furnished with a copy of indenture assignment made the 3rd March 1989
29 made between Board Gas Eireann and Arlington Securities, which is to be found
30 on page 4866.

1 Now, on the face of those documents, it would appear that Arlington Securities
2 went into possession of the premises in question in St. Stephen's Green on or
3 about the 3rd March 1989. I should point out if Mr. Sreenan will bear with me,
4 I should point out there has been evidence given, that Mr. Boland has said that
5 he believed that they had occupied the premises in question some weeks before
6 the lease was signed, and that some refurbishment had been carried out to the
7 premises.

8
9 CHAIRMAN: I think Mr. Gilmartin gave some similar evidence.

10
11 Q 243 MR. GALLAGHER: Mr. Gilmartin also gave evidence that, he says that he doesn't
12 remember Messrs. Dean or O'Callaghan ever being in the office and he is unclear
13 as I recall his evidence, about the precise date on when they went into
14 occupation. I just want to put that on the record for the moment. I will
15 after lunch put it specifically to Mr.-- I will put Mr. Gilmartin's evidence
16 specifically on the record. I'm just putting to you that Mr. Gilmartin has
17 said that to the best of his recollection and belief you, you never visited
18 these office in St. Stephen's Green.

19 A I was in it twice, sir.

20 Q 244 Were you there twice before the meeting at Buswells Hotel?

21 A No, once before and once on the day of the Buswell Hotel meeting.

22 Q 245 And once subsequent to that?

23 A Yes.

24 Q 246 Did Tom Gilmartin tell you what the purpose of his meeting with Mr. Hanrahan
25 was?

26 A I'm not sure, but I can't recollect completely but it was obviously to seek
27 support for his Quarryvale project.

28 Q 247 He had set up this meeting himself without your assistance.

29 A That, I was not sure of, as you'll see from my statement there, I wasn't sure
30 who set it up, whether Tom asked me to contact Finbar Hanrahan or not, Tom

1 himself has stated that he made the appointment.

2 Q 248 Mr. Hanrahan says Mr. Gilmartin telephoned him on a number of occasions to his
3 home and made direct contact with him or with his home at least, his family.

4 A Well, I don't know what I said --

5 Q 249 Why would Mr. Gilmartin require you to go along to identify Mr. Hanrahan to
6 him?

7 A Well he didn't know him actually, to the best of my knowledge, he hadn't seen
8 him, he wouldn't know him. You have got to bear in mind also we had arranged
9 to meet that evening and we were hoping to go and have a meal together or a
10 drink together in Dublin, Tom and myself and possibly John Deane. The Finbar
11 Hanrahan meeting came in between. And Tom was going to meet him and talk to
12 him on his own. The three of us would have gone off together somewhere.

13 Q 250 Why did the three of you not go off together after the meeting?

14 A Because of the result of the meeting, Tom was so upset.

15 Q 251 Was Tom upset before he met Mr. Hanrahan?

16 A No.

17 Q 252 So something happened at the meeting with Mr. Hanrahan that caused him to be so
18 greatly upset he wasn't to be in a position or wasn't willing to go off and
19 meet you and Mr. Deane?

20 A We still went off together, Tom and myself, we went to the Shelbourne, not too
21 sure what happened there but we went to the Shelbourne together.

22 Q 253 Mr. Gilmartin's evidence as he walked out of the hotel, walked out, having left
23 Mr. Hanrahan, that you said to him, "did he tap you."

24 A That's completely wrong, sir, and also impossible. I was at the other end of
25 the bar. As I explained to you, we did not go downstairs as Tom Gilmartin has
26 been saying. We went to the room adjoining the ground floor in Buswells Hotel.
27 You walk into the main foyer, you turn left into the room there, in 1988/1989,
28 that was a rectangular room without a stairs in it, like it is at the moment.

29 Q 254 You say that there was no bar in that?

30 A No, there was a bar.

- 1 Q 255 There was a bar. You agreed that you went into a bar?
- 2 A Yes, but on the ground floor, we didn't go downstairs as Tom said in his
3 statement.
- 4 Q 256 Why did you wait whilst in meeting was taking place?
- 5 A Because I was going off to have a meal with Tom afterwards.
- 6 Q 257 Where was the meal going to be?
- 7 A It would have been anywhere, he wouldn't selective where we went the two of us.
8 It could have been anywhere.
- 9 Q 258 And you didn't feel it appropriate to nod or to speak to Finbar Hanrahan or
10 explaining the time of day with him or say anything to him in any respect?
- 11 A Not with Tom.
- 12 Q 259 In circumstances where Tom, according to you, walked from St. Stephen's Green
13 to Buswells Hotel, knew that you were going to point out Mr. Hanrahan and you
14 were just going to nod to him and move away without acknowledging Mr. Hanrahan?
- 15 A Absolutely, what's what Tom Gilmartin wanted me to do.
- 16 Q 260 Did he ask you to do that?
- 17 A No, but I get that impression from him. At this stage as I mentioned to you
18 earlier on, as far as Tom was concerned, I was not involved any more. In
19 either of the Quarryvale or Balgaddy site. Tom only asked me to do something
20 of benefit to him.
- 21 Q 261 And you are telling the Tribunal that notwithstanding that he had made the
22 arrangements with Mr. Hanrahan for the meeting and notwithstanding that he
23 wouldn't want you present, he invited you to come along to point Mr. Hanrahan
24 out to him?
- 25 A Yes.
- 26 Q 262 And that was our sole purpose in being there?
- 27 A Absolutely.
- 28 Q 263 And that you nodded towards Mr. Hanrahan and you remained in the vicinity.
29 Well if that was Mr. Gilmartin's attitude, did you not think it appropriate to
30 say to him we are going off now, going up to the Shelbourne and we'll see you

1 there afterwards or whatever?

2 A Because we hadn't decided where to go.

3 Q 264 Had you discussed it?

4 A Oh yes, we were going somewhere but we didn't know where. We usen't to make
5 firm appointments for restaurants and that type of thing.

6 Q 265 And did Tom Gilmartin leave the bar area upset and apparently annoyed?

7 A Yes, he did.

8 Q 266 And you followed him out straightaway?

9 A Yes.

10 Q 267 And he told you that Mr. Hanrahan had asked for 100,000 pounds for his support.
11 What was your reaction to that?

12 A Quite shocked of course.

13 Q 268 Did you suggest he might go to the Gardai about that?

14 A Not at all. Not standing on the street, I didn't make that --

15 Q 269 Why did you not take him away for the meal that you had arranged and cool him
16 down and say listen, you have got to do something about this, this is an
17 outrageous demand?

18 A I did take him away for meal, I think we had a meal or a drink, I'm not sure
19 what, I was with him till and a half past eight, I don't know what we did, I
20 can't be specific.

21 Q 270 My recollection of Mr. Gilmartin's evidence he left, went back to London and
22 he got a taxi and went away?

23 A That's completely wrong.

24 Q 271 Where did you go for the meal?

25 A I think it was the Shelbourne, that would have been the closest place to it.

26 Q 272 Why are you not sure where you went?

27 A Because I'm not just not sure.

28

29 CHAIRMAN: Right.

30

1 MR. GALLAGHER: It's one o'clock. We'll sit at two o'clock.

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THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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THE TRIBUNAL RESUMED AS FOLLOWS AT 2.00 P.M.:

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3 CHAIRMAN: Now, Mr. Russell, we are going to specially fix Mr. Lawlor for half
4 ten on Wednesday next.

5
6 MR. RUSSELL: I wonder really, that gives me some difficulties. If it was
7 possible to fix the matter for Friday, I am not trying to be awkward for
8 disrespectful to the Tribunal but with the breadth of work and the fact that
9 I'm missing Mr. Lawlor for a couple of days, Friday would be appreciated on our
10 side.

11
12 CHAIRMAN: We have other difficulties in relation to Mr. Lawlor giving
13 evidence on the Friday, it has to be the Wednesday. So that's the best we can
14 do in the circumstances.

15
16 MR. RUSSELL: Well.

17
18 CHAIRMAN: It's unlikely that the Tribunal will be sitting for tomorrow or
19 most of tomorrow in any event, so we may have some additional time.

20
21 MR. RUSSELL: Indeed, I had the benefit of a consultation with Mr. Delaney and
22 Mr. Lawlor after my submission this morning and Mr. Lawlor has just asked me to
23 makes a few points to you and I wonder would you indulge me, just to make a
24 few brief points on your determination this morning. Mr. Lawlor obviously is
25 disappointed with the decision of the Tribunal.

26 First of all in the light of the documentation, which we accept is obviously
27 the subject of proceedings in another place.

28
29 And secondly, the decision of the Tribunal not to take his evidence after
30 Mr. Gilmartin has been re-examined. However, on the basis that the Tribunal

1 this morning gave him the reassurance that he would have an opportunity to
2 readdress Mr. Gilmartin and indeed would have a further opportunity to give
3 evidence on the basis of further documents that may be disclosed and further,
4 be further examination of Mr. Gilmartin, he is willing to proceed with his best
5 endeavours at this stage, notwithstanding the fact that we were looking for
6 some time.

7
8 However he has asked me as matter of courtesy to indicate to the Tribunal that
9 while he is willing to work on to help complete this module, he is dissatisfied
10 with the determination this morning and parallel to his retention of a legal
11 team for representation, as we described this morning, he has prepared a
12 judicial review application and this morning's determination may form a
13 component part of that and I think as matter of courtesy we should inform of
14 you of that and in due course that will take its progress.

15 He is particularly concerned that the whole issue of the order in which
16 Mr. Gilmartin is re-examined and he is examined first of all will cause a
17 duplication in terms of the work of the Tribunal but secondly, it does inhibit
18 ourselves as lawyers in our preparation of the cross-examination of Mr. Lawlor
19 and I merely put that on the record.

20
21 However, on the basis of the assurances that the Chairman gave this morning,
22 that he will in effect have a second bite of the cherry, and on that basis the
23 prejudice that he might incur will be limited, he is determined to use his best
24 endeavours to give as full and frank a disclosure in his examination and
25 cross-examination, notwithstanding the fact that we are looking for that extra
26 bit of time. And I would again just as a matter of courtesy ask the Tribunal
27 to consider Friday, it does make a lot of difference to us but in the event
28 that you won't facilitate us, we have very little choice.

29
30 CHAIRMAN: I can tell you we did consider every day next week, as well as the

1 following week and the best we can do is Wednesday at 10.30.

2

3 MR. RUSSELL: Well obviously I'm in your Lordship's hands, I can't say my more
4 than I have said and I appreciate you giving me the chance to put the matters
5 on the record.

6

7 CHAIRMAN: Thank you.

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9 MR. GALLAGHER: Mr. O' Callaghan please.

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CONTINUATION OF QUESTIONING OF MR. O' CALLAGHAN**BY MR. GALLAGHER:**

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- 4 Q 273 MR. GALLAGHER: Sorry, Mr. O' Callaghan. You have told the Tribunal about the
- 5 meeting in the hotel in Buswells Hotel and the events afterwards, that is that
- 6 you spoke with Mr. Gilmartin in Molesworth Street and Mr. Deane came along.
- 7 Did you tell Mr. Deane in Mr. Gilmartin's presence, what Mr. Hanrahan allegedly
- 8 had asked for?
- 9 A Mr. Gilmartin was present, I am not quite sure whether he heard what I said or
- 10 not.
- 11 Q 274 Is there any reason why he wouldn't have heard it?
- 12 A No, not that I know of.
- 13 Q 275 And did you discuss between you or what might or should be done by
- 14 Mr. Gilmartin in the light of what he was alleging?
- 15 A Did we discuss between who.
- 16 Q 276 Yes, between yourself, Mr. Deane and/or Mr. Gilmartin, what should be done in
- 17 the light of what Mr. Gilmartin was alleging had been said by Mr. Hanrahan?
- 18 A Not really. As I said to you earlier on, I proceeded along the street with Tom
- 19 Gilmartin. I think possibly we went to the Shelbourne Hotel. Tom repeated to
- 20 me on a few occasions what happened, that how Finbar Hanrahan was not
- 21 supporting his project. To the best of my recollection, he calmed down after
- 22 half an hour or so and we spoke about something else.
- 23 Q 277 But according to Mr. Gilmartin, the major cause of concern to him was what he
- 24 regarded as a demand, an improper demand for 100,000 pounds in return for
- 25 support?
- 26 A Yes.
- 27 Q 278 Did he repeat that on a few occasions?
- 28 A Probably twice, maybe three times.
- 29 Q 279 You told the Tribunal that Mr. Gilmartin asked you to arrange an introduction,
- 30 you thought with Mr. Hanrahan and in your statement you said that you weren't

- 1 sure whether you had arranged the appointment or not.
- 2 A Yes.
- 3 Q 280 Did Mr. Gilmartin tell you why he wanted to meet Mr. Hanrahan?
- 4 A I'm not sure if he spelt it out to me, but both of us would have known. Both
- 5 Tom and myself would have known that.
- 6 Q 281 And what was the reason?
- 7 A The reason that Tom would have wanted, he would have wanted Finbar Hanrahan's
- 8 assistance with his Quarryvale project.
- 9 Q 282 And can you say why he would have spoken to you with a view to getting you to
- 10 speak to Mr. Hanrahan?
- 11 A Well you see he didn't do that. He made the appointment himself with
- 12 Mr. Hanrahan.
- 13 Q 283 Yes.
- 14 A I just happened to come along and because I knew Finbar Hanrahan, he asked me
- 15 to point him out to him. Tom was doing this on his own.
- 16 Q 284 Well you see in your statement at page 3737 you said "Sometime in 1989 Tom
- 17 Gilmartin asked me to introduce him to Finbar Hanrahan. I don't specifically
- 18 recall but this request was probably made by Tom Gilmartin on the phone."
- 19 A Yes, I wasn't quite sure whether I was asked to, whether he asked me to make
- 20 the appointment with Finbar Hanrahan or not.
- 21 Q 285 Why would he ask you, a Cork-based developer, to introduce him, a Luton-based
- 22 developer, to a Dublin-based county councillor?
- 23 A Because he must have known that I knew Finbar Hanrahan.
- 24 Q 286 You say you only knew Finbar Hanrahan because you had met him casually at a
- 25 meeting in west County Dublin?
- 26 A Quite right. And it is possible I would have said that to Tom Gilmartin at
- 27 some stage.
- 28 Q 287 And do you think that on that basis, he was, he decided to telephone you in
- 29 order to ask you to make an introduction?
- 30 A Well that makes sense.

1 Q 288 Did Mr. Gilmartin ask you to introduce him to any other councillor in County
2 Dublin?

3 A No.

4 Q 289 You have told the Tribunal that at the meeting that you have referred to, you
5 met, for example, Councillor Therese Ridge, you met Mr. Lawlor I think and a
6 number of other councillors, you had known Paddy Hickey, you had introduced to
7 him and you had met him and spoken to him about Cooldrinagh.

8 A Yes.

9 Q 290 Had you told Mr. Gilmartin that you knew councillor Hickey?

10 A I am not sure, I don't know.

11 Q 291 Well can you suggest why it was that Mr. Gilmartin selected Councillor Hanrahan
12 as the only councillor whom you had met, whom he asked you to effect an
13 introduction to?

14 A I would say because Councillor Hanrahan was the local ward councillor.

15 Q 292 So was Councillor Ridge and there were a number of others?

16 A Yes.

17 Q 293 Can you suggest why it was that Councillor Hanrahan was the only one he asked
18 for an introduction to?

19 A No, I can't. It's possible that I didn't mention the other names at any stage
20 to him, to Tom, maybe he wasn't aware that I had met the other councillors.
21 Can I just add as well please, that Tom was inclined to make all his own
22 contacts in that regard.

23 Q 294 In the course of his evidence, Mr. Gilmartin said that you, through Frank
24 Dunlop arranged for misinformation to be available to the United Kingdom
25 Revenue Commissioners which resulted in them taking proceedings against him for
26 tax evasion, together with an allegation that he had been involved in tax
27 offences. Do you want to say anything about that allegation, Mr. O' Callaghan?

28 A Absolutely untrue, I knew nothing at all about that. I had nothing to do with
29 that, I had nothing to do with it but I have plenty of things on my mind
30 without worrying about that, I can assure you.

- 1 Q 295 Did you know Miss Freda Kelly?
- 2 A Yes.
- 3 Q 296 Did you have meetings with Miss Freda Kelly?
- 4 A Yes.
- 5 Q 297 Did you meet her in the company of Frank Dunlop?
- 6 A Possible.
- 7 Q 298 Did you have a conversation with her in the course of which she told you that
- 8 Mr. Gilmartin had telephoned her?
- 9 A I can't remember.
- 10 Q 299 Miss Kelly has told the Tribunal that she received a telephone call from
- 11 Mr. Gilmartin in the context of the Quarryvale proposal and that she told you
- 12 that Mr. Gilmartin had telephoned, and you told her that Mr. Gilmartin was now
- 13 out of the picture and that if he phoned again, she was not to talk to him.
- 14 Did that happen?
- 15 A Can you tell me when that was said?
- 16 Q 300 She made a statement to that effect on the 28th March 2004?
- 17 A Yes, but when was I alleged to have said that.
- 18 Q 301 Sometime after she had spoken to Mr. Gilmartin in or about the late 1980s,
- 19 early 1990s?
- 20 A Well the date is very important now actually, was prior to January, was it
- 21 prior to December '90 or after December 1990.
- 22 Q 302 Did you say it before December '90 or after December 1990 or either time?
- 23 A I am not quite sure but I could have made that statement after December 1990
- 24 because I was trying to contradict the one and a half million square feet that
- 25 Tom Gilmartin was proposing. At that stage I was involved in Quarryvale.
- 26 That's why I have asked you the date.
- 27 Q 303 But if -- did -- she has said that this was before April 1990 to the best of
- 28 her recollection?
- 29 A I did not say it to her before April 1990, that is untrue.
- 30 Q 304 Page -- day 471, page 91, question 317, she was asked when it was and she says

1 it was within 12 months of me moving office which was in April 1989.

2 Question: So it was before April 1990 to the best of your recollection?

3 Answer: It was before Brian Lenihan went to for his liver transplant or sorry
4 it was after. He went in 1988 on the 24th April because he was supposed to
5 launch a book I had published". So she places that conversation as before
6 April 1990.

7 A Well the date is wrong. I would not have made that statement before December
8 of 1990.

9 Q 305 Sorry Mr. O' Callaghan, I beg your pardon, I'm sorry?

10 A I would not have made that statement before December of 1990. I had no reason
11 to make it.

12 Q 306 Well did you make it possible?

13 A It's quite possible that I would have made it after that date because of the
14 damage that had been caused -- at that stage I was involved in Quarryvale and I
15 was trying to counteract the damage of the one and a half million square feet,
16 which I'm sure you will appreciate.

17 Q 307 You had become involved in Quarryvale and you knew that one and a half million
18 square feet was being proposed?

19 A That's what Tom Gilmartin was proposing.

20 Q 308 Why did you come involved in it if it was so damaging?

21 A I was trying to contradict the fact that we would not then be talking about one
22 and a half million square feet any more.

23 Q 309 It wasn't Mr. Gilmartin still a partner in it?

24 A That's right and we had agreed we would not use that enormous size square
25 footage any more.

26 Q 310 When did you agree that?

27 A Because we knew we wouldn't have a hope of getting planning permission for it.

28 Q 311 When did you agree after that?

29 A After December 1990.

30 Q 312 When?

1 A Probably January the following year.

2 Q 313 January 1991?

3 A Possibly.

4 Q 314 Why would you tell Miss Kelly that Tom Gilmartin was now out of the picture
5 that and that if he phoned her again, she was not to talk to him?

6 A I wouldn't have said it as strong as that, she's probably using a little bit of
7 imagination there. However, what I did say to her after that date, was that we
8 were not going with the large scheme that Tom had been speaking about or
9 promoting. I would say she's ad libbed a little bit there.

10 Q 315 She said that she met you in the Spa Hotel with Mr. Dunlop sometime after April
11 1989.

12 A It was well after 1990 and it's possible I met her, yes.

13 Q 316 Is it possible that you met her in the Spa Hotel with Mr. Dunlop sometime after
14 April 1989?

15 A Yes, but it would be, I am saying to you that it was after December 1990.

16 Q 317 She's putting it in as after April 1989.

17 A Well I'm saying to you that she's wrong.

18 Q 318 And she said from the first time you met, she understood from you that both you
19 and Mr. Gilmartin had an involvement in these lands.

20 A Well, I think she's wrong there actually.

21 Q 319 Mr. Sreenan on day 471, cross-examined Miss Kelly and he put to her at question
22 210 the following:

23

24 "Miss Kelly, when you first met Mr. O' Callaghan, it was clear to you that at
25 that stage, they were in Quarryvale together, they were effectively partners in
26 this development and she confirms "Absolutely."

27 And later in the, at page 471, she said that "The first time I met
28 Miss O'Callaghan, he outlined the development and the other party involved
29 which was Mr. Gilmartin and she says this was sometime after April 1989.

30 A I repeat, after December 1990, if it happened.

1 Q 320 So you disagree with her evidence when she says it was after April 1989.

2 A Yes, I do.

3 Q 321 I want to put to you something that was said on day 460 by Mr. Gilmartin and
4 was followed up in cross-examination by Mr. Sreenan. He said that in the
5 course of his meeting with you on the 7th of December, the very first thing you
6 told him that you had been in a hotel in Cork the previous week where there had
7 been a major opening. Do you remember being at any major opening in Cork in
8 the week the beginning of December or thereabouts of 1988.

9 A Can't say I do.

10 Q 322 He said that there were a number, it may have been with the launching of the
11 Lee Tunnel. He mentioned a number of dignitaries who were there, do you
12 remember the launching of the Lee Tunnel or anything to do with the Lee Tunnel,
13 the turning of the sod or the opening of the tunnel or any anything of that
14 nature?

15 A Yeah, the Lee Tunnel commenced in 1995.

16 Q 323 Was there any other function or any other event that was attended by Mr.
17 McSharry, Mr. Scanlon of AIB, Mr. Reynolds, etc? 1989 that you can remember?

18 A Not that I can remember.

19
20 MR. SREENAN: Mr. Gallagher's question I take it should refer to 1988, and not
21 1989.

22
23 Q 324 MR. GALLAGHER: I beg your pardon, if I said '89, yes. It was in December of
24 1988. And he said that you had told him that the line of the tunnel had been
25 altered to suit the Mahon site. First of all, do you have any involvement in a
26 site at Mahon?

27 A Yes.

28 Q 325 And does the Lee Tunnel in any way come close to or serve the Mahon site?

29 A Yes.

30 Q 326 Pardon?

- 1 A Yes.
- 2 Q 327 I see. And did you tell him that the line of the Lee Tunnel had been changed
3 at some stage?
- 4 A Absolutely not.
- 5 Q 328 On the 8th March 1989, you had a meeting with Paddy Morrissey and Sean Haughey,
6 is that correct?
- 7 A On what date, sorry?
- 8 Q 329 The 8th March 1989.
- 9 A Yes, well I had a meeting with Paddy Morrissey and Sean Haughey, yes.
- 10 Q 330 And this would be some few weeks after you had spoken to Mr. Haughey at his
11 request concerning Mr. Gilmartin's complaints?
- 12 A Yes, I think so.
- 13 Q 331 May I have page 2234 please. This memo which is a memo of Mr. Morrissey
14 records that you told them that you had purchased Merrygrove company from
15 Mr. Gubay and you were now in the position of Mr. Gubay vis-a-vis the
16 corporation. That wasn't strictly correct in that Mr. Gilmartin at that stage
17 had the signed an option agreement. You were in the same position, subject to
18 the option agreement.
- 19 A Yes.
- 20 Q 332 They pointed out or you pointed out, rather, to them, that planning permission
21 had not been sought and that the corporation would now have to assess the legal
22 position in relation to the disposal, is that correct?
- 23 A Yes.
- 24 Q 333 They recalled you as saying Mr. O' Callaghan said he had not completed the
25 purchase of the Clondalkin from Gubay until the 28th 2nd 1989 and he could not
26 approach the corporation until then. Did you tell them that?
- 27 A Yes.
- 28 Q 334 Well now, I suggest to you that that wasn't a correct statement of fact.
- 29 A Why?
- 30 Q 335 The contracts with Mr. Gubay and his companies had been signed on the 14th

- 1 October 1989, '88, I beg your pardon?
- 2 A 7th was it?
- 3 Q 336 You signed the 7th and they signed on the 14th.
- 4 A Okay.
- 5 Q 337 And the corporation contract was dated, from memory the 21st of November of
- 6 1988. What had happened was that you had acquired the share capital of
- 7 Merrygrove on the 28/2/1989, isn't that correct?
- 8 A I think so, yes.
- 9 Q 338 But there was nothing to prevent you having applied for planning permission
- 10 prior to that date.
- 11 A Hmm, yes.
- 12 Q 339 And your suggestion that you could not have approached the corporation until
- 13 the 20/2/1989 was not strictly correct, isn't that true?
- 14 A Because?
- 15 Q 340 You could have approached them at any time prior to the expiry of the two-
- 16 month period on the 21st January 1989 or indeed at any time before that?
- 17 A Approached them for what purpose?
- 18 Q 341 For the purpose of seeking an extension of time?
- 19 A Well I wasn't sure even then if I needed an extension of time.
- 20 Q 342 Well you knew that the contract provided that planning permission had to be
- 21 applied for within two months from the 21st November 1989 -- '88?
- 22 A Well I might have been able to make a planning application on time at that
- 23 stage.
- 24 Q 343 Pardon?
- 25 A I might well have been able to make the planning application on time at that
- 26 stage.
- 27 Q 344 You could have approached them but you gave the impression you couldn't
- 28 approach them until after the 28/2/1989?
- 29 A I might have been able to get the planning permission in on time within the two
- 30 month period at that stage, yes.

1 Q 345 Sorry at what stage?

2 A I could have got it in, it's possible I might not have needed the extra time.

3 I might never have needed to -- I might have been able to make it on time.

4 Q 346 I see. You said, according to Mr. Morrissey, "Following discussion with the
5 Minister for the Environment, he approached" -- that's you -- "Mr. T Gilmartin
6 who had satisfied him he was in earnest about proceeding to the planning stage
7 with the Irishtown lands."

8 Did you tell Mr. Haughey and Mr. Morrissey following discuss discussions with
9 the Minister for Environment Mr. Flynn, you had approached Mr. Gilmartin?

10 A No, I did not, I did not say that.

11 Q 347 Can you explain how it is that Mr. Haughey and Mr. Morrissey record,
12 incorrectly record you as saying that following discussion with the Minister
13 for the Environment, you approached Mr. Gilmartin?

14 A I don't know why they have done that, why it has come out like that. I did not
15 discuss Balgaddy or Quarryvale with the Minister for the Environment.

16 Q 348 But did you tell those gentlemen that you did?

17 A No, I would not tell them that, I did not tell them that.

18 Q 349 It's therefore from your perspective an unusual coincidence, a series of
19 coincidences that Superintendent Burns would have so recorded you as saying one
20 occasion, recorded you twice as telling him that you had been approached or
21 spoken to the Minister for the Environment about Mr. Gilmartin and that
22 separately and on another occasion, that Paddy Morrissey and Sean Haughey
23 recorded you as saying the same thing more or less.

24 A Whereas in effect what they should say is that Tom Gilmartin told me that the
25 Minister for the Environment had made that statement.

26 Q 350 On the basis of your evidence now Mr. O'Callaghan, both Superintendent Burns
27 and Mr. Morrissey both misunderstood what you said to them or if they didn't
28 misunderstand it, misrecorded what you said to them?

29 A Yes, one or the other, sir.

30 Q 351 Yes. So insofar as the recording of this statement is concerned and the

1 information you are alleged to have conveyed to Superintendent Burns is
2 concerned, if the Tribunal considers is a material issue, the options really
3 are that you did tell Superintendent Burns what he recorded and you did tell
4 Mr. Morrissey and Mr. Haughey what they record on the one hand or
5 alternatively, both of them misrecorded what you told them.

6 A Both misrecorded what I told them.

7 Q 352 Now you -- they recorded you as saying at that meeting that if the Irishtown
8 proposal did not proceed, you were willing to go on with the Clondalkin
9 development, is that correct?

10 A That is correct as well, yes.

11 Q 353 And did you ask them if they would, if in the meantime they would proceed with
12 the completion of the Fonthill Road?

13 A I would have brought that up in discussion, yes, definitely.

14 Q 354 They record you as saying, at the bottom of the page saying he asked "If in the
15 meantime the local authority would proceed with the completion of the Fonthill
16 Road."

17 A Okay.

18 Q 355 What was the purpose of proceeding with the Fonthill Road if as you
19 anticipated, Quarryvale was the site that was going to be developed at that
20 stage?

21 A We had, if Tom had not proceeded with his option agreement, we had a retail
22 covenant included in that agreement whereby Tom could not build on the
23 Quarryvale site for five years. I would then be hoping that the Balgaddy site
24 could have gone ahead and that length of time would have been enough for it to
25 re-establish itself from a commercial point of view.

26 Q 356 If your request to the corporation officials had been acceded to, it would have
27 meant that public funds would have been expended on the Balgaddy Road, thereby
28 making it less likely that the zoning would be changed from the Balgaddy site
29 or the Neilstown site to the Quarryvale site, isn't that right?

30 A I don't think that makes sense.

- 1 Q 357 You don't think so?
- 2 A No.
- 3 Q 358 You don't think that county councillors would not be saying if monies had been
4 expended to upgrade the Fonthill Road in order to facilitate the Neilstown
5 site, that they would not object to the transferring of the zoning from the
6 Neilstown site to Quarryvale, thereby effectively making the upgrading of the
7 Fonthill Road unnecessary and a waste of money? Is that what you are saying?
- 8 A This zoning you are talk being is only a small point, it's only a small issue
9 in the realignment of the Fonthill Road. As you well know, the Fonthill Road
10 was a disgrace, it wasn't fit to be a through road of any part of this country,
11 the realignment and upgrade of the Fonthill Road had very little to do with
12 transfers of zoning from Balgaddy to Quarryvale. The realigning of the
13 Fonthill Road stood on its own, it was something the government should have --
14 it's a piece of infrastructure the government should have been embarrassed
15 over.
- 16 Q 359 But your interest?
- 17 A It was nothing to do with my interest.
- 18 Q 360 It had everything to do with your interest, you were here in the context of the
19 Irishtown lands, the Neilstown lands and you were asking that the Fonthill Road
20 adjacent to your site --
- 21 A Yes.
- 22 Q 361 Would be upgrade and that that work with put in hand straightaway and you are
23 saying that it was a piece of infrastructure that the government should have
24 been dealing with and you had no interest in that work at all?
- 25 A Of course I had interest in it but the government should have put it in place,
26 it was a disgraceful piece of road as everybody knows.
- 27 Q 362 And are you saying that it was your request was altruistic and that it was not
28 intended to make the Neilstown site more attractive and more accessible as a
29 town centre?
- 30 A I am not saying that, of course it's in my interests to have the road realigned

1 of course, but it was only part of it, a small part.

2 Q 363 Was it not the fact if that work was done, it was less likely that the zoning
3 would be transferred to the Quarryvale site?

4 A No, I wouldn't agree with that at all.

5 Q 364 I see. In the memorandum, Mr. Morrissey goes on to record at page 2235, he
6 said and this is Mr. O' Callaghan, you said "This was important -- that's the
7 upgrading of the road -- because the publicity he felt was bound to ensue
8 regarding the Irishtown site in the coming months could down grade Clondalkin."

9 A Yes.

10 Q 365 So you were seeking to have something done by way of public works which would
11 ensure that whatever happened the Irishtown site, the Clondalkin site would not
12 be down graded.

13 A As a side issue. The realignment of the Fonthill Road would have upgraded the
14 whole north Clondalkin area, not just the Balgaddy site.

15 Q 366 But you disagree that it would have rendered it less likely the zoning would be
16 change from Neilstown to Quarryvale?

17 A No, I don't agree with that.

18 Q 367 Mr. Haughey said that under the terms of the disposal, the onus for completing
19 the Fonthill Road was with Merryvale.

20 A Yes. So sorry the onus -- could you just repeat that please?

21 Q 368 The onus for completing the Fonthill Road was with Merryvale. Mr. O' Callaghan
22 disputed this and said the company was required to pay 300,000 pounds towards
23 the cost.

24 Subsequent examination of files and discussion with chief valuer confirmed
25 Mr. Haughey's statement. Mr. Callaghan said he was seeking an extension of the
26 time for the lodgment of planning permission for Clondalkin.

27 A Yes.

28 Q 369 Did you tell Mr. Gilmartin that you had no intention of going ahead with the
29 Neilstown site?

30 A No, never. My ideal situation would have been if Mr. Gilmartin went away and

1 never had come to Quarryvale and allowed us to get ahead with the Balgaddy
2 site.

3 Q 370 He has said in cross-examination on page 11 of day 470 that it was his
4 understanding from your own mouth, that you had no intention of going ahead
5 with Balgaddy.

6 A It's completely untrue, completely false, sir.

7 Q 371 May I have page 3660 please. This is a memorandum, Mr. O' Callaghan, addressed
8 to you by Mr. Ned Lyons of Mason Owen and Lyons and it's dated the 24th October
9 1988, it's notes for meeting with GOC on Monday. Who is that meeting with?

10 A GOC, is it?

11 Q 372 Yes.

12 A I don't know. I don't know who GOC is, genuinely.

13 Q 373 Have you seen this memorandum?

14 A Yes, I have.

15 Q 374 You have looked at it. Have you tried to recall who GOC was?

16 A Very much so.

17 Q 375 What was the purpose would you say was in writing that letter or that memo to
18 you, what Mr. Lyons' purpose in so doing?

19 A Can I just have one quick look.

20 Q 376 Certainly.

21
22 CHAIRMAN: Mr. Gallagher, that might be meeting with Owen O'Callaghan.

23
24 MR. GALLAGHER: It's a memo addressed to Mr. Owen O'Callaghan. And it sets
25 out, well perhaps Mr. O' Callaghan will answer the question if he looks at it.

26 A Yes, okay, I'm sorry judge, I don't think the GOC is a mistake, I've been
27 trying to find out for a long time.

28 Q 377 Would you accept that the memorandum was one which indicated the views of
29 Dublin county solicitors councillors and officials in relation to the
30 construction costs of the Fonthill Road, is that right?

1 A Yes.

2 Q 378 Would you accept therefore that it was unlikely that it was anybody in Dublin
3 Corporation or Dublin County Council that was being, that this memo was being
4 addressed or created for or in order to perhaps I'll rephrase that. Would you
5 accept that given that the memorandum refers to the views of Dublin county
6 councillors and officials, that it was probably prepared to enable you brief
7 somebody other than a member of the county council or an official?

8 A I am not sure, I know very little about this letter actually. I am not quite
9 sure, I have only seen it once before and I know very little about it.

10 Q 379 When you say you have seen it once before?

11 A I have seen it in the documents where before.

12 Q 380 You received it from Mr. Lyons presumably when he faxed it to you.

13 A Yes.

14 Q 381 Who else were you discussing the construction of Fonthill Road and
15 contributions at that time?

16 A Only with Dublin County Council.

17 Q 382 Is it possible that GOC stands for General Officer Commanding, such as somebody
18 in charge of a particular department or a government minister or a member of
19 the Oireachtas, somebody like that?

20 A I don't know. I don't know.

21 Q 383 Well did you speak to any government minister or member of the Oireachtas at
22 that time about this particular project?

23 A About this road.

24 Q 384 To brief them.

25 A No, not at all. But I did speak to -- I'm just trying to put some light on
26 this subject, I would try to speak to, this is why I've I have been trying to
27 who GOC is, I did speak to a Dublin council tow councillor about the Fonthill
28 Road in October of 1988 and at the time, and I don't know who this official is,
29 but I can describe him, at the time I was told that the realignment of the
30 Fonthill Road was top of the works list for Dublin County Council, top of the

1 Department of Environment lists were being carried out for Dublin County
2 Council. It was second from the top actually. I spoke to the same official in
3 December of 1988 and at that stage he informed me that the Fonthill Road
4 realignment had disappeared from that list completely.

5 Q 385 Who is that official?

6 A That's the whole problem, I don't know, I can describe him as a middle sized
7 blocky man with dark hair and I can't put a name on him.

8 Q 386 Where did you met him or in what context?

9 A I presume it was in the roads department of Dublin County Council and I was on
10 my own at the meeting. This is why I have been trying to figure out who GOC is
11 actually. To date I haven't found out.

12 Q 387 Did you have any knowledge or understanding or view as to the attitude of the
13 government towards the Quarryvale project in 1989, 1990?

14 A No, only what Tom Gilmartin told me.

15 Q 388 Did you convey that information to anybody, what Tom Gilmartin had told you?

16 A Which information?

17 Q 389 That it was his understanding that the government were favourably disposed
18 towards the Quarryvale project?

19 A I would have discussed it with John Deane.

20 Q 390 Anybody else?

21 A I would have discussed it with Ambrose Kelly, more than likely.

22 Q 391 Yes.

23 A I can't recall --

24 Q 392 Did you ask Tom Gilmartin for any further details about support the government
25 had or how they knew they were supporting the project?

26 A I didn't ask him for any details, but Tom mentioned government ministers to me
27 on almost on a monthly basis.

28 Q 393 What ministers did he --

29 A Well he generally mentioned ministers of were the word, but to answer your
30 question as to what ministers he would have referred to, it would have been

1 Minister Flynn, Minister Brian Lenihan who he seemed to be quite friendly be,
2 the late Brian Lenihan, who he seemed to be quite friendly with, minister
3 McSharry would come up occasionally and very rarely, Minister Ahern.

4 Q 394 And did you speak to any of those ministers concerning Quarryvale or Irishtown?
5 Or sorry, Neilstown?

6 A I would hardly know those ministers, sir.

7 Q 395 According to Mr. Kaye's statement you told him in 1989, in the course of
8 dealings that you had with Mr. Kaye of AIB that you understood that the
9 government was favourably disposed towards the Quarryvale project?

10 A Yes, I did because Tom told me.

11 Q 396 And you didn't think it appropriate or necessary to make any inquiries yourself
12 as to whether or not what he was telling you was correct or not?

13 A You might find this strange but I haven't have that access, you know.

14 Q 397 Given that you said that you found that he exaggerated and that you couldn't be
15 sure about what he told you, about the accuracy or truthfulness, sorry you
16 didn't say truthfulness, about the accuracy what he told you in relation to
17 the, for example, the Hanrahan conversation.

18 Was there any reason why you didn't take steps by contacting the appropriate
19 department in the Department or the Environment or the minister or whoever to
20 see whether or not what he was telling you was correct in relation to the
21 Quarryvale site?

22 A First of all, I didn't have that access that a lot of people think I have, or I
23 had. Secondly I had decided by that time that Tom Gilmartin had destroyed the
24 Balgaddy site from a commercial point of view. To this day it's destroyed,
25 it's still standing there, derelict. I think probably January, December, of
26 '88, January 1989, I think I gave up on it. The site was ruined from a
27 personal point of view.

28 Q 398 Why do you say it was ruined from a personal point of view?

29 A Quite simple, the Quarryvale site was to much better than the Balgaddy site
30 that the anchors would not go to Balgaddy because of the possibility of

1 Quarryvale getting on the ground. Very difficult to build on Balgaddy. To
2 this day Balgaddy is not built on because of Quarryvale and that's 16 years
3 later.

4 Q 399 But you effectively own both?

5 A Yes. One is development and the other a derelict site.

6 Q 400 Earlier, Mr. O' Callaghan, I mentioned the documentation that had been received
7 from Messrs. Goodbodys this morning in connection with the St. Stephen's Green
8 Property and I told that you would endeavour to go to the transcripts to find
9 out what had been said, and for the record and perhaps for the assistance of
10 the Tribunal. I might just go through it and if I have missed anything, no
11 doubt Mr. Sreenan will tell me.

12
13 On day 457 Tom Gilmartin at page 5, question 28, said 27, "Did Arlington have
14 any offices or secretarial facilities available to them in Dublin at that time.

15 Yes, we rented an office in St. Stephen's Green.

16 Question: When was that done, was it done at that time or subsequently.

17 Answer: Yes it was done back in 1987 I think.

18 Question: I see.

19 Answer: I am nearly sure it was 1987. It was an office that Mr. Druker came up
20 with, they took a temporary lease on it."

21
22 And on page 6 on the same date, said as follows "The question was I asked you
23 what whether or not Arlington had an office in Dublin about this time?

24 Answer: Yes, yes.

25 Question: This is May/June of 1988, I suggest to you that the office that was
26 settled by Arlington in Stephen's Green was set up sometime in or about 1989,
27 early in 1989.

28 Answer: I am not quite sure when they actually opened the office but they did
29 open an office.

30 Question: Well if I'm correct in saying that the office was only opened in

1 Dublin in or about 1989, it follows that they didn't have an office in 1988.

2 Again nothing much may turn on this.

3 Answer I have a feeling they were in that office, I don't know when they tied
4 up the agreement but I have a feeling they were in that office in mid to late
5 1988."

6
7 Day 458 page 41, the bottom of the page, there's a reference to a letter of the
8 19th January 1989 I presume, it doesn't say '89, I presume. On the 19th
9 January 1989, "Mr. Kirwan records he telephoned Mr. Price in London. Price
10 confirmed he has the contract for the St Stephen's Green office on his desk and
11 we will be dealing with it immediately."

12
13 The following page, page 42, "That would suggest that the offices at
14 St. Stephen's Green were rented in or about that time, that is the end of 1988
15 or perhaps earlier 1989. Is that correct. That's obviously correct
16 Mr. Gilmartin says."

17
18 Later he is cross-examined by Mr. Sreenan and it's put to him on page 65
19 question 415, "I suggest to you in fact Mr. Deane and had Callaghan had a
20 meeting with you in your office on St. Stephen's Green on the day of the
21 meeting with Mr. Hanrahan?

22 Answer: No they did not and I don't remember Mr. Deane and about Mr. Callaghan
23 ever being in my office in St. Stephen's Green."

24
25 And on day 465, page 17, I think Mr. Madden is examining Mr. Gilmartin and at
26 that stage "Now we have had a debate here about when it was opened but it was
27 in fact it was opened sometime in 1989 in Stephen's Green, isn't that right?

28 Answer: That's correct, I am not quite sure, I have a feeling we had the
29 office temporarily through the good office of Irwin Druker prior to the actual
30 official signing of a temporary contract on it."

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And Mr. Boland give evidence on day 499. And he said that he was employed -- page 43 -- he was employed by Arlington from approximately mid January 1989 until before or immediately after Christmas 1990.

A Yes.

Q 401 And on page 57 he says "From the time that you started with Arlington was there an office in Stephen's Green, is that correct?

Answer: Well they had actually hired the office I think maybe a couple of weeks before I joined. One of my first jobs was actually to fit it out so we occupied it perhaps two months later. Sometime around the 1st of, I would guess around the 1st March 1989."

Now, they are the only relevant references I have been able to identify, may I have 4685 please. This is the document that was circulated today, a letter of the 6th March 1989, sorry, 4865. Which refers to the sale having been closed on the 3rd inst. There is the 3rd March 1989 and on the penultimate paragraph, I received a set of keys on closing, if you wish to me send the keys by courier, please let me know, if not I will leave them in here in reception for collection by you. And 4866, its an assignment made to the 3rd March 1989, Bord Gas and Arlington Securities.

I don't think there's anything else I need to deal with in that and 4864. On the 31st January 1989 Mr. Dadley writes to Mr. Kirwin informing him that Mr. Barry Boland had been appointed to Arlington to manage the project on a full-time basis, telling him that they were setting up an office in 25 St. Stephen's Green and hope to be operational there for the 1st March 1989 and in the interim Barry can be contacted at a Dublin telephone number or through David O'Flanagan of Touche Ross, with the telephone number. That last letters was discovered by Messrs. Hickey Beauchamp and the others were not, they only arrived to the Tribunal this morning.

1
2 May I have page 3309 please. Mr. O'Callaghan, this is a copy of a diary entry,
3 the records of Dail Eireann which indicate that on Wednesday, 17th May 1989,
4 you visited Mr. Lawlor twice on that day, you also at 3310, if I can have them
5 perhaps put side by side. Can you tell the Tribunal what was the purpose of
6 your visit to Mr. Lawlor on that occasion?

7 A May 1989, is it.

8 Q 402 The 17th May 1989.

9 A I can't remember.

10 Q 403 I have checked to see was there anything that was happening around that time
11 that might be of assistance, the only thing I could find that might or might
12 not help jog your memory was the fact that the tender closing date for the
13 lands at Palmerstown was the 19th May 1989.

14 A When you say the lands at Palmerstown.

15 Q 404 I am talking about the tender for the Dublin Corporation lands.

16 A Nothing to do with me sir.

17 Q 405 But can you recall the purpose of your meeting with Mr. Lawlor on the May 17th.

18 A '89?

19 Q 406 Yes.

20 A At this stage the Balgaddy site was being transferred, is that right?

21 Q 407 The contract had been signed, the option agreement had been signed.

22 A I can't remember.

23 Q 408 I see. Thank you Mr. O' Callaghan.

24

25 CHAIRMAN: Mr. O' Donnell? Do you wish to question?

26

27 **THE WITNESS WAS QUESTIONED AS FOLLOWS BY MR. O'DONNELL:**

28

29 Q 409 MR. O'DONNELL: Mr. O' Callaghan, good afternoon, I'm here to ask you
30 questions on behalf of Mr. Gilmartin and the Tribunal has already indicated

1 that they would like counsel to avoid any repetition of matter that has been
2 dealt with by Tribunal counsel. Mr. Gallagher has dealt with a number of these
3 questions very thoroughly to so I hope to limit my questions to a small number
4 of topics rather than bring you back over all the areas in which there is
5 unfortunately some dispute between you and Mr. Gilmartin. Do you understand?
6 Is it fair to say your relationship with Mr. Gilmartin went through roughly
7 three phases, you first became aware of each other as developers in Dublin in
8 1988 with, in a sense, rival possible developments, you at Balgaddy and he at
9 Quarryvale?

10 A Yes.

11 Q 410 There was a period when you were cooperative and friendly when you were in
12 contact when both your interests converged, as it were?

13 A I would say very friendly.

14 Q 411 And thereafter a period where you can no longer be said to be friendly --

15 A Absolutely.

16 Q 412 A significant difference. And you had, however, this much in common, as it
17 happens, you were both developers coming to Dublin in 1988 as it were for the
18 first time, he from Sligo via Luton and you from Cork.

19 A Yes.

20 Q 413 Isn't that right. I think what you said was your first experience of
21 development in Dublin was the Cooldrinagh development?

22 A Yes.

23 Q 414 And that I think terminated around June 1988?

24 A Yes.

25 Q 415 And that was a development that required, the development in relation to which
26 there had been the Section 4 motion and the debate as it were around it. And
27 the next thing that you were involved in was Balgaddy, is that right?

28 A Yes.

29 Q 416 And thereafter it's the Quarryvale.

30 A Yes.

- 1 Q 417 It's the Quarryvale matter that we are dealing with here and that's the
2 sequence and the Balgaddy interest was late 1988, you became involved in that?
- 3 A Yes.
- 4 Q 418 And that was taking over from Mr. Gubay's interest as it were.
- 5 A Yes.
- 6 Q 419 And your dealings, that did not involve a Section 4 application or anything
7 like that?
- 8 A No.
- 9 Q 420 That had the permission and everything.
- 10 A Almost had a planning permission guaranteed.
- 11 Q 421 That was not something that required any interaction with politicians or
12 councillors.
- 13 A Yes.
- 14 Q 422 Sorry?
- 15 A Sorry, the very opposite.
- 16 Q 423 That's what I understood. I think you made a statement which Mr. Gallagher's
17 opening to referred to in the page 998 on the 24th November 2003. You have
18 made a number of statements to the Tribunal and this a short statement dealing
19 with your meeting with Mr. Sean Haughey.
- 20 A Yes.
- 21 Q 424 I assume you were asked to deal with that matter by the Tribunal?
- 22 A Yes.
- 23 Q 425 In that regard, did you have or have you been furnished with Mr. Haughey's
24 account of this meeting before you were made the statement but have you been
25 just asked to deal with it in general way without having sight of Mr. Haughey's
26 statement?
- 27 A I think I got a synopsis of Mr. Haughey's statement, I am not quite sure.
- 28 Q 426 Certainly I think his statement had been made on the 10th April 2000, and it
29 had been some more than three years earlier?
- 30 A Yes.

1 Q 427 And certainly you were given to understand the thrust of what Mr. Haughey had
2 said?

3 A Oh yes, absolutely.

4 Q 428 There seems to be a large measure of agreement between you and Mr. Haughey but
5 a number of matters are dealt with in your statements?

6 A Yes.

7 Q 429 Firstly, I think the fact that your meeting was, in relation to what
8 Mr. Gilmartin and had said and Mr. Haughey and indeed Mr. Feeley?

9 A Correct.

10 Q 430 And it was Mr. Gilmartin suggested to Mr. Haughey that you would provide
11 corroboration or verification of what he said?

12 A Yes.

13 Q 431 And what was the purpose of your meeting?

14 A Yes.

15 Q 432 Mr. Haughey wanted to find out from you whether, what this extraordinary story
16 Mr. Gilmartin was telling him mate be true, there might be substance to it,
17 isn't that right?

18
19 And you both agree what you are discussing was corruption and that word is
20 used, isn't that right? And that two names in particular had been mentioned,
21 Mr. Liam Lawlor and Mr. George Redmond.

22 A Yes.

23 Q 433 Isn't that right, so thus far both you and Mr. Haughey are in agreement and
24 Mr. Haughey also records and the fact that you said to him that your
25 experience, you had relatively little experience in Dublin, in fact no
26 experience in Dublin and your experience was in Cork and particular Limerick,
27 as it were?

28 A Yes.

29 Q 434 And I think you said things operated differently there, things operated
30 differently than they did in Cork and Limerick?

- 1 A I didn't exactly say that, what I said was I wasn't aware of, maybe it's the
2 same thing -- I wasn't aware of any political involvement in Dublin because I
3 did not have any experience of it. In Cork and Limerick I wouldn't have dealt
4 with politicians because I used to go to through officials.
- 5 Q 435 Yes, but both Mr. Haughey records you as drawing a distinction between what was
6 happening in Cork and Limerick, with which you were familiar, and what was
7 happening in Dublin and you seem to say that as well in your statement.
- 8 A I didn't have any experience, what I was saying there I was repeating again
9 what Tom had said to me.
- 10 Q 436 You are now saying of your own knowledge because you are bringing your own
11 knowledge into the occasion and you are describing as what you are familiar
12 with as Cork and Limerick and distinguishing it from Dublin, isn't that right?
- 13 A Well I wouldn't have any knowledge of Dublin.
- 14 Q 437 With respect, Mr. O' Callaghan, you did have some knowledge of Dublin?
- 15 A Only of the officials of Dublin, I had very limited knowledge of anything else
16 in Dublin.
- 17 Q 438 You had in fact your first experience of Dublin involved the very thing you are
18 discussing, a Section 4 motion, which involved political decisions being made
19 about planning, is that right?
- 20 A Except that that particular Section 4 motion was being promoted by the
21 landowners, not me.
- 22 Q 439 I appreciate that but you were well aware?
- 23 A I met one politician and I did discover quite a bit about Section 4s in that
24 particular situation.
- 25 Q 440 In a sense whoever was promoting it, you knew it had to pass if you were to
26 develop the area?
- 27 A Yes.
- 28 Q 441 So you wouldn't be the beneficiary of it, is that right?
- 29 A Yes.
- 30 Q 442 And the success or failure of that development was depending on the Section 4

- 1 motion going through, so you were following it?
- 2 A Yes.
- 3 Q 443 And you were aware of the way it worked?
- 4 A Yes.
- 5 Q 444 In this case is it didn't work?
- 6 A Following it from a distance, based in Cork.
- 7 Q 445 Well with some interest since the success or failure of your project depended
- 8 on it?
- 9 A Oh it did, sure.
- 10 Q 446 So you had some experience of Dublin and some experiences of Dublin and the
- 11 interaction between politicians and the planning system?
- 12 A Not a great amount.
- 13 Q 447 You had very one study fresh to your mind?
- 14 A Only a limited amount of experience of that particular one.
- 15 Q 448 But you had that experience?
- 16 A Very limited, yes.
- 17 Q 449 And you did distinguish Cork and Limerick on the one hand and Dublin on the
- 18 other?
- 19 A Yes.
- 20 Q 450 You say Mr. Haughey says that and you say the same thing, is that right?
- 21 A Say what?
- 22 Q 451 You distinguished between what happened in Cork and Limerick with which you
- 23 were familiar and what is happening in Dublin.
- 24 Q 452 Yes and where your account and that of Mr. Haughey diverge is that you
- 25 introduced the word "perceived" by Mr. Gilmartin as applying to Dublin.
- 26 A Yes.
- 27 Q 453 In contradistinction to what you understood in Cork and Limerick where just
- 28 manager's words were final, is that right?
- 29 A Yes.
- 30 Q 454 Whereas in Dublin it appears the politician's records were final?

- 1 A Yes.
- 2 Q 455 And you are saying that in this account, that is something that's perceived by
3 Mr. Gilmartin whereas Mr. Haughey recounts you as saying that as a fact and
4 your own observation?
- 5 A That is where Mr. Haughey is wrong.
- 6 Q 456 I want to explore that. But that's the distinction and that's in relation to
7 your account now given there in November 2003. And by using the word
8 perceived, do you mean to suggest that you didn't share Mr. Gilmartin's view
9 that political influence controlled planning in Dublin and indeed corruption of
10 the political level?
- 11 A I had no experience of that, you see.
- 12 Q 457 That's not, with respect, an answer to the question I asked you.
- 13 A I had no experience, how could I assume that I was against?
- 14 Q 458 Well, let's accept that Mr. Haughey seems to think that you were offering this
15 view of your own knowledge because he records you as saying it on a number of
16 occasions.
- 17 A That's what I'm saying it to you, that's not correct. The view I was offering
18 was a view that Tom Gilmartin had given to me, or expressed to me.
- 19 Q 459 So what you have said to Mr. Haughey was not your own view about Dublin, but it
20 was your own view about Cork and Limerick, where the managers words were final?
- 21 A Yes and it was Tom Gilmartin's view about Dublin.
- 22 Q 460 By which you were no particular -- is that right?
- 23 A Well.
- 24 Q 461 You weren't offering any view of your own?
- 25 A That's the point I'm trying to make, the view I was trying to make with
26 Mr. Haughey was Tom Gilmartin's view.
- 27 Q 462 But it appears that Mr. Haughey misunderstood you because he seems to record
28 you as that as being your own view?
- 29 A I agree with you, that is correct.
- 30 Q 463 Both of you are dealing with this at some remove -- though Mr. Haughey some

1 four years ago and you only last year -- some remove from the meeting itself,
2 isn't that right?

3 A Yes.

4 Q 464 Whereas people may differ from the precise words used, they may have a
5 reasonably good recall of whether or not they understood the outcome of a
6 meeting to be or the thrust of a meeting to be.

7 A Yes.

8 Q 465 And you see were you suggesting here that you wouldn't, that you were
9 suggesting to Mr. Haughey that he should discount Mr. Gilmartin's suggestions
10 or statements or not believe them?

11 A Yes, there was possibly an element of that, I was definitely not confirming; I
12 wasn't confirming Mr. Gilmartin's opinions.

13 Q 466 You already told us that this, we know this occurred after the Buswell's Hotel
14 incident, an incident where you say you formed the view that Mr. Gilmartin was
15 not believable about what he was saying about Mr. Hanrahan, isn't that right?

16 A Not completely believable.

17 Q 467 That there was reason to doubt his --

18 A Reason to doubt his account, correct.

19 Q 468 So you had this meeting with Mr. Haughey afterwards?

20 A Yes.

21 Q 469 Are you suggesting that that's what you were saying to Mr. Haughey,
22 Mr. Gilmartin is an unreliable narrator of these events, you should take it
23 with pinch of salt?

24 A I did not say that. I did not imply that.

25 Q 470 I thought you said that's what you were implying?

26 A What I was implying is what he was telling Mr. Haughey, I was confirming what
27 Mr. Gilmartin had said to Mr. Haughey, that Mr. Gilmartin had also said to me.
28 I confirmed that to Mr. Haughey. I wasn't saying whether I believed
29 Mr. Gilmartin or not but I did not confirm that I had any evidence of what
30 Mr. Mr. Gilmartin had said to Mr. Haughey.

- 1 Q 471 That wouldn't have advanced things very much for Mr. Haughey to have said what
2 you said to you he said to me?
- 3 A No, it wouldn't, it wasn't a very conclusive meeting.
- 4 Q 472 From Mr. Haughey's point of view, he seems to think you did provide the
5 verification and corroboration from your own knowledge by saying do you
6 understood you had to pay politicians to get things done?
- 7 A That's why I completely disagreed with Mr. Haughey.
- 8 Q 473 It's not just a difference of detail, it's a difference about the outcome of
9 the meeting, he thinks that you corroborated, gave independent corroboration of
10 Mr. Gilmartin's account and you say you didn't, you simply reflected it, he is
11 not just wrong about the detail, he is wrong about the entire thrust?
- 12 A Correct.
- 13 Q 474 But if you had said to Mr. Haughey in February of 1989 that Dublin was awash
14 with corruption unlike, as far as you knew, Cork and Limerick --
- 15 A Can I just interrupt you there, that's a word I would not use.
- 16 Q 475 Well that there was, corruption was prevalent in Dublin in planning circles.
17 You would have been right, wouldn't you, as we now know?
- 18 A Apparently so, yes.
- 19 Q 476 That's exactly what this Tribunal has found, not just in relation to this
20 module but in many previous modules?
- 21 A Yes, correct.
- 22 Q 477 But can you explain to me what you then meant when you said, when you drew a
23 distinction of Mr. Haughey between Cork and Limerick on the one hand where the
24 manager's word is final and Dublin where Mr. Gilmartin had a different
25 perception?
- 26 A I presume what Mr. Haughey took from that conversation was that, what I was
27 trying to explain to him was that I had very little involvement with
28 politicians in Dublin. I had very little involvement with politicians any part
29 of the country really and where I came from, Cork and Limerick in particular,
30 it wasn't normal to discuss any planning or zonings subject with politicians,

1 it was strictly dealt with by the managerial staff, that's what I had been used
2 to, that's what I had been dealing with all my life. In Dublin I assumed the
3 situation was the same and currently with the exception of Cooldrinagh, I was
4 adopting the same policy here in Dublin. So I would not have any experience to
5 endorse or confirm what Tom Gilmartin had said to me, but yes it was confirming
6 that Tom Gilmartin had made his statement to me just as he had said to
7 Mr. Haughey.

8 Q 478 I think, Mr. O' Callaghan, the only experience you had had of the planning
9 system in Dublin was Cooldrinagh?

10 A Yes.

11 Q 479 And that had involved a Section 4 motion and political involvement so a hundred
12 percent of your Dublin experience was different from Cork and Limerick?

13 A You are forgetting about Balgaddy.

14 Q 480 Balgaddy, as you said, had no interaction with politicians and no planning
15 permission involved.

16 A Development work is not all about politicians, development work is about
17 building etc. so the Balgaddy project was also part of my operation.

18 Q 481 Well 50 percent of your experience in Dublin at this point involved interaction
19 with politicians and that was dramatically different from Cork and Limerick?

20 A Correct.

21 Q 482 But were you offering an explanation to Mr. Haughey as to why Mr. Gilmartin had
22 this perception or were you saying that he was right?

23 A I was offering an explanation to Mr. Haughey because I was trying to tell him,
24 I didn't know about it, I had no experience what he was talking about.

25 Q 483 Why distinguish between Dublin, Cork and Limerick because if you didn't have
26 any experience you would say that, instead you draw the experience of Cork and
27 Limerick on the one hand and Dublin on the other which you think is somehow
28 relevant to what Mr. Gilmartin has told Mr. Haughey about.

29 A Well maybe I should have just said to Mr. Haughey, I have no experience in
30 Dublin and at the end of conversation just walked away.

- 1 Q 484 But you didn't?
- 2 A No.
- 3 Q 485 I am now asking you what value did you think that distinction had from
4 Mr. Haughey's inquiries?
- 5 A I am not quite sure but I added my past experiences to him, the people I dealt
6 with usually and had been dealing with prior to that in both Cork and Limerick
7 and it had nothing to all to do with politicians. That's the reason I presume
8 it came up in the course of conversation.
- 9 Q 486 Clearly the distinction was in Dublin it had something to do with politicians?
- 10 A Yes.
- 11 Q 487 And again you knew that yourself because you had that personal experience in
12 Cooldrinagh?
- 13 A I had to speak to the chairman of the county council, that's correct.
- 14 Q 488 But you knew there was lobbying of politicians involved surely?
- 15 A Very little experience of it. As I said to you, I didn't have any experience,
16 all I knew was what Mr. Gilmartin had told me.
- 17 Q 489 No.
- 18 A You were asking me to actually say to comment on something I wasn't aware of to
19 Mr. Haughey, I couldn't do that.
- 20 Q 490 I don't think I am, Mr. O' Callaghan. We'll come to what you did in
21 Cooldrinagh in a moment, what I am asking you now, are you suggesting that you
22 were suggesting that there's a distinction between Cork and Limerick on the one
23 hand and Dublin on the other and the distinction is in Cork and Limerick the
24 manager's word is final and that's what you know, it's your experience and in
25 Dublin it's different because the politician's words are final?
- 26 A Because Tom Gilmartin told me that.
- 27 Q 491 And you are saying that the system operated different to that perceived by
28 Gilmartin as applying in Dublin?
- 29 A Sorry, I don't understand that.
- 30 Q 492 You seem to specifically choose that word, you say it operated to a different

1 way than perceived by Mr. Gilmartin as applying in Dublin. Are you saying
2 Mr. Gilmartin was wrong in that perception?

3 A Wasn't sure.

4 Q 493 Well what he is referring to here and what's been referred to here is the
5 prevalence of Section 4 motions in Dublin, is that right?

6 A Not sure if it's strictly Section 4 motions he is talking about.

7 Q 494 And zoning issues as well.

8 A Yes.

9 Q 495 And?

10 A It wasn't strictly that.

11 Q 496 I'm having difficulty understanding how that distinction was in any way
12 relevant to the conversation you were having about Mr. Redmond?

13 A You were saying he was talking strictly about Section 4 motions etc.

14 Q 497 I'm now accepting that there was political involvement in other issues and I am
15 asking how you could have thought that distinction was relevant to the
16 conversation you were having in relation to Mr. Redmond and Mr. Lawlor? Did
17 you think it explained why Mr. Gilmartin had a perception of a political
18 involvement?

19 A Possibly, yes.

20 Q 498 How could that explain his concerns with Mr. George Redmond who wasn't a
21 politician and wasn't bringing --

22 A I don't know, I don't know. I can't answer that.

23 Q 499 The one further thing we know is, that notwithstanding your knowledge of the
24 Buswells Hotel incident, that was one thing you did not mention to Mr. Haughey?

25 A Yes, that is correct.

26 Q 500 Can I ask you to turn, sorry I know that you have seen some of these letters
27 before but the letter at 1940 from Mason Owens and Lyons to you. Or the
28 memorandum indeed. You have seen this before?

29 A Yes.

30 Q 501 And that is addressed to Mr. Lyons but it's also copied to Ambrose Kelly and

1 Mr. John Deane and looking at that at the moment, the first thing it refers to
2 Liam Lawlor and recounts discussions you had with Mr. Liam Lawlor?

3 A Yes.

4 Q 502 And it also records the circumstances in which Mr. Lawlor spoke to you as in a
5 sense referring to Mr. Gilmartin's proposed development at Quarryvale at that
6 time and suggesting that a meeting be arranged between you and Mr. Gilmartin,
7 isn't that right?

8 A Yes.

9 Q 503 And I think you were sceptical of Mr. Lawlor's motives in making this
10 suggestion?

11 A Yes.

12 Q 504 You didn't know just exactly who he was trying to benefit besides himself?

13 A Yes.

14

15 MR. LAWLOR: Where does it say I was trying to benefit myself?

16

17 MR. O'DONNELL: I don't think Mr. Lawlor should interrupt the
18 cross-examination.

19

20 MR. LAWLOR: I will interrupt if you putting out that sort of spin. Stick to
21 the facts of the paragraph.

22

23 MR. O'DONNELL: Mr. O' Callaghan, shortly after that --

24

25 MR. LAWLOR: Maybe it was the people of north Clondalkin who wanted the town
26 centre built, would that be the motivation?

27

28 CHAIRMAN: Mr. Lawlor, just let the cross-examination continue.

29

30 Q 505 MR. O'DONNELL: Mr. Gilmartin did contact you, is that right?

- 1 A Yes.
- 2 Q 506 I think he contacted you by phone initially?
- 3 A Yes.
- 4 Q 507 At home I think, is that right?
- 5 A I think so, yes.
- 6 Q 508 And in fact he says that Mr. Lawlor had suggested to him as it were the other
7 side of this coin, that it would be beneficial to him to speak to you because
8 you had these two as it were rival developments?
- 9 A Tom Gilmartin suggested that?
- 10 Q 509 Yes, that's what he has said.
- 11 A He didn't say that to me.
- 12 Q 510 It would seem consistent with what Mr. Lawlor said to you he might have said
13 the same thing to Mr. Gilmartin?
- 14 A Yes.
- 15 Q 511 If he is suggesting to you a meeting with Mr. Gilmartin, it's logical he would
16 have suggested the same thing to Mr. Gilmartin and that's indeed what
17 Mr. Gilmartin says. And Mr. Gilmartin also said that Mr. Lawlor gave him your
18 home number and that's how they contacted you?
- 19 A That is news to me.
- 20 Q 512 Well did Mr. Lawlor have your home number?
- 21 A I don't know.
- 22 Q 513 Well have you any other idea how Mr. Gilmartin would have got your home number?
- 23 A Quite simple. Telephone directory.
- 24 Q 514 The first paragraph seems to suggest that the people who were receiving this
25 letter knew something about these matters before they got the memorandum.
- 26 A Yes.
- 27 Q 515 So it clearly had been discussed to some extent with Mr. Kelly and Mr. Deane?
- 28 A Mr. Lyons.
- 29 Q 516 And Mr. Lyons. And it says for example it says "Lawlor told me that Flynn and
30 McSharry asked him to look after Gilmartin." Clearly Mr. Lyons and Mr. Deane

- 1 and Mr. Kelly were aware of who Mr. Gilmartin was?
- 2 A Yes.
- 3 Q 517 And indeed the site, isn't that right?
- 4 A Yes.
- 5 Q 518 And its impact.
- 6 A Yes.
- 7 Q 519 And if we turn the page, it says "I spoke to Finbar Hanrahan this morning in
8 Cork." I think in answer to Mr. Gallagher, you said you thought that was on
9 the phone.
- 10 A Yes.
- 11 Q 520 It does appear that was a meeting because that's how you describe it in the
12 headnote, the heading of the document, notes on page 1940, notes on meetings
13 with Liam Lawlor, Robin Cherry and Finbar Hanrahan. Nothing much may turn on
14 this, Mr. O' Callaghan, it just appears that was a face to face meeting.
- 15 A With Finbar Hanrahan?
- 16 Q 521 Yes.
- 17 A No, it was a telephone call.
- 18 Q 522 Although you describe it as a meeting?
- 19 A On the heading, possibly, it was not -- it was a telephone conversation.
- 20 Q 523 You are telling the other recipients of this, Mr. Lyons, Kelly and Deane that
21 Mr. Hanrahan was your main supporter in Lucan.
- 22 A He was the main supporter of a project in Lucan.
- 23 Q 524 You describe him as "our" main supporter.
- 24 A Yes.
- 25 Q 525 And that he was the supporting the project, a project which required the
26 Section 4 motion to go through, is that correct?
- 27 A Yes.
- 28 Q 526 And but you have said however you only met him once I think in west County
29 Dublin, is that right, prior to this.
- 30 A Yes.

- 1 Q 527 And presumably --
- 2 A Sorry, prior to which?
- 3 Q 528 Prior to this memo.
- 4 A No, I had not met him prior to this.
- 5 Q 529 You hadn't met him at all?
- 6 A November the 4th, of course I had, yes, I had met him in August, September of
- 7 1988, yes.
- 8 Q 530 That was after the collapse of Cooldrinagh?
- 9 A Yes, yes.
- 10 Q 531 How did you know he was your main supporter then?
- 11 A Because I was told.
- 12 Q 532 Yes. Who told you?
- 13 A Mr. Smithwick, the solicitor acting for the Cooldrinagh landowner.
- 14 Q 533 Who spoke to Mr. Hanrahan on your behalf and on behalf of the Cooldrinagh
- 15 landowner to encourage him to support the project?
- 16 A I don't know.
- 17 Q 534 You don't know?
- 18 A No, I do not know.
- 19 Q 535 But I will tell you, it was either Mr. Smithwick, Mr. Brian Meehan, planning
- 20 consultant or the landowner.
- 21 A Or possibly the chairman of Dublin County Council, Paddy Hickey, it was not me.
- 22 Q 536 And Mr. Hanrahan was supporting that, this proposal to the extent of the being
- 23 one of the proposers for the motion, isn't that right?
- 24 A Yes.
- 25 Q 537 And that was part of the business of a county councillor to propose or and vote
- 26 on those motions one way or the other?
- 27 A Correct.
- 28 Q 538 And he had decided to support Cooldrinagh, is that right?
- 29 A Yes.
- 30 Q 539 And he had become your main supporter?

- 1 A The project main supporter.
- 2 Q 540 In the area?
- 3 A Yes.
- 4 Q 541 But by June, that was over?
- 5 A Correct.
- 6 Q 542 But you record here that Mr. Hanrahan, it was Mr. Hanrahan who came and told
7 you about the Gilmartin site some three months ago, that must be August?
- 8 A August, September, yes.
- 9 Q 543 The only relevance of Mr. Gilmartin's site to you at that time was your
10 Balgaddy interest, isn't that right?
- 11 A Yes.
- 12 Q 544 Why would Mr. Hanrahan want to tell you about the existence of a rival
13 developer or rival development when the one thing he was engaged with you on
14 has come to nothing?
- 15 A Because at that time when I met Mr. Hanrahan, I met him casually or socially at
16 a social function, word was out that we were interested in the Balgaddy site
17 and that we would possibly promote the Balgaddy site which everybody in
18 Clondalkin, north Clondalkin, communities, councillors, etc, wanted developed.
19 Wanted to happen as the official town centre for Lucan, Clondalkin.
20 Mr. Hanrahan was aware of that and he came along to me and he said that there
21 was at the time another development being mooted and as he said, that developer
22 is what he called the Sharpe land in Quarryvale and that meant very little to
23 me because I didn't know where Quarryvale was as I previously outlined. I
24 think what he was probably doing was telling me indirectly that there might be
25 some opposition to the Balgaddy site, it was the site that everybody wanted to
26 happen.
- 27 Q 545 So in effect, was Mr. Hanrahan transferring his support from the Cooldrinagh
28 project to the Balgaddy project as it were?
- 29 A I would say Mr. Hanrahan, if that included every councillor on that location
30 and I would say probably including Finbar Hanrahan would have preferred to see

1 Balgaddy developed as the official town centre than any other part in Dublin.

2 Q 546 He had sufficient contact with you, so he approached you to inform you of the
3 existence of the Gilmartin proposals and indeed the Sharpe lands?

4 A The Sharpe lands in particular, he knew about the Sharpe lands and he was
5 anxious to see that just like Mr. Lawlor was, he was anxious to see that if at
6 all possible the Balgaddy site would progress, and not be obstructed, if it was
7 on the cards for at least 20 years.

8 Q 547 And you had said you had clearly discussed that with Mr. Lyons and Mr. Kelly
9 and Mr. Deane and you say as you know, Gilmartin as an option on this site
10 which is owned by Paul sharp?

11 A Yes.

12 Q 548 And that was information given to you by Mr. Hanrahan?

13 A Correct.

14 Q 549 And did you then, was it Mr. Hanrahan who contacted you in relation to this
15 information recorded in the memorandum or did you contact Mr. Hanrahan as a
16 result of what Mr. Lawlor had told you?

17 A Mr. Hanrahan came up to me at a social function and said it to me.

18 Q 550 I may be -- we may be at cross purposes Mr. O' Callaghan, I am now talking
19 about the reference to speaking to Mr. Hanrahan this morning in Cork. That's
20 November now.

21 A I telephoned him, yes.

22 Q 551 As a result of what Mr. Lawlor had told you?

23 A No. The conversation -- Mr. Hanrahan mentioned the Sharpe lands to me, whether
24 he mentioned it socially in August or September, sometime towards the end of
25 October I discovered, I heard, I don't know from what source but I was told
26 that there was a possibility that the Sharpe lands at Quarryvale would get an
27 exit on to the Galway Road. And that Tom Gilmartin either owned or had taken
28 on option on that land.

29 That would mean to me and meant to me that at this stage this opposing site at
30 Balgaddy, the Quarryvale site would have an entrance into the Galway Road and

1 could possibly be converted into a retail road. So it became a larger threat
2 to Balgaddy and the only person I heard mention the Sharpe lands prior to was
3 Finbar Hanrahan in late August or September and I rang him to ask him what was
4 the Sharpe land all about. What it actually means to Quarryvale and the
5 possibility of a development going ahead. He told me what is on that memo
6 there.

7 Q 552 But you rang him to find out about what he knew, is that right?

8 A Oh yes.

9 Q 553 That's what you then record in the memorandum and you are telling everybody
10 else?

11 A It now became serious, it was a serious threat to Balgaddy.

12 Q 554 You then say, I feel it necessary that Ambrose and yourself and myself if
13 necessary open initial discussion with Redmond and Morrissey, on the road, the
14 Gilmartin situation?

15 A Yes.

16 Q 555 Now Mr. Lawlor had suggested you speak to Mr. Redmond about the road and roads
17 were within Mr. Redmond anticipates area of business in Dublin County Council.
18 But it's you who is suggesting that you and Ambrose Kelly and Mr. Lyons should
19 speak to Mr. Redmond about the Gilmartin situation.

20 A Oh yes, to find out what is happening, is there a real threat to Balgaddy, is
21 this Quarryvale site going to go ahead.

22 Q 556 Why is it Mr. Redmond you would go to find that out?

23 A I don't even know Mr. Redmond, Mr. Lawlor suggested Mr. Redmond to me, he was
24 senior manager I presume at the time.

25 Q 557 He was someone you knew about because you were referring to him and
26 Mr. Morrissey on the first page and suggesting to him, Mr. Kelly and Mr. Lyons
27 that you all go to see Mr. Redmond?

28 A Because he was the manager.

29 Q 558 And to see and to do what about the Gilmartin situation?

30 A To find out if that was true. Here was an officially designated town centre

1 site known as Balgaddy which we were about to purchase and develop, sitting
2 there for at least 20 years and here was another -- let me finish please --
3 here was an alternative site less than one mile away from it with a possibility
4 of getting retail permission and maybe entrance on to the Galway Road which
5 completely conflict with the property zoned designated town centre site and I
6 want to ask Mr. Redmond is it true or false.

7 Q 559 How would Mr. Redmond know anything about that?

8 A I wanted to ask the county manager, about this, he was the county manager.

9 Q 560 You wanted to ask whether Mr. Gilmartin had purchased the site, how would he
10 know that?

11 A Because he was the county manager.

12 Q 561 What could be do about it?

13 A Tell me if it was true or false, if it was true, I would not be proceeding with
14 my Balgaddy site which was a properly zoned designated site of course.

15 Q 562 But you didn't want simply to get verification and you didn't need to go to the
16 county manager to get verification of the fact of purchase --

17 A Where else would I go?

18 Q 563 Anywhere else, you could have asked Mr. Lyons if it was true?

19 A What could Mr. Lyons tell me, the county manager would deal with in situations
20 like this.

21 Q 564 The county manager would have no necessary knowledge about whether lands --

22 A Of course he was. It was local authority land.

23 Q 565 If you only want to -- it's owned by Mr. Paul sharp is how you record it,
24 that's not local authority land?

25 A It's in the in the middle of local authority land. It's a total dispute that
26 the local authority have been involved in for quite sometime because it
27 accesses onto the main road. If the county manager was not aware of what was
28 happening in the Sharpe lands in that location, he couldn't be county manager.

29 Q 566 You don't say let's go to Mr. Redmond together personally to find out if this
30 is true. You say we want to, let's open initial discussions with Redmond about

1 this matter.

2 A Hmm.

3 Q 567 If what you are telling us was the purpose of that meeting, it could be done in
4 a single phone call in two minutes?

5 A Too serious for that I'm afraid.

6 Q 568 Is it not open to the interpretation, Mr. O'Callaghan, that you wanted to ask
7 Mr. Redmond to exercise influence to in some way stop Mr. Gilmartin or
8 interfere with Mr. Gilmartin's development?

9 A Let me know what was happening and I will not proceed with the Balgaddy site.

10 Q 569 Well there would be no need to have initial discussions on that, Mr. O'
11 Callaghan, the discussions would be over once you were told.

12 A Yes, if I was told that the Quarryvale -- I would have walked away from the
13 Balgaddy immediately.

14 Q 570 This document, Mr. O'Callaghan, comes from Mason Owens and Lyons, from their
15 discovery and as a matter of interest, do you have a copy of that?

16 A Which document are you talking about?

17 Q 571 The document we have just been discussing at 1940, your memorandum of
18 O'Callaghan Properties Limited.

19 A That's the one to --

20 Q 572 To Mr. Lyons.

21 A Mr. Lawlor and Mr. Cherry.

22 Q 573 Do you have your own copy of it? It just appears to be Mason Owens and Lyons,
23 provided to the Tribunal by Mason Owens and Lyons.

24 A I haven't got my own copy. Have I got my own copy?

25 Q 574 Yes.

26 A In front of me? No.

27 Q 575 Do you know if your own copy was discovered to the Tribunal?

28

29 MR. SREENAN: It was discovered to the Tribunal.

30

- 1 MR. O'DONNELL: This is a memorandum of the 4th November 1998 and that was
2 discovered.
- 3 A Yes, yes. Yes.
- 4 Q 576 We know that your letter to Mr. Gilmartin a month later, of the 8th December
5 1998 which was at 1996 for some reason is not available within your discovery
6 or within your power and possession?
- 7 A Yes.
- 8 Q 577 And yet that is an important letter?
- 9 A The letter of the 8th December?
- 10 Q 578 Yes.
- 11 A Yes.
- 12 Q 579 And it was important because it recorded part of the development of your
13 relationship with Mr. Gilmartin?
- 14 A Yes.
- 15 Q 580 A relationship that had then gone sour in the early 1990s, is that right, and
16 which had been the subject of threats of litigation backwards and forwards,
17 isn't that right? And a document like this would have been important in
18 establishing the veracity of your account?
- 19 And yet it's not available, was not available to you when you came to make your
20 statement and you had to rely instead on the account in the Sunday Business
21 Post.
- 22 A What point are you making?
- 23 Q 581 I am asking you how is it a document as important as this was lost.
- 24 A I don't know.
- 25 Q 582 Do you know when it was lost?
- 26 A I just don't know.
- 27 Q 583 Do you know when you last saw it?
- 28 A Can't remember.
- 29 Q 584 Can I ask you about the meeting in Buswells Hotel, Mr. O' Callaghan. There's
30 some dispute between you and Mr. Gilmartin as to the people who were there, the

- 1 precise room which this occurred but there's no dispute that such a meeting
2 took place?
- 3 A That's correct.
- 4 Q 585 There's no dispute that Mr. Gilmartin spoke in Buswells Hotel to Mr. Hanrahan,
5 isn't that right?
- 6 A Correct.
- 7 Q 586 And nor is there any dispute that you indicated to Mr. Gilmartin who
8 Mr. Hanrahan was?
- 9 A Correct.
- 10 Q 587 You nodded in his direction, is that right?
- 11 A Yes.
- 12 Q 588 And that's the limit of what you did in that regard?
- 13 A Yes.
- 14 Q 589 And you then with Mr. Deane on your account retired to another part of the bar
15 for a drink, is that right?
- 16 A Yes.
- 17 Q 590 And the next thing you know is you saw Mr. Gilmartin go out in some agitation?
- 18 A Yes.
- 19 Q 591 Is that right? Mr. Gallagher has asked you about this but it seems strange,
20 Mr. O' Callaghan, that a meeting like this would occur in that way, do you
21 understand that, in the way that you describe it?
- 22 A From what point of view?
- 23 Q 592 Well you were the only person in Buswells Hotel that day who knew both
24 Mr. Hanrahan and Mr. Gilmartin. You personally, isn't that right?
- 25 A Yes.
- 26 Q 593 Mr. Deane didn't know him, know the two people?
- 27 A Yes.
- 28 Q 594 No other person there, if there was any other person there knew the who people
29 involved?
- 30 A As far as I am aware, yes.

- 1 Q 595 And you were there to effect an introduction to ensure that the meeting could
2 take place?
- 3 A Not to ensure.
- 4 Q 596 To facilitate?
- 5 A To facilitate Tom Gilmartin at his request.
- 6 Q 597 And at this stage on your account, you were now in the phase of your
7 relationship where you were cooperating with Mr. Gilmartin?
- 8 A Very much so, yes.
- 9 Q 598 And it was in your interests to see the Quarryvale development go through?
- 10 A Absolutely.
- 11 Q 599 You would be keen that it would get every assistance possible?
- 12 A Yes.
- 13 Q 600 Why would you not go up to Mr. Hanrahan and say Finbar, this is Mr. Gilmartin,
14 Tom, this is Mr. Hanrahan and explain to each other a little bit about each
15 other as might be normal?
- 16 A That would be very normal and we were very good friends and we got on at the
17 time very well together. It's a difficult one to explain. But depends on how
18 well you know Tom Gilmartin. Tom wanted me just to point in the direction of
19 Finbar Hanrahan and wanted me to go away. From then on Tom was controlling
20 Quarryvale and Balgaddy he didn't want me around at all. I was conscious of
21 that and I just stepped aside.
- 22 Q 601 I think you said in answer to that Mr. Gallagher, that's what you thought,
23 that's the perception you had, it wasn't something you were specifically asked
24 to do?
- 25 A He didn't ask me, it was a perception, yes.
- 26 Q 602 But you had not introduced him to anybody else who he had to deal with in
27 relation to Quarryvale, did you?
- 28 A We had one or two, as I said I met him only twice, we had met own or two
29 people, casual people, nothing to do with politics etc.
- 30 Q 603 And nothing to do with Quarryvale?

- 1 A Similar thing to happen -- but it's a very difficult one to explain.
- 2 Q 604 But on both your --
- 3 A It happened to me afterwards again actually on a similar occasion.
- 4 Q 605 But this is the first time, this is only the third time you are in his company,
5 the first time you are meeting anybody else, you are meeting somebody in
6 relation to a project you both want to succeed, somebody who has been helpful
7 to you in the past and somebody who can be helpful to this project?
- 8 A Very difficult to explain.
- 9 Q 606 But on any version of this meeting, you stand away and leave Mr. Gilmartin and
10 Mr. Hanrahan to it, isn't that right?
- 11 A That's what Mr. Gilmartin wanted, believe you me.
- 12 Q 607 That's what you --
- 13 A -- perceived he wanted.
- 14 Q 608 Then you come out and you see he is leaving in agitation, he is very angry,
15 undoubtedly angry?
- 16 A I wouldn't say very, he is angry, he is angry at what transpired with
17 Mr. Hanrahan.
- 18 Q 609 And on his account he says that you said "did he tap you" and he says "what do
19 you think."
- 20 A Yes.
- 21 Q 610 And you say that he told you he asked me for 100,000 pounds this so and so,
22 isn't that right?
- 23 A Well he didn't ask me that question. I didn't ask Tom Gilmartin did he tap
24 you. That's completely untrue.
- 25 Q 611 But on your account, undoubtedly Tom Gilmartin told you that he had been tapped
26 by Mr. Hanrahan?
- 27 A You can use that word if you like.
- 28 Q 612 An improper demand for a bribe had been made?
- 29 A He told me that, yes.
- 30 Q 613 This is a not an every day piece of conversation, Mr. O'Callaghan, not the sort

- 1 of thing you discuss on Nassau Street every day?
- 2 A Molesworth Street but absolutely, yes.
- 3 Q 614 And you now say, however, you had immediate doubts about whether Mr. Gilmartin
4 was telling the truth or was being accurate about that?
- 5 A Yes, I had.
- 6 Q 615 And are you saying that he was telling you something that was untrue or
7 something that was exaggerated?
- 8 A Difficult to call that. Exaggerated I would say.
- 9 Q 616 How do you exaggerate a statement is that somebody has asked you improperly for
10 an amount of money to support a project, is that not something that either
11 happened or didn't happen?
- 12 A Well, I was of the impression that Tom Gilmartin did exaggerate things quite a
13 little bit, you know?
- 14 Q 617 But what I'm asking you Mr. O'Callaghan, is what room is there for exaggeration
15 here, either he was asked improperly for an amount of money to support the
16 project or he wasn't, either he was telling you the truth or he wasn't.
- 17 A Hmm. Well I'm afraid, sir, I did not believe him totally when he said it to
18 me.
- 19 Q 618 Well what part of it did you believe?
- 20 A Again it's difficult to explain that. I admit it was one of those requests
21 that you don't get every day of the week, that's for sure. But it was a very
22 very, it was something I just didn't believe.
- 23 Q 619 Why not?
- 24 A Well he had been as I said, he had been exaggerating conversations with me
25 prior to this, this could have been the same. And as time goes on and the more
26 and more I have heard what has happened and developed here in the past couple
27 of weeks in the Tribunal, I believe it less and less.
- 28 Q 620 And you believe it less and less to the point where you didn't ask Mr. Hanrahan
29 about it, did you?
- 30 A No.

1 Q 621 You had two option here, this is not something where there's, this isn't a sort
2 of exaggeration of the size of the fish we catch or how good we are, our
3 proficiency at sports or our influence?

4 A Absolutely.

5 Q 622 This is something extremely serious and you have two very unattractive options
6 here in choosing between two people who you know and have dealt with in
7 relation to developments in Dublin, isn't that right?

8 A Mmm.

9 Q 623 And either Mr. Hanrahan who has been of particular assistance is a corrupt
10 politician who demands money, or Mr. Gilmartin, the person whom you have you
11 say engaged in an important business dealing with, is somebody who is so
12 unreliable that he can fantasize about the possibility that a county councillor
13 could demand 100,000 pounds from him. That's are the only two options?

14 A You have used the word fantasy, sir, I haven't.

15 Q 624 Is there any room for anything else, Mr. O' Callaghan?

16 A Well that's the predicament I'm in. It's a difficult one to call.

17 Q 625 On your account, you were in that predicament the day of this meeting took
18 place?

19 A That's right.

20 Q 626 And you were going forward with both these people and you were going to have to
21 deal with in the end and this seems a fairly, a choice you have to make as it
22 were.

23 A Yes.

24 Q 627 Because Mr. Gilmartin is going to be dealing with county councillors and others
25 in relation to your development and if he is capable of making up or in your
26 words exaggerating a claim that doesn't exist that 100,000 pounds bribe was
27 demanded from him, he is an extremely unstable partner to put it at its
28 mildest?

29 A That's correct, could I just answer your first part of your question, because
30 of what I have heard in the past few months in the Tribunal and in the

1 Tribunal, because of what I said I'm glad I adopted the attitude I adopted,
2 that I not believe what Tom Gilmartin said to me.

3 Q 628 Did you not have to sort it out one way or the other?

4 A If Tom Gilmartin had himself, he was prepared to sign a statement to that
5 effect, I would have given a bit more consideration as I said this morning but
6 even he was not prepared to put it in writing.

7 Q 629 This is long before being asked to put it in writing, this is sorting it out
8 for yourself in relation to people you have to deal with the next day, whether
9 you are for example going to humour Tom Gilmartin and extend him time?

10 A It wasn't a case of I was not prepared to libel anybody.

11 Q 630 You were going to, how you were going to deal with Tom Gilmartin in the future,
12 whether you wanted to disentangle yourself from somebody as unreliable as this
13 or whether you want to deal with Mr. Hanrahan in the future. Isn't that right?

14 A There was a problem I found myself with.

15 Q 631 You didn't do anything?

16 A I did not do anything and at this particular stage I'm glad I did not.

17 Q 632 Isn't the only reason the only thing, the only explanation for your inaction,
18 in the light of that information is because you believed what Mr. Gilmartin
19 told you?

20 A That is not true. If that was the case I could have made up my mind very very
21 quickly. If I believed what Mr. Gilmartin told me, it would have been an
22 extremely easy decision to make but I did not believe it and because of that, I
23 did not make any decision.

24 Q 633 It's not the case that you suspected it was true?

25 A Possibly.

26 Q 634 And you knew that it was not unlikely or an unlikely event in Dublin planning
27 circles?

28 A Sorry, I thought it was an unlikely event, I'm sorry.

29 Q 635 And Mr. Gallagher has put to you two different occasions upon which you were
30 asked about Mr. Gilmartin's accounts and when you agreed that you did not refer

- 1 to this incident that's in relation to Mr. Hanrahan, the first is with the
2 Gardai and the second is with Mr. Haughey, isn't that right?
- 3 A For the same reasons, yes.
- 4 Q 636 Both those meetings happened around the same time, they happen around March and
5 April in the case of the Gardai and in February, late February; March and in
6 relation to Mr. Hanrahan?
- 7 A Well it was very fresh in my mind and that was all the more reason why I wasn't
8 a hundred percent certain what he said to me was correct.
- 9 Q 637 But the difference between this event and the other things you were discussing
10 about Mr. Gilmartin and Mr. Redmond and Mr. Lawlor, is that in relation to
11 Mr. Gilmartin, Mr. Redmond and Mr. Lawlor, you were only recounting second
12 happened what Mr. Gilmartin has told you, isn't that right?
- 13 A Yes.
- 14 Q 638 But this is something to which you are a witness at --
- 15 A I am not a witness, this was secondhand as well I'm afraid.
- 16 Q 639 You were there at the time. There are no other witness to say --
- 17 A It's only secondhand I'm afraid.
- 18 Q 640 But you are there before the meeting, you are the person who effects whoever
19 introduction there is that is made and you are there immediately after the
20 meeting?
- 21 A Missing the key factor, I was not present.
- 22 Q 641 You were in the same room?
- 23 A No. 30 foot long room.
- 24 Q 642 And you know and notice that Mr. Gilmartin is agitated?
- 25 A Yes.
- 26 Q 643 And you know his immediate reaction to you, his immediate statement to you
27 about what Mr. Hanrahan has said to him?
- 28 A Mr. Gilmartin also told me that Finbar Hanrahan would not support his project.
29 Maybe that was why he was agitated.
- 30 Q 644 But this was the one event in relation to which you could give and if it were

1 to be investigated, you could give at least some independent corroboration
2 because you could say a meeting took place, an introduction was affected and
3 Mr. Gilmartin came out was agitated and told me immediately that he had been
4 asked for 100,000 pounds, all of that would have been of considerable
5 assistance to the Gardai if they were investigating these matters, you didn't
6 say that to the guards at all?

7 A No.

8 Q 645 Nor did you say to the guards you may be wasting your time investigating what
9 Mr. Gilmartin says because he is I have to say he is an unreliable witness, you
10 didn't say that either.

11 A No.

12 Q 646 You just let them?

13 A That would be a terrible statement to make.

14 Q 647 You just let them go on knowing no more than they had already been told by Tom
15 Gilmartin?

16 A Yes, Tom Gilmartin who refused to give them a signed statement.

17 Q 648 You did exactly the same with Mr. Haughey earlier at a time when there was no
18 question of Mr. Gilmartin having signed or not signed a statement, that can't
19 possibly be an explanation for your reticence in relation to Mr. Hanrahan,
20 isn't that right?

21 A I believe what was said if I believed what was said, I would have made those
22 statements.

23 Q 649 The fact remains Mr. O' Callaghan that you omitted from your account it's to
24 Mr. Haughey on the one hand and to the Gardai on the other the fact that you
25 knew at the meeting that you had helped effect the introduction, Mr. Gilmartin
26 had claimed immediately afterwards to you that Mr. Finbar Hanrahan had demanded
27 100,000 pounds for the support of this project and you omitted that from both
28 of those accounts when discussing Mr. Gilmartin's claims of corruption in the
29 planning process, isn't that right?

30 A Yes.

- 1 Q 650 And yet that was the one event in relation to which you had any direct
2 knowledge, isn't that right?
- 3 A I did not have direct knowledge.
- 4 Q 651 You had direct knowledge of the fact of the meeting?
- 5 A Indirect.
- 6 Q 652 You had direct knowledge of your own, you were there, you had direct knowledge
7 of the fact of the meeting?
- 8 A This is where you and I disagree. I had indirect knowledge.
- 9 Q 653 You had knowledge of the fact of the meeting, you had witnessed the meeting,
10 isn't that right?
- 11 A I had witnessed --
- 12 Q 654 You witnessed the aftermath of a meeting and you heard Mr. Gilmartin's
13 immediate account after that meeting, isn't that right? And you omitted from
14 your communication with the Gardai and Mr. Haughey the name of Mr. Finbar
15 Hanrahan who was and had been your main supporter in relation to Cooldrinagh.
- 16 A Sorry, he was not my main supporter, main supporter of a project I had been
17 interested in.
- 18 Q 655 I'm suggesting to you Mr. O' Callaghan that you deliberately omitted this
19 because you did not want to cause trouble for Mr. Hanrahan who had been of such
20 assistance to you?
- 21 A Completely untrue, if I was aware of this, if I was positive of this, if I
22 believed what Mr. Gilmartin told me, I could have confirmed this to the
23 authorities.
- 24 Q 656 It was not, but sure it was not for you to believe or disbelief, it was for you
25 to assist them in your inquiries and give whatever assistance you to?
- 26 A And spread a libel around the place?
- 27 Q 657 It's only in this room Mr. O' Callaghan people seem to be so concerned about
28 the libelous nature of what is said and answered in requests made by the
29 Gardai.
- 30 A I'm afraid I'm concerned.

- 1 Q 658 You have said and you have repeatedly said you had very little access to
2 politicians, Mr. O' Callaghan, that is right?
- 3 A Hmm.
- 4 Q 659 But it's also the case that on those two occasions when you were interviewed by
5 Gardai, on the one hand on the 4th March 1989, and on the 19th April 1989 and
6 by Mr. Morrissey and Mr. Haughey on the 8th March 1989, that you were recorded
7 as saying that it was in response to a request by Padraig Flynn, the Minister
8 for the Environment, that you contacted Mr. Gilmartin in relation to the
9 becoming involved in the transaction, isn't that right?
- 10 A Hmm.
- 11 Q 660 And what you say now is that both of those contemporaneous accounts are
12 incorrect?
- 13 A Yes.
- 14 Q 661 And your recollection now 15 years later is correct?
- 15 A Yes.
- 16 Q 662 And that you never said what either the Gardai or Mr. Morrissey or Mr. Haughey
17 record you as saying?
- 18 A That's correct.
- 19 Q 663 And are you aware that Mr. Redmond recounts a meeting between the Dublin city
20 managers and county managers and the cabinet at page 1049, which he says
21 Mr. Flynn was able to inform the city managers that Mr. Gilmartin had taken you
22 out of the Balgaddy interest, you are aware of that?
- 23 A I am aware of that, nobody seemed to tell me but I'm aware of that. Yes.
- 24 Q 664 And you are aware of that now, is that right?
- 25 A Yes.
- 26 Q 665 But Mr. Redmond is recounting it as what happened then?
- 27 A Oh yes.
- 28 Q 666 And from that it appears that Mr. Flynn was closely following the dealings
29 between you and Mr. Gilmartin, isn't that right?
- 30 A That's right and that proves how much influence I had politically.

- 1 Q 667 Well, I don't understand that, Mr. O' Callaghan because if Mr. Morrissey and
2 Haughey are right and the Gardai are right, this is what Mr. Flynn had asked
3 you to do?
- 4 A Mr. Flynn never discussed Balgaddy or Quarryvale with me. Or indeed me with
5 him.
- 6 Q 668 Well you wrote to Mr. Flynn a letter who was then the Minister for Environment
7 a letter commencing with the words "how are you keeping."
- 8 A Hmm.
- 9 Q 669 This is a man you say you only met once at an official opening in Limerick, is
10 that right?
- 11 A It was the second time, I met him at his brothers, I pointed this out this
12 morning.
- 13 Q 670 You met him twice?
- 14 A Met him twice.
- 15 Q 671 And is that some form of Cork colloquialism by which you normally address
16 ministers?
- 17 A It was just a nicety one used.
- 18 Q 672 How are you keeping?
- 19 A Hmm.
- 20 Q 673 And is that how you would address any Minister you had met twice before on
21 formal occasions?
- 22 A If I had met him twice and I have very little access to the ministers but I had
23 met ministers twice and had dinner or lunch with him, I think probably address
24 him that way.
- 25 Q 674 But that letter addressed, it gave Mr. Flynn information which he had not,
26 which he had not requested in any previous correspondence, it wasn't in
27 response to any letter, is that right?
- 28 A It was in response to Tom Gilmartin's request for it.
- 29 Q 675 But it was a letter that you wrote to Mr. Flynn, is that right?
- 30 A Yes.

1 Q 676 Out of the blue as it were, not of previous correspondence from the department?

2 A No correspondence.

3 Q 677 And it tells Mr. Flynn the status of play is between you and Mr. Gilmartin in
4 relation to your agreement as to the Balgaddy site, that is right?

5 A That's correct. Because Tom had discussed it in detail according to himself
6 with Mr. Flynn and I was writing the confirmation letter, Tom more or less
7 worded that letter for me.

8 Q 678 Other than the familiar introduction which presumably was your own work?

9 A Well the introduction was my own, yes.

10 Q 679 And you certainly had sufficient contact with Mr. Hanrahan, you could ring him
11 and ask him what was happening in relation to the Gilmartin lands?

12 A Yes.

13 Q 680 And Mr. Hanrahan was sufficiently intimate with you, he would tell you about
14 what was happening there?

15 A Yes.

16 Q 681 And Mr. Lawlor --

17 A If I can clarify that, Mr. Hanrahan was doing that because like all politicians
18 in west County Dublin, he wanted the Balgaddy site to proceed.

19 Q 682 Yes but he was contacting you, isn't that right, to give you information?

20 A He would contact anybody who was interested in developing. He would also have
21 contacted Tom Gilmartin if he was interested in developing the Balgaddy site.
22 That was the chosen site, that was the site everybody wanted to be developed.

23 Q 683 Why did it make any difference which site was developed as long as one site was
24 developed in west Dublin?

25 A Because the Quarryvale site, this is probably the most important point,
26 obviously it's a question that -- the Quarryvale site would affect the Lucan
27 area where his main constituents were, much more so than the Balgaddy site, it
28 would have an adverse effect on the village of Lucan itself.

29 Q 684 It would have an adverse effect on the village of Lucan, even though you say it
30 was obviously a better location?

- 1 A Oh yes, from a commercial point of view.
- 2 Q 685 If it was better from a commercial point of view, well surely it was going to
3 be a better development from everybody's point of view?
- 4 A It would adversely affect Lucan.
- 5 Q 686 Mr. Hanrahan had this amount of contact with you?
- 6 A Yes.
- 7 Q 687 And he had no difficulty in contacting you and you him?
- 8 A Correct, yes.
- 9 Q 688 And Mr. Lawlor was able to contact you and meet you and discuss these matters,
10 is that right?
- 11 A Well it's very easy to contact people.
- 12 Q 689 If Mr. Gilmartin is right, it's Mr. Lawlor provided Mr. Gilmartin with your
13 telephone number?
- 14 A I don't think so, I don't think that's correct.
- 15 Q 690 How would you know that?
- 16 A Because I'm sure Tom Gilmartin would have said that to me, when he rang me I
17 would have said it to me.
- 18 Q 691 What did he say?
- 19 A When he rang me and as far as I know and I'm open to correction, I am I have a
20 suspicion he got my telephone number from the bank.
- 21 Q 692 From the bank? Which bank?
- 22 A The AIB.
- 23 Q 693 How is it you recall that now, Mr. O' Callaghan?
- 24 A I said I'm open to correction.
- 25 Q 694 Thank you.
- 26 A And in fact he obviously could have opened a thing called a telephone
27 directory.
- 28 Q 695 Why did you disbelief Mr. Gilmartin when he says it was Mr. Lawlor who give him
29 your telephone number and suggest he meet you when Mr. Lawlor was suggesting to
30 you that you meet him?

1 A Because at this stage I wouldn't believe anything that Tom Gilmartin has said.
2 Having listened to what he said in the past three months.

3 Q 696 Thank you. Mr. O' Callaghan.

4
5 CHAIRMAN: Is there a short witness here from the bank?

6
7 MS. DILLON: Yes, there's one short witness from Castlebar from Allied Irish
8 Bank in Castlebar in connection with Mr. Pdraig Flynn's accounts. He is not
9 available next week. He will take approximately 20 to 30 minutes.

10
11 MR. NESBITT: Given he has no recollection of events, it might be shorter than
12 that.

13
14 CHAIRMAN: All right. So Mr. O' Callaghan is back tomorrow in any event
15 because Mr. Redmond, Mr. Lawlor and Mr. Sreenan will want to cross-examine him.

16
17 MS. DILLON: You might wish to check on Mr. Redmond's availability for
18 tomorrow.

19
20 CHAIRMAN: Mr. Redmond, are you here tomorrow?

21
22 MR. REDMOND: No, your worship, not tomorrow, I am not available tomorrow.

23
24 CHAIRMAN: All right.

25
26 CHAIRMAN: And how long do you expect to be with Mr. O' Callaghan?

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28 MR. REDMOND: Not an inconsiderable time.

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30 CHAIRMAN: Well can you put an estimate on that?

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MR. REDMOND: Well, an hour and a half?

CHAIRMAN: Well, we have to make arrangements for Mr. O' Callaghan to return on some other day to deal with Mr. Redmond's cross-examination, hopefully otherwise we will be in a position to conclude his cross-examination tomorrow.

MR. SREENAN: I would hope so.

CHAIRMAN: I think we have no choice, Mr. Redmond has another important commitment tomorrow and so Mr. O' Callaghan would and presumably you would prefer to wait until after Mr. Redmond has cross-examined?

MR. SREENAN: I think I could re-examine following the cross-examination of Mr. Lawlor. I don't see Mr. Redmond as being in any way centrally involved in Mr. O' Callaghan's evidence and it takes me by some surprise that he is going to take an hour and a half but so be it I don't need to defer my re-examination for that reason.

CHAIRMAN: Then it might be perhaps suitable for Mr. O' Callaghan to come back tomorrow at half ten.

MR. SREENAN: Certainly Mr. O' Callaghan would be very anxious to conclude matters as quickly as possible, I am sure he would prefer to come back here and have the remainder bar Mr. Redmond's cross-examination.

CHAIRMAN: Mr. Redmond we accept that he can't be here tomorrow, he would have to cross-examine Mr. O' Callaghan on some other day, the question is does Mr. O' Callaghan return on some other day for all of the rest of the cross-examination or do we conclude as much tomorrow.

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MR. SREENAN: I think it would be better if he came back tomorrow.

CHAIRMAN: We'll leave it then tomorrow at half ten and we will accommodate Mr. Redmond on some other day.

MR. REDMOND: Well I'm not in control of what will may happen to me tomorrow. Your worship and in the event of any possibility of getting back here, I will be here.

CHAIRMAN: All right. Well hopefully -- all right.

MS. DILLON: Are you standing Mr. O' Callaghan down?

CHAIRMAN: Until tomorrow. And we will deal with the bank witness now.

MR. DENIS CHAMBERS PLEASE, HAVING BEEN SWORN, WAS QUESTIONED

AS FOLLOWS BY MS. DILLON:

- 1
- 2
- 3
- 4 Q 697 Good afternoon, Mr. Chambers, in 1989 you were the branch manager in AIB in
- 5 Castlebar, is that correct?
- 6 A That's correct.
- 7 Q 698 And at that time, Mr. Padraig Flynn and Mrs. Dorothy Flynn had a number of bank
- 8 accounts at that branch, isn't that correct?
- 9 A That is correct.
- 10 Q 699 Now in June of 1989, we'll come to deal with it in more particularity in a
- 11 moment, a cheque for 50,000 pounds was presented at the bank, is that correct?
- 12 A That is correct.
- 13 Q 700 And the proceeds of that cheque together with some other funds were lodged to
- 14 an account in the name of Dorothy and Padraig Flynn, is that correct?
- 15 A I am not aware of that.
- 16 Q 701 You are not aware of that?
- 17 A No. I have just saying that I don't remember that, to the best of my
- 18 knowledge.
- 19 Q 702 You don't remember that. Did you have any involvement in opening an account
- 20 bearing account number 1000022 for Dorothy Flynn and Padraig Flynn?
- 21 A I have no recollection of that.
- 22 Q 703 Can I have page 360 please?
- 23 A Sorry?
- 24 Q 704 A page is going to come up on screen beside you Mr. Chambers. This document is
- 25 a document that has been provided to the Tribunal by AIB. It's dated 12th
- 26 February 1986 and records an account bearing the account number 10000022. It's
- 27 in the name of Dorothy and Padraig Flynn, and it's an address at 34
- 28 Northumberland Road, Chiswick, London. Do you recognise that handwriting?
- 29 A No.
- 30 Q 705 It's not your handwriting?

- 1 A Not to the best of my knowledge.
- 2 Q 706 And the account is described as Dorothy and Padraig Flynn, external account, UK
3 deposit?
- 4 A That's correct.
- 5 Q 707 Can you explain what an external account UK deposit?
- 6 A Well the external account, I don't know who the beneficiary of that account
7 would have been -- but it would be, that's the best I can say of it.
- 8 Q 708 In 1986 to the best of your knowledge did Mr. Padraig Flynn and Dorothy Flynn
9 reside at 34 Northumberland Road, Chiswick, London.
- 10 A That's to the best of my knowledge.
- 11 Q 709 To the best of your knowledge was Mrs Flynn residing in or around Castlebar?
- 12 A Yes.
- 13 Q 710 And was Mr. Padraig Flynn at that time formerly a teacher but at that time was
14 a TD and subsequently became a minister, isn't that right?
- 15 A Yes, that is correct.
- 16 Q 711 Of your knowledge as you were the manager, were they ever resident at Chiswick
17 in London?
- 18 A Not to my knowledge.
- 19 Q 712 Do you say the words written on that "payable to either or survivors"?
- 20 A Yes.
- 21 Q 713 Whose handwriting is that?
- 22 A I don't know, it's not mine.
- 23 Q 714 You see where it says on the document "Closed 3/5/93"?
- 24 A I see that.
- 25 Q 715 Do you recognise that handwriting?
- 26 A No.
- 27 Q 716 Do you know anything about this account?
- 28 A No.
- 29 Q 717 Were you aware of any other account of a similar nature held by or for the
30 benefit of Dorothy Flynn and Padraig Flynn at your branch?

- 1 A No, I was not.
- 2 Q 718 So, I want to be clear about this now --
- 3 A Sorry.
- 4 Q 719 About what you are telling the Tribunal, are you saying that you weren't aware
5 of the existence of this particular account, is that --
- 6 A Yes, to the best of my knowledge.
- 7 Q 720 Were you aware of the existence of offshore accounts of this type within your
8 branch in Castlebar?
- 9 A For Mr. and Mrs. Flynn?
- 10 Q 721 In general.
- 11 A There would have been some, I think, yes.
- 12 Q 722 These accounts, Mr. Chambers, have now come to be described in a different way,
13 they have been described as bonus non-resident accounts, is that right?
- 14 A That is correct.
- 15 Q 723 So what you have got here is two individuals who are resident to the bank's
16 knowledge within the jurisdiction who are maintaining accounts with an address
17 outside the jurisdiction and certain tax implications flow from that, isn't
18 that correct?
- 19 A That's correct.
- 20 Q 724 What you are telling the Tribunal is you are aware of the fact that accounts of
21 that type were operated out of your branch in Castlebar but you weren't
22 specifically aware that Pdraig and Dorothy Flynn maintained such an account?
- 23 A That's correct.
- 24 Q 725 Who in general looked after the Flynns?
- 25 A Well I would have been involved with them but if I wasn't there, anybody else
26 could have been.
- 27 Q 726 Did you have many TDs as clients of your branch?
- 28 A No.
- 29 Q 727 Was he the only TD that you had?
- 30 A As far as I know.

- 1 Q 728 When he became a government minister, was he the only government minister that
2 you had?
- 3 A That's correct.
- 4 Q 729 In the normal course of banking protocols or indeed manners if I can put it
5 like that, you would I assume the normal point of contact for Mr. Pdraig
6 Flynn?
- 7 A Yes, he would have -- yes.
- 8 Q 730 In the light of the fact you were the person who was dealing with the Flynn's
9 looking after the Flynn's, is it still your position that you did not know that
10 they maintained such an account?
- 11 A That's my position, I was not aware to the best of my knowledge of that
12 account.
- 13 Q 731 Now, you obviously must be familiar with all of your the people who worked in
14 Castlebar, isn't that correct?
- 15 A Correct, yes.
- 16 Q 732 Do you recognise the handwriting on that account?
- 17 A No, I don't.
- 18 Q 733 Can I show you now a second account of a similar nature, if I can have page
19 4855 please. This is a second account with a different number that was held in
20 the name of Dorothy Flynn and Pdraig Flynn with an address at Northumberland
21 Road in Chiswick in London, the account number is 09620-053?
- 22 A Yes.
- 23 Q 734 And it's described as external deposit account?
- 24 A That's correct.
- 25 Q 735 Now this account was opened in August 1985 and closed in March of 1989. You
26 can see at page 375, the final --
- 27 A Sorry, I see the opening now.
- 28 Q 736 You see on the next page 37 the final transaction on that.
- 29 A I don't have that.
- 30 Q 737 375 please.

- 1 A What I have is here.
- 2 Q 738 I see that. You see that that account was closed in March 1989. Can you
3 assist the Tribunal at all as to the circumstances in which that account came
4 to be opened?
- 5 A I can't.
- 6 Q 739 Were you ever aware in 1987 of either Mrs. Flynn or Mr. Flynn residing in
7 Chiswick in London?
- 8 A I was never aware of that.
- 9 Q 740 If I can draw to your attention the existence of a third account, page 444
10 please. Now if we look at the bottom half of that page which is the first
11 transaction and we see again this account is 0998-046, it's again described as
12 external deposit account an the address again is Northumberland Road, Chiswick
13 and that account is opened on the 5th October 1989.
- 14 A That's correct.
- 15 Q 741 In October 1989, you were the manager in the branch?
- 16 A That's correct.
- 17 Q 742 Were you aware of this account being opened?
- 18 A No.
- 19 Q 743 You will see if we have the full page back on 444 please, that as far as the
20 top is concerned, at some date between 1992 and 1993, the address was changed
21 to an address in Brussels, I think that was after Mr. Flynn became a
22 commissioner, isn't that correct?
- 23 A Well I wasn't there.
- 24 Q 744 At that time?
- 25 A At that time.
- 26 Q 745 No, but you were there at the time this account was opened?
- 27 A I was, yes, but that's going back to the previous page.
- 28 Q 746 Yes. You were there at that time. So is it your position then that while you
29 were the person who would more than likely have dealt with Mr. Flynn and
30 Mrs. Flynn, due to their prominence, that you were unaware of the fact that

1 these accounts were held or maintained for their benefit at the branch, is that
2 correct?

3 A Yes.

4 Q 747 Can I ask you about these accounts, Mr. Chambers, please, if you could assist
5 the Tribunal, if we could have page 360 please, about how these operate.

6 A How do you mean?

7 Q 748 Well let us, if you would explain what would happen when, let us say,
8 Mrs. Flynn comes into the bank and she wants to lodge 5,000 pounds to that
9 account.

10 A She just fills out a lodgment docket and it's lodged to the account.

11 Q 749 And if Mrs. Flynn comes in with a cheque and she wants to lodge the proceeds of
12 this cheque to this account?

13 A The same, she fills out a lodgment docket and it's lodged.

14 Q 750 And what happens if she wants to cash the cheque?

15 A She just gets cash for it.

16 Q 751 So it wouldn't make any sense if she wanted to put the cheque into this
17 account, for example, it wouldn't make any sense for her to cash the cheque, is
18 that right?

19 A Well, not necessarily.

20 Q 752 If I show you the cheque, there's a number of features about this, there's one
21 further document you might be able to assist with the handwriting in relation
22 to this, page 359 please, this is a document that's described as a form F?

23 A Yes.

24 Q 753 Are you familiar with the form F?

25 A Yes.

26 Q 754 Can you explain to the Tribunal what the purpose of a form F was?

27 A Stating that you are a non-resident in the Republic of Ireland.

28 Q 755 All right. Now this document I draw to your attention first of all is not
29 dated but by virtue of correspondence with the solicitor for the bank which I
30 will draw to your attention, we know the document was signed sometime between

1 the 6th April 1989 and the 5th April 1990.

2 A Sorry?

3 Q 756 This document is undated that's on screen.

4 A It's not dated, yes.

5 Q 757 But we have been informed by your solicitor, Mr. Kiernan, that the form was
6 signed between the 6th April 1989 and the 5th April 1990, do you have any
7 reason to dispute that?

8 A No.

9 Q 758 All right. So that would have been signed again while you were manager?

10 A It would have been.

11 Q 759 If those dates are correct. Now this document that you are going to -- you
12 were going to explain the Tribunal the purpose of the document.

13 A This document?

14 Q 760 Yes.

15 A Yes, it says that they are non-resident in the Republic and therefore not
16 liable for tax.

17 Q 761 For tax purposes. But at the time that that was done, was that true, were they
18 non-resident for tax purposes?

19 A I don't know.

20 Q 762 Of your -- you don't know?

21 A Well I have no recollection.

22 Q 763 Between the 6th April 1989 and 5th April 1990, I'm going to show you some
23 documentation in relation to Mr. Flynn's occupation, at the moment you can take
24 it from me in 1989 he was Minister for the Environment.

25 A Yes.

26 Q 764 And indeed subsequently up until 1993 when he became a European Commissioner.

27 A Yes.

28 Q 765 Would that information have been known to the bank that the he was Minister for
29 Environment?

30 A It would.

- 1 Q 766 How then would anybody be in a position to allow them to make a declaration
2 that they were not resident?
- 3 A I honestly can't answer that, I don't know. He made a declaration, that's the
4 only thing I can say about it.
- 5 Q 767 The form F is a form created by the bank?
- 6 A That's correct.
- 7 Q 768 And the customer signs the form, is that correct?
- 8 A That's correct.
- 9 Q 769 This particular form, while it's undated has been signed by Dorothy Flynn and
10 Pdraig Flynn?
- 11 A That is correct.
- 12 Q 770 If the dates within which this form were signed are correct, at that time
13 Mr. Flynn was Minister for the Environment?
- 14 A Right.
- 15 Q 771 And whatever else he was, he was certainly not non-resident, is that correct?
- 16 A That's correct.
- 17 Q 772 All right. Now what the bank are agreeing to insofar as the description of the
18 account is concerned, if you look at the document that's on screen, the
19 description of account is deposit account in the name of Mrs. Dorothy Flynn and
20 Pdraig Flynn, 34 Northumberland Road, Chiswick, London.
- 21 A Yes.
- 22 Q 773 Where did that address come from?
- 23 A It must have come from Flynns, I have no recollection of that address.
- 24 Q 774 Insofar as your knowledge of other accounts, while you have no knowledge you
25 say of this particular account, insofar as you do have knowledge you have told
26 the Tribunal of other accounts of a similar nature, for the other accounts you
27 are familiar with, who provides the address?
- 28 A The customer always provides the address.
- 29 Q 775 Would it surprise you to know, page 366 please, there is no such road in
30 Chiswick? 34 Northumberland Road, Chiswick, there's no such road in Chiswick,

- 1 there are two roads of that name in east London but your client is not found at
2 either.
- 3 A Right.
- 4 Q 776 If we go back to the document at 359, perhaps you can assist who the
5 handwriting of that first part of the document is in.
- 6 A Sorry, say that again?
- 7 Q 777 The words 'description of account', deposit account in the name of Mrs. Dorothy
8 Flynn and Pdraig Flynn, 34 Northumberland Road, Chiswick, London, whose
9 handwriting is that?
- 10 A I don't know, it's not mine.
- 11 Q 778 It follows surely that it's somebody, it was somebody at Allied Irish Bank,
12 Castlebar?
- 13 A I can only speak for myself and it's not my writing.
- 14 Q 779 You would have been familiar with the handwriting of most of the people that
15 worked for you?
- 16 A I don't recognise that one.
- 17 Q 780 Do you recognise the signatures on the document?
- 18 A I do.
- 19 Q 781 So you can recognise the signature of Dorothy Flynn and Pdraig Flynn who were
20 both customers of your branch?
- 21 A That's correct.
- 22 Q 782 But you do not recognise the other handwriting in relation to the other
23 information that's handwritten on the document?
- 24 A I don't recognise it.
- 25 Q 783 Although it would follow, would it not, that it must have been written by
26 somebody in the bank?
- 27 A Yes, I would accept that.
- 28 Q 784 But that person's handwriting is not known to you?
- 29 A It's not familiar to me.
- 30 Q 785 You see where the account number is written at the top?

- 1 A Yes.
- 2 Q 786 Is that handwriting which appears to be, is that handwriting known to you?
- 3 A No. It's not my handwriting.
- 4 Q 787 Can I have document 1254 please. This is a document and if you look at it, in
5 case you are under any doubt about it, Mr. Chambers, you will see that it
6 records that between the 10th March 1987 and the 25/5/1989, Mr. Padraig Flynn
7 was Minister for the Environment.
- 8 A That's correct.
- 9 Q 788 It follows therefore he wasn't non-resident.
- 10 A Yes.
- 11 Q 789 And similarly I think from 1989 to 1992, at document 3446, he was Minister for
12 the Environment up to the 8th November 1991?
- 13 A Right.
- 14 Q 790 You see that?
- 15 A I do.
- 16 Q 791 And it would follow that throughout that period, equally he was not a
17 non-resident?
- 18 A That's correct.
- 19 Q 792 And of your knowledge during that period that we are talking about, the period
20 while you were manager, was Mrs. Dorothy Flynn ordinarily resident in County
21 Mayo?
- 22 A Yes.
- 23 Q 793 So equally she was not non-resident?
- 24 A That's correct.
- 25 Q 794 And now if I can show you the cheque for 50,000 pounds and I want to point out
26 some unusual features in relation to that cheque. If I can have page 379
27 please. First and foremost, Mr. Chambers, would you outline to the Tribunal
28 what clearance somebody would need in the bank in order to give cash for that
29 cheque. If somebody presents themselves at the cashier with that cheque, with
30 that cheque for 50,000 pounds made out to cash, would the cashier pay out

- 1 immediately on it?
- 2 A No, a phone call would be made to the Bank of Ireland in wherever, unless the
3 client was very well known at the branch.
- 4 Q 795 Unless the client was very well known at the branch?
- 5 A The person getting the cash.
- 6 Q 796 Would the cashier of their own notion seek any assistance from management in
7 relation to it?
- 8 A I would say they would yes, they would.
- 9 Q 797 So that if either Mr. Flynn or Mrs. Flynn walked into the bank with that cheque
10 looking for 50,000 pounds in cash, while they might leave with 50,000 pounds in
11 cash, it wouldn't be on the say-so of the cashier?
- 12 A Yes.
- 13 Q 798 Some managerial approval would have to be sought?
- 14 A Yes.
- 15 Q 799 Now in June of 1989, who was in a position in the bank to give such
16 authorisation?
- 17 A Well I would have been.
- 18 Q 800 Do you remember giving authorisation to cash that cheque?
- 19 A I have no recollection of that cheque.
- 20 Q 801 Right. If we just consider the cheque now for a moment and see what other
21 features there are attached to that cheque other than the fact that it's 50,000
22 pounds and it's made out to cash.
- 23 A Yes.
- 24 Q 802 On the face of the cheque, if one looks at it and I accept it's not a very good
25 copy, you will see Mr. Gilmartin's signature, do you see that?
- 26 A I see it, yes.
- 27 Q 803 Do you see that beneath it, there is no typed version of Mr. Gilmartin's
28 signature as one would normally find in a cheque, do you see that?
- 29 A Yes, unless it was -- maybe it was, if it was a personal cheque, it wouldn't be
30 typed.

- 1 Q 804 I beg your pardon?
- 2 A Sorry, I don't follow.
- 3 Q 805 Do you see where Mr. Gilmartin has signed it?
- 4 A I do, yes.
- 5 Q 806 When one has a cheque book, normally a person's name is typed by the bank on
6 the chequebook, is that correct?
- 7 A Yes.
- 8 Q 807 Now there is no such typed version on this, is that correct, in relation to
9 Mr. Gilmartin's name, there is simply Mr. Gilmartin's name?
- 10 A That is correct.
- 11 Q 808 That is one unusual feature, isn't that right?
- 12 A I'm not certain back in 1980, when was it, 1989 that all cheque books had names
13 typed or printed on them.
- 14 Q 809 Are you suggesting that it was normal practice in Castlebar in AIB in 1989 you
15 would issue cheque books that would not contain the name of the account holder?
- 16 A I am not, I'm trying to think back all AIB cheques if they have typed names on
17 them.
- 18 Q 810 From your memory?
- 19 A I'm not certain.
- 20 Q 811 Would you say it was usual or unusual that you would have a cheque that
21 contains only a signature but does not contain the account holders name?
- 22 A I would say it was unusual subsequent to that, but I'm not certain around that
23 time.
- 24 Q 812 Very good, if we can look now at the second feature of it. The cheque is
25 crossed, is that correct?
- 26 A Yes.
- 27 Q 813 What does that mean?
- 28 A It should have been lodged.
- 29 Q 814 That it wouldn't have been cashed?
- 30 A Yes.

- 1 Q 815 Could it have been cashed?
- 2 A It could.
- 3 Q 816 But why would it have been cashed if it was crossed?
- 4 A Well it sometimes happens if the client is well known in the branch, it has
- 5 happened.
- 6 Q 817 If you look at what happens beneath the line at the bottom of the cheque, do
- 7 you see there?
- 8 A I do, yes.
- 9 Q 818 Now do you see over the account number, the account number is written again,
- 10 has been written in again, do you see that?
- 11 A I do.
- 12 Q 819 Would you regard seeing that on a cheque as an unusual feature?
- 13 A It is.
- 14 Q 820 If you go to the writing immediately beside that which contains the sort code
- 15 for Bank of Ireland, you see that the sort code that was originally there,
- 16 which was 900789, has been scribbled out and a different sort code written on
- 17 top, isn't that right? And the sort code that has been scribbled out is
- 18 apparently the sort code for college Green and the one that has been written in
- 19 on top, is the sort code for Blanchardstown would you accept that's an unusual
- 20 feature?
- 21 A It is.
- 22 Q 821 If you go up to the top of the cheque and you see where normally would be
- 23 designated the name of the branch on whom the cheque is drawn, do you see that?
- 24 A Well it's not very legible.
- 25 Q 822 I agree it's not legible. But what apparently has happened there is that the
- 26 words "National Branch 34 College Green" have been over written with the banks
- 27 Bank of Ireland Blanchardstown.
- 28 A As I say, I accept what you are saying.
- 29 Q 823 If that is the position would you regard that as an unusual feature?
- 30 A It is, yeah.

- 1 Q 824 So what happens on the face of the physical cheque, is that there have been a
2 number of alterations on the face of the cheque, isn't that correct?
- 3 A Yes.
- 4 Q 825 And that is manifestly clear from looking at the cheque, isn't that right?
- 5 A That's right.
- 6 Q 826 The account holders name is not identified other than a signature by
7 Mr. Gilmartin, isn't that correct?
- 8 A That is correct.
- 9 Q 827 It's a cheque for 50,000 pounds, it's made out to cash?
- 10 A Yes.
- 11 Q 828 Now, if somebody were to present at the bank in June of 1989 with that cheque
12 and either want to lodge it or get value for it, who would have been in a
13 position to authorise payment on such an unusual cheque?
- 14 A Well I would have been.
- 15 Q 829 All right. Because it is in a way if I may, describe it as, this a unique
16 cheque?
- 17 A Sorry.
- 18 Q 830 It's a unique cheque?
- 19 A It's -- yeah.
- 20 Q 831 Isn't it?
- 21 A It is, yeah.
- 22 Q 832 Can you recollect in your career as manager how many cheques you would have
23 seen in which the bank's own details have been over written and other
24 information put on the cheque?
- 25 A Very rarely.
- 26 Q 833 And any cashier worth their salt, I suggest to you, presented cheques such as
27 this would have gone hot foot to management and said what am I going to do with
28 this thing, isn't that right?
- 29 A They would, except of the client was well known to them.
- 30 Q 834 Are you suggesting that if Mr. Padraig Flynn came in with this cheque that he

- 1 would have been paid out 50,000 pounds on foot of this without anybody
2 demurring or making any inquiry about it?
- 3 A I would be inclined to say that, yes, Mr. Flynn was well known, if anything
4 happened to the cheque, if for instance the cheque was returned and paid.
- 5 Q 835 What about Mrs. Flynn?
- 6 A The same thing would apply.
- 7 Q 836 Would any inquiry have been made of Bank of Ireland?
- 8 A Again, not necessarily if the person was very well known and wanted to cash it,
9 whatever.
- 10 Q 837 If you were to pay out 50,000 pounds cash on foot of that and the cheque was to
11 bounce, what remedy had you?
- 12 A It would go straight back to whoever presented the cheque.
- 13 Q 838 You would go back to Mr. Flynn?
- 14 A Yes.
- 15 Q 839 But if the cheque was being lodged, for example, you wouldn't be paying out the
16 50,000 pounds?
- 17 A If the cheque was lodged for any reason the cheque came back unpaid, it would
18 be debited to his account.
- 19 Q 840 The bank was in a safer position by having the cheque lodged to an account as
20 opposed to paying out cash, is that right?
- 21 A Well yes.
- 22 Q 841 In the normal course of events you wouldn't expect or would you expect that any
23 of your cashier would pay out 50,000 pounds on foot of that cheque?
- 24 A No.
- 25 Q 842 They would have gone to somebody for authority?
- 26 A Yes.
- 27 Q 843 And you don't recollect anybody coming to you, although you would have said you
28 were the most likely person that anybody would have gone to at the time?
- 29 A I would accept that.
- 30 Q 844 If I can show you the back of the cheque at page 380 please. Do you see what

- 1 looks like an inverted letter C on the back of that, do you accept that that
2 seems to be a C?
- 3 A Sorry?
- 4 Q 845 A C, a capital C?
- 5 A Well, I can't.
- 6 Q 846 You can turn the cheque around please so it's upside down effectively, and
7 increase it again. Do you see it now?
- 8 A Just about.
- 9 Q 847 Now do you see it, the letter C?
- 10 A I can see it, yes.
- 11 Q 848 What does that in banking terms normally denote?
- 12 A It normally denotes the cheque has been cashed.
- 13 Q 849 I want to show you page 364 please. I should have drawn to your attention on
14 the front of that cheque on 3754 please, that the cheque is in fact negotiated
15 in Castlebar on the 7th June 1989?
- 16 A That is correct, yes.
- 17 Q 850 And you accept that it was negotiated in your branch.
- 18 A I fully accept that.
- 19 Q 851 On that date and I want to show you now at page 364, a lodgment of the 53,920
20 pounds to the non-resident account, external account of Dorothy Flynn and
21 Pdraig Flynn, the account that we have seen the account opening details for
22 and you see the lodgment of 53,920 pounds there?
- 23 A Yes.
- 24 Q 852 That lodgment is being credited on the 8th June 1989.
- 25 A Yes.
- 26 Q 853 Now first of all, is that an Irish pounds account?
- 27 A It is.
- 28 Q 854 And is that account maintained at all times in Castlebar?
- 29 A It is, yes.
- 30 Q 855 So that it's not funds that are anywhere else other than in Castlebar?

- 1 A That is correct.
- 2 Q 856 And I think that it is accepted by Mr. and Mrs. Flynn that that sum of 53,920
3 pounds includes the proceeds of Mr. Gilmartin's cheque of 50,000 pounds.
- 4 A Well I can't agree or disagree with you on that.
- 5 Q 857 Right. So your position on behalf of the bank is that notwithstanding you
6 accept the cheque for 50,000 pounds was negotiated in your branch, you do not
7 accept that it necessarily forms the proceeds of this lodgment on the following
8 day on the 8th June 1989?
- 9 A I cannot be certain of it.
- 10 Q 858 Yes but --
- 11 A Because I have no recollection of dealing with the cheque for 50,000, myself.
- 12 Q 859 But somebody in the bank had to process the application, isn't that right? If
13 Mr. and Mrs. Flynn are correct and that 53,920 includes Mr. Gilmartin's 50,000
14 pounds, then in the bank a transaction took place at which the 50,000 pounds
15 cheque was lodged to this account?
- 16 A Yes.
- 17 Q 860 Now that documentation is not available, isn't that correct?
- 18 A That's correct.
- 19 Q 861 But nonetheless, Mr. and Mrs. Flynn accept that it is more likely or it is the
20 position that Mr. Gilmartin's cheque is included in that lodgment of 53,920
21 pounds.
- 22 A If that's what they say, I accept that.
- 23 Q 862 But there's nothing in your bank or your memory or your recall dealing with
24 this cheque?
- 25 A No.
- 26 Q 863 And would you agree that a cheque for 50,000 pounds made out to cash was an
27 unusually large cheque for an individual?
- 28 A It was, yes.
- 29 Q 864 And would it also be fair to say that it was mainly Mrs. Flynn who conducted
30 these transactions on behalf of Mr. Flynn? She dealt with the accounts

- 1 locally, so she has told the Tribunal in her statement.
- 2 A Well I would accept what she's saying, yes.
- 3 Q 865 Did you ever deal with Mrs. Flynn?
- 4 A Oh I did, yes.
- 5 Q 866 Did you deal with her regularly?
- 6 A Not that regularly.
- 7 Q 867 Did you deal had her more regularly than Mr. Flynn.
- 8 A Yes, she would have been in and out of the office more.
- 9 Q 868 Your position is that you accept, because the document shows it, that this
10 cheque was negotiated in your branch on the 7th June 1989 and you accept if the
11 Flynns say so, it forms part of the lodgment of this account on the 8th June
12 1989?
- 13 A I would accept that.
- 14 Q 869 You have no knowledge that the Flynns although they were premier customers of
15 yours maintained three bonus non-resident accounts at your branch in Castlebar,
16 is that correct?
- 17 A I have no recollection of that.
- 18 Q 870 And it is also your position that it more than likely because of the unusual
19 features of the cheque, it would have been drawn to your attention at the time
20 if you were there but you have no recollection of it being drawn to your
21 attention at the time.
- 22 A Correct.
- 23 Q 871 How is it possible for Mr. and Mrs. Flynn to have maintained these particular
24 accounts at your branch without you, their manager, knowing about it?
- 25 A I may have known about it subsequently or whatever.
- 26 Q 872 You are saying in 1989 you did not know that Mr. and Mrs. Flynn had one of
27 these accounts?
- 28 A That's correct, to the best of my knowledge and recollection.
- 29 Q 873 Okay. At what level of management would a person have been to have opened such
30 an account for Mr. and Mrs. Flynn. Who would have opened it?

1 A Well it would have been again I have to say, you know, myself.

2 Q 874 Yourself.

3 A Yeah. But I'm just saying again I have no recollection of doing it.

4 Q 875 You are not saying you didn't do?

5 A I am not saying I didn't do it I'm under oath here and conscious of that.

6 Q 876 Thank you very much, Mr. Chambers. If you would answer any questions anybody
7 else may have for you.

8
9 CHAIRMAN: Mr. O'Donnell, do you have any questions? Mr. Nesbitt?

10

11 MR. NESBITT: One or two matters.

12

13 **THE WITNESS WAS QUESTIONED AS FOLLOWS BY MR. NESBITT:**

14

15 Q 877 Mr. Chambers, I think you have made a number of statements of fact, just to be
16 certain that you are happy. Could I ask you to look at the form F document.

17 A Yes.

18 Q 878 When did you retire from the bank?

19 A Sorry?

20 Q 879 When did you retire from the bank?

21 A In 1999.

22 Q 880 And this form F document would have happened some time in 1989 through to 1990,
23 is that right?

24

25 JUDGE FAHERTY: 359.

26 A Sorry?

27

28 MR. NESBITT: I think the form F document, it indicates it is an account
29 described as written there, an account in the name of Mr. and Mrs. Flynn with
30 an address.

- 1 A Yes.
- 2 Q 881 I think one of them says it makes a declaration as to a series of facts, is
3 that right?
- 4 A Yes.
- 5 Q 882 Could I ask you to look at those, I don't think you read it before you answered
6 my friend?
- 7 A Sorry, I'm having problems with my hearing.
- 8 Q 883 Could I ask you to look at the form F and I think the first thing is it says "I
9 declare the person who is beneficially entitled to the interest which was paid
10 or credited in respect of the money received or obtained in the above-stated
11 account was not ordinarily resident in the republic of Ireland throughout the
12 year ended 5th April and is not so resident at that date of this notice." So,
13 the piece of information you are learning from this document is the person who
14 is entitled or being paid the interest is somebody who is not resident.
- 15 A Yes.
- 16 Q 884 So, it's not actually making a statement about the names of the account, it's
17 making a statement about the person beneficially entitled to the interest?
- 18 A That's correct.
- 19 Q 885 So it's not correct to say, by looking at that document, that the names on the
20 account are necessarily one and the same as the person beneficially entitled to
21 the interest?
- 22 A That's not saying that, yes.
- 23 Q 886 Very good. And I note that it then says "I request that the interest so paid
24 by credit shall not be included in any return to the inspector of taxes to be
25 made under the above section." Do you know what section is being spoken about
26 there?
- 27 A That's the last paragraph, is it?
- 28 Q 887 The second last paragraph.
- 29 A Under what section is it?
- 30 Q 888 I am asking you that, do you know?

- 1 A I don't know.
- 2 Q 889 It's probably Income Tax Act Section 175 as appears on the heading?
- 3 A Oh right, yes.
- 4 Q 890 Did you have a clear understanding of how deposit accounts operated and deposit
5 interest retention tax operated at the time this document would have been
6 signed?
- 7 A I did, yes.
- 8 Q 891 So you know what was important what was who was beneficially entitled to the
9 interest and not necessarily the name in which the account was opened?
- 10 A Yes.
- 11 Q 892 As I understand it, you have no recollection and can't help this Tribunal as to
12 who might or might not have been the person beneficially entitled to the
13 interest on this account?
- 14 A That is correct.
- 15 Q 893 Largely because you don't have a recollection?
- 16 A Yes.
- 17 Q 894 In relation to the events, you have no reason to doubt what the Flynns are
18 saying, that they received a cheque for 50,000 pounds and going to your bank
19 branch, they caused it to be put into the deposit account that is being
20 referred to by Tribunal?
- 21 A No, I have no reason to -- what was the word?
- 22 Q 895 Doubt.
- 23 A I have no reason to doubt it.
- 24 Q 896 And that's always been your position?
- 25 A Exactly, yes.
- 26 Q 897 You do not know who might be the person who is entitled to the interest on this
27 account?
- 28 A No, I have no idea.
- 29 Q 898 Thank you.
- 30

1 CHAIRMAN: Right. Thank you.

2

3 MS. DILLON: One question arising from what Mr. Nesbitt said.

4

5 **THE WITNESS WAS QUESTIONED FURTHER BY MS. DILLON AS FOLLOWS:**

6

7 Q 899 If I put page 194, Mr. Padraig Flynn accepts that he was the only person who
8 was entitled to the beneficiary of the proceeds of the cheque for 50,000
9 pounds. If you see there at the second last paragraph, this is Mr. Flynn's
10 statement, he says "The cheque was negotiated at Castlebar branch of Allied
11 Irish Banks and I was the only beneficiary of the proceeds."

12

13 Now we know almost beyond all doubt that the 50,000 pounds ended up in the
14 particular account in the name of Dorothy Flynn and Beverly Flynn, isn't that
15 correct, Padraig Flynn, so that means he was the beneficiary of that account,
16 isn't that correct?

17 A Yes.

18 Q 900 And he is certainly saying he was the beneficiary of the proceeds of the bank
19 cheque and you are not disputing what Mr. Flynn says?

20 A No, I am not disputing it.

21 Q 901 Thank you.

22

23 CHAIRMAN: All right. Thank you, Mr. Chambers, thank you very much.

24

25 **THE WITNESS THEN WITHDREW.**

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27 CHAIRMAN: Half ten tomorrow.

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29 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**

30 **FRIDAY, 9TH JULY 2004 AT 10.30 A.M.**

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