

10:09:47 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,**
2 **22ND JULY 2004, AT 10.30 A.M:**

3

4

CHAIRMAN: Good morning.

10:36:13 5

6

MS. DILLON: Morning, sir. Mr. Padraig Flynn please.

7

8

MR. PADRAIG FLYNN, HAVING BEEN SWORN, WAS QUESTIONED AS

9

FOLLOWS BY MS. DILLON:

10:36:26 10

11

CHAIRMAN: Good morning, Mr. Flynn.

12

A Good morning.

13

14

Q 1 MS. DILLON: Good morning, Mr. Flynn. In common with most of the other

10:37:12 15

16

witnesses that have appeared before the Tribunal, can I ask you firstly whether you have provided any of the documentation with which you were supplied by the

17

Tribunal to anybody other than your legal team?

18

A Dia dhuit, no, Mr. Chairman.

19

Q 2 Now, in June or May or June of 1989, Mr. Flynn, you received a cheque for

10:37:33 20

21

50,000 pounds from Mr. Tom Gilmartin and there's no issue in relation to the fact that you actually received the cheque for 50,000 pounds, is that correct?

22

A In May.

23

Q 3 Leaving aside there may be a dispute between yourself and Mr. Gilmartin, as to

24

the date you received the cheque, the first matter I want to deal with is the

10:37:48 25

26

cheque and how it was dealt with when the funds were received by you. So you don't dispute that in May or June of 1989, you received a cheque for 50,000

27

pounds?

28

A Correct.

29

Q 4 Can I have page 379 please? This is a photocopy of a microfiche of the cheque,

10:38:09 30

Mr. Flynn, and I'll come back to deal in more detail with the circumstances in

10:38:13 1 which you received this cheque, but at the moment we are simply going to do in
2 effect, the audit trail in relation to that cheque. Can you confirm first of
3 all that is the cheque that you received from Mr. Gilmartin? A photocopy of
4 the cheque you received.

10:38:28 5 A It probably is but I cannot see any date on it, counsel.

6 Q 5 Yes, well you will --

7 A And I certainly cannot remember that there were these numbers in handwriting
8 written in but it probably is the cheque, yes.

9 Q 6 Do you agree that you got a cheque from Mr. Gilmartin?

10:38:52 10 A Yes, I do.

11 Q 7 Do you agree that the amount of that cheque was 50,000 pounds?

12 A I do.

13 Q 8 You have seen in the documentation that you have been supplied with by the
14 Tribunal Mr. Gilmartin's bank accounts and you will have seen that in June of
10:39:05 15 1989 there was only one debit for 50,000 pounds from Mr. Gilmartin's bank
16 account. Isn't that right?

17 A I cannot recall seeing Mr. Gilmartin's bank account.

18 Q 9 I am going to get the bank account for you, Mr. Flynn.

19 A But I'm prepared to accept that if you have it there --

10:39:23 20 Q 10 It's one of the documents with which you have been circulated, but if you are
21 in any doubt about that, it's at page 382 please, you will have received these
22 documents in January. You will see there that that is an extract from the bank
23 account of Mr. Thomas Gilmartin and I draw your attention to a debit on the
24 12th of June 1989, cheque 35801, 50,000 pounds?

10:39:47 25 A I see that.

26 Q 11 You see that. Now, if we go back then to the cheque at 3754, if we can just
27 have the bank statement back on screen please at page 382. And do you see and
28 do you accept, Mr. Flynn, that the only sum of 50,000 pounds relates to that
29 cheque 35801 in that timeframe?

10:40:26 30 A That is the only cheque on that screen for 50,000 pounds.

- 10:40:30 1 Q 12 I see. Now, if we go back to the cheque at 379 please, when you got the
2 cheque, leaving aside for the moment whatever date you got it, Mr. Flynn, what
3 did you do with it?
- 4 A I do not see 35801 on this cheque.
- 10:40:54 5 Q 13 In fact if you look down at the bottom of the screen, Mr. Flynn, and you look
6 beneath the continuous line at the bottom of the cheque, if you could increase
7 the first numbers please.
- 8 A Well if you say so.
- 9 Q 14 So it would appear?
- 10:41:17 10 A If you say so.
- 11 Q 15 And you don't dispute in any event, Mr. Flynn, that you got 50,000 pounds in a
12 cheque from Mr. Gilmartin?
- 13 A I have said that.
- 14 Q 16 All right. And when you got the cheque for 50,000 pounds, what did you do with
10:41:29 15 it?
- 16 A I took it away with me.
- 17 Q 17 Where did you take it away to?
- 18 A To Castlebar.
- 19 Q 18 And when you got to Castlebar, what did you do with it?
- 10:41:43 20 A Well, I presume that I took it out of my pocket at some stage and I gave it to
21 my wife.
- 22 Q 19 To do what with it?
- 23 A Well she was lodging monies at various times, and I understand that she lodged
24 this cheque as part of a lodgment.
- 10:42:05 25 Q 20 And do you accept that that is part of a lodgment of 53,920, that's lodged to
26 an account in your name and that of your wife's, that was held at Allied Irish
27 Bank in Castlebar, 10000-022 is the number of the account, 4920 please.
- 28 A I see the lodgment, I didn't make the lodgment, but it's probable that it is
29 part of that, yes.
- 10:42:37 30 Q 21 Of the political donations that you received in 1989, was this the biggest?

10:42:44 1 A Yes.

2 Q 22 What was your salary in 1989?

3 A I can't state specifically what it was.

4 Q 23 Page 415 please. This is your balancing statement for 1989-1909, Mr. Flynn,

10:43:02 5 and I want to draw your attention to a figure where it says totals 51,873

6 being -- do you see that figure?

7 A Yes.

8 Q 24 And that is approximately what your annual, I think, salary was in 1989, if we

9 go back then to 4920, and in relation to the cheque of 50,000 pounds, was that

10:43:23 10 the biggest cheque that you had received in 1989?

11 A Yes.

12 Q 25 Right. And in terms of donations or payments that were made to you over your

13 political career, was that the biggest you ever received?

14 A Yes.

10:43:34 15 Q 26 And therefore it would have been a significant event?

16 A Significant amount.

17 Q 27 Significant amount. So, did you know that what account this money was lodged

18 to?

19 A No.

10:43:48 20 Q 28 Right.

21 A At that time.

22 Q 29 If we look at 4920, Mr. Flynn, you see that the account is held in the name of

23 yourself and your wife with an address at 34 Northumberland Road, Chiswick,

24 London?

10:44:03 25 A Yes.

26 Q 30 Can you assist the Tribunal as to how it was the account came to be opened with

27 that address?

28 A I cannot assist the Tribunal.

29 Q 31 Did you ever reside at 34 Northumberland Road, Chiswick, London?

10:44:16 30 A No.

10:44:16 1 Q 32 This is one of what has been described, I think and I think your former bank
2 manager accepted that this is what has been described as one of the bonus
3 non-resident accounts, isn't that right?
4 A You can call it that, it's an external UK account, that's what the name of it
10:44:30 5 is.
6 Q 33 Yes, but in 1989, Mr. Flynn, were you living abroad?
7 A No.
8 Q 34 You were in fact living in Ireland, isn't that right?
9 A Correct.
10:44:38 10 Q 35 And for a substantial portion of that time, you were the Minister for the
11 Environment, isn't that right?
12 A Correct.
13 Q 36 And it is not correct to say that you were entitled to use an address at 34
14 Northumberland Road, Chiswick, London, isn't that correct, also?
10:44:54 15 A I understand from some documentation that you have, that this was not treated
16 as a non-resident account, is that right?
17 Q 37 That's -- you have to answer the questions, Mr. Flynn, in fact I don't think,
18 in fact that that is correct but leaving that aside for the moment, we are
19 dealing first of all with the address that's used on this.
10:45:13 20 A Okay.
21 Q 38 Now, in 1989?
22 A I am not aware of this address.
23 Q 39 You are not aware of that address.
24 A No.
10:45:19 25 Q 40 Did you subsequently tell your accountants that was your wife's address?
26 A No.
27 Q 41 At any stage?
28 A Never.
29 Q 42 If we could have 359 please. This is the form F, Mr. Flynn, and I draw your
10:45:43 30 attention first of all to the account number at the top of this document

10:45:47 1 relates to the account number into which the 53,000 pounds -- 53,920 pounds was
2 lodged. Do you see that?
3 A Yes.
4 Q 43 You see there it sets out description of accounts and it says "deposit accounts
10:46:00 5 in the names of Mrs. Dorothy Flynn and Padraig Flynn, 34 Northumberland Road,
6 Chiswick, London". Do you know whose handwriting it is?
7 A No.
8 Q 44 Do you see the two signatures at the bottom?
9 A I do.
10:46:14 10 Q 45 Do you see one of those is your signature?
11 A I do.
12 Q 46 Did you sign the document?
13 A Obviously.
14 Q 47 Can you outline to the Tribunal the circumstances in which you came to make
10:46:24 15 that declaration?
16 A I cannot recall the circumstances.
17 Q 48 What purpose could there have been for you signing such a form?
18 A I cannot say that is my signature.
19 Q 49 Are they two sentences? "I cannot say. That is my signature." Is that what
10:46:44 20 you are saying? You are confirming it's your signature, but other than that
21 you can't assist the Tribunal?
22 A Yes. I can't remember when that document placed before me and I can't remember
23 the time or the circumstances.
24 Q 50 Reading it there now, Mr. Flynn, can you say what the purpose of the document
10:46:59 25 is?
26 A It says "The person who is to be the beneficial entitler to the interest was
27 not ordinary resident in the Republic of Ireland during the year 5th April",
28 but there's no date.
29 Q 51 What is the effect of the document, Mr. Flynn?
10:47:22 30 A The effect of such a document would be, to have an external account and the

10:47:27 1 beneficial of interest of it, it should be paid to somebody who is a
2 non-resident for a particular year but there is no date on this particular
3 document. That is my signature.

4 Q 52 And at page 4860, you will see that the bank have told the Tribunal that that
10:47:46 5 form was signed sometime between the 6th April 1989 and the 5th April 1990.

6 A I cannot dispute that, but I doubt if it's true.

7 Q 53 Can you assist at all, if we go back to 359, as to why you would have signed
8 this document at all?

9 A I cannot say.

10:48:03 10 Q 54 Well can I --

11 A Certainly it was not signed by me in '89 or '90.

12 Q 55 But it was signed by you at sometime?

13 A That is my signature.

14 Q 56 Yes. And if we go back to page 360 to the account opening?

10:48:23 15 A Sorry, could I have the other document again that you put up -- that's on the
16 back?

17 Q 57 4860 please. You will see it says commencing on the 5th April --

18 A I can read it.

19 Q 58 Interest was paid gross on the account in accordance with non-non-resident
10:48:46 20 status.

21 A Yeah. It did not have non-resident status, it says.

22 Q 59 Sorry.

23 A And DIRT was deducted from it.

24 Q 60 Prior to the 5th April 1990, Mr. Flynn?

10:48:58 25 A Quite right.

26 Q 61 The account did not have resident status and from the 12th February '86 to 5th
27 April 1989 DIRT was deducted commencing on the 5th April 1990, interest was
28 paid gross on the account in accordance with non-resident status?

29 A That's right, the important thing I see here is, that it did not have the
10:49:15 30 resident non-resident status and DIRT was deducted from that account.

10:49:21 1 Q 62 Up -- and then commencing on the 5th April 1990 --

2 A Yes.

3 Q 63 And now that we are on the subject?

4 A Let's not be selective.

10:49:29 5 Q 64 Let's just confirm the date on which you became Commissioner, Mr. Flynn?

6 A 4th January 1993.

7 Q 65 I see. So between the 5th April 1990 and January 1993, can you confirm that

8 you had in fact resident status within the Republic of Ireland?

9 A Yes, I had.

10:49:45 10 Q 66 If we go back then to the account opening documentation at page 360 please,

11 this document is dated the 12th of February of 1986, and the document is signed

12 by Dorothy Flynn, who has confirmed her signature but who, if I may summarise

13 her evidence cannot recollect the circumstances in which she came to sign this

14 document.

10:50:09 15 I want to draw your attention again to the fact that the address that's

16 provided on the document is 34 Northumberland Road, Chiswick, London, and the

17 account is described as an external account, UK deposit. Can you assist the

18 Tribunal as to why it was decided to open the account in that way?

19 A I have no recollection of seeing this document.

10:50:32 20 Q 67 That's not the question I asked you, Mr. Flynn. This is your account, you are

21 one of the holders of this account, I'm asking you why it was, that it was

22 decided to open the account in this way.

23 A I have no idea, I did not open the account.

24 Q 68 So the position then is both yourself and your wife, Ms. Dorothy Flynn were the

10:50:50 25 only account holders on this account, is that correct?

26 A Yes.

27 Q 69 Is that correct?

28 A Yes.

29 Q 70 And both of you who are involved in either running the account or who had the

10:51:07 30 beneficial interest in the account or entitled to the proceeds of the account,

10:51:10 1 neither of you can assist the Tribunal as to why it was opened with an English
2 address or why it was given the designation external account UK deposit?
3 A I did not open the account. So how could I assist you as to how --
4

10:51:24 5 CHAIRMAN: Sorry, Mr. Flynn, you have an obligation to assist the Tribunal and
6 we can sit here for hours going through this in meticulous detail. Surely you
7 were aware of the account, you were aware that it wasn't opened by you, it was
8 opened by your wife, you were aware that there was a UK address on the account?
9 A Mr. Chairman, I was not aware that my wife had opened this account and when I
10 became aware of it in the '90s, I asked my wife to have the account closed.
11

12 CHAIRMAN: Did you ever get statements from --
13 A Not that I can remember, no.
14

10:52:06 15 CHAIRMAN: And when you were asking your wife to make a lodgment to the
16 account of the 50,000, did you specify to her the account?
17 A Chairman, sorry for intruding, I did not ask my wife to make a lodgment to this
18 account.
19

10:52:19 20 CHAIRMAN: When you gave her the 50,000 pounds cheque?
21 A Yes.
22

23 CHAIRMAN: Did you ask her to lodge to the account -- or did you ask her to
24 lodge the money?
25 A I can't recall whether I specifically said lodge this, these cheques but I did
26 not ask her specifically to lodge it to any particular account. My wife is in
27 the habit of lodging cheques and other monies to --
28

29 CHAIRMAN: Did you give it her for the purpose of lodging it to one of your
10:52:48 30 accounts?

10:52:48 1 A I would not have specifically said that, it would have been together with other
2 money and she would have lodged as she did in the usual way.
3
4 CHAIRMAN: And are you telling the Tribunal that you didn't know what account
10:52:55 5 she was going to lodge the money to?
6 A That's what I have said to you, Mr. Chairman.
7
8 CHAIRMAN: And are you telling the Tribunal that you didn't know the existence
9 of this account?
10:53:03 10 A I am telling you that, Mr. Chairman.
11
12 CHAIRMAN: And that you never --
13 A Until later. I did know of the existence of these accounts in the 1990s.
14
10:53:11 15 CHAIRMAN: And did you get bank statements of other accounts at that time like
16 any other normal bank customer would receive statements?
17 A Well, Mr. Chairman, if they came, I can assure you that I wasn't paying a lot
18 of attention to them, I was busy at other things.
19
10:53:28 20 CHAIRMAN: Mr. Flynn, it's a simple question, did you receive as any other
21 bank customer would normally do, did you receive statements from your bank?
22 A Not that I'm aware of. On this account, not that I'm aware of.
23
24 CHAIRMAN: So is it still your evidence that you were unaware that this
10:53:47 25 account existed?
26 A Yes.
27
28 CHAIRMAN: And did you ever --
29 A At that time.
10:53:51 30

10:53:51 1 CHAIRMAN: Did you ever, well at that time did you wonder what had happened to
2 the 50,000 it wasn't appearing on other statements?
3 A No.
4

10:53:59 5 CHAIRMAN: And you never asked your wife what did you do with the 50,000?
6 A Why would I?
7

8 CHAIRMAN: Because it wouldn't have been appearing, you say that you received,
9 you say that you would have received statements for your other accounts as
10:54:12 10 would be normal practice.
11 A The only statements --
12

13 CHAIRMAN: But you didn't receive a statement.
14 A The only statement that I would regularly see, would have been my current
10:54:22 15 account.
16

17 CHAIRMAN: Yes. So did it strike you that the 50,000 pounds wasn't appearing
18 on your ordinary account?
19 A No.
10:54:33 20

21 CHAIRMAN: And what did you think had happened to it?
22 A Well, we didn't discuss it as such. I knew that I had given it to my wife, I
23 knew she had lodged it, we had several accounts.
24

10:54:46 25 CHAIRMAN: That was a cheque now which equalled your gross annual income.
26 A Yes.
27

28 CHAIRMAN: On which tax was not going to be paid. Because you believed it to
29 be a political contribution.
10:54:59 30 A That's true.

10:55:00 1
2 CHAIRMAN: And yet it never struck you to ask your wife, what did you do with
3 the 50,000 pounds?
4 A No, I did not ask my wife that question. And you are quite right when you say
10:55:13 5 that I understood at the time, that because it was a political contribution, it
6 would be tax-free but of course subsequently as you know, the tax was paid on
7 it.
8
9 CHAIRMAN: Yes, but just taking the -- your position was that it was a
10:55:30 10 political contribution but what I find puzzling is that you never asked your
11 wife to whom you had given the 50,000 pounds cheque, where did you put it?
12 This was presumably was to be used for political expenses
13 A Yes, quite so. Quite so.
14
10:55:49 15 JUDGE KEYS: Sorry, Mr. Flynn, could I ask you one thing also, the Chairman
16 was asking you some questions. Are you saying that you didn't open the account
17 and that your wife didn't open this account, is that correct?
18 A No, no.
19
10:56:01 20 JUDGE KEYS: What are you saying?
21 A I did not open this account.
22
23 JUDGE KEYS: Did you find out who opened the account?
24 A Yes.
10:56:07 25
26 JUDGE KEYS: And who do you say opened the account?
27 A I understand from my wife that she opened the account. Yes, in 1986 I think.
28
29 JUDGE KEYS: Okay, thank you.
10:56:19 30 A I became aware of it of course, Mr. Keys.

- 10:56:26 1
- 2 Q 71 MS. DILLON: Did you tell your accountants that the address in Chiswick was
3 your wife's London address?
- 4 A No.
- 10:56:33 5 Q 72 Could I have page 4919 please. I draw your attention, this is a record made by
6 your accountants, Mr. Flynn, in dealing with your affairs and if you see there
7 item number 10, external account, it says "Deposit, 10000 022, that's the
8 account we are talking about, AIB Castlebar, opened 1988, closed 1991, address
9 in London, wife's London address."
- 10:57:03 10 Did you provide that information to your accountants?
- 11 A No.
- 12 Q 73 And are you saying that that is in fact is a fabrication?
- 13 A I am not saying anything of the sort.
- 14 Q 74 You are saying you didn't provide that information to your accountants?
- 10:57:14 15 A Quite so.
- 16 Q 75 In the document then notes "50,000 pounds gift went into this."
17 I'm just drawing to your attention that's noted on the document by your
18 accountants?
- 19 A I think to be clear from what that says, counsel, address in London, wifes plus
10:57:33 20 London address.
- 21 Q 76 It says wifes, W-I-F-E-S, asterisk, London address. I just draw to your
22 attention that that was a note made by your accountants in connection with the
23 address associated with this external account, in the light of your evidence
24 that you had never suggested to anybody that it was your wife's London address.
- 10:57:57 25 A Then I suggest to you now, without being too selective, counsel, that if you
26 look at this in a different way, address in "London, wife's."
- 27 Q 77 With the greatest of respect, Mr. Flynn, I don't wish to argue with you, it
28 does not say address in London, it says "wife's London address".
- 29 A As you wish.
- 10:58:18 30 Q 78 And beneath that it says 50,000 pounds gift went into this. And beneath it

10:58:23 1 says "then bought foreign units with this and 10K addition", isn't that
2 correct?
3 A That's what it says.
4 Q 79 And that would be a reference to the purchase of Unit Trusts that were made of
10:58:34 5 25,000 pounds in November of 1989 through your daughter, Beverly Cooper Flynn,
6 is that correct? And a subsequent investment in July of 1990 of 10,000 pounds?
7 A There were investments at that time, yes.
8 Q 80 We'll come to deal with those individually. We'll go back to deal with the
9 initial lodgments in relation to the account at 4920. Can I ask you, sorry, I
10:59:00 10 beg your pardon, yes, can I have, sorry I beg your pardon, 4862.
11
12 There are a series of lodgments to that account, this is the initial
13 utilisation of the 022 account, Mr. Flynn, and you will see there that there is
14 a lodgement, two lodgments in February of 1987, one of 3,345 and one of 9,780
10:59:30 15 pounds, do you see that?
16 A Yes.
17 Q 81 And do you see further down on the 20th October 1987 there's a lodgement of
18 1,000 pounds.
19 A Yes.
10:59:46 20 Q 82 And if we go continue with the account and we go to page 363. You see that in
21 August of 1988, there's a lodgment of 10,000 pound and there's some other
22 smaller lodgments but there is a lodgment of 10,000 pounds, do you see that?
23 A Yes.
24 Q 83 And if we go to page 4920, you will see there is the lodgment of 53,920, there
11:00:14 25 is then a lodgment of 10,090, there's a lodgment of 1,050, a lodgment of 3,320
26 and a lodgment of 2,275, do you see that?
27 A Yes.
28 Q 84 The total amount of those lodgements, and I'm sure Mr. Madden will correct me
29 if I'm wrong, to that account between the 10th February 1987 and the 23rd June
11:00:35 30 1989 is 94,230 pounds, do you accept that?

11:00:40 1 A If you say so.

2 Q 85 Now, you were asked by the Tribunal to identify the source of those lodgments,
3 all of those lodgments individually, is that correct?

4 A Yes.

11:00:51 5 Q 86 Can you outline to the Tribunal the source of all of the lodgments, leaving
6 aside Mr. Gilmartin's 50,000 pounds and if we go back to page 4862 please and
7 we start there.

8

9 Can you assist the Tribunal as to the source of the lodgment of 3,345 pounds on
11:01:15 10 the 10th February 1987.

11 A I may have given this information by way of reply to the Tribunal.

12 Q 87 In order to assist you, Mr. Flynn, I can draw to your attention that initially
13 when this matter was raised on the 4th of May 2000 by the Tribunal, at pages
14 304 to 309, your solicitor replied on the 4th July 2000 at 315 to 331 in which
11:01:40 15 he indicated, that a number of these were political donations. But the answer
16 in fact that you gave in relation to the 10th February 1987 in your first
17 response, was that it was an election contribution, page 322 please. You see
18 there the very first lodgment to that account, the explanation is:
19

11:02:07 20 "Our clients believe the funds are likely to represent an accumulation of
21 election funds". Do you see that?

22 A Yes.

23 Q 88 However, on the 8th November 2000 at page 336 please, your solicitor informed
24 the Tribunal that that explanation was in error and said:

11:02:28 25

26 "In in our letter of the 4th July, we advised that certain lodgments amounts
27 were likely to represent accumulation of elections contributions received by
28 our client. That response was erroneous and does not conform with instructions
29 received. Our client is unable to provide a detailed break down of the
11:02:47 30 lodgment figures in the absence of any records of same. Our client does not

11:02:51 1 suggest that the lodgement amounts concerned consisted election contributions
2 only. He does believe that there are some election contributions may be
3 included in the lodgment figures. Our client does not accept and formally
4 rejects any suggestion that he received election contributions during the
11:03:04 5 period at a level of 110,000 pounds".
6

7 So, following that correspondence where the matter rests up to today,
8 Mr. Flynn, is that insofar as each of these lodgments are concerned, the
9 Tribunal has no explanation from you as to the source of the funds and if we go
11:03:14 10 back to the bank statement at 4862 please, and in relation to the first two
11 lodgments that are recorded there in February 1987, the first explanation you
12 gave was that they were probably election contributions and then your
13 solicitors changed that position presumably on foot of your instructions. So
14 the question I'm now asking you in relation to the money that was lodged to
11:03:41 15 this external accounts, what is the source of those funds?

16 A Well I cannot assist you any further.

17 Q 89 I see. Insofar as the sum of 1,000 pounds on the 20th October is concerned,
18 the explanation that you originally gave in relation to that was, not that it
19 was political contribution but that you did not know. And is that still the
11:03:56 20 position?

21 A I see no reason for changing my mind, I'm telling the truth.

22 Q 90 I see. And if we move to page 363, you will see on the 9th August 1988, there
23 is a lodgment of 10,000 pounds and when you were asked to account for that,
24 your explanation was that you did not know, is that still the position?

11:04:17 25 A Correct.

26 Q 91 And insofar as the 8th June 1989 is concerned, and the lodgment of 53,920
27 pounds, at page 4920 please, you now accept that the sum of 53,920 pounds
28 includes Mr. Gilmartin's cheque for 50,000 pounds but you cannot account for
29 the balance, is that correct?

11:04:39 30 A I have said that, that's probably true.

11:04:42 1 Q 92 And insofar as the sum of 10,090 pounds is concerned on the 13th June, is it
2 the position that you cannot account for those funds?
3 A I think that they are probably an accumulation of political contributions and
4 other cash. I mean, I have kept no records of these matters.

11:05:01 5 Q 93 And insofar as the lodgment on the 15th June 1989 is concerned, in the sum of
6 3,320 pounds, can you identify the source of those funds?
7 A Probably an accumulation of election contributions at that time.

8 Q 94 And insofar as --
9 A The same applies to the next one.

11:05:22 10 Q 95 And the next one?
11 A I think so. No, the next one is interest earned.

12 Q 96 The next one is the 23rd June 1989, 2,275 pounds?
13 A Yes.

14 Q 97 And is it the position as was stated on your behalf in a letter on the 23rd of
11:05:35 15 January 2001 to the Tribunal, that insofar as political donations are
16 concerned, you have no records, you do not know the amounts, you do not know
17 the dates, you do not know whether they were paid by cheque or by cash and you
18 do not know who the donors were, and they were lodged either to Allied Irish
19 Bank or they were retained in cash?

11:05:55 20 A You have asked a lot of questions there. I do not have any records. Some
21 political contributions were made by cheque, some were made by cash. But I do
22 not have any records as to who gave the money.

23 Q 98 Just to make sure I'm accurate in what I was putting to you, Mr. Flynn, can we
24 have 524 please, followed by 525. This is a letter by your solicitor,
11:06:26 25 presumably on your instructions to the Tribunal in relation to the records that
26 you kept in relation to political donations. And if we move on to the next
27 page please at 525 I think is the relevant page:
28
29 "With reference to the Tribunal's request for details of political donations in
11:06:45 30 excess of 1,000,000 pounds, we are instructed to advise that our client did not

11:06:50 1 create or maintain any records of donations so received at any time including
2 the period under inquiry. The only records in their possession were acquired
3 subsequent to the event, were those disclosed in the affidavit of discovery
4 detailed at paragraph A on page 2". And that I think, Mr. Flynn, refers to a
11:07:03 5 payment from National Toll Roads and a payment from Davy Stockbrokers, is that
6 correct?
7 A That's right.
8 Q 99 "our clients do not recollect the amounts of donations received, our clients do
9 not recollect the dates of receipt of donations. Our clients do not recollect
11:07:17 10 the manner of payment of donations, as to whether they were paid by cheque or
11 in cash. They advise that donations received were either in cheque form or in
12 cash. Our clients cannot recollect the identity of the donors, save those
13 disclosed in the affidavit. We are instructed that donations received were
14 either lodged to bank accounts with Allied Irish Banks or alternatively
11:07:32 15 expended in cash." Is that correct?
16 A That's correct.
17 Q 100 That would mean in relation to the to as far as the last statement is
18 concerned, that the monies that are lodged to bank accounts are a smaller
19 figure than the figure actually received.
11:07:46 20 A Yes, one -- you could see that say.
21 Q 101 Is that correct?
22 A You have stated that.
23 Q 102 I am saying based on what your solicitor stated on your behalf in that letter
24 and if you wish to change it, please do so?
11:07:57 25 A As long as we understand each other, counsel, that some political contributions
26 were made by cheque and some were made by cash. Some were lodged by cheque and
27 by cash, others were retained.
28 Q 103 And expended in cash?
29 A Yes.
11:08:13 30 Q 104 As you have stated?

11:08:14 1 A Yes.

2 Q 105 Your solicitor has stated in the letter, I want to be clear on this, Mr. Flynn,
3 the paragraph states "We are instructed that donations received were either
4 lodged to banks accounts with AIB or alternatively expended in cash. So they
11:08:30 5 were either lodged or spent?

6 A Or kept.

7 Q 106 I see, I'll just draw to your attention --

8 A Sorry, is that what you wanted to hear.

9 Q 107 No, Mr. Flynn, I am asking you is that the position as stated by your solicitor
11:08:41 10 on your behalf?

11 A Lodged, spent or retained.

12 Q 108 I see. Now, insofar as that account is concerned then, the position is that
13 you are not in a position to say other than where political donations have been
14 identified to you, insofar as the account 10000-022 is concerned, what the
11:09:02 15 source of the funds are, is that correct?

16 A Other than has been stated.

17 Q 109 So that the funds in question that you do know the source of is Mr. Gilmartin's
18 50,000 pounds?

19 A Yes, and the other particulars.

11:09:14 20 Q 110 We'll come to deal with the accounts in which the National Toll Roads funds
21 were lodged because it doesn't appear it was lodged to this account. Now, I
22 think you maintained a separate account also, Mr. Flynn, to a joint account
23 together with your wife Dorothy Flynn, page 4855 please, this is a second
24 account that's described as external deposit account, the number of on this one
11:09:48 25 is 09620-053 the address that's provided is 34 Northumberland Road, Chiswick,
26 London. The account is opened on the 14th of August 1985 and the lodgment
27 under inquiry at page 375 from the Tribunal is a lodgment of 3,092.78.
28

29 And I'll come to the inquiry in relation to that. Can I ask you is the
11:10:14 30 position in relation to this second external deposit account the same as the

- 11:10:20 1 other account that we looked at, Mr. Flynn?
- 2 A Correct.
- 3 Q 111 Right. So that you had nothing to do with the opening of the account and did
4 not know until relatively recently that such an account had been opened.
- 11:10:29 5 A Well, correct in the first point and relatively recently incorrect.
- 6 Q 112 And when did you find out that this was an external deposit account with an
7 address in Chiswick?
- 8 A I think sometime in the early '90s, I can't be precise. When I became aware of
9 it anyway, sometime in the 1990s, early '90s, perhaps closer to when I went
11:10:56 10 abroad but I can't be precise.
- 11 Q 113 Do you remember who your, who were the people who made you political donations,
12 as opposed to having a record of them?
- 13 A I suppose --
- 14 Q 114 Did you remember National Toll Roads before National Toll Roads wrote to you
11:11:21 15 and reminded you they paid you 8,000 pounds?
- 16 A I think I remember getting that political donation. I got political
17 contributions at various times from my family and my relations, my supporters,
18 a lot from my supporters, yes.
- 19 Q 115 The question I asked you is, did you remember that National Toll Roads made a
11:11:54 20 political donation to you before National Toll Roads contacted you to remind
21 you that they had made you a political donation?
- 22 A I presume I did.
- 23 Q 116 Let's look at the sequence, page 444 please. I'll be coming to deal with this
24 account in a moment in more detail, Mr. Flynn, but this is your third UK
11:12:17 25 external deposit account and when it was opened, it had an address in Chiswick,
26 you see from the bottom part of the page. What I want to draw your attention
27 to is a lodgment on the top of the page at 444 of 8,000 pounds on the 4th
28 January 1993.
- 29 A Yes.
- 11:12:33 30 Q 117 Do you see that lodgment? Do you see that lodgment?

11:12:39 1 A Yes, now I do, yes.

2 Q 118 Now by letter dated the 4th May 2000, in connection with that lodgment, the
3 Tribunal asked you to identify the source of the funds at page 307. You will
4 see the sum of 8,000 pounds at the top of the page, do you see that sum of
11:13:02 5 8,000 pounds?

6 A Yes.

7 Q 119 Mr. Flynn?

8 A Yes.

9 Q 120 And if you go back to the previous page at 306, you were asked insofar as the
11:13:17 10 following schedule of lodgments are concerned, please provide the following
11 information. Please provide full and detailed particulars including
12 documentation in respect of the bank lodgments set out hereunder and 2 in each
13 case identify the source of the funds comprising each such those lodgements".
14

11:13:31 15 So you could see what you were being asked to do, isn't that right? Identify
16 the source of the funds?

17 A Yes.

18 Q 121 Now, your reply, through your solicitors is dated 4th July 2000 at 324 and it's
19 item number 11, and it relates to a lodgment of 8,000 pounds on the 4th January
11:13:49 20 1993.
21

22 "It is believed that this lodgment may represent an accumulation of political
23 contributions. Our clients have no documentation in respect of same and cannot
24 identify the sources of same."

11:14:00 25 A That's right.

26 Q 122 So now, is the position what you have stated a few moments ago, it's your
27 belief you had always identified sum of 8,000 pounds as being sourced to
28 National Toll Roads to the Tribunal. In the light of that exchanges of
29 correspondence, do you now accept in fact certainly as of the 4th July 2000,
11:14:14 30 you were not in a position to identify National Toll Roads as being the source

11:14:18 1 of those funds?

2 A Well, I regard that in support of what I said to you previously that I kept no
3 record, Mr. Chairman.

4 Q 123 Sorry you don't --

11:14:26 5 A I kept no record, Mr. Chairman, of political contributions received. So what
6 more can I say.

7 Q 124 You missed the point, Mr. Flynn?

8 A No. I don't miss the point, I know exactly what you are asking and I'm going to
9 come to it.

11:14:39 10 Q 125 Right.

11 A And as a consequence, the same applies here. I have to tell you, Mr. Chairman,
12 I didn't pay that much particular attention to political contributions I got
13 but certainly if that represents what was given in that one, that's fine by me.
14 I accept the documentation but I want to tell you that I didn't, every
11:15:03 15 contribution I got over 30 years, I didn't write it into a little black book or
16 anything like that. So I can't assist you in that way, you can forensically
17 examine these things and match up documentation and I have no problem with
18 that, but don't be asking me to remember something 15, 16, 17, 20 years ago
19 when I didn't keep a record of it. If I had a record, then you would have had
11:15:28 20 it.

21 Q 126 What I'm asking you, Mr. Flynn, is that in the light of your previous response
22 not seven minutes ago to the Tribunal that you had disclosed National Toll
23 Roads as being a donor of funds to you from the start, as it were --

24 A No, no, you asked me. Sorry now, you asked me had I received a contribution
11:15:45 25 from National Toll Roads and I said yes.

26 Q 127 And I asked you had you disclosed that from the time you were first asked?

27 A I said yes, if this is it, then in accordance with the documentation, I accept
28 what you are saying, but don't ask me to be specific on the date because I
29 didn't take it and write it in a book.

11:16:03 30

11:16:03 1 CHAIRMAN: But Mr. Flynn, surely you would remember a very substantial
2 donation of 8,000 pounds from a well known company in 1993?
3 A Well, I don't want to seem to be argumentative with you, Mr. Chairman, but
4 there are lots of money and cheques that you could put in front of me over the
11:16:31 5 last 20 years, and I would neither recognise them, what they were or what they
6 were for and I am not asking you to say the same in your situation but you
7 know --
8
9 CHAIRMAN: Surely this would stick out, I can understand what you say in
11:16:47 10 relation to smaller ones.
11 A It sticks out now, yes it sticks out now.
12
13 CHAIRMAN: Even then would it not --
14 A Because you get a letter to say it and you put up it here, yes and I say yes to
11:16:59 15 that, but don't say to me you have got 500 or 1,000 from somebody. I mean --
16
17 CHAIRMAN: Forget about the 500, we are talk being 8,000 pounds. So it must
18 have ranked as one of the largest.
19 A Oh, yes of course.
11:17:14 20
21 CHAIRMAN: Largest donations you ever got
22 A That's quite true.
23
24 CHAIRMAN: And I have to suggest to you, whether it's 10 years or 30 years,
11:17:21 25 it's something one might be expected to remember.
26 A Well I wanted to tell you in answer to that, Mr. Chairman, had I that quick
27 reflection on this particular one and the documentation that your counsel put
28 before me now, when I was asked to make the reply through my solicitor, then it
29 would have been confirmed to you without a problem.
11:17:41 30

11:17:41 1 JUDGE FAHERTY: But going back to the general question, Mr. Flynn, would you
2 not have mentally filed away the fact that you got 8,000 from National Toll
3 Roads for the next election?
4 A Well --

11:17:52 5
6 JUDGE FAHERTY: You are a politician, that was your career and politicians need
7 contributions, we hear. Would you not simply have remembered that and said
8 well, next time round, since I got it from them back in 1993, perhaps I will be
9 looking for it sometime in the future.

11:18:08 10 A No, a breitheamh, because I never asked them for it. I never asked for a
11 political contribution in my life, a breitheamh. Now, let's be clear about it.
12 I did ask for contributions for the Fianna Fail party throughout my whole life,
13 but I never personally asked anybody for a political contribution in my life.
14

11:18:35 15 JUDGE FAHERTY: Assuming you didn't ask, would you not simply have filed away
16 the knowledge that you received 8,000 from National Toll Roads perhaps in
17 anticipation that when the next election would come around, that you might
18 receive another sum from the same source?
19 A I want to tell you this much, you don't anticipate anything in politics.

11:18:56 20
21 JUDGE KEYS: Mr. Flynn, I wonder could I ask you, do politicians acknowledge
22 political contributions generally?
23 A Sometimes, yes, Judge.
24

11:19:05 25 JUDGE KEYS: Does it depend on the size of the contribution?
26 A No.
27

28 JUDGE KEYS: That would dictate whether they would acknowledge them?
29 A No, Judge. If one got a contribution and one was asked for a receipt or an
11:19:22 30 acknowledgement, then one would certainly, I feel be obliged to do it.

11:19:27 1
2 JUDGE KEYS: But did you acknowledge the contribution of 8,000 pounds
3 A No.
4
11:19:32 5 JUDGE KEYS: Why not, out of general good manners in itself and expressing
6 gratitude?
7 A Well, the way I put it to you is like this, if they had asked for an
8 acknowledgement, they would have got it.
9
11:19:48 10 JUDGE KEYS: No but -- if somebody gives you a present for example, general
11 courtesy would expect you to thank you very much for the present. If somebody
12 hands you 8,000 pounds as a political donation, are you telling me that it was
13 the trend at the time that you just didn't bother write to the person and say
14 thank you very much for the contribution?
11:20:10 15 A Well, I certainly can't recall sending any acknowledgement or receipt to
16 National Toll Roads.
17 There were occasions, I have to say to you write right, judge, that I got
18 contributions and I would meet the person or the persons, some time later, not
19 necessary in the immediate aftermath and express my thanks for their support
11:20:34 20 and indeed on occasions I do believe that I wrote notes of thanks to
21 individuals and organisations or groups or whatever. But I can't specifically
22 recollect that I wrote anything in this instance.
23
24 JUDGE KEYS: Of course written acknowledgements creates a record, is that
11:20:49 25 correct?
26 A Well only if the person received --
27
28 JUDGE KEYS: Does written acknowledge create a record?
29 A I suppose it does, it depends how the letter is written, doesn't it Judge?
11:20:59 30

11:20:59 1 JUDGE KEYS: Therefore if you don't give written acknowledgements, there's no
2 record, is that correct?
3 A But there is, judge.
4

11:21:05 5 JUDGE KEYS: Where is the record?
6 A You have it here in front of you. You have it here in front of you.
7
8 JUDGE KEYS: Just the cheque alone?
9 A Well I mean the cheque, with all due respects, a cheque is a written
11:21:17 10 acknowledgement.
11
12 JUDGE KEYS: What happens if it's cashed?
13 A Well if it's cash.
14

11:21:22 15 JUDGE KEYS: And you don't write a written acknowledgement, there's no record
16 of it is there?
17 A There's no record, no.
18
19 JUDGE KEYS: Thank you.

11:21:30 20
21 Q 128 MS. DILLON: If we say with this donation from National Toll Roads for the
22 moment, Mr. Flynn, because first of all, it's clear from the explanation that's
23 provided by your solicitor on your instructions on the 4th July 2000, that you
24 do not identify National Toll Roads as being the source of the 8,000 pounds, do
11:21:49 25 you see that from the screen in front of you?
26 A I see that that is what is suggested here, but what I'm saying to you, counsel,
27 is that I did receive that political contribution and if I forgot about it and
28 only said it was included in others, then so be it but if you say to me now
29 that's it, I have no problem in in accepting your point of view.

11:22:17 30 Q 129 Sorry what I'm putting to you, Mr. Flynn, is that in the extract that's on

11:22:21 1 screen, that's written by your solicitor on foot of your instructions in
2 relation to a sum of 8,000,000 pounds, you do not identify National Toll Roads
3 as being the source of the funds, is that correct?
4 A That is correct.

11:22:32 5 Q 130 Now let us see what you did, with the money from National Toll Roads,
6 Mr. Flynn. Can you recollect what you did with it?
7 A No.
8 Q 131 If you look at what you say was done with it on the screen. You say these
9 funds were lodged on this date were withdrawn on the 4th March 1993, and lodged
11:22:54 10 to a joint deposit account number IF1274-012 with Dail gratuity of 36,000 on
11 the 4th March. Do you see that?
12 A I do.
13 Q 132 Now, if we just have page 4942, we see the sum of 44,000 pounds, 4942 being
14 lodged to that account, isn't that correct, again that's a joint account?
11:23:15 15 A Correct.
16 Q 133 And then if we go to 4943, we see that the sum has increased somewhat and we
17 see that there is a withdrawal of 25,000 pounds on the 22nd July 1993, is that
18 correct?
19 A Yes. That's on the sheet.
11:23:36 20 Q 134 It's on the sheet. What did you do with that 25,000 pounds?
21 A I can't tell you exactly now. Did I write something about that through my
22 solicitor?
23 Q 135 You provided the Tribunal with documentation?
24 A I mean that 44,000 as I told you was a gratuity and as it was made up, that was
11:24:03 25 to the best of my recollection. You are asking me to remember things quite
26 some time ago, in a very busy time of my life. And I did it to the best of my
27 recollection. And apart from that, I'm sorry. I can't be of assistance to
28 you.
29 Q 136 Just take it in stages. You are quite correct, Mr. Flynn, that 8,000 pounds
11:24:26 30 was withdrawn from your external deposit account, page 444 please, in March of

- 11:24:32 1 1993. You see there you see the lodgment of 8,000 pounds?
- 2 A Yes, I do.
- 3 Q 137 That is the National Toll Roads 8,000 pounds, Mr. Flynn apparently, you see
- 4 there's a withdrawal in March of 1993, do you see that, of 8,000 pounds? You
- 11:24:52 5 see 4th March 1983 withdrawal 8,000,000 pounds, do you see that?
- 6 A Yes.
- 7 Q 138 In your explanation, you said that was added to your Dail gratuity of 36,000
- 8 pounds and it formed a lodgment of 44,000 pounds to the account that we see at
- 9 4942. Is that right?
- 11:25:11 10 A That is my recollection. If that's what I said, that's my recollection.
- 11 Q 139 And then there's a withdrawal at 4943 of 25,000 pounds out of those funds.
- 12 4943. So now we know that the lodgment of 44 includes National Toll Roads
- 13 money, there's a lodgment of 25,000 pounds there, and do you recollect, I beg
- 14 your pardon, there's a withdrawal, do you recollect what you did with the
- 11:25:40 15 25,000 pounds withdrawal on the 22nd July 1993?
- 16 A Not at the moment, no.
- 17 Q 140 4944 please. In documentation you have provided to the Tribunal in relation to
- 18 transactions on that latter account, you will see in relation to the withdrawal
- 19 of the 22nd July 1993, do you see that? It says deposit 26 Burley Court?
- 11:26:02 20 A Yes.
- 21 Q 141 Did the 25,000 pounds provide a deposit for 26 Burley Court?
- 22 A Obviously it did if that's what it says.
- 23 Q 142 And were the subsequent withdrawals that were made on that account utilising
- 24 the balance of the 44,000 pounds, did they assist in concluding the sale of
- 11:26:18 25 Burley Court?
- 26 A They may have had. I know that we purchased that address, that was obviously
- 27 the deposit for it and there would have been other expenditure attached as well
- 28 but I can't be specific insofar as that is concerned. What are you asking
- 29 about it anyway?
- 11:26:46 30 Q 143 I'm asking you Mr. Flynn how it is on your explanation that what you described

11:26:50 1 as a political donation of 8,000 pounds for National Toll Roads comes to be
2 utilized in paying a deposit on an apartment in Burley Court if it's a
3 political donation?
4 A Well if it's a political donation, what was the remaining balance in the
11:27:03 5 account?
6 Q 144 The account we have just seen was, there was 44,000 pounds odd in the account
7 before the 25 was taken out?
8 A Then the eight was not part of the deposit for the apartment.
9 Q 145 How do you work that out, Mr. Flynn?
11:27:18 10 A Well quite simply. If you have 44,000 in the account and 8,000 of it happens
11 to have been a political contribution, that 8,000 isn't necessarily part of the
12 25 that you withdraw to do some business with and how could it be?
13 Q 146 I see.
14 A You can say it.
11:27:38 15 Q 147 Sorry I want you to identify on the bank account where it was you separated the
16 8,000 political donation from the balance of the funds in the account before
17 you made the withdrawal.
18 A No, no, the withdrawal was made to fund a purchase but don't you suggest to me
19 that it had to include the 8,000. On the contrary. I put it to you that the
11:28:04 20 25,000 was from, was to purchase the apartment from my gratuity.
21 Q 148 Is that your evidence, Mr. Flynn?
22 A That's what I'm suggesting to you.
23 Q 149 Is that your evidence?
24 A Is a reasonable explanation for what you are suggesting.
11:28:18 25 Q 150 If we can go back to your second account, Mr. Flynn, non-resident with a
26 Chiswick address and see if we can assist the Tribunal in the source of the
27 funds that were lodged to that account. Could I have page 4855 please. This
28 is the second account and I think we had touched briefly on it before we moved
29 on to deal with the National Toll Roads issue, Mr. Flynn, and again if you just
11:28:42 30 want to confirm to the Tribunal that your position in relation to the address

11:28:45 1 used on this account and the designation of the account was not something
2 instigated by you when you opened the account, when the account was opened. Is
3 that correct?

4 A No, I have no knowledge of this account when it was opened.

11:28:58 5 Q 151 I see. At 375, there is a lodgment of 3,092.78, can you assist the Tribunal as
6 to the source of those funds?

7 A Did I give an explanation through my solicitor following investigation?

8 Q 152 You gave an explanation that it was not your account. If we could have page
9 324 though I believe in fairness to yourself, Mr. Flynn, that that is an error
11:29:25 10 as you do acknowledge the account as being yours elsewhere, but in relation to
11 that particular transaction which is a transaction of 3092, you say your
12 clients have no record of such an account held by them.

13 A That particular account.

14 Q 153 But that is clearly your account?

11:29:41 15 A If there's an account in the bank with my name on it, then it is my account.
16 Well it's an account, whether I knew about it being there or not is a different
17 matter.

18 Q 154 If we look at --

19 A I tell you that --

11:29:52 20 Q 155 Look at 318 just to clear up that point, look at page 318 you in fact
21 acknowledge that is your account, which is why I'm saying it must be an error
22 you say that account which ends at 053, which is the second entry down:
23
24 "This account is confirmed to have been held by our clients between the years
11:30:12 25 '85 and '89".

26 A Thank you.

27 Q 156 If we go back to 324 where your solicitor denies that it's your account, I am
28 suggesting that is in error.

29 A I want to tell you he is a very experienced and professional solicitor.

11:30:28 30 Q 157 I cast no aspersions. I am simply suggesting the two positions are

- 11:30:33 1 inconsistent and that it's likely it's your account and I am asking to you
2 account to the Tribunal for the source of the funds that made up the lodgment
3 on the 10th February '87 in the sum of 3,092.78, if you can?
- 4 A Well on the first point is that my solicitor is the very best that one can have
11:30:53 5 and the second point, if I say I can't remember the source of it, I have to say
6 to you, counsel, that Mr. Chairman, that during my life, one got paid a salary,
7 also one got expenses and sometimes rebates and I have to tell you, your
8 honours, that sometimes they were cashed and kept, you know, there's no need to
9 go into it but anyway, there was a situation and it was always a situation with
11:31:36 10 me and my family, we cashed things sometimes and kept it for various purposes
11 and in political life, it was always needed and in business life before that, I
12 have to say to you that I often thought I was the local bank myself in cashing
13 cheques for people on a Friday evening but we won't go into that. Let's just
14 say, that cash was not an unusual way of doing business.
- 11:32:10 15 Q 158 Well at the moment, Mr. Flynn, what we are concentrating on is not cash you
16 have retained though we will come to that shortly. At the moment we are
17 looking at lodgments to bank accounts?
- 18 A Yes, thank you.
- 19 Q 159 So, if we stay with the lodgments for the moment, is it the position in
11:32:23 20 relation to that last account that you are not in a position to assist the
21 Tribunal as to the source of that lodgment?
- 22 A If I have said that, then that is my recollection.
- 23 Q 160 Now insofar as your third account is concerned and this is at page 444 please,
24 this is the account numbers 09998-046 and the second, the bottom of the page is
11:32:46 25 the relevant page which is where the account starts on the 5th October 1989.
26 It's again designated an external deposit account, it has an address at
27 Northumberland Road in Chiswick and the Tribunal members may take it that the
28 position in relation to the opening of this account and the designation of this
29 account is the same as for the first two non-resident accounts?
- 11:33:11 30 A Correct.

11:33:12 1 Q 161 I see. Now if we go down through --

2

3 MR. MADDEN: Sorry Chairman, if I might interrupt there, I notice that counsel
4 for the Tribunal has referred to this account and the two others as

11:33:19 5 non-resident accounts. I think, if we go back to the opening documentation in
6 respect of the account which has the three last letters 022, you will find that

7 in the top right-hand corner of the page, there is a little box and in it, the

8 bank manager who is opening this account designates the account as being yes,

9 it's a non-resident account or no, it's not and I think that that page, if my

11:33:47 10 recollection serves me correctly, does not have that box ticked.

11

12 MS. DILLON: That's correct. 360.

13

14 MR. MADDEN: To describe is as non-resident is, I would submit, erroneous and

11:33:58 15 I ask would ask the Tribunal refrain from designating it as such in the absence
16 of any documentary proof.

17

18 MS. DILLON: Mr. Donal Chambers, the bank manager from Castlebar, gave

19 evidence that this was a non-resident account and confirmed in fact that it was

11:34:11 20 his evidence that it was what has been described as a bonus non-resident

21 account, I am not using those terms but I would refer Mr. Madden to the

22 evidence of Mr. Flynn's own bank manager in relation to the designation of

23 these three particular accounts but I, it is not necessary for the continuation

24 of the evidence that I refer to them as non-resident accounts, other than to

11:34:30 25 ask Mr. Flynn what assistance he can give the Tribunal about the addresses that
26 were used in relation to these accounts.

27

28 CHAIRMAN: Well just on that point, just because the bank have described it as

29 not being a non-resident account doesn't mean it's not a non-resident.

11:34:46 30

11:34:46 1 MR. MADDEN: Well, Chairman, if I might say this in relation to the
2 non-resident aspect of it, that box is, as you can see on the top right hand
3 corner of it, not ticked by the, EC I presume is Mr. Chambers, who is the bank
4 manager, seems to have his initials beside it, and I assume that the question
11:35:07 5 was asked of him, even they we weren't present the day Mr. Chambers gave
6 evidence, that the question was asked of him as to why the box was left
7 unticked. Because it is a very significant and material fact.

8
9 JUDGE FAHERTY: Is the form F the last box?

11:35:19 10
11 MS. DILLON: Mr. Madden is referring to the document on screen where it
12 says --

13
14 JUDGE FAHERTY: I know that but do you see the box beside it form F, and
11:35:27 15 there's a question mark. Just go to the next box, what does that?

16
17 MS. DILLON: Mr. Chambers didn't assist us in relation to this because
18 Mr. Chambers evidence was that he was not the manager who opened this
19 particular account. That's my recollection of his of evidence.

11:35:41 20
21 JUDGE FAHERTY: I am wondering the form F the form.

22
23 MS. DILLON: It has to be the other form, yes.

24
11:35:46 25 JUDGE FAHERTY: Equally that's not ticked, neither yea or nay, in relation to
26 it but there was a form F. Is the form F the income tax declaration form.

27
28 MS. DILLON: It is, yes.

29
11:35:57 30 JUDGE FAHERTY: That's my understanding and that is the form that has been

11:36:00 1 signed by parties to the account.
2
3 MS. DILLON: Yes.
4
11:36:03 5 JUDGE FAHERTY: But equally on this document form F is not ticked in any
6 regard. So it's equally ambiguous.
7
8 MS. DILLON: Yes.
9
11:36:15 10 JUDGE FAHERTY: But there is a forms F in existence.
11
12 MS. DILLON: And the form F specifically, at 359, refers to the first account,
13 the 022 account, it refers to this account in fact. Because the numbers of the
14 account are at the top of the document, 10000-022.
11:36:28 15
16 JUDGE FAHERTY: Thank you, Ms. Dillon.
17
18 MR. MADDEN: Sorry, Chairman, in relation to that, was the question asked of
19 the bank manager in relation to that particular form, as to who had actually
11:36:35 20 written in or attributed the account number?
21
22 MS. DILLON: I think so.
23
24 CHAIRMAN: He confirmed that it was a non-resident account.
11:36:42 25
26 MR. MADDEN: Sorry, I think -- we might have to recall Mr. Chambers in
27 relation to it.
28
29 CHAIRMAN: Mr. Madden, this is really holding up the inquiry, is your point
11:37:00 30 this was not a non-resident account?

11:37:02 1
2 MR. MADDEN: Yes, Chairman, it is.
3
4 CHAIRMAN: What do you call it? What you do you want to call it?
11:37:08 5
6 MR. MADDEN: It should be referred to by the title which is on it. Which is
7 external deposit UK account and that's it.
8
9 CHAIRMAN: Well, it's an account of two individuals resident in the Republic
11:37:17 10 of Ireland, but the account shows them to be non-resident.
11
12 MR. MADDEN: Yes, but the actual designation on the account as it will be
13 reported in the newspapers and treated by everybody who is dealing with this,
14 the a public basis will treat it as being effectively being a bonus
11:37:34 15 non-resident account.
16
17 CHAIRMAN: It's a non-resident account, it's an account of somebody who is
18 non-resident. And it may well be one of the findings or the conclusions of the
19 Tribunal that it's a bonus non-resident account. That's another day's work
11:37:55 20 altogether but it's a non-resident account. And we can call it whatever you
21 want. Just because the bank have failed to tick a particular box, there's no
22 doubt that it's a non-resident account. That's as we understand the evidence
23 of Mr. Chambers and of Mr. Flynn and of Mrs. Flynn.
24
11:38:08 25 MR. MADDEN: But the point.
26
27 CHAIRMAN: They didn't live at that address, it wasn't their address.
28
29 MR. MADDEN: The designation of the account on it, is that it is an account
11:38:21 30 which had an address for Mr. and Mrs. Flynn which attributed to them as being

11:38:25 1 in Chiswick in London. It's described as an external UK deposit account.
2 That's all we know.
3 For people to be designating it as a non-resident account in the absence of
4 that box being ticked on it, and also in the light of the fact that the DIRT on
11:38:41 5 this particular account was paid up until certainly 1990, certainly leaves a
6 large question mark over the designation of this account and I think that in
7 fairness to the witness, it should be just referred to as the external UK
8 deposit account and leave it at that.
9

11:39:02 10 CHAIRMAN: We are satisfied the term non-resident is a fair description of it.
11 It hasn't been referred to as a bonus non-resident account, it's a non-resident
12 account or an external account, its effect and meaning is the same.
13

14 Q 162 MS. DILLON: If, I can go back to the third of these accounts, Mr. Flynn, at
11:39:22 15 page 444 please. And the earlier part of this account is the bottom part of
16 the page and then the balance of the account is on the top part and again, I
17 want to draw to your attention the designation as external deposit account, the
18 address given as Chiswick, England and is the situation in relation to this
19 account the same as the two previous accounts?

11:39:44 20 A The address is not given by me.

21 Q 163 The address is not given by you and is it the position it was your wife Dorothy
22 Flynn who opened these accounts?

23 A As I understand it.

24 Q 164 Now, you have been asked as you were in relation to the other two accounts to
11:39:59 25 account for lodgments to provide the information in relation to the source of
26 lodgments to this account also, and the lodgments in question are the 16,226.61
27 on the 5th October 1989, and the 1,000 pounds on the 18th February 1989, 2,700
28 pounds; on the 25th February 1991, 4,000 pounds; on the 1st May 1991, on the
29 3rd of December 1991, 6,000 pounds; on the 6th January 1992, 1,000 pounds. If
11:40:34 30 you go up to the top statement then, 9,280 pounds on the 19th of November 1992;

11:40:40 1 on the 23rd of November '92, 3,450; on the 24th of November '92, 4,000; on the
2 7th December '92 and on the 4th January 1993, 8,000 pounds. Which is the
3 National Toll Roads money. Is that right?

4 A We are back there again.

11:41:00 5 Q 165 That's where the first query came from where you gave the information where you
6 couldn't identify the source of the money. You recollect that?

7 A That's what you said.

8 Q 166 Right. That's what's in the letter from your solicitors, Mr. Flynn. That we
9 have had on screen, if you wish to go through it again, it's not --

11:41:18 10

11 JUDGE FAHERTY: No we won't.

12

13 MS. DILLON: In relation to the Tribunal wrote to you on the 4th May 2000 and
14 we asked you again to provide the source and any underlying documentation in
11:41:29 15 relation to those lodgments, total amount of lodgments that were under query,
16 is less than the total amount of lodgements to the account was 57,956 pounds
17 and accounts for lodgments between the 5th October 1989 and the 4th January
18 1993.

19

11:41:45 20 Now in reply, your solicitors identify the source of the lodgments of the
21 16,226.61, that was explained in relation to the sale of sites and the second
22 lodgment of 1,000 pounds was explained, but insofar as the balance of the
23 lodgments were concerned, you were unable to provide any information as to the
24 source or alternatively, you were of the view that they were political
11:42:11 25 contributions, is that a fair summary?

26 A I think that is my recollection as to what my solicitor wrote on my behalf.

27 Q 167 Yes, and then again on the 8th November 2000, your solicitor wrote a letter in
28 which the instructions changed and that insofar as items had been identified as
29 being an accumulation of political contribution you were not maintaining that
11:42:31 30 position?

11:42:31 1 A Yes, well, we were constantly trying to assist the Tribunal, and I have spent
2 endless time, Mr. Chairman, trying to recollect, going through documentation
3 seeking to find wherever I could an explanation to satisfy the Tribunal to
4 assist in any way I can. Because I'm always reminding myself and I am doing it
11:42:54 5 right now, counsel, counsel I'm doing it right now, that I'm a witness to the
6 Tribunal and I'm here to assist. I am a witness to the Tribunal. And I can
7 only give to the best to my recollection and I have tried constantly over the
8 years, that if something came to mind that was not accurate, Mr. Chairman, then
9 I would feel obliged to say that to the Tribunal, I'm your witness. Thank you.

11:43:23 10 Q 168 And is the position that you are not in a position, Mr. Flynn, to assist with
11 the source of the funds other than the 16,226.61, the 1,000 pounds in February
12 1919 and the 8,000 pounds which is now identified as National Toll Roads?
13 A And did I say something about the others, either in any of the communications
14 through my solicitor to the Tribunal as to what they might have been.

11:43:50 15 Q 169 Your first explanation as contained in your solicitor's letter of the 4th July
16 2000 at pages 315 to 331, is either you are unable to say the source or it is a
17 political contribution?
18 A I didn't say contribution. I would have said an accumulation of contributions
19 during that campaign. Now that would be an entirely different thing.

11:44:08 20 Q 170 And accumulation?
21 A Is that what I said.
22 Q 171 Yes, you then changed that position, if we could have 336 please and again,
23 this is the letter where your solicitor sets out for the Tribunal that where
24 you had advised on the 4th of July certain lodgments were likely to represent
11:44:29 25 accumulation of election contributions received by our client, we have gone
26 through the letter.
27 A Yes.
28 Q 172 That you believe some election contributions are included but that what had
29 previously been described as accumulation of election contributions was
11:44:41 30 erroneous, I think is the word used.

- 11:44:42 1 A I think only erroneous insofar as it may have included other money. And
2 particularly that 9,000, I don't know what sticks in my mind, your honour, but
3 something tells me that it was a cheque for something that I got for some
4 reason and that it was not that, but I cannot honestly say to you that it was
11:45:01 5 one thing or the other. If I had any recollection or record, we wouldn't be
6 answering these questions, you would have had them, given willingly to the
7 Tribunal. I'm here as your witness.
- 8 Q 173 Now, insofar as those three accounts are concerned, Mr. Flynn, do you agree
9 they were not accounts in which your salary was paid?
- 11:45:24 10 A No -- yes, I think that's fair because the salary was paid on transfer from the
11 department or wherever, came after general -- I think perhaps into my current
12 account, I can't be sure but I think perhaps it was the way it was done.
- 13 Q 174 So that whatever the source of these funds, it's funds other than your salary?
- 14 A Unless, unless it was salary and expenses that had been withdrawn my me in cash
11:45:51 15 or something and that had been included in them. There may be some element of
16 that, I don't know, but I do know that that did happen on occasions.
- 17 Q 175 Is it the position, as I think you have or has been stated I think to the
18 Tribunal, that your wife was not a contributor to the bank accounts insofar as
19 she was not the source of any funds that were lodged to the these three
11:46:12 20 accounts.
- 21 A My wife did not work outside the home.
- 22 Q 176 That's what I mean, yes?
- 23 A Oh yes.
- 24 Q 177 So that in so far as any of these funds are being garnered or brought into the
11:46:27 25 banking situation, it's through you they are coming in.
- 26 A Not entirely. I don't know whether specifically attached to this but just so
27 that you are not coming back to me at another time and say well you said
28 something different, my wife did have some inheritance at some stage and I know
29 it's in some account, do you understand, I don't want it to be said afterwards.
- 11:46:47 30 Q 178 I think they have been identified?

11:46:48 1 A Pardon?

2 Q 179 I think the position, subject to checking --

3 A I take it then that your question is exclusive of those.

4 Q 180 As far as I understand the position, that is so.

11:46:56 5 A If you are making your question exclusive of that possibility, then the answer
6 is question yes.

7 Q 181 Insofar as any explanation has about provided by your solicitors on your behalf
8 in relation to the source of contributions to these accounts other than the
9 16,000 for which an explanation has about provided in relation to selling
11:47:17 10 sites, the position I am almost satisfied that none of these lodgments are a
11 attributable to any inheritance in relation to your wife, but I'll check that
12 and come back to you?

13 A Fair enough I accept that.

14 Q 182 Leaving aside that point for the moment, do you accept that you would have been
11:47:33 15 the person who received these funds in the first instance and then may have
16 passed them on to your wife or lodging to these accounts?

17 A That I think is a fair comment and fact I'm -- by and large.

18 Q 183 I beg your pardon?

19 A By and large that is the situation. As long as you are exclusive of the other
11:47:50 20 matter that we talked about.

21 Q 184 And is it the position looking at those figures in the round the total amount
22 of those lodgments that are under query in these three accounts come to
23 approximately 155,278 pounds, the amounts that you can identify are
24 Mr. Gilmartin's 50,000, now the National Toll Roads, 8,000; the 16,226 that
11:48:18 25 relates to the sale of sites and a sum of 1,000 pounds that relates to, I think
26 a wedding.

27 A No.

28 Q 185 That's not the position?

29 A No. And I'll tell you why, counsel. How come you are neglecting the 36,000
11:48:32 30 from my gratuity that's included in the 44,000.

- 11:48:35 1 Q 186 That's not these accounts, I am talk being the three external deposit accounts
2 and the money that was lodged to them, that is a different account. That money
3 was never lodged into either of these three accounts, just to be clear about
4 it, Mr. Flynn, so there's no ambiguity, my questions relate only to external
11:48:51 5 deposit account 0998-046, external deposit account 10000-022 and deposit
6 account 09620-053. Insofar as those three accounts are concerned. What I'm
7 putting to you?
- 8 A One has to be cautious because I will say yes to that, only on the
9 understanding that in something else occurs to me by way of recollection, you
11:49:17 10 won't be saying to me subsequently, well you said something different.
- 11 Q 187 The position at present therefore, to the best of your recollection is that
12 apart from Mr. Gilmartin's 50,000, now the 8,000 from National Toll Roads, a
13 sum of 1,000 pounds and a sum of 16,000 pounds approximately, in relation to
14 the sale of shares, the balance of the funds remain unexplained except possibly
11:49:41 15 for a contribution from Davy stockbrokers?
- 16 A Yes. And put like that, I suppose, yes, but I'm always cautious insofar as
17 asked any questions like that.
- 18 Q 188 Insofar as, we are aware of three political contributions that you received by
19 reference to source, Mr. Flynn, one is there Gilmartin's 50,000, the second is
11:50:08 20 the 8,000 pounds for National Toll Roads?
- 21 A Correct.
- 22 Q 189 And the third is a cheque from Davy Stockbrokers for 3,000 pounds that you got
23 on the 12th or was dated the 12th November 1992, is that correct?
- 24 A Yes.
- 11:50:25 25 Q 190 That's 3421. Do you know where that cheque was lodged?
- 26 A I can't recall.
- 27 Q 191 If you look at account 0998-046 at page 444, you will see that there are a
28 number of lodgments that are made between the 19th November 1992 and the 24th
29 November 1992. Do you see that?
- 11:51:05 30 A Yes.

- 11:51:06 1 Q 192 And the Davy cheques was dated the 12th November 1992, do you think it's likely
2 the Davy cheque forms part of one of those lodgments?
3 A It may do, I can't, I can't be specific but might very well be the situation.
4 Yes.
- 11:51:23 5 Q 193 And do you agree again that you did not identify Davy's as a source of
6 political funds, until such time as Davys contacted you and indicated to you
7 that you had received funds from them in November of 1992?
8 A The same as applies to the other. I would have received it but as I say I
9 didn't specifically associate it with any of these particular lodgments.
- 11:51:46 10 Q 194 Insofar as the two destination, if I can put it like that of the two definite
11 political donations we know about, Mr. Gilmartin's 50,000 and National Toll
12 Roads 8,000 pounds, neither of them were put into your current account, is that
13 right?
14 A That would appear to be the case, yes.
- 11:52:02 15 Q 195 Both of them were lodged to external deposit accounts with an address in, an
16 address in Chiswick, is that right?
17 A That's what you say.
- 18 Q 196 Sorry, do you disagree with that, Mr. Flynn?
19 A No, you have asked that question so often.
- 11:52:20 20 Q 197 Now, can I ask you was that your system, is that where all of the funds to
21 these accounts came from?
22 A Would you like to repeat that?
- 23 Q 198 Yes, I'm asking you, all of these unexplained monies you have in these external
24 deposit accounts, are they all political donations?
11:52:40 25 A They may be. But I explained to you before on several occasions, counsel,
26 there was a practice I had of keeping other monies. So it cannot be
27 conclusively said, that everything in there happens to be as you say. I wish I
28 could say yes because it would terminate this constant referral back that you
29 are at, but so be it.
- 11:53:12 30 Q 199 Yes. And of course you, there were a number of withdrawals made in October and

11:53:17 1 November, Mr. Flynn, from the -- could I have 4920 please -- from the 10000-022
2 account any which Mr. Gilmartin's money had been lodged, is that correct?
3 A That's right.
4 Q 200 Now you will see that prior to Mr. Gilmartin's, the lodgment incorporating
11:53:42 5 Mr. Gilmartin's money, there was six pounds in the account, do you see that?
6 A How much?
7 Q 201 Do you see on the screen ahead of you where the arrow is indicating six pounds.
8 A Six pounds and twenty something.
9 Q 202 Excellent. If you see then there's a lodgment of 53,920 and that brings the
11:54:07 10 account up to 53,926.20. Do you see that?
11 A Yes.
12 Q 203 Do you agree that that's correct?
13 A Yes.
14 Q 204 There are a number of other lodgments that follow on and at its high point the
11:54:18 15 amount of the lodgments are 71,729 pounds.
16 A Correct.
17 Q 205 There are a number of withdrawals that are made but the two withdrawals I want
18 to draw your attention to specifically, Mr. Flynn, are the debit on the 3rd
19 October 1989 and the 20th November 1989.
11:54:40 20 A Yes.
21 Q 206 Now can you outline to the Tribunal the circumstances in which you came to make
22 the first of these withdrawals?
23 A I didn't make the withdrawal.
24 Q 207 In which the first of these withdrawals was made. First of all, who made the
11:54:51 25 withdrawals?
26 A I understand that my wife made the withdrawals.
27 Q 208 And what did she do with the money when she received it?
28 A I understand she told you that when she gave evidence here.
29 Q 209 Yes, what did she do with it, did you have anything to do with the money once
11:55:06 30 she withdrew it?

11:55:07 1 A Course I did.

2 Q 210 What did she do with it?

3 A I understand she lodged it in our home safe.

4 Q 211 And what happened to it then?

11:55:14 5 A It was used for the purpose for which it was intended.

6 Q 212 Which was?

7 A To pay off election expenses.

8 Q 213 What election expenses did it pay off?

9 A Any and all the election expenses attached to that particular election.

11:55:27 10 Q 214 Which were specifically, Mr. Flynn please?

11 A Pardon?

12 Q 215 What were they?

13 A A whole range of issues.

14 Q 216 Would you outline them for the Tribunal please?

11:55:44 15 A Well, there have been advertising and printing.

16 Q 217 Who provided your advertising?

17 A Local newspapers and whatever.

18 Q 218 What's the name of the local newspapers?

19 A Well our local newspaper in Castlebar is the Connaught Telegraph.

11:56:04 20 Q 219 What are the local newspapers that provided printing for you?

21 A There's the Connaught Telegraph, the Mayo News, the Western People and the Mayo

22 Post. I can't remember the exact details of whatever expenses there were

23 attached to it but whatever they were, they were discharged anyway, I paid the

24 debts that were due on that particular election.

11:56:30 25 Q 220 And what else --

26 A There would be printing from all kinds of printing, hoardings, advertising,

27 refreshments, transport, running the office, paying staff, oh, come on.

28 Q 221 Well if you just take it one by one.

29

11:56:47 30 CHAIRMAN: Sorry, we'll rise for the a few minutes and give Mr. Flynn an

11:56:52 1 opportunity to consider what sort of expenses he incurred. And what the money
2 was spent on.
3

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

11:57:16 5 **AND RESUMED AS FOLLOWS:**
6

7 Q 222 MS. DILLON: Before the break, Mr. Flynn, we were dealing with the first
8 withdrawal from the funds in question, which was a withdrawal on the 3rd of
9 October in the sum of 25,000 pounds and you were outlining to the Tribunal the
10 election expenses and the nature of those expenses, can you conclude your first
11 of all the list of expenses that you incurred, and that you paid out of these
12 funds?

13 A I'll try to assist you there, Mr. Chairman. There would have been quite a lot
14 and they would have been on a daily basis. Now, insofar as some of them are
15 concerned, following the request from the Tribunal, I sought from some
16 suppliers their records so as to assist, but I'm afraid it wasn't so
17 successful, Mr. Chairman. They responded that they couldn't assist because
18 they had no records.
19

12:17:02 20 There would have been expenses for hoardings, that would be posters, and
21 hoardings, the larger ones and the small ones. I think just to put, that people
22 would understand the kind of constituency that I represented happily for so
23 long, from the Bridge of Shrule or from Headford, as far as Blacksod Bay, about
24 135 miles, as long as from Dublin to Galway, and an enormous constituency and
12:17:44 25 one had to attend to it and a every area of it. So there was a lot of
26 hoarding, a lot of posters utilised.
27

28 Advertising, interestingly enough, advertising gets much more expensive during
29 election time than it is during other times. We won't go into that. There
12:18:10 30 would have been entertainment, that would have been a very very big expense,

12:18:15 1 every day, every evening, every night. The office was a big expense because,
2 of course, it had to be manned with secretaries and people coming and going all
3 the time. Travel, transport, subscriptions, deputies and ministers and people
4 in public life do contribute to a lot of things and a lot of things have to be
12:18:55 5 contributed to, particularly, at election time.

6
7 There would have been daily outlay and in fact the, when I say entertainment
8 now, I'll talking about not just addressing meetings, you see we are going back
9 a while now. The way politics is conducted now is somewhat different to what
12:19:16 10 it was those years. In those years, there were after Mass meetings, rallies,
11 hall meetings, large numbers of people in the country attending. And there was
12 very considerable outlay of money on a daily basis, both before the campaign,
13 during the campaign and sometimes afterwards, the celebrations usually went on
14 for a month or two afterwards.

12:19:48 15 Q 223 If we look at the --

16 A Sorry for intruding, but it was a very expensive thing, Mr. Chairman, in a very
17 large constituency. And I have to say to you there were considerable, it was a
18 considerable outlay in dealing with these election campaigns.

19 Q 224 If we go back to the withdrawal of 25,000 pounds, Mr. Flynn, on the 3rd of
12:20:14 20 October 1989, you were asked to account for what had happened that withdrawal
21 and the information you pro provided is at page 258.

22 A Yes, I'm aware of this.

23 Q 225 This is the information that you have provided and you state in relation to it.

24
12:20:35 25 "Expenditure and expenses defrayed and reimbursed in cash in respect of which
26 our clients never had vouching documentation."

27
28 Never had vouching documentation. Is it the position therefore that none of
29 the people whose services you obtained and that are list at items 1 to 6
12:20:52 30 beneath that, ever provide youd you with a bill or an invoice?

12:20:56 1 A The first one yes there is, the first one there is a bill for that, it was a
2 cheque for a photographic something or other, you know, and I think it was --
3 my memory serves me correctly, about 1,950 but there is something about that.
4 Insofar as the next one is concerned.

12:21:16 5 Do you want me to go through them seriatim.

6 Q 226 What I'm asking you, is it the position you never had any invoices in respect
7 of any of these matters?

8 A I don't know about invoices but I did sign a cheque for that first one, whether
9 it was by invoice or that I was asked for the money but whatever it was.

12:21:29 10 Q 227 In respect of, was that a cheque that you wrote in June of 1989?

11 A I can't remember. I don't know precisely what date it was but I know before
12 ever election, Mr. Chairman, there would have been photographic sessions and
13 other things for screening, if I recollect properly, screening so that the
14 hoardings could be made up and it's quite an expensive process and that kind of
15 thing. So there would have been photographic and screening expenses for
16 elections and it was expensive, yes.

17 Q 228 You have provided one documentary record of expenses that you incurred in
18 relation to elections, Mr. Flynn, isn't that right, it's a cheques to Carr
19 Communications?

12:22:17 20 A Yes, that the one.

21 Q 229 383. This is a cheque dated 26th July 1989 to Carr Communications in the sum
22 1,945.95 pounds and is signed by yourself. Is that correct?

23 A That's correct.

24 Q 230 Is that the cheque you are talking about?

12:22:38 25 A I think it is.

26 Q 231 Apart from that cheque, have you provided any documentary evidence to the
27 Tribunal in relation to the political expenses you say you paid out of the
28 25,000 pounds?

29 A Not that I recall but I sought to assist by seeking the evidence elsewhere but
12:22:57 30 it wasn't available.

- 12:23:03 1 Q 232 The election in question was called on the 25th of May 1989 and polling was the
2 15th June 1989, is that correct?
- 3 A Yes.
- 4 Q 233 The withdrawal of this sum of money is the 3rd October 1989.
- 12:23:11 5 A Yes.
- 6 Q 234 Are you saying that it is normal practice to pay your political expenses some
7 three or four months after the election has taken place?
- 8 A Yes, for some, yes.
- 9 Q 235 But obviously not for Carr Communications because they are being paid by the
12:23:30 10 end July?
- 11 A Not for the daily expenditure either.
- 12 Q 236 That's done on an ongoing basis?
- 13 A Yes of course.
- 14 Q 237 So are you saying to the Tribunal, is that what you did was you reimbursed
12:23:39 15 yourself out of the 25,000 pounds?
- 16 A No, no. I was giving you, kind of, an understanding of the kind of costs that
17 were being incurred, they weren't accurate because I had no receipts as I say
18 but some bills would have to be paid subsequent to the election. Others would
19 have been discharged on an ongoing basis during election before and after. So
12:24:01 20 that could be the case, yes.
- 21 Q 238 If we go back to 258 with the explanation for the disbursement of the sum of
22 25,000 pounds. The political expenses you have outlined there, Mr. Flynn, come
23 to 13,000 pounds, is that correct?
- 24 A As outlined there, yes.
- 12:24:15 25 Q 239 That leaves a balance of 12,000 pounds?
- 26 A Much more was spent.
- 27 Q 240 Just listen to the question now, out of the 25,000 pounds if you have spent
28 13,000 in reimbursing yourself, it leaves an outstanding balance of 12,000
29 pounds, is that correct?
- 12:24:30 30 A Well now, I'm stating certain approximations there, but do I say there that it

12:24:38 1 came out of the 25 or that the 25 was withdrawn? And is part of the money
2 available to me, the expenses were paid, Mr. Chairman. I mean I can't say
3 specifically that it was out of any particular money. It was paid out of
4 whatever money was available to me. And it was an ongoing basis, but when I
12:24:58 5 say it was the 25 was withdrawn with a view to doing that, yes.

6 Q 241 And is that out of the balance of those funds that you say you made an
7 investment the following July of 10,000 pounds?

8 A You are coming to something that's entirely different now and no, it's not,
9 because whatever funds I had, Mr. Chairman, whatever funds I had, they weren't
12:25:29 10 just isolated in boxes, this is for that, you understand, the funds were
11 whatever was available to me and whatever expenses had to be discharged before
12 during or after the election, were discharged from whatever funds were
13 available to me at the time.

14
12:25:44 15 And it was taken from cash and if there was cash available, that was it. So I
16 can't positively say oh, well, you put so much into one particular box for so
17 much and that was part of the money that was in the 53,000, I don't know. It
18 probably was. Yes. But one couldn't identify in particular every single pound
19 of it as such. You know.

12:26:08 20 Q 242 Let's see what you identified for the Tribunal. At page 257 please, you were
21 asked to identify what you had done with two withdrawals of 25,000 pounds each,
22 what had happened to the money.

23 A Yes.

24 Q 243 And this is your reply, first you say the withdrawals on the 3/10/89, that's
12:26:27 25 one sum of 25,000 pounds, Mr. Flynn, and the 20th November 1989, that's a
26 second sum of 25,000 pounds were made by Mrs. Dorothy Flynn.

27 A Yes.

28 Q 244 Is that correct?

29 A Correct.

12:26:36 30 Q 245 Right. Each of the respective withdrawals were made in cash, is that correct?

12:26:40 1 A As far as I know, yes.

2 Q 246 3, at page 258, "the purpose of the withdrawals was inter alia to defray and
3 reimburse expenditure and to fund investment." Do you see that?

4 A I do, yes.

12:26:53 5 Q 247 Right. Now, you say number 4, "No part of the funds of any substance was paid
6 in anyone person, insofar as the funds were utilised in defraying expenditure,
7 the payments were numerous and to many individuals and entities.

8 B: Expenditure and expenses defrayed and reimbursed in cash in respect of
9 which your clients never had vouching documentation include the following items

12:27:16 10 to the best of our client's present recollection:

11 1. Photo printing: 2,000 pounds.

12 2. Estimation of advertising expenses incurred personally including outdoor
13 postering: 2,000 pounds.

14 3. Estimation of cost of printing of personal election material: 1,000
15 pounds. 4. Estimation of political entertainment expenses incurred during
16 daily campaigning: 5,000 pounds.

17 5. Election office expenses equipment, staffing, telephone: 1,000 pounds
18 approx.

19 6. Election workers, petrol and subsistence: 2,000 pounds approx.

12:27:42 20

21 No. 4: No part of the funds were used in the acquisition of any real property.
22 Some of the funds were utilised in the acquisition of some unit trust
23 investments arranged by the finances services division of National Irish Bank
24 which investments were acquired on or about the 23rd November 1989.

12:27:59 25

26 A: 5,000 pounds invested in Nippon Warrant.

27 B: 15,000 pounds in European Performance Fund.

28 C: 5,000 pounds in Eastern Opportunity Fund." Is that correct?

29 A Yes, and the word of importance there, Mr. Chairman, is 'some' but I can't
12:28:17 30 specific how much.

- 12:28:17 1 Q 248 You must remember what the question here is now that you are answering in this
2 letter, Mr. Flynn, the question you are answering is what you did with two
3 withdrawals of 25,000 pounds each. That's the question. And this is your
4 answer. Now, so you are now saying that you invested 25,000 pounds out of
12:28:35 5 those funds in three unit trust investments and they, I assume, and correct me
6 if I am wrong, are the unit trust investments organised by National Irish Bank
7 by your daughter, Beverly Cooper Flynn?
- 8 A Some of those funds were utilised for that purpose but I emphasise the word
9 'some'.
- 12:28:54 10 Q 249 We'll just deal with your answer now as it is, that is 25,000 pounds taken care
11 of in that paragraph, is that right?
- 12 A Yes.
- 13 Q 250 The total amount of the investment is 25,000 pounds, is that right?
- 14 A Correct.
- 12:29:06 15 Q 251 A further investment was made in the Eastern Opportunity on the 23rd of July
16 1990 in the sum of 10,000 pounds.
- 17 A Yes.
- 18 Q 252 And are you saying that that sum of 10,000 pounds also came from the
19 withdrawals that were made in October and November 1989?
- 12:29:20 20 A Maybe, but I cannot state on oath that it is. Because it could very well have
21 come from money that was available to me otherwise and that's the reason it's
22 there like that and that's the reason why I asked my solicitor to use the word
23 'some' because I couldn't positively say, knowing that I would have to give it
24 on oath here.
- 12:29:46 25 Q 253 I think the Tribunal did indeed write to your solicitor for clarification in
26 relation to that sum of 10,000 pounds and the source of that 10,000 pounds,
27 Mr. Flynn, and I think that your solicitor wrote, in fact, and confirmed that
28 it was from these funds that the 10,000 pounds had been invested. I'll just
29 find you the letter.
- 12:30:10 30 A I can help you there. It was certainly from all the funds available.

12:30:16 1 Q 254 4908. We are talking, Mr. Flynn, about your explanation for the utilisation of
2 two withdrawals of 25,000 pounds in October and November 1989 and not anything
3 else. They are the questions you were asked. At 4908 your solicitor was
4 asked, provided in reply to the Tribunal "Our client again confirms that the
12:30:35 5 top up investment made on or about the 23rd July 1990 in the sum of 10,000
6 pounds represented part of the funds withdrawn on the 3rd October 1989" --
7 that's one sum of 25,000 pounds -- "and the 20th November 1989" -- that's the
8 second sum of 25,000 pounds -- "from the external deposit account number
9 10000-022." Now where is the ambiguity in that reply?

12:30:58 10 A Part of. And if you would like to go back, counsel, and Mr. Chairman, if I
11 may, if it's permitted, may I have a look at that external account if you don't
12 mind. Just for a moment, if you don't mind.

13 Q 255 What part do you wish?

14 A The withdrawals.

12:31:18 15 Q 256 The bank statement?

16 A Yes, if you don't mind.

17 Q 257 364.

18 A Sorry for causing this delay.

19 Q 258 Not at all.

12:31:36 20 A And as you rightly said earlier on -- sorry, as you rightly said earlier on,
21 it's not that one, where there were 73,000 or something in that account,
22 73,000, right? The 50,000 was part of the 73,000, Mr. Chairman. That is true.
23 But when the withdrawals were made, the withdrawals before the second 25,000
24 were withdrawn, came to over 41,000 and the 41,000 after the second withdrawal
12:32:12 25 was made, there was nearly 7,000 left in the account. So the 41,000 and the 7,
26 48,000, that was the situation. So rather than say that it's part of, it was
27 part of the whole figure in that account so it's only 2,000 there is so that's
28 the reason I insisted on saying that some of that investment money did come
29 from that account, which was part of the 50,000, and part of it was as well for
12:32:48 30 the other advancement.

12:32:49 1
2 But you have to understand that the 73,000, if you were to take it in simple
3 terms and take the 50,000 from the 73,000, 23,000 was available of my money or
4 whatever for that investment so that the second 25,000 that was taken out maybe
12:33:09 5 be only 2,000 of it had come from the 50,000, do you understand? And for that
6 reason, I can't, I can't be asked to say on oath that it's from that particular
7 thing. It's from the fund, sure, but if you look at it, the 41,000 withdrawals
8 together with the 7 that's left is 48, that means there's only 2,000 would have
9 come from the 25,000 in the second encashment.

12:33:35 10
11 JUDGE FAHERTY: Mr. Flynn, could I ask you to do something slightly different.
12 We know there's a difference between yourself and Mr. Gilmartin about the date
13 on which you got the cheque, you say it was sometime in mid-May, the 23rd or
14 the 25th as I understand.

12:33:48 15 A Yes.

16

17 JUDGE FAHERTY: And we know the election was called on the --

18 A The 25th of May.

19

12:33:54 20 JUDGE FAHERTY: So the position was you knew there was an election.
21 Fortuitously for you, you got a 50,000 election contribution and I'm just
22 asking you this, it was a very large amount and you have said that, in
23 fairness, why didn't you just lodge the 50,000 to your current account and
24 expend it on your election expenses in the knowledge that it would more than
12:34:17 25 cover whatever election expenses or outlay that you would have to do because --

26 A You are quite right, it would have. It would have.

27

28 JUDGE FAHERTY: It was an election contribution, you are writing cheques to
29 Carr Communications and you are doing other outlay and it would be simple
12:34:33 30 enough to just lodge it to your current account and pay your bills as you went

12:34:37 1 along.

2 A Yes, that would --

3

4 JUDGE FAHERTY: In the knowledge they weren't coming from your salary or

12:34:41 5 whatever.

6 A Quite right. That is certainly is a scenario that could have existed. I

7 didn't do it that way, your honour, and to be quite honest with you, when the

8 money, when the cheque came there, it was just thrown, it was left aside with

9 other monies and my wife just lodged it.

12:35:02 10

11 JUDGE FAHERTY: But you were in the happy position, if you say you got it in

12 May and there was a dispute about that and we'll have to resolve that sometime

13 down the line, you had it, you say, from that point, to defray or even if it

14 was indeed that some time in early June as Mr. Gilmartin maintains, you were

12:35:19 15 only six or seven days into the election campaign by the time -- if

16 Mr. Gilmartin is to be accepted.

17 A Yes.

18

19 JUDGE FAHERTY: And you accept all that.

12:35:27 20 A I do.

21

22 JUDGE FAHERTY: And that would have more than covered.

23 A Yes, it would have, yes, on that particular election, yes, you are right quite

24 right.

12:35:38 25

26 JUDGE FAHERTY: And perhaps with a lot left over?

27 A Not a lot, I think, not a lot. It's very hard to be absolutely specific on

28 what an election costs. It's -- listen to me, it's a day -- sorry, I don't

29 mean that in the way that it's being reflected by everybody. I want to be as

12:35:56 30 helpful as I can. Elections are expensive, right, in a huge constituency they

12:36:02 1 are very expensive and it's every day, it's not a question of doing everything
2 in a formalised way. Everything is at a rush, everything is so busy from early
3 morning till late at night, really until the small hours and it was, listen, it
4 was a busy time and what recollection I have is very limited I agree but it's
12:36:27 5 as helpful as I can be to you that the matter was just dealt with.
6

7 JUDGE FAHERTY: I was just interested in how you dealt with the cheque.

8 A That's the way.
9

12:36:35 10 JUDGE FAHERTY: At the commencement of an election campaign really, that was my
11 question.

12 A What you are asking is quite true, I didn't just isolate that particular
13 cheque.
14

12:36:44 15 JUDGE FAHERTY: Or put it into your current account.

16 A And say that will go into a special box and everything from the election, it
17 wasn't that way, it was put into this account, whether there was other
18 lodgments or whatever. But I want to say to you, without labouring the point,
19 when the 73,000 was there, before that encashment or withdrawal came out to
12:37:02 20 fund the purchases of equities or shares, or whatever you want to call them,
21 most of that money was gone.
22

23 Q 259 MS. DILLON: Sorry, are you in some way, Mr. Flynn, trying to establish that
24 the two 25s or one of the two 25s did not come from Mr. Gilmartin's money?

12:37:25 25 A Oh no.

26 Q 260 Right.

27 A Wait a moment now, I'm not trying to establish anything. What I'm saying to
28 you is that there were two withdrawals, there were two withdrawals of that
29 money, 25,000 each. What I am saying to you, it is not to be aligned
12:37:45 30 exclusively to what Mr. Gilmartin gave because that had already been put in

12:37:50 1 above in the 53 and of the other monies. So you mustn't do that. And what I'm
2 saying to you is that when you look at the withdrawals that had taken place
3 before that, you could say all of that was from Mr. Gilmartin's money or none
4 of it was from it, so I'm not saying anything.

12:38:09 5 Q 261 But you are saying or do you agree the single largest contributor to the fund
6 that existed was Mr. Gilmartin?

7 A Yes, of course I am.

8 Q 262 Now, if we go back to your explanation for the two withdrawals of 25,000 pounds
9 each which we were dealing with at page 258, and we had got as far as where you
10 were outlining that investments were required on the 23rd November and you had
11 detailed 25,000 pounds that was invested in various funds and then a further
12 investment was made in the Eastern Opportunity fund on or about the 23rd July
13 1990 in the sum of 10,000 pounds and we had seen the letter subsequently
14 written by your solicitor confirming that 10,000 pounds came from those two
15 withdrawals.

12:38:51 16 A Part of it.

17 Q 263 From part of those withdrawals. Now, on that point, may I ask you this,
18 Mr. Flynn, if the two 25,000 pounds were withdrawn in cash, are you telling the
19 Tribunal that you retained out of those two withdrawals a sum of 10,000 pounds
20 in cash that you did not utilise until the following July?

12:39:02 21 A I can't possibly say that. I'm saying that whatever was not utilised,
22 Mr. Chairman, was kept in cash by me.

23 Q 264 And in saying that an investment --

24 A And it was more than 10,000.

12:39:18 25 Q 265 Be that as it may, insofar as the 10,000 is concerned, the investment we know
26 was made on the 23rd July 1990, we know from the bank statements that we have
27 seen that the last withdrawal was made on the 20th November 1989; if you are
28 stating as you appear to be stating in this letter that the 10,000 pounds came
29 from one or other of the 25,000 pounds, are you saying that you retained at
12:39:42 30 least a sum of 10,000 pounds in cash from the end of November to the 23rd of

12:39:48 1 July 1990?

2 A I am saying that I had 10,000 or more in cash from that period until that

3 further investment.

4 Q 266 And in this letter to the Tribunal and indeed in the later letter to the

12:40:02 5 Tribunal through your solicitors, you are stating that the 10,000 pounds comes

6 from one or other of the withdrawals of 25,000, is that correct?

7 A Part of it.

8 Q 267 Yes. If you accept that the second withdrawal and therefore the last

9 withdrawal is made on the 20th November 1989, do you accept that?

12:40:21 10 A Yes, I do.

11 Q 268 If you then state that that sum of 10,000 pounds is not used until the 23rd of

12 July 1990, it follows as a matter of logic that you retained that fund in cash

13 from November 1989 to July of 1990.

14 A It follows as long as you do -- as long as you accept what you are saying but

12:40:41 15 what I'm saying to you is that there were other monies involved and without

16 seeming to seeming to confuse anybody, Mr. Chairman, the situation is that

17 withdrawals were made but it wasn't the only money available and what I'm

18 saying to you is that whatever investment was made came from whatever money was

19 at hand at that time but it didn't necessarily entirely come from

12:41:08 20 Mr. Gilmartin's 50,000, it came from that account, which had 73,000 in it.

21 Q 269 What we are dealing with, Mr. Flynn, are the two withdrawals of 25,000 pounds.

22 And the point I am trying to get clarification on is forgetting about the

23 source of the two 25,000s for the moment, are you saying that the 10,000 pounds

24 you invested on the 23rd of July 1990 came from one of the two withdrawals you

12:41:36 25 made?

26 A I am saying that part of it may have.

27 Q 270 Very good. Your solicitor must -- I won't comment on your solicitor -- 4908

28 please. This is what your solicitor has told the Tribunal. "Our client again

29 confirms" and that I presume is you, Mr. Flynn, you are the client, I presume

12:41:57 30 that's you he is talking about, "our client again confirms that the top up

12:42:00 1 investment made on or about the 23rd July 1990 in the sum of 10,000 pounds
2 represented part of the funds" and I want you to pay attention to the next
3 sentence "withdrawn on the 3rd October 1989." That's the first 25,000. "And
4 the 20th November 1989" -- that's the second 25,000 -- "from the external
12:42:23 5 deposit account number 10000-022."

6 A I have said to you on more than one occasion, part of it, yes.

7 Q 271 Are you saying, where does that say that part of the 10,000 pounds comes from
8 the withdrawals?

9 A It says "Represented part of the funds withdrawn."

12:42:45 10 Q 272 Yes, what's that's what I'm saying to you but do you accept that the 10,000
11 pounds comes from one or other of the withdrawals of 25,000?

12 A I am saying it could have represented part of those funds.

13 Q 273 Where do you say it could have represented part of those funds?

14 A Well if it doesn't say it there, maybe I didn't represent it properly to my
12:42:58 15 solicitor but I'm saying it to you here in evidence, Mr. Chairman, that that
16 10,000 was added on to an investment and it came from funds that were available
17 to me and it came from that fund and other monies that I had and I cannot here
18 on oath say that it was specifically from that particular withdrawal or that
19 withdrawal or what I had. How could I say that?

12:43:26 20 Q 274 Because your told your solicitor that.

21 A Well if I told my solicitor, listen --

22

23 CHAIRMAN: Well that's what the letter says.

24 A I see that, Mr. Chairman.

12:43:35 25

26 CHAIRMAN: All right, we can move on.

27

28 MS. DILLON: If we can back to the explanation at 258 in relation to these

29 funds and you must bear in mind the only information that's being sought by the

12:43:45 30 Tribunal in this letter is what happened to the two withdrawals of 25,000

12:43:48 1 pounds.

2 A I understand that.

3 Q 275 And that's the only query that's been provided here. So after the further

4 investment, there are then details given about European Performance Fund and

12:43:59 5 details in relation to the investments and encashments that are set out there

6 in relation to the funds in hand, do you see that?

7 A Yes.

8 Q 276 On the following page, 259, you say "In January 1994, further proceeds of the

9 encashment were reinvested in the Eastern Opportunity Fund. Both investments

12:44:12 10 made in January 1994 have been retained to date. A portion of encashment

11 proceeds realised in the Eastern Opportunity in fund in 1993 and the Asia Tiger

12 Fund in 1994 were utilised in the partial funding of an interest acquired in

13 the forest planting project in North Mayo in 1997." Is that the purchase of

14 the lands at Cloonass?

12:44:36 15 A The referral here is -- yes.

16 Q 277 Let's deal with it in stages. The forest planting project you are talking

17 about there are the purchase of the lands by Mrs. Dorothy Flynn at Cloonass.

18 A Correct.

19 Q 278 And what you are saying there, if I understand it correctly, is that a portion

12:44:49 20 of the funds that were encashed were used to partially fund the purchase of

21 those lands?

22 A Yes.

23 Q 279 Right. And then the next one you say, "Neither of the sums withdrawn were

24 transferred in whole or in part to any account in any bank or any other

12:45:04 25 financial institution."

26 A Correct.

27 Q 280 So is the position once the sums were withdrawn in cash of 25,000 pounds, they

28 were not transferred in whole or in part to any account in any bank or

29 financial institution?

12:45:14 30 A Correct.

- 12:45:15 1 Q 281 Can that be correct in the light of the fact that the 25,000 pounds that was
2 used to purchase your investment in National Irish Bank went into National
3 Irish Investment Bank?
- 4 A Yes, the part of the funds available to me purchased investments for the Flynn's
12:45:32 5 and they were there, they were topped up and they were encashed, yes and some
6 of that money was used to purchase the ground, yes. What's the problem with
7 that?
- 8 Q 282 You don't understand my question, Mr. Flynn.
- 9 A Sorry.
- 12:45:55 10 Q 283 The statement is neither of the sums withdrawn were transferred in whole or in
11 part to any account in any bank or other financial institution. The sums
12 withdrawn are the two sums of 25,000 pounds.
- 13 A Yes.
- 14 Q 284 Right. One of those sums of 25,000 pounds was lodged into National Irish
12:46:15 15 Investment Bank in order to fund the unit trust investments made. 4903.
- 16 A Yes. One sum of 25,000 was lodged for the purpose of making the investment.
- 17 Q 285 And if we stay with that investment for the moment, is that the sum that you
18 invested in the unit trust, that 25,000?
- 19 A 25,000 was invested in unit trust.
- 12:46:40 20 Q 286 Was that an investment that you did through National Irish Bank and your
21 daughter, Beverly Cooper Flynn?
- 22 A It was done through her, yes.
- 23 Q 287 Now, did you -- how did you give her that 25,000 pounds?
- 24 A I think by bank draft, but the bank would be able to establish that.
- 12:46:58 25 Q 288 The two withdrawals -- take it in stages, Mr. Flynn. The two withdrawals that
26 were made on the external deposit account, according to your solicitor's letter
27 and according to your wife, Mrs. Dorothy Flynn's testimony, were withdrawn in
28 cash.
- 29 A Yes.
- 12:47:12 30 Q 289 Now, one of those funds by the 22nd November 1989 is in National Irish

12:47:20 1 Investment Bank.

2 A Yes.

3 Q 290 Now, if the fund was withdrawn in cash, did you give cash to --

4 A Not to my recollection. I think what happened was that I asked my wife to get

12:47:35 5 a bank draft for it because I was going to the city and I was going to make the

6 investment. Now, I don't -- I didn't write a cheque for it as far as I -- no,

7 I didn't. So I think it was by bank draft.

8 Q 291 Where did you buy the bank draft?

9 A I think in Castlebar. I didn't buy it, it would have been Mrs. Flynn would

12:47:54 10 have bought it.

11 Q 292 Mrs. Flynn did not give any evidence to the Tribunal that she had purchased a

12 bank draft?

13 A She did not give any evidence to the contrary.

14 Q 293 Are you saying what you said earlier on, Mr. Flynn, that none of the 25,000

12:48:09 15 pounds went back into any bank account, are you saying now that the position is

16 different, that in fact one of the 25,000s did about back into Castlebar and a

17 bank draft was purchased?

18 A My recollection is, and I cannot be that clear, Mr. Chairman, is that I was

19 going to make an investment -- I'm sure that if the bank are asked, they will

12:48:36 20 have a record of same.

21 Q 294 The bank have made discovery of all of your records, it doesn't include any

22 requisitions for a bank draft, I can tell you, Mr. Flynn.

23 A Well then maybe it didn't.

24 Q 295 Are you saying then if you did not get a draft?

12:48:48 25 A I cannot state positively it was not done by bank draft, my recollection is

26 that it was.

27 Q 296 All right. Fair enough. I think that you retained the services of National

28 Irish Bank in or around October, November 1989 in order to fund this

29 investment, is that correct?

12:49:04 30 A Correct.

- 12:49:04 1 Q 297 And you received documentation, namely a letter and a report, from Beverly
2 Cooper Flynn on the 17th October 1989?
- 3 A Yes.
- 4 Q 298 And that gave you certain advices about making investments and also advised you
12:49:18 5 at page 391 that in the hands of the investor, there is liability to income tax
6 on distributions or encashment after the investment period, the proceeds are
7 subject to capital gains tax and you would have received that in or around the
8 17th October 1989.
- 9 A Correct.
- 12:49:37 10 Q 299 Whether it was by bank draft or whether it was by cash, you provided 25,000
11 pounds to fund the investment, is that correct?
- 12 A Correct.
- 13 Q 300 And that 25,000 pounds represents the proceeds of one or other of the
14 withdrawals in question, is that right, from the bank account in Castlebar?
- 12:49:55 15 A Probably, you are getting into that area again, Mr. Chairman, where I tried to
16 say that it was from money that was available but I mean anyway, go on.
- 17 Q 301 No, we'll be clear about this, Mr. Flynn, we can go back over the documentation
18 again if you wish.
- 19 A No need.
- 12:50:13 20 Q 302 If there's any doubt in your mind that the monies used to purchase the unit
21 trust in November 1989 came from a source other than the two 25,000s?
- 22 A No, it came from the source of that external account, that's where it came
23 from. That's all -- that's the only point I'm wishing to make here. It came
24 from that account and what I'm saying to you is that there was some 73,000 in
12:50:40 25 it and certainly the 50,000 was part of that and what I'm saying is the
26 investment was 25,000 but I'm not prepared to accept that all of the
27 investment, in fact very little of it, could be interpreted as representing
28 money that had come from Mr. Gilmartin. That's all I'm saying. Now this is
29 accurate and the advice that was given to me by Beverly Flynn, I didn't accept
12:51:09 30 it.

- 12:51:11 1
2 If you go on to the next page of that, you will see where the recommendation
3 was not taken by me, it was adjusted by me but the bottom paragraph is
4 absolutely correct that an individual investor has to disclose the investment
12:51:26 5 to the taxing authorities and it was.
- 6 Q 303 And we look at the investment that you actually made, as set out at 402, and
7 that's an investment of 15,000 pounds into the European Performance Fund, 5,000
8 pounds in the Nippon Fund and the 5,000 pounds in the Fleming's Eastern
9 European Fund?
- 12:51:50 10 A Yes.
- 11 Q 304 Now, I think that you directed or it was directed, I beg your pardon, that no
12 correspondence in relation to these funds would be sent to you, is that
13 correct? Did you ever receive any correspondence from National Irish bank?
- 14 A Yes I did and I was away and it wasn't convenient so there wasn't -- I didn't
12:52:07 15 give any direction about that.
- 16 Q 305 Insofar as the subsequent lodgment in July of 1990 is concerned, is it again
17 your position that that sum, whilst you accept it comes from one or other of
18 the two withdrawals of 25,000 pounds, you do not accept that either or both of
19 those withdrawals represent a substantial portion of Mr. Gilmartin's money?
- 12:52:31 20 A Oh yes, it came from either money that came from that account, Mr. Chairman, or
21 money that I had available, do you understand? In other words the top up.
- 22 Q 306 And at 49 --
- 23 A Was done sometime later and that's precisely the way it was.
- 24 Q 307 4906 the top up is 10,000 pounds, you have already told the Tribunal in
12:52:54 25 correspondence that that 10,000 pounds leaving aside whether it was
26 Mr. Gilmartin's money or not, came from the one of the two withdrawals in
27 October and November 1990?
- 28 A Part of it I believe did, but on oath I cannot say that it all did. I am
29 saying that and I have to stick with it.
- 12:53:07 30 Q 308 Are you saying that you that you retained a portion of those funds in cash from

- 12:53:10 1 November 1989 to July of 1990?
- 2 A I'm saying that I would have had cash available at that period and part of it
- 3 could have come from that fund, yes. Part of it.
- 4 Q 309 You have through your solicitor, made positive statements to the Tribunal in
- 12:53:25 5 writing that the source of this fund was the withdrawals that were made in
- 6 November and October 1989 from your external deposit account.
- 7 A Oh yes, I am not disagreeing with that.
- 8 Q 310 And if that is the case, you have also told the Tribunal, as has your wife
- 9 Dorothy, told the Tribunal that the withdrawals were made in cash?
- 12:53:45 10 A Correct.
- 11 Q 311 If those assertions are correct, Mr. Flynn, it follows that if this sum of
- 12 10,000 pounds was funded from either of those withdrawals, cash was retained by
- 13 you from November 1989 to July of 1990?
- 14 A But not necessarily cash retained from those withdrawals. It could have been
- 12:54:04 15 cash that I had, and that's the only point I'm trying to make to you
- 16 continuously, that the money was withdrawn from that account but the account
- 17 had quite a considerable amount, well some money more than the 50,000 and what
- 18 I'm saying is, what I'm saying is, that there was already expenditure of over
- 19 41,000 at the time of the second withdrawal, there was some 7,000 there after
- 12:54:34 20 the second withdrawal and if you are a add the two of them together it simply
- 21 says that only part of any money that could be attributed to that 50,000, would
- 22 have gone into that investment and that's all I'm saying. Part of it, and I'm
- 23 also saying that there was cash available, I had cash available and that the
- 24 topping up of the investment took place from money that was retained, it's as
- 12:55:00 25 simple as that to me.
- 26 Q 312 That is the point?
- 27 A That's all I'm saying to you.
- 28 Q 313 Did you retain part of those funds in cash?
- 29 A I may have.
- 12:55:07 30 Q 314 Mr. Flynn, can we look at 4908 please and if you are resiling from this

12:55:12 1 position, you might explain to the Tribunal why you are resiling from this
2 position. Your solicitor states, it's a bald and unambiguous paragraph:
3
4 "Our client again confirms that the top up investment made on or about the 23rd
12:55:26 5 July of 1990" -- that's the one we have seen -- "in the sum of 10,000 pounds
6 represented part of the funds withdrawn on the 3rd October 1989 and the 20th
7 November 1989 from the external deposit account "
8 A I would prefer if it had said may have represented part of the funds.
9 Q 315 That's your evidence? Can I ask you now about a lodgement?
12:55:43 10
11 JUDGE KEYS: Before you go on to that, Mr. Flynn, what percentage of
12 Mr. Gilmartin's money would you say went into the investment?
13 A Very little.
14
15 JUDGE KEYS: What percentage of it?
16 A Oh --
17
18 JUDGE KEYS: Approximately, not holding you down.
19 A Very little, if any.
12:56:01 20
21 JUDGE KEYS: Well how could you say that. If you look at the account the
22 money was withdrawn from, there was 73,000, let's say for the sake of
23 percentages, it was 75,000, 50,000 was taken out, that's two thirds of the
24 monies taken out would have been Mr. Gilmartin's, is that correct?
12:56:17 25 A Two thirds of the money, yes.
26
27 JUDGE KEYS: Now, if you applied two thirds of that money of 50,000 pounds on
28 the investment, that means two thirds of that 50,000 was Gilmartin's money
29 which went into the investment.
12:56:30 30 A No, no.

12:56:31 1
2 JUDGE KEYS: Was there other money somewhere else?
3 A There was other money in the account that had been withdrawn.
4
12:56:37 5 JUDGE KEYS: But I thought you said that, correct me if I'm wrong, maybe I
6 picked it up incorrectly, I certainly thought of the money of the 50,000 taken
7 up, it was split up of which 25,000 pounds was put into investment, is that
8 correct, into the Unit Trust?
9 A Some of the money that was taken out of the account.
12:56:54 10
11 JUDGE KEYS: 25,000 pounds
12 A Part of that was taken was put in.
13
14 JUDGE KEYS: Isn't two thirds then of 25,000 Mr. Gilmartin's money?
12:57:02 15 A No, it's not for the simple reason is, that if you have a certain sum of money
16 in an account and it included 50,000. And if 40,000 for talk's sake, 40,000
17 being taken out, why wasn't it Mr. Gilmartin's --
18
19 JUDGE KEYS: You have said that of the 50,000 withdrawn, two thirds of that
12:57:21 20 was Mr. Gilmartin's money. Now if you use two thirds of that to another
21 investment, doesn't it follow --
22 A No.
23
24 JUDGE KEYS: That a strong percentage of that is part of Mr. Gilmartin's
12:57:28 25 money?
26 A A percentage but not necessarily a big percentage for the following reason.
27 That if you take that you have 75,000 and you withdraw 50.
28
29 JUDGE KEYS: Yes. That's who thirds of what's in the in the account.
12:57:42 30 A Yes, but what is left.

12:57:44 1
2 JUDGE KEYS: Is 25,000.
3 A And that is the 25,000 that could be the investment money.
4
12:57:49 5 JUDGE KEYS: No but I'm saying.
6 A As distinction from what's already taken out as could be regarded as
7 Mr. Gilmartin's money.
8
9 CHAIRMAN: Well, then what happened to Mr. Gilmartin's? The whole purpose of
12:58:00 10 this exercise and the whole purpose of correspondence between the Tribunal and
11 the solicitor, is to trace the 50,000 pounds that Mr. Gilmartin gave you, and
12 we understood up to now that we had made sufficient progress because of
13 information supplied by your solicitor to the extent that we could trace, we
14 were in a position to trace at least most of the 50,000,000 pounds. You are
12:58:29 15 now suggesting that possibly none of it went into the investment funds
16 A No I'm saying that part of --
17
18 CHAIRMAN: Or a very small amount.
19 A What I'm saying, Mr. Chairman, is that Mr. Gilmartin's money went into that
12:58:45 20 account, into the total. Right? And whatever withdrawals came out of it, I
21 maintain that most of the withdrawals came out were spent on election, for
22 election purposes and for retention, some cash that was retained but what was
23 left and if you take it in to round figures, 75,000 and then 50 is taken out,
24 the 25 those left was for the investment.
12:59:10 25 Now, it wasn't quite 25, it was 23, we'll see, so there was part of the 50,
26 certainly that had been taken out could be part of the investment.
27
28 CHAIRMAN: Yes but you have only accounted for 13,000.
29 A Yes but I'm saying there was other expenses, oh listen, as far as that, you
12:59:29 30 didn't finish that point, insofar as what I had said was the election expenses,

12:59:34 1 that was what I felt at the time. But I want to tell you there was a lot more
2 expenses than just those that were there but there were expenses on the day to
3 day expenditure during the campaign before and after which were considerably
4 more than that.

12:59:50 5
6 CHAIRMAN: Even if you double that figure, you are still left with 50,000.

7 A Yes.

8
9 CHAIRMAN: Out of that account.

12:59:56 10 A We'll say that it was whatever was taken out, I'm saying that whatever was
11 taken out, some of it was retained in cash. And I'm saying as well that the
12 topping up, part of that came from that as well. You see if it was only just
13 the one, as Judge O'Faherty said, "Mar duirt si... (speaks Irish) cuntas
14 amhain." If there was only the one account, that would be an easy explanation
15 for it because of the fact that there were other monies, Mr. Chairman, in the
16 account and they were withdrawn, I accept they were withdrawn and used for the
17 purpose and I am accepting as well that, that second 25,000 was withdrawn from
18 that account but I'm suggesting to you, for your consideration, that it did not
19 necessarily have been, the majority of that need not necessarily have been
13:00:24 20 Mr. Gilmartin's, part of his 50. That's all I'm saying to you.

21
22 CHAIRMAN: All right. We'll rise until two o'clock.

23
24 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

13:01:59 25
26
27
28
29
30

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

CONTINUATION OF QUESTIONING OF MR. PADRAIG BY MS. DILLON:

13:01:59 1
2
3
4
14:10:51 5 Q 316 Good afternoon, Mr. Flynn. I want to draw to your attention first of all a
6 portion of Mrs. Dorothy Flynn's evidence, on day 510 in dealing with the
7 question about whether she had anything to do with the money after it had been
8 withdrawn in cash by her, and what's being discussed here are the two
9 withdrawals of 25,000 pounds and at page, day 510, question 341, she is asked:
14:11:24 10
11 "And what did you do with the money subsequently?
12 Answer: I didn't do anything with it.
13 Question: Well who do anything with it?
14 Answer: I would presume, I don't know, my husband I presume.
14:11:39 15 Question 343: You didn't have anything to do with it once you had withdrawn it
16 in cash?
17 Answer: No."
18
19 I simply want to draw that evidence to your attention in the light of your
14:11:50 20 assertion this morning, that if a bank draft was obtained for the 25,000 pounds
21 to be given to your daughter, Beverly Cooper Flynn, that would have been your
22 wife that you would have asked to get the bank draft, do you remember that
23 evidence this morning?
24 A Yes.
14:12:05 25 Q 317 And I am drawing to your attention it is your wife's own sworn testimony to the
26 Tribunal, that after she withdrew the money in cash from the bank, she did not
27 thereafter have anything to do with that money and in the light of that, do you
28 accept that if a bank draft was obtained, then it is likely it was yourself who
29 obtained the bank draft?
14:12:23 30 A I hear what you are saying.

- 14:12:24 1 Q 318 Can you answer the question, do you accept that it is likely, in the light of
2 your wife's evidence that she had nothing further to do with the funds after
3 they were withdrawn, that if a bank draft was obtained for the 25,000 pounds,
4 that it is likely to have been yourself who obtained it?
- 14:12:40 5 A I can't recall, Mr. Chairman.
- 6 Q 319 You don't recall.
- 7 A Sorry.
- 8 Q 320 Can I turn now to deal with the transaction which the 33,000 pounds which
9 occurred, I think at the end of December, the 31st December 1993 and you will
10 be aware from correspondence, Mr. Flynn, passing between your solicitors and
11 the Tribunal, and involving National Irish Bank, that an explanation has been
12 sought from you as to the source of the funds that were used to make an
13 investment on the 31st of December 1993, is that correct?
- 14 A I don't think the investment was made on the 31st December. Now I may be wrong
15 but I think maybe application was made but that the investment took place on
16 the 4th of January of 1994.
- 17 Q 321 Well we are not talking about two separate 33,000 investments, are we?
- 18 A No, we are not.
- 19 Q 322 And I think if you look at document 452, which is dated the 31st December 1993,
14:13:39 20 do you see that document?
- 21 A Yes.
- 22 Q 323 And do you see that that document is an application by National Irish Bank in
23 account with Chemical Bank to purchase US dollars?
- 24 A Yes.
- 14:13:49 25 Q 324 And that is the transaction that we are discussing, is that correct?
- 26 A Correct.
- 27 Q 325 And that transaction was pre-dated by an application at 454 please, and if we
28 look at the very top portion of that document, we will see it's a request to
29 transfer the US equivalent of 33,000 pounds, is that correct?
- 14:14:15 30 A Yes, I have never seen this document. Except in discovery.

14:14:18 1 Q 326 Yes. But you see and look at the very bottom box where it says message, it
2 says on behalf of clients P and D Flynn, do you accept that is yourself?
3 A Correct. Yes.
4 Q 327 And do you accept in or around the 31st December 1993, 33,000 pounds were used
14:14:36 5 to buy approximately 46,361 dollars and 35 cents worth of unit trusts.
6 A Yes.
7 Q 328 And that that was done on your behalf?
8 A Correct.
9 Q 329 Now, are you in a position to identify for the Tribunal the bank or bank
14:14:52 10 accounts out of which the sum of 33,000 pounds was withdrawn?
11 A No. I think that I advised my solicitor to write in this regard.
12 Q 330 Yes. That's at 4954.
13 A Yes.
14 Q 331 I think --
14:15:16 15 A That's a recent date.
16 Q 332 Yes.
17 A That's to the best of my recollection, in answer to your question.
18 Q 333 I am going to go through that letter with you, that was in response to a number
19 of requests from the Tribunal that you would provide or you would identify the
14:15:30 20 source of that transaction, is that correct?
21 A That's correct.
22 Q 334 Now, the what you were specifically asked by the Tribunal, was to provide the
23 information to include the source of the funds, isn't that right?
24 A Correct.
14:15:45 25 Q 335 And your reply is at 4954. And at paragraph 2 says:
26
27 "Our client cannot recollect there being any specific source for the funds
28 concerned. Since receipt of your correspondence our clients have carried out
29 an extensive trawl of available records so as to seek to assist the Tribunal.
14:16:03 30 The minimal records available to not to assist. When this issue was first

14:16:07 1 raised, our clients were of the opinion and following investigations undertaken
2 remain of the opinion that the investment was substantially, if not entirely
3 funded out of the income of our client, Mr. Padraig Flynn. Our clients made
4 regular withdrawals from accounts held by them, such withdrawals were often
14:16:22 5 made in cash and held in cash form. It is our client's firm belief that the
6 sum invested was accumulated and sourced in this manner. The funds as invested
7 did not pass through a bank account or bank accounts prior to investment save
8 as described above". Is that the position?

9 A Yes.

14:16:35 10 Q 336 If I may sum ruse that then, Mr. Flynn, there is no bank or bank account to
11 which you can point to, that identifies a sum of 33,000 pounds being withdrawn.
12 A Not in one unit, no.

13 Q 337 Are you in a position to identify for the Tribunal, the bank accounts and the
14 times and dates that you say withdrawals were made that led to an accumulation
14:16:54 15 of the 33,000 pounds?

16 A No, I don't have them available. They would have been -- sorry.

17 Q 338 Sorry.

18 A They would have been mostly withdrawals from income in Brussels in Europe,
19 Mr. Chairman, I think, that would be fair to say.

14:17:19 20 Q 339 I think all of your bank accounts in relation to the accounts held by you in
21 Brussels are available to you, is that correct?

22 A Well that was the reason why the delay in fact in responding to you, to the
23 Tribunal, I spent a lot of time trying to, I went through all the discovery
24 again and also tried to find bank accounts and you know, some of them were, we
14:17:34 25 had some, but the majority of accounts we did not have, we did not have
26 documentation to back it up and that's the reason, after a long trawl, I had to
27 say that.

28 Q 340 You are not in a position then to point to any specific withdrawal or
29 accumulation of withdrawals in your bank accounts that led to the accumulation
14:17:55 30 of 33,000?

- 14:17:55 1 A No. Except that we believe it would almost have been on a monthly basis, when
2 I was travelling over and back from Europe to Ireland, sometimes twice a week,
3 well no, once a week and several times.
- 4 Q 341 And as you were accumulating this fund, Mr. Flynn, what did you do with each
14:18:11 5 withdrawal when you bought it back to Ireland?
- 6 A Well some of it would have been used for ordinary out of pocket expenses and
7 some would have been left behind. In other words, there was no euro at that
8 stage, it would have been Belgian francs. So one wasn't exchanging every week
9 between francs and Irish pounds or Irish punts, so money was left at home. It
14:18:32 10 accumulated over the years and that was it. In fact it wasn't an awful lot of
11 money when you think about it, saving over a period of time.
- 12 Q 342 Are you saying that eventually after a period of time of travelling backwards
13 and forwards between Brussels and Mayo, there was accumulated in your house or
14 in your safe a sum of 33,000 pounds, which you decided in December 1993 to
14:18:54 15 invest in unit trusts?
- 16 A Yes, there was that much money available to me.
- 17 Q 343 You don't understand my question. Are you saying that over a passage of time
18 travelling between Brussels and Mayo, that you returned funds from Brussels to
19 Mayo, which accumulated in your house or in your safe which led to a sum of
14:19:10 20 33,000 pounds being accumulated by December 1993, which you used to make this
21 investment?
- 22 A The accumulation did take place but not altogether from the one account or
23 accounts in Brussels. Also some money at home.
- 24 Q 344 How long did it take you to accumulate the 33,000 pounds?
- 14:19:30 25 A Oh -- some of it would have been from income all right from Europe and some
26 would have been there going back maybe, you know, non, maybe a couple of years.
- 27 Q 345 As the investment was made in December of -- the fund had been accumulated by
28 December 1993?
- 29 A It had.
- 14:19:45 30 Q 346 And when were you appointed exactly to Brussels?

- 14:19:47 1 A 4th January 1993.
- 2 Q 347 So if your evidence is correct then between January of 1939 and December of
3 1993, you had accumulated 33,000 pounds I think it was at that stage?
- 4 A Yes.
- 14:20:00 5 Q 348 In savings.
- 6 A Yes, that and whatever I had already at home.
- 7 Q 349 And as this 33,000 pounds cannot be attributed to any single debit on any bank
8 account, you had accumulated that fund in cash by December 1993?
- 9 A Yes, that is a fair statement.
- 14:20:15 10 Q 350 And did you provide that sum in cash to National Irish Bank in order to make
11 the necessary investment on your behalf?
- 12 A I provided it to National Irish Bank, yes.
- 13 Q 351 To whom in National Irish Bank did you provide the money?
- 14 A From what I remember I provided it to my daughter.
- 14:20:31 15 Q 352 And did you provide it to her in cash?
- 16 A That I can't be absolutely clear about, either in cash or a draft.
- 17 Q 353 If it was a draft, it would have meant you would have had to take the cash and
18 gone to a bank?
- 19 A That's right.
- 14:20:42 20 Q 354 Can you recollect the bank that you went to in order to get the draft?
- 21 A If I had gone for a draft, would have been to Castlebar, yes.
- 22 Q 355 I see. So that between January and December 1993, you had accumulated that
23 fund?
- 24 A Yes, don't forget apart from salary and expenses, there was also some, there
14:21:06 25 would have been money I would have had, yes, at home, and there would have been
26 as well, I think maybe some money from other accounts, money that would have
27 been cashed from other accounts because of the fact that we were transferring
28 at home as well, and there was furniture buying, there was a lot of things
29 going on during that year. So a lot of money was available.
- 14:21:33 30 Q 356 But insofar as the documentary trail or the audit trail of this 33,000 pounds

14:21:38 1 is concerned, insofar as the information supplied to the Tribunal by way of
2 documents is concerned, the first sight of this sum of 33,000 pounds is the
3 application on the 31st of December to buy the dollars?
4 A That is so, yes.

14:21:50 5 Q 357 In we can look then very quickly, Mr. Flynn, at the encashment of two of those
6 funds, the first encashment happened in February of 1993 and this is the
7 Eastern Europe fund, 447 please. This is the ultimate encashment of one of the
8 investments that had been made in November of 1989, isn't that correct?
9 A Correct.

14:22:17 10 Q 358 That sum was lodged I think to an account at National Irish Bank in Monaghan?
11 A Correct.

12 Q 359 Was that account opened for you through your daughter, Beverly Cooper Flynn?
13 A Yes.

14 Q 360 And were those funds lodged to that account?
15 A Yes.

14:22:31 16 Q 361 And that can be seen at page 451.
17 A Correct.

18 Q 362 And the number of that account was 9-30-62406, is that correct?
19 A That's correct.

14:22:50 20 Q 363 I think the second encashment happened in December 1994 and I think on that
21 occasion what was received was a sum of 37, it was an encashment, page 4901, it
22 was a dollar encashment I think, almost 37 and a half thousand dollars. It's
23 the last entry on that page, is that correct?
24 A Correct.

14:23:10 25 Q 364 You see the date, 14th December?
26 A Yes.

27 Q 365 And at 4934, the cheque please?
28 A Yes.

29 Q 366 You will see that one of the persons to whom the cheque is made out it
14:23:28 30 yourself?

14:23:29 1 A Correct.

2 Q 367 Padraig Dorothy and Beverly Flynn. That was also lodged to your National Irish
3 Bank in Monaghan at 457 please.

4 A Correct.

14:23:40 5 Q 368 And that's a lodgment of 24,017.57, is that correct?

6 A That's right.

7 Q 369 Now, I think there was one further lodgment made to that account which
8 represented the results of a BES investment, is that correct?

9 A That's correct.

14:23:56 10 Q 370 And that's a sum of 10,923 pounds, is that correct?

11 A Correct.

12 Q 371 So that the total funds that were lodged to the Monaghan account comprise the
13 maturing of two investments that had been made in 1989, which had been funded
14 out of the two withdrawals of 25,000 pounds that had been made on your account
14:24:14 15 at Allied Irish Bank in Castlebar?

16 A Part funded from those two withdrawals as you say, together together with the
17 BES.

18 Q 372 We need to be careful about this, Mr. Flynn. Insofar as the investments that
19 were made on your behalf in November 1989 are concerned by your daughter,
14:24:32 20 Beverly Cooper Flynn, I want you to identify now any other bank account or any
21 other source of the funds that were used to make those investments.

22 A Which investments?

23 Q 373 You have just told the Tribunal that those investments were part funded by the
24 withdrawals.

14:24:53 25 A Into the Monaghan account?

26 Q 374 No, into the original investments that were made in November 1989, you said in
27 reply were part funded.

28 A That's right.

29 Q 375 Now, what was the other part of the fund that contributed to that investment?

14:25:06 30 A Money that I had available at that time, as I explained earlier this morning.

14:25:12 1 In other words the investments were made, that was the discussion we had
2 earlier this morning and I was trying to explain to you as to the source of the
3 funds. And I said some, as had been indicated in documentation sent to you
4 through my lawyers, the word 'some' was used specifically for that reason
14:25:30 5 because that is what I believed. And that encashments then of course as you
6 quite rightly said went on to Monaghan.

7 Q 376 So insofar as the investment of 25,000 pounds that was made in November 1989 on
8 your behalf by your daughter, Beverly Cooper Flynn is concerned --

9 A Yes.

14:25:46 10 Q 377 -- do you say that that was sourced from some source other than the withdrawal
11 of 25,000 pounds that took place two days earlier?

12 A No, it was sourced, as I say, from that account.

13 Q 378 From that account?

14 A That is correct, yes.

14:26:02 15 Q 379 Now was it sourced from that withdrawal?

16 A More than likely, yes.

17 Q 380 So that the 25,000 pounds that you gave to your daughter to invest on your
18 behalf is probably the 25,000 pounds that was withdrawn from the account in
19 Allied Irish bank, two days later?

14:26:20 20 A That is correct.

21 Q 381 So if we go back then to dealing with the encashments and what was done with
22 the fund that matured and was lodged to National Irish Bank, can I have 4933
23 please. The lodgments made to this account, Mr. Flynn, amount to 62,388.66 and
24 they are funded as to 10,000 pounds approximately from the BES scheme and the
14:26:54 25 balance of the funds come from the maturing of the deposits that were made as a
26 result of the investments originally made by you, through your daughter in
27 November 1989?

28 A It would appear so.

29 Q 382 Two withdrawals were made on that account as you can see, one is a withdrawal
14:27:09 30 of 25,000 pounds and the next is a withdrawal of 37,553.74. Dealing first with

14:27:16 1 the withdrawal of 25,000 pounds, can you assist the Tribunal first of all as to
2 how that withdrawal was made by, and by whom?
3 A I understand that it was made, Mr. Chairman, by cash. Cash withdrawal.
4 Q 383 And who made it?
14:27:28 5 A I understand my daughter made the withdrawal. On my behalf.
6 Q 384 Did you ask her to make that withdrawal?
7 A Yes.
8 Q 385 Did she give you the cash?
9 A Oh, yes.
14:27:38 10 Q 386 What did you do with it?
11 A How do you mean?
12 Q 387 What did you do with it?
13 A I think I wrote and told the Tribunal what I, what my recollection was for the
14 expenditure of that, I brought it home and spent it.
14:27:49 15 Q 388 And spent it on what?
16 A I think you have a letter from me setting out what I felt at the time was the
17 way that that was spent.
18 Q 389 Yes in view of the fact, Mr. Flynn, there seems to be some slight discrepancies
19 between the letter -- we will take your evidence in relation to the matter. If
14:28:04 20 you give your best recollection to the Tribunal as to what you spent the 25,000
21 pounds on in February of 1996.
22
23 CHAIRMAN: If there was details supplied by the solicitor, I think Mr. Flynn
24 would be entitled to have a look at them.
14:28:19 25 A Thank you, Mr. Chairman.
26
27 Q 390 MS. DILLON: The details were not supplied, subject to correction, by the
28 solicitor and subject to correction by Mr. Flynn's solicitors in relation to
29 that. They were supplied via Messrs. KPMG on foot of an order that was made by
14:28:32 30 the Tribunal against Mr. Flynn's tax advisers. Now, I may be incorrect in

14:28:35 1 relation to that and Mr. Moran will correct me in if in fact the information
2 was provided other than through KPMG, but it is the position that we have an
3 explanation, I can simply cannot say it was provided by Mr. Moran, but it may
4 have been.

14:28:50 5 A I'm sorry, maybe I misled you there.

6
7 CHAIRMAN: If there was an explanation given by one of his other advisers, and
8 if we have it available.

9
14:28:58 10 Q 391 MS. DILLON: 4926 please. Now I think at page 99, this is a typed version I
11 think of information you provided in your own handwriting to your accountants
12 in 2000.

13 A That may be so, yes. I mean if you say so.

14 Q 392 We will be clear about it. 99 please. Sorry I beg your pardon, 4924. This is
14:29:35 15 a letter that you wrote to your accountants and I draw your attention to where
16 it says withdrawal February 1996, 25,000 pounds represents personal disposal on
17 new roadway at Carrowbridge/holidays/presents to families/new household
18 furnishings/part payment on car/general spending over the year.

19 A And anything that would have been left would have been kept in cash.

14:29:57 20 Q 393 4926 please I think it's a clearer version of that. That was your explanation
21 to your accountant in respect of the dispersal of those funds, are there any
22 records in relation to those dispersals?

23 A No.

24 Q 394 Can you recollect the circumstances in which Ms. Cooper Flynn handed you over
14:30:20 25 the 25,000 pounds?

26 A No, not specifically, no.

27 Q 395 Do you remember meeting with her to get it?

28 A We used to meet as a family occasionally, yes, more than occasionally.

29 Q 396 Well did she bring it down to Mayo to you, when was it handed over?

14:30:34 30 A I expect she did, yes.

- 14:30:36 1 Q 397 Do you recollect her doing so?
- 2 A No specific recollection of that, no.
- 3 Q 398 Is this a normal transaction that's carried out, that you have 25,000 pounds in
- 4 cash being transported around the countryside for you?
- 14:30:50 5 A Well, it's not I suppose, it's not an every day occurrence but I mean, and in
- 6 particular the sum of it, but certainly I would have in my possession on
- 7 occasions, travelling around as you say, sums of money in my pocket.
- 8 Q 399 Of 25,000 pounds?
- 9 A Not of that, I said, but of lesser amounts, maybe.
- 14:31:09 10 Q 400 Right. Insofar as the second transaction is concerned, sorry the question I
- 11 had asked you in relation to the itemised list in respect of that, are there
- 12 supporting documentation and vouchers in respect of that disbursement?
- 13 A No, but you mean this, the withdrawals here as indicated?
- 14 Q 401 No, I'm talking about what the 25,000 pounds was used for?
- 14:31:38 15 A No, no, you have asked me that, and I have said I have no documentation in
- 16 support of that.
- 17 Q 402 And if we move to the second transaction on that account which is the
- 18 withdrawal of 37,553.74, do you accept, Mr. Flynn, that that sum was withdrawn
- 19 by way of a bank draft and that it was lodged to your wife's account?
- 14:31:59 20 A No, that's not quite accurate. I accept that it was withdrawn by bank draft
- 21 because that's what the discovery says. It was lodged to our savings account.
- 22 Q 403 Which savings account?
- 23 A Well, to a savings account at Allied Irish Banks. I think you put this
- 24 question to my wife and she, it was subsequently transferred to my wife's
- 14:32:29 25 account following her writing of a cheque, but it was transferred from that
- 26 bank draft, was lodged with our savings account. And in fact I have with me, I
- 27 know it's not discovered, Mr. Chairman, but I have with me the proof of that
- 28 because last week following my wife's visit here, she went to the bank and she
- 29 got the sheet to show that it was lodged to our savings account and I know that
- 14:33:05 30 that was a dispute about that with her.

14:33:07 1 Q 404 When did you get that document, Mr. Flynn?

2 A I got that document some day last week, the end of the week, whenever it was

3 and I'm not introducing it here, I'm just saying that that is a fact in support

4 of what my wife said, it was put into the savings account, that is correct, and

14:33:24 5 you are quite right then, that it was transferred to a different account. You

6 are quite right.

7 Q 405 It was transferred to your wife's sole account?

8 A It was transferred, yes and she had had written a cheque on it but I'm saying

9 it didn't go from the Monaghan account into her account.

14:33:39 10 Q 406 It went into another account and then your wife's account?

11 A Quite so.

12 Q 407 And that was used then to complete a purchase of lands at Cloonass?

13 A That is correct.

14 Q 408 And those lands were lands that the total purchase price of which was around

14:33:54 15 43, 45,000?

16 A 45,000 and there was some expenses, there was obviously --

17 Q 409 And that represented 100 acres, is that correct, approximately?

18 A 42 hectares.

19 Q 410 Yes, approximately 100 acres.

14:34:09 20 A Approximately, yes.

21 Q 411 And on foot, subsequent to that purchase then, an application was made, is that

22 correct, for a premium or a grant from the Department of Agriculture, I think

23 it was?

24 A Well I can't remember the date but there was an application made by my wife for

14:34:28 25 grant in aid for planting that land. Sometime later.

26 Q 412 Sorry a grant in aid for planting or an annual grant for premium?

27 A The understanding is, sorry, Mr. Chairman, if you seek a grant to plant the

28 land, you have to get approved for a granting plant, a plant -- sorry a grant

29 to plant the land and it's specified the kind of trees you grow and that kind

14:34:57 30 of thing, and then you can subsequently apply, at the same time if you like,

14:35:02 1 for a premium to be applied to that particular application. They are two
2 separate things.

3 Q 413 And in relation to the premium as it appears on the documentation, what is
4 necessary in order to claim the premium is that you satisfy the relevant
14:35:18 5 department, the 25 percent of your income has been earned from farming, is that
6 correct?

7 A That is correct, yes.

8 Q 414 And did you set in train the process to enable that to take place?

9 A Oh yes, I in fact -- I arranged with the people who had purchased the land that
14:35:38 10 it would be purchased by my wife and that an application would be made to the
11 Department of Marine Resources and Natural Resources to get an application laid
12 for the planting and for a premium to be paid on my wife's account.

13 Q 415 Yes. But in order to achieve the premium, it was necessary to establish --

14 A Yes, that's quite true.

14:36:01 15 Q 416 That your wife was in receipt of 25 percent of her income was from farming?

16 A No it was necessary, my wife had to establish what her income was and so it was
17 necessary on that, 1996-1997 I think, Mr. Chairman, if memory serves me
18 correctly, she had an income from the sale of hay on the actual purchase of the
19 land.

14:36:27 20 Q 417 Yes. Now, who bought the hay, can you remember?

21 A The people who had originally sold the land to me. Or not to me but to my
22 wife. But I had arranged the sale.

23 Q 418 And clearly obviously, Mr. Flynn, you wouldn't be in a position to in a
24 position to satisfy anybody at that time that 25 percent of your income came
14:36:52 25 from farming?

26 A That's the reason why the application was made by my wife.

27 Q 419 And you instructed your accountants on the 9th November 1991, in relation to
28 this very issue please 461.

29 I want to draw to your attention what's said there in relation to farm income,
14:37:10 30 1997-98 and it says D F, that a reference to Dorothy Flynn?

14:37:15 1 A I presume.

2 Q 420 North Mayo, if we go back to the beginning, it says client P Flynn.

3 A Okay.

4 Q 421 And then certain information is set out there and we go down to deal with DF

14:37:36 5 who, I suggest, is probably Dorothy Flynn?

6 A Probably right.

7 Q 422 And it says "North Mayo - all planted, premium contingent on being farmer.

8 7,000 per annum for life."

9 A Not for life. You get a premium paid for 20 years.

14:37:51 10 Q 423 "Farm profile due 1997-1998 -- 25 percent of total income from farming, needs

11 to show circa 1100 'sold hay'."

12 A Yes.

13 Q 424 "Date of signing of contract for planting."

14 A Yes.

14:38:14 15 Q 425 Were they the instructions that you gave to your accountants on the 9th

16 November 1999 in relation to this transaction?

17 A That would have been in summary the fact that if you apply to get a grant to

18 plant it in the first instance and then apply for a premium, if the applicant

19 has to be a farmer and if the applicant has a certain income from it, then

14:38:40 20 there's an entitlement and that was how the project was funded.

21 Q 426 In other words the benefit that was going to flow from this application was the

22 premium?

23 A Correct.

24 Q 427 And in order to get premium which you weren't eligible for?

14:38:54 25 A I never applied for it.

26 Q 428 That was why it was put into your wife's name, is that right?

27 A My wife applied, yes.

28 Q 429 And she needed to show that an income, 25 percent of her total income came from

29 farming?

14:39:06 30 A Correct.

14:39:06 1 Q 430 Now notwithstanding that, and is it correct or do you agree with your wife's
2 evidence, Mrs. Flynn's evidence that she's never set foot on the farm?
3 A She hasn't walked the land.
4 Q 431 All right. Now, I want to draw to your attention "Needs to show circa 1100
14:39:24 5 "Sold hay"."
6 Can you assist at all why the person you were speaking to, or giving your
7 instructions to would have felt the necessity to put quotation marks around the
8 world "Sold hay?"
9 A I have no idea but that was the return from the sale of the hay in that
14:39:45 10 particular financial year.
11 Q 432 And do you have records in that relation to that?
12 A No.
13 Q 433 I think subsequently an application was made, an amended farm tax return was
14 made on behalf of your wife and ultimately the premium was paid, is that
14:40:03 15 correct?
16 A Yes.
17 Q 434 Page 4883.
18 A That's correct.
19 Q 435 And that is the premium, which is a separate matter to the grant, for planting
14:40:16 20 the land that you have been discussing?
21 A Quite so, quite so.
22 Q 436 And what was provided there is following on all of that was that your wife
23 would be in receipt of a sum of slightly over 7,000 pounds per annum for a
24 period of 20 years?
14:40:29 25 A That's correct.
26 Q 437 And that's on foot of the application that 25 percent of her income in the year
27 1997-1998 was received from farming?
28 A Correct.
29 Q 438 Do you accept, Mr. Flynn, that any portion of Mr. Tom Gilmartin's money which
14:40:46 30 was provided to you was ultimately, as it was returned to the country and

14:40:51 1 invested, utilised in buying the lands at Cloonass?

2 A As I said to you this morning, little if none.

3 Q 439 That's your position.

4 A Yes.

14:41:01 5 Q 440 But you don't dispute any of the documentary records that we have dealt with up
6 to this point in time?

7 A Except the ones that I disputed with you this morning.

8 Q 441 Yes. If we can -- excuse me one moment, Mr. Flynn, Ms. Foley reminds me and
9 she's quite correct, where you said the money went into a savings account, this
14:41:30 10 is the money from National Irish Bank in Monaghan of 37,000,000 pounds, were
11 you referring to the account that Mrs. Flynn had been referring to on the last
12 occasion?

13 A It starts with IFI.

14 Q 442 I'll show you a page now, 4930.

14:41:55 15 A Yes, I think that looks like it but listen, if there's a change in that, the
16 next time I take a breather, I will show you.

17 Q 443 And could I ask you at the next break, if you would, Mr. Flynn, through your
18 solicitor, to give Ms. Gribbin, the solicitor to the Tribunal such documents as
19 you say you have discovered in the last week and that the Tribunal do not
14:42:15 20 presently have. If I can move on now to deal with other matters in relation
21 to --

22 A Sorry if I didn't give that document already to, Mr. Chairman.

23

24 CHAIRMAN: It can be handed in.

14:42:37 25 A I hope I brought it with me this morning.

26

27 MS. DILLON: If I can first of all summarise the position in 1987, Mr. Flynn,
28 as best as I understand it, and if I am wrong in any way, please feel free to
29 correct me.

14:42:53 30 Whilst you had initially thought as per your statement to the Tribunal that you

14:43:00 1 had met Mr. Gilmartin towards the end of 1988, I think you now accept you met
2 him on the 4th November 1987.

3 A Yes, I do.

4 Q 444 At that time and I'm going to summarise this now and if you have any difficulty
14:43:14 5 with it, please stop me, Mr. Gilmartin came to meet with you as Minister for
6 the Environment in relation to a development at Bachelors Walk called
7 Arlington?

8 A On the 4th of November 1987. That is correct.

9 Q 445 And what was being sought at that time was an extension of the tax designation
14:43:31 10 of the area that's Bachelors, at Bachelors Walk that Arlington were interested
11 in?

12 A That is not correct.

13 Q 446 Why did Mr. Gilmartin come to meet you as best you recollect in November 1987?

14 A Because Mr. Gilmartin had written the previous month in October to the
14:43:51 15 secretary of the Department of Environment asking him to arrange a meeting with
16 myself and if I remember correctly the Minister for Finance.

17 Q 447 1376 and 1377 please.

18 A This is not a letter to me now, it was a letter to the department. The
19 secretary I think.

14:44:21 20 Q 448 This is the letter?

21 A That's quite right. Yes, asking for a meeting and I agreed to meet
22 Mr. Gilmartin and some friends of his. If I remember correctly, it was Mr.
23 Forman had been with him and Mr. Price. I don't know. Anyway, I met
24 Mr. Gilmartin and some people on the 4th of November 1987, and he outlined to
14:44:49 25 me some ideas he had concerning a possible development on the quays. And that
26 was it.

27 Q 449 Did you have any --

28 A Sorry, at that meeting, I am certain that he didn't make any reference to any
29 requirement or need that he had other than acquainting us with of what he had
14:45:15 30 in mind. By way of the development and Bachelors Walk, to be specific.

14:45:20 1 Q 450 And let me put it to you in this way, Mr. Flynn. By December 1987, had you
2 brought proposals to government to extend the area at Bachelors Walk that would
3 receive tax designation in order to facilitate Arlington?

4 A At that time there had been a government meeting, if my memory serves me
14:45:47 5 correctly now, there was an informal government meeting, setting out matters
6 that I had probably brought to government and it included the designation,
7 further designations on the docks and that would have included Bachelors Walk
8 and then there was, I had a memo to government then, Mr. Chairman, in the
9 ordinary course of events, we had already decided to designate Bachelors Walk
14:46:17 10 and some other places as well, I have to say, and I brought the memo to
11 government and it was agreed by government on the 18th of December.

12 Q 451 Can I have 3589 please. This document is headed "Draft" it emanates from the
13 Department of the Environment. It's a memorandum for government, dated
14 November 1987 and you will know, Mr. Flynn, from the documentation surrounding
14:46:44 15 this, that when it went to the Department of Finance, they were unhappy that
16 you were dealing with taxation matters.
17 If we can leave that aside for the moment because the first thing I want you to
18 look at is the date, which is November 1987 and then I want you to turn to page
19 3591, which is two pages into your document and I want you to look at time
14:47:02 20 limits.

21 A Yes.

22 Q 452 And you said there "the time limit in the existing designated areas is the 31st
23 May 1989. Details have come to light on a number of major developments where
24 the tightness on this deadline could result in planned developments being
14:47:18 25 abandoned altogether. Examples included planned development by Hillview
26 Securities on a site at High Street, the development of the Civics centre in
27 Limerick, a major retail development in Waterford and a planned development by
28 Arlington Developments Limited, estimated cost 100 million pounds along
29 Bachelors Walk and the south side of Abbey Street in Dublin."

14:47:36 30

14:47:36 1 Then if I ask you to move down to paragraph 2, the extension of boundaries and
2 the third line says "In the case of Dublin the area in which Arlington
3 Developments have expressed an interest includes the south side of Middle Abbey
4 Street, the development of this site if it is to ahead, will require the
14:47:51 5 application of the incentives."
6

7 I repeat the question, do you agree by November 1987 you had brought
8 proposals to Government?

9 A Oh yes.

14:48:00 10 Q 453 To government in order to extend the time limit and tax designation for
11 Arlington?

12 A Oh before that. Yes, of course. Before Mr. Gilmartin came to see me with his
13 friends, we had already decided to expand the designations to also deal with
14 the question about boundaries and time limits which is they were essential.

14:48:23 15 Q 454 And when was the first occasion you heard of Arlington Developments?

16 A Would have been on the 4/11.

17 Q 455 And therefore before the 4th November whatever proposals you were formulating,
18 they could not have been formulated in connection with Arlington because you
19 didn't know of Arlington's existence?

14:48:42 20 A No, the decision in fact under the Urban Renewal Act of 1986, we had considered
21 what possibilities there were for dealing with dereliction in Dublin and the
22 creation of employment and that was actually some months before that. And we
23 had considered as a government that we should have this further designation and
24 time limits you are right quite.

14:49:08 25 Q 456 Insofar as we are discussing Arlington here, the first occasion you knew or met
26 with Arlington was 4th November 1987?

27 A Correct.

28 Q 457 Whatever plans you had in the pipeline up to that point could no have been to
29 facilitate an entity of the existence of which you were unaware?

14:49:22 30 A Correct.

14:49:22 1 Q 458 Subsequently in the memorandum for government which is the 10th December 1987,
2 1491 please, you again refer to Arlington. At paragraph 2 there, you are
3 seeking an extension of boundaries and you say in the Dublin the adjustment
4 auto facilitate a planned major development by Arlington of Bachelors Walk in
14:49:46 5 Middle Abbey Street?

6 A That's right.

7 Q 459 What I had put to you in my first question, with which you had disagreed
8 ultimately the extension which you brought to government and which was granted
9 would have designed to facilitate Arlington?

14:49:55 10 A It would have accommodated them, but as has been said on numerous occasions by
11 Mr. Gilmartin, he never asked for designation, in fact on a number of occasions
12 he would have been happy to have not had it.

13 Q 460 What we are discussing here, Mr. Flynn, is what you did and in view of the
14 answer you had given to earlier question, which was that it was not designed to
14:50:17 15 facilitate Arlington, I am pointing out in your actual memorandum for
16 government, the argument that you are putting forward is the facilitation of a
17 major development by Arlington?

18 A It would have facilitated him, yes.

19 Q 461 And I think at, you subsequently wrote to Mr. Price at 1559 I think, sorry --
14:50:43 20 3361 please. I think this is the correct, no the next page, 3362. No, I will
21 come back to the actual document in question in just one moment. Yes, it's at
22 1558 please. And this is your own letter now to Mr. Price following the fact
23 that you have agreed and you are now going to draft changes in connection with
24 the extensions and in the very first paragraph, you say:

14:51:23 25
26 "Dear Mr. Price, further to our recent discussions regarding the proposals of
27 Arlington Securities for a major development project of Bachelors Walk Middle
28 Abbey Street in Dublin. I am writing to advise you of planned changes in the
29 urban renewal scheme which will facilitate your development."

14:51:40 30 A Correct.

- 14:51:40 1 Q 462 That is your own letter, you will see it's signed by Padraig Flynn, Minister
2 for the Environment?
3 A Correct.
4 Q 463 Do you now accept the proposed changes that you brought to government on the
14:51:49 5 10th December 1987, facilitated Arlington's development?
6 A Yes.
7 Q 464 And I think that subsequently, the budget of the following year which was early
8 in 1988, referred to those extensions and you brought in legislation together
9 with your -- we seem to be having a problem with the microphone. I don't know
14:52:20 10 is that any better? Is that better?
11
12 CHAIRMAN: That's fine.
13
14 Q 465 MS. DILLON: I think ultimately, Mr. Flynn, you brought in legislation a
14:52:34 15 statutory instrument to give effect to those changes, is that correct?
16 A Correct.
17 Q 466 And that's at 1636 and at 1639 the area in question can be seen, it's in
18 relation to Bachelors Walk and I think also the time limits were extended, is
19 that correct?
14:53:00 20 A They were.
21 Q 467 And again, I think in the argument that you had put up to government in the
22 memorandum for government, again you had referred to the facilitation of the
23 development by Arlington, is that correct?
24 A That's correct.
14:53:11 25 Q 468 And I think at that time, one of the concerns of the government was to bring in
26 investment, is that correct?
27 A Yes.
28 Q 469 And this, the extension of the tax designation was seen at that time as a
29 necessary extension, is that correct?
14:53:25 30 A Yes, it had been, sorry, Mr. Chairman, for some time before that, in fact, in

14:53:32 1 '87 and before that again, Dublin Corporation had been pressing quite hard to
2 have other areas designated with a view to eradicating dereliction and creating
3 investment, you are quite right, yes. I think there's something in the
4 documentation of discovery between Mr. Morrissey and others concerning these
14:53:54 5 matters.

6 Q 470 Yes, but insofar as any of the documents that you sent forward to government
7 are concerned, insofar as there's any reference to Arlington, that is a
8 reference that arises after your meeting with Arlington on the 4th --

9 A After that.

14:54:07 10 Q 471 After that and you became aware of their plans?

11 A Yes.

12 Q 472 Is that the position?

13 A Yes.

14 Q 473 Now I think you did --

14:54:13 15 A Sorry, it had been decide to designate the docks before I met the Arlington.

16 Q 474 The quays or the docks?

17 A The docks and other areas.

18 Q 475 If I can just show you the map then Mr. Flynn so we are clear about the area
19 that we are talk being?

14:54:27 20 A The quays, it specifically says the quays.

21 Q 476 The legislation says the quays but it if he we look at 3265 please. This is
22 the area at Bachelors Walk, Mr. Flynn.

23 A That's right.

24 Q 477 And the lilac or darker coloured line represents the area that was designated
14:55:02 25 under the Finance Act of 1986?

26 A Correct.

27 Q 478 And the turquoise line indicates the area that was extended by you, is that
28 correct?

29 A That's correct.

14:55:10 30 Q 479 That extension took place following your meeting with Arlington, is that

14:55:14 1 correct?

2 A The statutory order.

3 Q 480 No, the decision to extend the designation?

4 A No, the decision, the decision of government took place on the 18/12 but there

14:55:24 5 had an decision on the 1/11 of government, informing the decision and it would

6 have said the extension that I was to --

7 Q 481 The 1st of November, the informal government --

8 A No, on the 1st of well I know it's discovered, I can't remember the exact

9 number but an informal government decision of works to be undertaken or should

14:55:46 10 I say consideration of things to be undertaken by me and the first of them

11 would have been the National Roads Authority which I set up. But then there

12 was designations as well.

13 Q 482 Let's look at that, 3373 and see if that in fact is the case.

14 A That's my memory of it.

14:56:02 15 Q 483 This is the document that records that?

16 A That's correct.

17 Q 484 And you will see the first part in accordance with your recollection deals with

18 roads, the second part deals with private and public tolls and the third part

19 is considering the best of the unsuccessful tenders for the Custom House Dock

14:56:20 20 might be involved in urban renewal schemes and B, incentives for Dublin

21 designated areas might be brought into line with incentives available and other

22 measures should be introduced or encouraged to facilitate development".

23 A That's right.

24 Q 485 It doesn't anywhere suggest including the following page 3374 an extension?

14:56:36 25 A No, no but the incentives you see.

26 Q 486 If we go back to 3373, just point out where you are authorised by the

27 government to consider an extension of the quay sites on foot of that informal

28 government decision?

29 A The informal government decision allows me to go back an the department had

14:56:52 30 already been drawing up the possibilities for whatever further designations and

- 14:56:56 1 extensions were required.
- 2 Q 487 Yes, if you just point out on the document where extensions of the existing
3 schemes are authorised by the government on foot of that informal decision?
- 4 A Other measures should be introduced to encourage and facilitate development.
- 14:57:11 5 Q 488 Yes, but the measures, the designation measures had already taken place under
6 the Urban Renewal Act 1986.
- 7 A That was in 1986, this was a long time after that, we were considering the
8 further extensions and it was regarded as nothing strange about this, we were
9 seeking to do a lot of things that would encourage investment and employment
10 and the designations were one of them and in fact there was a lot of
11 designations and one of those was the quay sites and that would have been
12 whether it was by way of further extension or new designations, that was what
13 was involved and that was what the internal documentation if you had got it
14 would have suggested what was in mind because it had already been requested by
14:57:52 15 the corporation in the previous year, and had been requested on a number of
16 occasions and in fact there was one letter even to the Taoiseach at the time
17 from the city manager asking for these things to be done.
- 18 Q 489 And insofar as any of the references to Arlington are contained in the
19 documents, I think you have agreed that that can only have happened --
- 14:58:09 20 A That happened afterwards, yes.
- 21 Q 490 Can I show you a letter which is a draft of a letter only which was apparently
22 I think, Mr. Lawlor concedes that he drafted the letter, it's 1841 please and
23 1842, it's a letter of the 7th, the draft is September 7th 1988. It's 1841.
24
- 14:58:33 25 The fax cover sheet is from APL which the Tribunal understands to refer to
26 Advance Proteins Limited, a company with which Mr. Lawlor had some association
27 and it's 7th September 1988. It is addressed to Mr. Tom Gilmartin and from
28 Mr. Liam Lawlor and the fax requests that Mr. Forman to telephone Mr. Lawlor,
29 Mr. Gilmartin and tell him that the fax from Liam Lawlor is awaiting him and
14:58:59 30 the actual letter is the 18412 and it's a draft of a letter to you Mr. Flynn?

14:59:05 1 A Yes.

2 Q 491 First of all what I want to ask you is, can you ever recollect ever receiving
3 such a letter?

4 A No.

14:59:10 5 Q 492 1842

6 A No.

7 Q 493 Now can I ask you a meeting that took place on the 21st.
8

9 MR. LAWLOR: Mr. Chairman, in fairness, Mr. Gilmartin's evidence is he never
14:59:23 10 sent the letter so how could the former minister receive it if it was never
11 sent?
12

13 CHAIRMAN: Mr. Lawlor, we don't necessarily accept everything that a
14 particular witness says.

14:59:34 15

16 MR. LAWLOR: (Inaudible.)
17

18 MS. DILLON: If I can ask you to deal, Mr. Flynn, with a meeting that took
19 place on the 21st September 1988 which has been described here as the first of
14:59:43 20 managers and ministers meeting.

21 A Yes.

22 Q 494 Now, I think in your statement to the Tribunal in relation to the these
23 meetings, you say the following at page 220.
24

15:00:00 25 "I was present at some meetings called by the Taoiseach to discuss investment
26 and development issues during the period 1987 to 1991. I cannot recollect of
27 the identity of all the persons who attended those meetings. I believe they
28 included the Dublin city manager and other officials. During those meetings it
29 was usual that existing and proposed developments were discussed."
15:00:18 30

15:00:18 1 Was that your response to the Tribunal's request that you provide information
2 in relation to the meetings that occurred at that time, the September meeting
3 and the February meeting? I'll get you the correspondence but first of all, in
4 that, those two paragraphs, are you referring to the meetings that took place
15:00:38 5 between certain government ministers and local authority officials?

6 A Correct.

7 Q 495 So you must therefore have been talking about the meeting of the 21st September
8 1988 and the later meeting of the 2nd February 1989?

9 A I think so.

15:00:51 10 Q 496 Now, there's only really one issue to I want to draw to your attention in
11 relation to the meeting of the 21st September 1988 and that is a statement by
12 Mr. George Redmond that at that meeting you referred to a proposal of
13 Mr. Gilmartin's to construct a the largest shopping centre in Europe. And I'll
14 read you what Mr. Redmond says in his statement in relation to this meeting and
15:01:17 15 it's at 1048 and 1049.

16
17 Mr. Gilmartin says "P Flynn referred to a proposal of Thomas Gilmartin to
18 construct the largest shopping centre in Europe on lands situated on the
19 western motorway and the junction of the Lucan Road. So he and Mr. McSharry as
15:01:33 20 far as I recall, spoke about Mr. Gilmartin's UK expertise and connections and I
21 think Mr. Ahern made reference about Mr. Gilmartin's involvement in the
22 rehabilitation of the north quays area in Dublin.

23
24 1049. In reply the managers pointed out there was already a designated town
15:01:50 25 centre for Lucan/Clondalkin in the County Development Plan. This was located
26 in the Balgaddy area, the Dublin Corporation was the owner of a major portion
27 of this town centre and had already formally disposed of 30 acres to Albert
28 Gubay, who was under on obligation to seek planning permission to commence a
29 town centre. In recent times Mr. Gubay's company had sold his interests in the
15:02:10 30 lands to a company owned by Mr. Owen O'Callaghan, who was a developer from Cork

15:02:10 1 of high repute. In view of this and the existing zonings and land ownership
2 and roads problems, it the not seen how the Gilmartin proposals could proceed.
3 As the manager saw it, Mr. O' Callaghan was giving all his time to getting on
4 with the development of the established town centre. I am not aware whether
15:02:23 5 any minutes were kept at this meeting."

6
7 Do you have any recollection of that being discussed at that meeting?

8 A No, but I do have a recollection from the discovery, Mr. Chairman, that is this
9 the same meeting that Mr. Morrissey had a minute on?

15:02:40 10 Q 497 Mr. Morrissey had a minute of?

11 A Or had.

12 Q 498 A handwritten note, that's the 14th April 1989?

13 A That's a different one?

14 Q 499 It's a different one.

15:02:50 15 A Because there's no reference to Quarryvale or anything in that particular one.

16 Q 500 That's a separate document?

17 A Sorry. Well sorry, there was reference to two other schemes I think at another
18 meeting. But they weren't referring, it didn't refer to Bachelors Walk or
19 Quarryvale or anything else, you know?

15:03:06 20 Q 501 From your recollection, Mr. Flynn, of the meeting on the 21st of September
21 1988, was there any discussion of Quarryvale?

22 A I don't think so.

23 Q 502 Mr. Owen O'Callaghan?

24 A I don't think so.

15:03:16 25 Q 503 Mr. Tom Gilmartin?

26 A I don't think so.

27 Q 504 By September 1988, were you of your own knowledge, aware of Mr. Gilmartin's
28 plans for Quarryvale?

29 A No.

15:03:26 30 Q 505 Was that information -- when did you first become aware of Mr. Gilmartin's

15:03:30 1 plans for Quarryvale?

2 A My clear memory of Mr. Gilmartin and his meetings with me from when I met him

3 first, I think up until the autumn of '89, Mr. Gilmartin to my recollection was

4 preoccupied with Bachelors Walk and its development and he had a very big

15:03:58 5 preoccupation with with the whole situation insofar as the bus centre depot was

6 concerned, our meetings were quite short but I know that was his constant talk

7 to me about the development in Bachelors Walk. Which I thought was quite an

8 exceptional proposal and I really hoped it would have gone on. It certainly

9 was one of the prime sites, not just in the capital but anywhere else and

15:04:23 10 Mr. Gilmartin was quite right there and so our conversations were about, sorry,

11 for going on, Mr. Chairman, but were about Bachelors Walk and the possibilities

12 for that.

13

14 Now later on, certainly he did tell me about his interest in another project

15:04:39 15 but I have to say to you, at the time you refer to, it was Bachelors Walk was

16 the talking point.

17 Q 506 When did Mr. Gilmartin first discuss or mention Quarryvale or that development

18 to you?

19 A I can't give you the precise date but certainly it became a constant talking

15:04:59 20 point with him in the autumn of 1989. That time. Up to that, certainly it was

21 Bachelors Walk.

22 Q 507 And you did not know, is that your position in relation to Mr. Gilmartin's

23 involvement in Quarryvale?

24 A I didn't know who he was doing. Mr. Gilmartin on his visits to me in short

15:05:15 25 visits we talked about, they were all very friendly, he didn't give me any

26 details of his business dealings or transactions. We talked about what the

27 project was, same in Bachelors Walk, he never told me about Bachelors Walk,

28 what prices he was paying or who was giving him grief insofar as increased

29 prices or anything like that. He was hugely positive at all times, I have to

15:05:41 30 say this about Mr. Gilmartin, when I met him, we talked about Bachelors Walk

15:05:47 1 and that project, he was hugely positive about it and I was certainly
2 encouraging him in every way to get on with it and hope that it would be a
3 success because I believed it was a very project and would have been a huge
4 success for the city of Dublin. And from our point of view, it would have
15:06:05 5 created a lot of investment and it would have created a lot of employment and
6 would have eradicated an eyesore in this town and I'm sorry that it didn't come
7 off.

8 Q 508 You see by December of 1988, Mr. Flynn, the department of which you were the
9 minister, had detailed information about Mr. Gilmartin's plans for Quarryvale.
15:06:28 10 If I can show you page 1992 first of all to date, the document, and then we
11 look at the content of the document, the document is dated December 1988.

12
13 In particular I want to draw to your attention page 1989 of that please. And
14 the previous page at 1988 at paragraph 3, and what's being discussed here,
15:06:51 15 Mr. Flynn, is possible designation of certain areas and this sets out first of
16 all the agreement with Mr. Owen O'Callaghan. Dublin Corporation own 33 acres
17 of the town centre, Gubay arranged, proposed to carry out this development, it
18 sets out details of the payment, do you see that?

19 A Yes.

15:07:13 20 Q 509 On the following page, 1989 it details on out-clause for Mr. O' Callaghan if
21 planning permission isn't forthcoming, do you see that?

22 A Yes.

23 Q 510 The next paragraph, "It is understood that other proposals for a 1.8 million
24 square foot shopping centre in the area are being formulated sub-rosa by
15:07:33 25 another development, (Gilmartin). The site is in an area zoned residential but
26 this does not worry the developer who is trying to buy land at present. The
27 area in which Gilmartin is interested would be a far more attractive site and
28 O'Callaghan says that it would be in such a location i.e. close to the Western
29 Parkway as to serve not only Clondalkin but also Blanchardstown, Palmerstown,
15:07:54 30 Tallaght and possibly Ballyfermot. Land in this area is held by Dublin

15:07:58 1 Corporation, Dublin County Council, a builder and a Mr. Bruton. While Dublin
2 Corporation have not sold their land to Mr. Gilmartin, they have made a
3 tentative agreement with him and it is fairly likely that this deal will go
4 through." Do you see that information?

15:08:13 5 A Yes, I do.

6 Q 511 You may take it in December 1988, that negotiations had been opened between
7 Mr. Gilmartin an the local authorities about land.

8 A Yes.

9 Q 512 Now in the light of that document, do you accept that now, Mr. Flynn, that
10 certainly there was information within the Department of the Environment in
11 December 1988 with Mr. Gilmartin's plans?

12 A There may have been in the department, yes but thinking about it and trying to
13 transport myself back to that particular time, I wasn't aware of this now. The
14 department may have been aware from contacts with these people. I mean the
15 minister wasn't necessarily acquainted with everything that went on by way of
16 business arrangements and my understanding from memory, is that we talked about
17 Bachelors Walk, we didn't talk about this kind of detail you are talking about
18 here about buying land and doing this, that wouldn't be for the minister to be
19 acquainted with.

15:09:10 20
21 I would be interested in the progress of the development, if it was going well
22 or wasn't going well. Now later on I was aware obviously, that he had been
23 making arrangements to buy the land. When he did actually buy it physically, I
24 think sometime in June 1989 but insofar as the minutiea of Mr. Gilmartin's
15:09:28 25 transactions of what he was doing, he didn't share that with me and I wouldn't
26 have expected any businessman to be coming in telling me about what he was
27 meeting to buy what from whom.

28 Q 513 Somebody told somebody in the department?

29 A That may very well have.

15:09:43 30 Q 514 First of all, you were the person Mr. Gilmartin met with in the department, is

- 15:09:46 1 that right?
- 2 A Yes.
- 3 Q 515 Is there any reason Mr. Gilmartin would have kept secret from you by December
4 1988 his plans in connection with Quarryvale?
- 15:09:54 5 A Not at all, I mean Mr. Gilmartin was always very pleasant and forthcoming about
6 what he wanted to achieve but he wasn't giving me the details of who and what
7 he was doing outside of --
- 8 Q 516 But by December 1988, you accept that if you were meeting Mr. Gilmartin at that
9 time, that it is likely Mr. Gilmartin was discussing with you his then current
10 project, the Quarryvale project.
- 11 A Well as I say to you, I can't recall that but it is possible he did mention
12 that he had another project in mind and I know he did at some stage but exactly
13 what meeting or date he told me that, I can't recall. As I say, the big issue
14 was Bachelors Walk. It was a live issue at the time and he was promoting it as
15 best he could every way he could.
- 15:10:38 15
- 16 Q 517 And certainly Mr. Gilmartin I think has told the Tribunal that by December of
17 1988, his main concern was in relation to the lands. I want you to look at
18 another two documents but the first of which is at 1940?
- 19 A Sorry, just -- sorry if I may, Mr. Chairman, just because that last point you
15:10:56 20 made, that by December 1988 he was talking about other lands, I want to tell
21 you that in December 1988, Bachelors Walk was the big issue, the big issue as
22 far as I was concerned, and as far as he was concerned too because it was on
23 and Arlington were supposed to have been acquiring property and everything was
24 going along grand.
- 15:11:22 25 Q 518 I want to draw to your attention another document that has its genesis around
26 this time, it's the 4th December 1988, document 1940, it's a memorandum made by
27 Mr. Owen O'Callaghan and I want to draw to your attention what is recorded on
28 the face of the document and ask you to comment on it under the heading "Liam
29 law lover" the author of the document is Mr. Owen O'Callaghan.
- 15:11:46 30

15:11:46 1 "He says I met with Mr. Lawlor an Wednesday last. Lawlor told me that Flynn
2 and McSharry asked him to look after Gilmartin and would have preferred if
3 nothing happened on the Clondalkin site and was under the impression like
4 everybody else, that the site was going nowhere".

15:11:58 5
6 And what I want to ask you Mr. Flynn is whether you ever asked Mr. Lawlor to
7 look after Mr. Gilmartin?

8 A No.

9 Q 519 I want to draw to your attention also page 695 which is a record of an
15:12:09 10 interview between Mr. Liam Lawlor in Dr Rory O'Hanlon's office on the 6th
11 October 1998, in which is Mr. Lawlor is recorded as having made the following
12 statement.

13
14 "Liam Lawlor stated that he thinks Pdraig Flynn asked him to see Thomas
15:12:24 15 Gilmartin initially."

16 A I think he has retracted that.

17 Q 520 I think that is correct, but insofar as both of your statements -- Mr. Lawlor
18 has retract that had particular statement but so far as the statement
19 themselves are concerned, can you confirm to the Tribunal whether you ever
15:12:38 20 requested Mr. Lawlor to look after Mr. Mr. Gilmartin?

21 A No.

22 Q 521 Can I take you now to events in January 1989, Mr. Flynn, and can I ask you
23 whether you were aware in January of 1989, that Mr. Owen O'Callaghan had
24 entered into a commercial arrangement with Mr. Tom Gilmartin in relation to the
15:12:56 25 Balgaddy lands.

26 A Well at some stage Mr. Gilmartin did tell me that he was negotiating with a
27 Mr. Owen O'Callaghan, a developer I knew from County Cork or from Cork and that
28 he was making some arrangement with him with a view to advancing his proposal.

29 Q 522 And when would you have heard this or when would you have become aware of this?

15:13:21 30 A I can't recall the exact date, but certainly at some stage Mr. Gilmartin did

15:13:23 1 tell me that he asked me I think did I know Mr. O' Callaghan and I said, well I
2 know of him and I think I met Mr. O' Callaghan a couple of times but anyway,
3 that he told me that he was negotiating with Mr. O' Callaghan and it was all
4 about land transactions and I really wasn't that interested because it was
15:13:44 5 Mr. Gilmartin's own business and it was business arrangements that he was
6 having in trying to put together his project.

7 All I was concerned about is that the projects would go ahead, particularly the
8 Bachelors Walk now, because the Bachelors Walk was the one that we had
9 designated as a government to help advance the investment and we were hoping
10 that it would go ahead and that Arlington were supposed to be a big player, a
11 big name, and that the whole thing would come to happen but it didn't.

15:14:06 12 Q 523 By January of 1989, Mr. Flynn, and February it have 1989, were you aware of
13 Mr. Gilmartin's involvement or potential involvement of the acquisition of a
14 large site at Quarryvale?

15:14:26 15 A I can't say that I was.

16 Q 524 Well --

17 A I can't say that I was but I have to be careful here, because meetings were
18 very short duration with Mr. Gilmartin and I know that at some stage he did say
19 to me he was negotiating with a Mr. O' Callaghan, it was no more than that.

15:14:45 20 Q 525 Do you remember the second meeting that took place between the managers and the
21 ministers for on the 2nd February?

22 A Yes, I do.

23 Q 526 Mr. Redmond recollects that at that meeting, you told that meeting that and I
24 quote I think accurately that you said at that meeting "That Mr. Gilmartin had
15:15:08 25 taken out Mr. O' Callaghan."

26 A I saw that. I can't remember those exact words. But it very well might be
27 true that I would have told -- you see the meetings that took place were
28 between the Taoiseach, myself and one or two other ministers and certain
29 officials, trying to promote development, investment and employment. And there
15:15:29 30 were a lot of ministers involved in drawing up schedules of matters that might

15:15:34 1 be addressed with a view to achieving our aim. And I might very well have said
2 there's an arrangement between Mr. Gilmartin and Mr. O' Callaghan and I
3 understand they are going ahead, something of that nature. So it's possible
4 what Mr. Redmond remembers is in some way related to what was said but there
15:15:54 5 was no great detailed discussion. I don't know whether Mr. Redmond said that,
6 that there was any great detailed discussion about Quarryvale because there
7 wasn't.

8 Q 527 Well if Mr. Redmond is correct that on the 2nd February, you told the assembled
9 meeting that Mr. Gilmartin had taken out Mr. O' Callaghan, you must have been
10 told that --

11 A If I said that, it would have indicated that Mr. Gilmartin had told me that he
12 had an arrangement to buy out Mr. O' Callaghan. That is what I was -- what I
13 see that to be. I say to you that I have no recollection of that meeting but
14 matters were discussed as to projects that were hoped for would be going ahead.

15:16:36 15
16 And we certainly hoped that Mr. Gilmartin would be successful in the project
17 that he had in hand and that was Bachelors Walk.

18 Q 528 That was the Arlington project but insofar as Mr. Redmond has a recollection
19 and has recorded in his statements, you as saying that you understood that
15:16:56 20 Mr. Gilmartin had taken Mr. O' Callaghan out. That information --

21 A What does taken him out mean?

22 Q 529 I'll show you statement, 1049 please. If I can direct you, it's almost six or
23 seven paragraphs from the bottom:

15:17:14 25 "Mr. Flynn informed the meeting there was no need to worry on that score as
26 Mr. Gilmartin had taken Mr. O'Callaghan out, he explained this by saying
27 Gilmartin and O'Callaghan had joined forces in their determination to pursue
28 and proceed the Quarryvale objective and there would be no movement in relation
29 to the 30 acres in relation to the official town centre, the disposal of the
15:17:34 30 corporation lands to T Gilmartin was now discussed. The area of land in

15:17:37 1 question was 17 acres. The managers pointed out certain other matters."

2

3 Now, if you introduced that material to the meeting, Mr. Flynn, would you agree

4 that in all likelihood, you would have been told by that by Mr. Gilmartin?

15:17:51 5 A Just one point on that, taking out somebody is not my normal language or normal

6 tongue, so if it hadn't been in that language, I might have been able to answer

7 easier for you, it's not my normal type of phrase, that's all I'm saying to you

8 and if it was a thing that that was discussed in that way, it would have been

9 indicated if that's so, at that meeting.

15:18:12 10 Q 530 Well I just want to bring to you other contemporaneous records in relation to

11 this meeting or references to that meeting. Mr. Gilmartin had a telephone

12 conversation with Mr. Hugh Sreenan on the 4th March 1989.

13 A Yes.

14 Q 531 And at page 3053 he says the following, "A meeting was called." The first

15:18:38 15 paragraph, so you see that?

16 A Yes.

17 Q 532 "There was an announcement to the managers that O'Callaghan and I were getting

18 together so the conflict was gone. The development going ahead would be mine

19 and then one of the managers came out, he had taken mine all along it was a

15:18:54 20 joke and he realised now it was a goer".

21 And in a second telephone conversation with Mr. Sreenan at 1144, on the 9th

22 March 1989, Mr. Gilmartin is recorded as stating the following at the bottom of

23 the page:

24

15:19:08 25 "The Taoiseach called a meeting and the Minister for Environment announced that

26 the Clondalkin deal -- next page -- was not going ahead and they wanted mine

27 given every chance. One of the county managers came out and contacted persons

28 who had vested interests." Appeared in both those telephone conversations of

29 the 4th and the 9th March that Mr. Gilmartin appears to be suggesting that you

15:19:33 30 made an announcement at a meeting at which the Taoiseach was present that his

- 15:19:38 1 was the job which was going ahead?
- 2 A What do you mean going ahead? What he was acquiring land.
- 3 Q 533 I am simply putting to you?
- 4 A Let's be clear about it, if Mr. Gilmartin was acquiring property for the
- 15:19:52 5 purpose of a development and that was a matter for him but insofar as I was
- 6 concerned, Bachelors Walk was the big thing and at some stage all right, I was
- 7 aware that he was acquiring other property, that he had another project in
- 8 mind, yes. And that would have been obviously the lands you are talking about.
- 9 Q 534 And if we look at 1144, what Mr. Gilmartin is saying to the Gardai on that
- 15:20:18 10 occasion, what Mr. Gilmartin is saying to the Gardai is that the Taoiseach
- 11 called a meeting which presumably is the meeting of the 2nd?
- 12 A Yes, well the Taoiseach called, there were a few meetings, we had several
- 13 meetings I don't know there were just two but we had meetings of that special
- 14 task force of Taoiseach and ministers for the purpose that you have explained.
- 15:20:38 15 Q 535 Yes and what Mr. Gilmartin is saying to the Gardai on the 9th March 1989, is
- 16 the Minister for the Environment announced that the Clondalkin deal was not
- 17 going ahead.
- 18 A I can't recall that now. But what I would have been, I think, been able to say
- 19 is that Mr. Gilmartin had informed me that he was in consultation or
- 15:20:59 20 negotiation with Mr. O' Callaghan to make whatever arrangements they had
- 21 concerning properties that they were interested in. Apart from that, I would
- 22 have had no knowledge, no specific knowledge.
- 23 Q 536 So, Mr. Gilmartin did discuss with you the Quarryvale?
- 24 A Mr. Gilmartin did as I told you, I didn't think it was quite so soon, he did
- 15:21:19 25 discuss with me that he had another interest other than Bachelors Walk and that
- 26 it was in the west Dublin area.
- 27 Q 537 It would follow, would it not, Mr. Flynn, if those records are accurate, if
- 28 Mr. Redmond is accurate in his recollection, that you had knowledge of
- 29 Mr. Gilmartin's Quarryvale development certainly at the latest by the 2nd
- 15:21:39 30 February 1989?

- 15:21:42 1 A If Mr. Redmond is correct, then it would suggest that I was aware that
2 Mr. Gilmartin and Mr. O' Callaghan were in negotiations concerning a project or
3 projects that they both had in mind, that is correct.
- 4 Q 538 Now, Mr. Gilmartin has given evidence about a meeting that he says happened on
15:22:07 5 the 1st of February of 1989 and he has described meeting with Mr. Lawlor in
6 Buswells Hotel and being brought over to the Dail at which he met Mr. Haughey
7 and a number of ministers, one of whom was yourself, you are familiar with that
8 evidence, Mr. Flynn?
- 9 A I have heard a lot about that.
- 15:22:19 10 Q 539 It's the meeting of the 1st February 1989, it's been discussed here.
11 Mr. Gilmartin then says that after the meeting took place in the corridor, an
12 improper demand for 5 million pounds was made of him?
- 13 A I am aware of that.
- 14 Q 540 Dealing first of all with whether or not such a meeting took place, do you
15:22:34 15 recollect such a meeting?
- 16 A No.
- 17 Q 541 Does that mean that it didn't take place or it couldn't have taken place?
- 18 A The meeting as described by Mr. Gilmartin could not have taken place.
- 19 Q 542 Why do you say that?
- 15:22:53 20 A Because, if you put up on the screen his statement, it says that it took place
21 on the fourth or the fifth floor of Leinster House. There is no cabinet room
22 on the fourth or the fifth floor of Leinster House. There is a parliamentary
23 party room and the other floors are made up of offices for deputies. To my
24 perfect recollection, no cabinet meeting of Mr. Haughey and others ever took
15:23:29 25 place on the fourth or fifth floor.
- 26 Q 543 I don't think it has been suggested by anybody that this was a cabinet meeting?
- 27 A Oh sorry.
- 28 Q 544 It was a meeting of a number of people. I do not understand anybody's evidence
29 to go to a point that if such a meeting took place it was a cabinet meeting or
15:23:46 30 that Mr. Gilmartin was invited to attend a cabinet meeting. It was a meeting

15:23:51 1 at which the Taoiseach and members of the cabinet are alleged to have been
2 present.

3 A In that case, I have no recollection of any meeting taking place between a
4 Taoiseach and a number of cabinet ministers on that day on the fourth or fifth
15:24:04 5 floor of Leinster House.

6 Q 545 You will be familiar with the evidence of Mrs. Mary O'Rourke?

7 A Yes.

8 Q 546 And she has a recollection when she was Minister for Education for you coming
9 in to her ministerial office, and asking her to come across to meet
15:24:18 10 Mr. Gilmartin who was going to provide jobs in Dublin.

11 A That is in direct conflict with the evidence given by Mr. Gilmartin.

12 Q 547 Yes. If we deal first of all with Mrs. O'Rourke, do you say Mrs. O'Rourke is
13 in incorrect in that you did not come to her office?

14 A I have no recollection of going to Mrs. O'Rourke's office and inviting her to
15:24:43 15 go across the corridor to a meeting between the Taoiseach and other ministers
16 that was taking place at which Mr. Gilmartin was present.

17 Q 548 Yes. Mrs. O'Rourke seems to have a recollection, certainly if her evidence is
18 correct, that you came to her office, you made some comment about a bereavement
19 she had suffered recently, you asked her to come across to meet this man who
15:25:07 20 was going to provide a lot of jobs, she came across. She described she nodded
21 at Mr. Gilmartin and she didn't speak with him and she left.

22 A You said a lot there but I want to tell you I have no recollection of crossing
23 the corridor and sympathizing with Minister O'Rourke concerning the death of
24 her mother that took place three months previously.

15:25:30 25 If I sympathised with Minister O'Rourke following her bereavement, it would
26 have been in the immediate aftermath of the bereavement and not three or four
27 months later seeing as I was meeting Mrs. O'Rourke every day, every week.

28 Q 549 I think the comment that was made was that you mentioned something to the
29 effect I may be incorrect in this, that the gentleman in question,
15:25:54 30 Mr. Gilmartin, came from the same area or location as I think Mrs. O'Rourke's

15:26:01 1 deceased parent?

2 A Well I don't know anything about that. I know that Mr. Gilmartin came from

3 County Sligo, that's all I know.

4 Q 550 Can I turn to ask you about the Garda inquiry that was initiated, Mr. Flynn, I

15:26:14 5 think by you on the 2nd February 1989.

6 A That is correct.

7 Q 551 And that related to matters we will relating to a Mr. Thomas McCaughey and a

8 Mr. Thomas Loughran?

9 A Correct.

15:26:28 10 Q 552 Did they come to you with their complaints?

11 A They did.

12 Q 553 And in the course of their complaints did they make a complaint about

13 Mr. George Redmond.

14 A No.

15:26:38 15 Q 554 I don't want you to name anybody else, what were they complaining about?

16 A They were complaining -- They did not make any reference to Mr. Redmond. They

17 were complaining about a matter dealing with An Bord Pleanala and I can write

18 the names.

19 Q 555 That's not necessary. You needn't refer to the people but it was a separate

15:27:00 20 Garda inquiry into planning corruption, if I can call it that?

21 A In fact there were three.

22 Q 556 Yes.

23 A In fact there were three, but that was one of them, you have quite right and

24 you have named one and unless you ask me specifically through the Chair to name

15:27:11 25 the others.

26 Q 557 I am not asking you to name who was the subject matter of the inquiry, I am

27 asking you when Mr. Loughran and Mc McCaughey came to you was Mr. Redmond one

28 of the persons who was named to you as being considered by them to be behaving

29 improperly?

15:27:25 30 A No, he was not.

- 15:27:26 1 Q 558 Did you know subsequently Mr. Loughran or Mc McCaughey made complaints about
2 Mr. Redmond?
3 A No.
4 Q 559 I show you page 3070 and this is part of an interview that took place on the
15:27:43 5 10th February 1989 by Superintendent Burns. And in it, he records Peter
6 Loughran and his partner, Thomas Mc McCaughey said:
7
8 "that a George Redmond, assistant county manager, Dublin County Council, known
9 colloquially as JR, was heavily involved in bribery and illegal deals in
15:28:03 10 connection with planning but could not give specific details."
11
12 When was the first time anybody ever made an allegation to you about Mr. George
13 Redmond?
14 A In fact, nobody specifically made a complaint against George Redmond except
15:28:22 15 that Mr. Gilmartin had mentioned and I used the word complaint now in very
16 strict terms, Mr. Gilmartin had mentioned to me, not in any great detail, that
17 he was having difficulties. This would have been in February, late February I
18 think, and he had mentioned Mr. Redmond then. But the complaint was that Mr.
19 Redmond was not helping him, I think or was not facilitating him.
15:28:56 20 Q 560 Was that complaint made to you prior to your meeting with Mr. Feeley and
21 Mr. Haughey?
22 A He mentioned things to me before Mr. Feeley and Mr. Haughey came to see me, I
23 had already, apart from initiating the Garda inquiry into the previous
24 complaint that you mentioned, I had also inform the Taoiseach and initiated the
15:29:23 25 Garda investigation on the other matter as well.
26 Q 561 What is the other matter?
27 A The other matter that Mr. Gilmartin had been complaining to me.
28 Q 562 We will come to deal with that in a moment. I want to deal first of all with
29 the issue about the first occasion on which a complaint was made to you about
15:29:41 30 Mr. George Redmond and by whom the complaint was made?

15:29:43 1 A Mr. Gilmartin.

2 Q 563 Doing the best you can, we will go through the documents, when was that
3 complaint first made to you?

4 A End of February.

15:29:50 5 Q 564 End of February of 1989?

6 A Correct.

7 Q 565 Now, was that in connection with Bachelors Walk?

8 A Wasn't specific.

9 Q 566 Did you not know in the course of that what area of Dublin Mr. Gilmartin was
10 talking about?

11 A I would have known that Mr. Redmond used to accompany the other assistant
12 managers on meetings that we had to discuss development. But as to the actual
13 specific responsibility that Mr. Redmond had in any area of responsibility, I
14 can't say that I knew.

15:30:27 15 Q 567 Are you saying that you didn't know that he was in charge of the county?

16 A No -- I can't specifically say that I knew in its entirety. I knew he was an
17 assistant county manager.

18 Q 568 Are you saying that when Mr. Gilmartin first made these complaints to you at
19 the end of February 1989, you were unclear in your mind as to whether he was
15:30:47 20 complaining about Bachelors Walk or Quarryvale?

21 A Yes, it didn't arise in that specificity.

22 Q 569 Is that your position, Mr. Flynn?

23 A Well Mr. Gilmartin did like to complain a lot. Now, he was a very of affable
24 man, and the meetings I had with him were always very pleasant, always very
15:31:16 25 pleasant, from the first meeting to the last meeting but he was in a hurry and
26 he would have thought things should have moved along a lot quicker. I used to
27 point out to him the inevitability of gradualness in local authority
28 bureaucracy but he didn't have much time for that.

29

15:31:40 30 And he did complain on and off. He would complain on and off about delays,

15:31:47 1 about one thing or another and then another meeting he would say all that
2 matter has been resolved and things are going very well. He complained about
3 Arlington more than anything else. He really was cheesed off with them on a
4 number of occasions. But then he would be getting on very well and things
15:32:04 5 would be going very well for him so I have to say to you, he did complain but
6 when he made some specific complaints, the investigation that I had initiated,
7 then I thought the matter should have been dealt with further and I had a word
8 with the Taoiseach and at a meeting and I think Mr. Matthews' memoirs --

9 Q 570 We are going to come to that?

15:32:27 10 A Sorry. But that's how it happened anyway to the best of my recollection.

11 Q 571 No, I just want to be clear on this now, Mr. Flynn. That your position is as
12 follows, that notwithstanding the existence of documents in your department
13 dated December 1988, that appeared to show, if I may say so, quite a degree of
14 knowledge about the assembly of the site for Quarryvale and notwithstanding
15:32:51 15 that Mr. Gilmartin was involved in Quarryvale in early January 1989, your
16 recollection of your dealings in late 1988 and early 1989 with Mr. Gilmartin
17 relate primarily to Arlington and the quays, is that correct?

18 A Yes, and I have to say to you that documents between, subject the subject of
19 conversations or whatever between department officials and people calling to
15:33:18 20 see them, they would not be subsequently laid on my desk. They would have been
21 ongoing negotiations that Mr. Gilmartin or anybody like Mr. Gilmartin would
22 have been having with the Department and it was only if there was a specific
23 meeting coming up and I had to be briefed, then I would know the precise
24 details were.

15:33:42 25
26 But then as I say it, Mr. Gilmartin had and did tell me that he was interested
27 in another project. There's no question about that. Now, even though he had
28 said that, his primary concern at that stage, to my recollection anyway, was
29 Bachelors Walk. He thought it was a wonderful project and so did I share that
15:34:01 30 view.

15:34:03 1 So as I say, earlier on then, I would have known more, I presume, whether it
2 was from the department or Mr. Gilmartin, and my knowledge would have increased
3 but listen, it wasn't something that I was concerned with every day, there was
4 an enormous amount of things to be done. So I wasn't involved on a daily basis
15:34:25 5 with what Mr. Gilmartin was doing or not doing. Sorry I can't be more helpful,
6 Mr. Chairman.

7 Q 572 As a result of what you learned from Mr. Feeley and Mr. Haughey on the, when
8 you met him at the end of February, you initiated or you told the Taoiseach and
9 you ensured that the matters that they told you about were included in the
15:34:43 10 Garda investigation?

11 A In fact, I had said that to the Taoiseach before that.

12 Q 573 Is that correct?

13 A Oh yes, I had said before Mr. Feeley and Mr. Haughey came to see me, I think it
14 was the 28th, was it?

15:34:55 15 Q 574 They came to see you on the 28th.

16 A On the 28th, yes and I asked them at that time, it was a matter of great
17 concern to them and it was of equal concern to me, if there was any problem of
18 a nature that they were concerned with, I was determined that it was going to
19 be investigated and sorted out. But before that, some days before that, I had
15:35:19 20 already spoken to the Taoiseach and we had informed the Gardai, or sorry I
21 wasn't at the meeting now, but Mr. Haughey, because of what I had told him had
22 asked that Mr. Gilmartin's name be included and in fact it was one of the
23 things afterwards, if you don't mind my drifting away.

24 Q 575 I do actually.

15:35:41 25 A If I might just say this.

26 Q 576 Sorry Mr. Flynn, we'll make more progress if you concentrate on the questions.
27 If we go back to the complaints that Mr. Gilmartin made to you. You took them
28 so seriously you went to the Taoiseach and had them included in a Garda
29 inquiry?

15:35:56 30 A Yes.

- 15:35:56 1 Q 577 Now can you outline what those complaints were that Mr. Gilmartin made to you
2 before you went for London that week?
- 3 A Yes, I had told him that it had come to my notice.
- 4 Q 578 The complaints Mr. Gilmartin made to you?
- 15:36:11 5 A Yes. It had come to my notice through a Mr. Gilmartin --
- 6 Q 579 I'm sorry, you are recounting now what you told somebody else, I want you to
7 tell the Tribunal what Mr. Gilmartin told you.
- 8 A I was going to say that.
- 9 Q 580 Now, you started off by saying, I told whom what Mr. Gilmartin had said, I'd
10 like you to recount the conversation you had with Mr. Gilmartin where
11 Mr. Gilmartin made complaints of such a nature, that you went to the Taoiseach
12 and had them included in a Garda inquiry?
- 13 A Mr. Gilmartin spoke to me of complaints that he was making against certain
14 people and I took that information, relayed it to the Taoiseach and he asked
15 the Gardai to include Mr. Gilmartin's complaints in their investigation.
16 Immediately after that --
17
- 18 CHAIRMAN: But what did Mr. Gilmartin tell you that you then passed on to
19 others, to the Taoiseach?
- 15:37:11 20 A Well I can't recollect exactly what he said, but you know the list of
21 complaints that he recounted to Mr. Feeley, and Mr. Haughey. Some of those
22 matters were recounted to me.
23
- 24 CHAIRMAN: Can you tell us what you recall you were told by Mr. Gilmartin.
- 15:37:31 25 A Well from my recollection he was being disrupted in what he was seeking to do
26 by certain officials.
27
28
- 29 Q 581 MS. DILLON: By whom?
- 15:37:44 30 A Mr. Redmond.

- 15:37:45 1 Q 582 Did he name anybody else?
- 2 A I can't recall that he did.
- 3 Q 583 Did you make any note of Mr. Gilmartin's complaints?
- 4 A No.
- 15:37:54 5 Q 584 When you went to the Taoiseach with the history of Mr. Gilmartin's complaints,
6 did you do, make out a list or did you simply give him your recollection?
- 7 A No, it was verbal, just as it was verbal insofar as Mr. Loughran was concerned
8 but I was so very concerned that there would be any complaints made about any
9 officials that I asked the Taoiseach that the matter should be investigated.
- 15:38:18 10 Agreed wholeheartedly with me and the Department of Justice were notified and
11 the whole business started, now it mushroomed a lot after that of course.
- 12 Q 585 Did Mr. Gilmartin mention a name of Finbar Hanrahan to you?
- 13 A I can't recall that he did in any specific terms.
- 14 Q 586 Did he mention the name of Mr. Liam Lawlor to you?
- 15:38:41 15 A I can't recall.
- 16 Q 587 Is the only name you can recall that of Mr. Redmond?
- 17 A Yes.
- 18 Q 588 What allegation of criminality did Mr. Gilmartin make against Mr. Redmond that
19 led you to go to the Taoiseach to have it included in the Garda investigation?
- 15:38:55 20 A I think it was that he was frustrating his endeavours.
- 21 Q 589 Well now let's consider that for a moment, why would a complaint that
22 somebody's efforts were being frustrated lead you to conclude that is should
23 become the subject matter of a Garda inquiry?
- 24 A Because Mr. Gilmartin was making serious complaints.
- 15:39:13 25 Q 590 What was the complaint?
- 26 A I told you, that he was not being allowed to progress his project
27 satisfactorily because of interference.
- 28 Q 591 What you do as a result of this complaint according to your evidence, is you
29 ensure it's made the subject matter of a Garda inquiry, is that correct?
- 15:39:28 30 A No, no, I asked that the Taoiseach would ask that this matter be also

15:39:33 1 investigated.

2 Q 592 And it is included, I think, in the Garda inquiry.

3 A Oh I think so.

4 Q 593 And I think in fact that it was put to a number of witnesses by your counsel

15:39:41 5 that in fact it was as a direct result of what you did, that these allegations

6 were investigated by the Gardai, is that right?

7 A That's right.

8 Q 594 I want to you detail to the Tribunal what complaints were made to you that

9 satisfied you this matter should become the subject matter of a criminal

15:39:58 10 investigation?

11 A I can't recall the detail for you now.

12 Q 595 But would you be satisfied that it must have been such at the time, that you

13 were satisfied that it was a matter that should be investigated by the Gardai?

14 A Yes.

15:40:13 15 Q 596 Whatever those allegations were?

16 A Correct.

17 Q 597 You have referred to a list of complaints, is that correct, you referred to a

18 few moments ago, are you talking about the document that was prepared by

19 Mr. Feeley and Mr. Haughey?

15:40:28 20 A Correct.

21 Q 598 2199 please and 2200 is the typed version of that. You have considered this

22 document, Mr. Flynn, is that correct?

23 A Is this the one that he hand wrote? Sorry --

24 Q 599 This is the typed version of one that was handwritten?

15:40:44 25 A And given to me.

26 Q 600 And given to you.

27 A Correct.

28 Q 601 I can give you the handwritten version of it if you wish?

29 A No, no: Not necessary.

15:40:52 30 Q 602 Now, you obviously cannot say because you have no recollection of the actual

15:40:56 1 complaints made by Mr. Gilmartin save that they were serious, whether this list
2 represents the complaints that were made to you.

3 A The only recollection I have of that is from Mr. Gilmartin's testimony here,
4 Mr. Chairman, when he said that he may have made some of these complaints to me
15:41:11 5 but he can't, he was quite clear that he hadn't made them in total or whatever.
6 In other words, so these are the complaints that Mr. Gilmartin is understood to
7 have made to Mr. Haughey and Mr. Feeley and they provided a handwritten note of
8 this at my request and these are the complaints, yes.

9 Q 603 These are the complaints that Mr. Feeley and Mr. Haughey record at their
15:41:36 10 meeting on the 24th February 1989.

11 A Correct.

12 Q 604 But you had prior to that meeting, you had met with Mr. Gilmartin and he had
13 made complaints?

14 A Correct.

15:41:44 15 Q 605 And that is a meeting that is likely to have occurred on the 22nd of February
16 of 1989?

17 A If the documentation so says.

18 Q 606 Because he had a meeting with Mr. Gilmartin, 3850, on that date?

19 A Yes. That is correct.

15:41:59 20 Q 607 Now that is the same date that Mr. Gilmartin complaints to Mr. Haughey and that
21 is the same date on which it is likely a meeting took place involving
22 Mr. Redmond, do you have any recollection of Mr. Gilmartin complaining to you
23 on the 22nd of February about a meeting that didn't take place with
24 Mr. Redmond?

15:42:19 25 A No, I understood that the meeting with Mr. Haughey and Mr. Feeley was the 23rd,
26 maybe I have that wrong.

27

28 JUDGE FAHERTY: He met Mr. Haughey on the 22nd.

29 A On the 22nd. Okay.

15:42:32 30

- 15:42:32 1 Q 608 MS. DILLON: And the meeting is likely to have been on the same day. So that
2 on the 22nd February, if this is the date Mr. Gilmartin is making his
3 complaints, he is complaining to you and he is complaining to Mr. Sean Haughey
4 on the same day.
- 15:42:45 5 A Yes.
- 6 Q 609 And as a result of what Mr. Gilmartin said to you, independent and prior to
7 your meeting Mr. Feeley and Mr. Haughey, you had put it in the hands of the
8 Taoiseach to be included in the Garda investigation?
- 9 A I asked that it be included before I saw the list that was prepared some days
10 later by Mr. Feeley for him.
- 15:43:04 11 Q 610 It follows from that, does it not, Mr. Flynn, that you were satisfied on the
12 22nd February that what was being recorded to you by Mr. Gilmartin was criminal
13 conduct of some sort or another?
- 14 A I regarded that it was sufficient for me to be concerned. Whether it was
15 criminal or not was not a matter for me to judge.
- 15:43:24 16 Q 611 At 2212, this again was originally handwritten, Mr. Flynn, you will have seen
17 it, this is the typed version, it's a document signed by Frank Feeley on 3rd
18 March 1989, and it refers to a meeting with you on the 28th February?
- 19 A Yes.
- 15:43:43 20 Q 612 And he records there, "that he met the minister with Sean Haughey, the meeting
21 was approximately one hour, told the minister of allegations and of my
22 particular concerns of charges against officers investigated, preferably by
23 Gardai and that in the ordinary course I would interview officer and determine
24 appropriate action. Minister was aware of some at least of allegations I made
25 and said there were other matters also requiring investigation."
26
27 Now, in so far the first sentence is concerned "Minister is aware at least of
28 some allegations I made", is it the situation when they spoke to you about Mr.
29 Gilmartin's allegations, you were aware of some of those allegations?
- 15:44:03 30 A I think so, yes.
- 15:44:22

- 15:44:23 1 Q 613 It would follow therefore that you must have been aware though you cannot
2 recollect it now, of some of the allegations that are set out at 2199 and 2200.
- 3 A It's very easy when you see it written down like this, you know. But to
4 actually then, Mr. Chairman, say that I knew all those, I don't want to malign
15:44:38 5 anybody but certainly Mr. Gilmartin had made complaints to me and these
6 complaints a couple of days later specified the complaints that he had made,
7 and obviously he mentioned some of them previously.
8
9 Not them all, he says that himself and he is quite right there but I had
15:44:53 10 already asked that the Gardai investigate the business but then of course it
11 went much further as soon as I saw this document, as soon as this was made
12 available to me.
- 13 Q 614 After you were provided with -- in fact I think your meeting, that
14 particular -- I beg your pardon, I think subsequently on the 3rd of March, you
15:45:14 15 had a meeting with the Minister for Justice, is that correct?
- 16 A No. The Minister for Justice?
- 17 Q 615 Yes. 3023?
- 18 A I see it there.
- 19 Q 616 It's coming up now. "On the 3rd March the Minister asked me to join him in his
15:45:32 20 office with the Minister for the Environment, where the Minister, Mr. P Flynn
21 was already present".
- 22 A Yes. That's right.
- 23 Q 617 And it sets out that you had met with Mr. Feeley on the 28th and they had told
24 you the following.
- 15:45:40 25 A Yes.
- 26 Q 618 And it sets out there what you had been told.
- 27 A I think -- I don't know whether, yes, if that corresponds with what Mr. Feeley
28 had said, then that's accurate.
- 29 Q 619 No, it appears to be recounting and this is the point I want to ask you, you
15:45:55 30 appear to be recounting there what you were told by Mr. Feeley.

- 15:45:59 1 A Yes, that's true.
- 2 Q 620 Because in fact I think at that stage by 2.30 on Friday, 3rd March 1989, you
3 did not have the handwritten note?
- 4 A Correct, I didn't get that until the 3rd.
- 15:46:13 5 Q 621 This is the 3rd of March 1989. This meeting is taking place, did you see that?
- 6 A At 2.30, I think the only reason I can say this to you, Mr. Chairman, is that
7 I think that on that handwritten note I got from Mr. Feeley, it was after,
8 sometime after 3 o'clock and -- don't ask me why I seem to remember that but I
9 think it is.
- 15:46:41 10 Q 622 At this meeting at 2.30 you haven't yet the got the handwritten note?
- 11 A I don't think so.
- 12 Q 623 Because in fact, on Mr. Feeley's record at 2212 he records giving you the
13 handwritten note at 3.15?
- 14 A Ah, well there you are.
- 15:46:56 15 Q 624 Do you see that?
- 16 A Yes.
- 17 Q 625 We go back to the earlier document which is based on your recollection, 3023
18 and what is recounted there, is what happens or what you were told by
19 Mr. Feeley and Mr. Haughey, is that correct?
- 15:47:11 20 A Correct.
- 21 Q 626 Now, did you in that meeting with the Minister for Justice indicate that
22 Mr. Gilmartin had himself come to you with complaints.
- 23 A What you were asking is did I say to the Minister for Justice that
24 Mr. Gilmartin --
- 15:47:38 25 Q 627 What is recorded there, Mr. Flynn, is what you were told by Mr. Feeley and
26 Mr. Haughey?
- 27 A Correct, that's right, yes.
- 28 Q 628 However we know prior to Mr. Feeley and Mr. Haughey ever getting to you,
29 Mr. Gilmartin had got to you and complained?
- 15:47:49 30 A Correct, that's right.

- 15:47:51 1 Q 629 I am asking you why is it that in this document, you do not set out what
2 complaints were made to you personally directly by Mr. Gilmartin?
3 A Well I don't know why that's not included there but certainly Mr. Gilmartin had
4 complained to me prior to this and I had taken action on it.
- 15:48:08 5 Q 630 And the action that you had taken I think was the, you were you had told
6 Mr. Haughey and I think that's recorded in the second note?
7 A I had told Mr. Haughey about the two things, the one you mentioned originally
8 and then about this one and then all of this took place and the Gardai were
9 brought in on the job.
- 15:48:34 10 Q 631 I'm just drawing to your attention that the document does not seem to record
11 the complaints that Mr. Gilmartin had made to you, it records only what
12 Mr. Feeley and Mr. Haughey had said to you?
13 A That is correct.
- 14 Q 632 I just going to find the document that records what Mr. Haughey --
15:48:57 15 A I wasn't at the meeting that Mr. Haughey asked the complaints.
- 16 Q 633 I have it now, 3018 please. It occurs on the 2nd March. 3018. This is a
17 record in relation to -- I want to draw to your attention the second half of
18 this meeting, it's a Department of Justice memo and it's talking about the
19 inquiry that had been initiated by you, the Loughrey inquiry, isn't that
15:49:22 20 correct?
21 A Loughran. Yes.
- 22 Q 634 Loughran, and then on the final paragraph "The Taoiseach said he had been
23 apprised of a further name. A Mr. Tom Gilmartin had been making allegations in
24 regard to improprieties in the granting of planning permission."
15:49:38 25 Now, would he have got that from you?
26 A Yes.
- 27 Q 635 What planning permission did Mr. Gilmartin --
28 A He never applied for planning permission for anything in this country, to my
29 knowledge.
- 15:49:46 30 Q 636 That's the point. How was it, if the Taoiseach is recording here what you had

15:49:50 1 said to him. How do you come to understand that Mr. Gilmartin's complaints
2 related to planning permission?

3 A I think there's misunderstanding there because Mr. Gilmartin to my knowledge
4 unless something has happened that I know nothing about, never made planning
15:50:05 5 application for anything in Ireland. That's my understanding of it.

6 Q 637 It goes on to record "Mr. Gilmartin was an Irishman with interests in London in
7 contracting and other property development and he was also involved in some way
8 with the Arlington Group who were concerned with the development of property on
9 Dublin quays." 3019. "The Taoiseach also directed that his name also be
15:50:22 10 passed on to the Gardai and they be requested to follow up in in their
11 investigations with Mr. Gilmartin and wherever else their inquiries might lead
12 them. The Taoiseach made the point that all that had been learned so far about
13 this whole matter was so far unsubstantiated and it might all turn out to be a
14 bottle of smoke but it was absolutely essential it be thoroughly investigated."
15:50:40 15 And then it sets out the steps that were taken.

16 A That's right.

17 Q 638 Now, that seems to record the complaint, if it's an accurate reflection of the
18 complaint you made to the Taoiseach, was that Mr. Gilmartin's complaint was of
19 improprieties in connection with the planning process.

15:50:55 20 A It's obviously incorrect because Mr. Gilmartin had made no application for
21 planning for anything in Ireland. It's a very interesting aside -- if I may,
22 Mr. Chairman -- and it occurred to me at the time that all of this was taking
23 place, as you can see, on the 2nd and 3rd or whatever of March and the famous
24 meeting was to have, should have taken place on the 1st, isn't it interesting
15:51:16 25 that if Mr. Haughey, if Mr. Haughey had met Mr. Gilmartin the previous day --
26
27 CHAIRMAN: I think the meeting was the 1st February --

28 A Isn't it interesting, if he had had that meeting, that Mr. Haughey would have
29 been able to say, he would have been certainly more knowledgeable about
15:51:38 30 Mr. Gilmartin.

- 15:51:39 1 Q 639 MS. DILLON: This meeting is the 2nd March 1989.
- 2 A I understand that but the previous meeting was to have taken place a month
- 3 beforehand but it's obvious there's quite a relationship between the two and
- 4 Mr. Haughey knows nothing about it.
- 15:51:51 5 Q 640 Can I ask you what you did with Mr. Feeley's handwritten note when you got it.
- 6 A I probably would have brought it back to the department with me, I don't know.
- 7 Q 641 Well did you give it to the Gardai?
- 8 A No, no.
- 9 Q 642 Why not?
- 15:52:13 10 A They didn't ask for it.
- 11 Q 643 Well did they know you had it?
- 12 A I don't know.
- 13 Q 644 What would you have done with it, do you think?
- 14 A I would have brought it back to the department.
- 15:52:25 15 Q 645 And when you went back to the department, what would you have done with it?
- 16 A Well it would probably have been left with other documents that were there. I
- 17 mean, documents that would have been given to me at meetings would have been
- 18 left in the department for safe storage or whatever. But if the Gardai had
- 19 asked for it, then the Gardai would have got it.
- 15:52:54 20 Q 646 Yes, but for the Gardai to have asked for it, they would have had to be aware
- 21 of its existence.
- 22 A I suppose. But Mr. Feeley, as you quite rightly say, you had it up here, the
- 23 exact document, hadn't you?
- 24 Q 647 Yes.
- 15:53:15 25 A Sorry, yes, that's what I understood, yes, so that document that Mr. Feeley
- 26 prepared was available to the Gardai.
- 27 Q 648 Yes, but what I'm asking you is not that, Mr. Flynn. I am asking you what you
- 28 did with the original document that was given to you that contains a litany of
- 29 charges, if I may put it like that, or allegations.
- 15:53:35 30 A I can't recollect but more than likely it would be brought back to the

- 15:53:39 1 department and it would be in safekeeping with the other cryptic notes.
- 2 Q 649 You asked Mr. Feeley and Mr. Haughey to make out a list of allegations that Mr.
- 3 Gilmartin had made.
- 4 A Yes.
- 15:53:48 5 Q 650 So you wanted in writing what Mr. Gilmartin's complaints or allegations were.
- 6 A Correct.
- 7 Q 651 You had already, you say, initiated through the Taoiseach a Garda inquiry into
- 8 Mr. Gilmartin's allegations as told to you.
- 9 A Correct.
- 15:53:58 10 Q 652 Now you have in writing Mr. Gilmartin's allegations as told to Mr. Feeley and
- 11 Mr. Haughey.
- 12 A That's right.
- 13 Q 653 Now obviously the next logical step is to give that document to the Gardai so
- 14 they can investigate all of the matters that are set out in the document, isn't
- 15:54:10 15 that right?
- 16 A Well, not necessarily so, if they had it from Mr. Feeley.
- 17 Q 654 Were you interviewed by the Gardai at all in relation to this matter?
- 18 A No.
- 19 Q 655 Did you indicate yourself to the Gardai directly at any stage that
- 15:54:23 20 Mr. Gilmartin had made complaints directly to you?
- 21 A No, the Gardai did not interview me concerning these inquiries, I initiated
- 22 them.
- 23 Q 656 Yes, but did the Gardai know or have any reason to know that you were the
- 24 person who was in possession of the list of allegations that had been made by
- 15:54:37 25 Mr. Gilmartin?
- 26 A Oh I'm sure they did.
- 27 Q 657 Do you know that that list has not been provided by the Department of the
- 28 Environment to the Tribunal? You couldn't know that, could you.
- 29 A I have no idea.
- 15:54:48 30 Q 658 Do you know what you did with it, did you ever see the list again?

15:54:51 1 A No.

2 Q 659 If the Gardai had asked you for the list, you would have of course have made it
3 available?

4 A I would have asked my private secretary to dig out whatever document would have
15:55:04 5 been available and they would have been provided with it.

6 Q 660 And certainly by the 22nd February and if not by the 22nd February, then
7 clearly by the 3rd March 1989, you knew what Mr. Gilmartin's complaints were?

8 A Yes.

9 Q 661 And you knew that he was complaining about his development in a location other
15:55:21 10 than Bachelors Walk?

11 A Yes.

12 Q 662 So you knew that his complaints were about Irishtown or Quarryvale or some
13 other piece of land, is that correct?

14 A I knew about these complaints that had been listed out here.

15:55:31 15 Q 663 Yes, because you got them in writing from Mr. Feeley?

16 A Yes, that's right.

17 Q 664 And Mr. Gilmartin, when he had met you on the 22nd, had made complaints also?

18 A Yes, he had but as he stated himself in his evidence here, he may not have
19 mentioned many, if any of them. He just said he mentioned things to me.

15:55:52 20 Q 665 Well I think he mentioned, he said in evidence that he mentioned Mr. Lawlor to
21 you?

22 A Well, I can't recollect that he did.

23 Q 666 And he mentioned Mr. Redmond to you.

24 A Yes, he did.

15:56:01 25 Q 667 And certainly when you got this list from Mr. Feeley and Mr. Haughey and you
26 read it, you understood that Mr. Gilmartin's complaints were against Mr. Lawlor
27 and Mr. Redmond and in connection with lands at Irishtown?

28 A That is correct.

29 Q 668 All right. So you would have known from the 22nd February 1989 that in
15:56:20 30 Mr. Gilmartin's view at least, whatever was the truth of the matter,

- 15:56:24 1 Mr. Gilmartin was complaining of problems or difficulties he was having, is
2 that correct?
- 3 A Yes. But not planning problems.
- 4 Q 669 Yes, but he was also complaining about Mr. Finbar Hanrahan.
- 15:56:34 5 A If they are mentioned in that list, yes.
- 6 Q 670 Yes, at 2199. And he was complaining about improper demands for money.
- 7 A Yes but I can't recollect that Mr. Gilmartin, and he confirmed that himself in
8 evidence, that he give me any details concerning these things.
- 9 Q 671 But insofar as whatever Mr. Gilmartin may have told you on the 22nd February
15:56:54 10 1989 and we are no further advanced than that because you can't recollect what
11 he told you but we know that by the 3rd March 1989 you had in your hand this
12 list and this list includes allegations that Councillor Finbar Hanrahan had
13 asked for 100,000 pounds, that there had been a request by Mr. Lawlor for a 5
14 percent interest, that Mr. Lawlor had asked for 5 million pounds to be paid
15:57:17 15 into a bank account in the Isle of Man, that George Redmond was opposing the
16 development for the wrong reasons and there's a litany of complaints set out
17 here.
- 18 A That's correct.
- 19 Q 672 So you knew by the latest possible date, the 3rd of March 1989, that
15:57:29 20 Mr. Gilmartin was making serious allegations against named individuals in
21 respect of the Quarryvale development.
- 22 A Yes.
- 23 Q 673 And whatever ambiguity there might have existed in your mind in late 1988 and
24 early 1989, by the 3rd March, that ambiguity has resolved itself into a clear
15:57:46 25 and crystal knowledge that Mr. Gilmartin's complaints relate to his
26 developments at Quarryvale.
- 27 A I was aware that Mr. Gilmartin was complaining about matters.
- 28 Q 674 And those complaints, whatever they were that were made to you on the 22nd
29 February 1989 were such as precipitated you immediately towards the Gardai to
15:58:01 30 investigate the matter?

15:58:02 1 A Correct.

2 Q 675 And you did that, you didn't wait number you came back from your visitation to
3 London on that weekend, you went straight to Mr. Charles Haughey and told him
4 about it and he initiated the Garda inquiry.

15:58:15 5 A He asked them to include Mr. Gilmartin.

6 Q 676 In the existing inquiry that you had initiated.

7 A That's correct.

8 Q 677 You thought Mr. Gilmartin's complaints were so serious, you went straight to
9 the Taoiseach with the complaints?

15:58:25 10 A I thought that it was necessary to have the matter brought to the highest
11 authority.

12 Q 678 And do you think it is likely that you went to Mr. Charles Haughey because one
13 of the complaints that was made by Mr. Tom Gilmartin was a complaint against
14 Mr. Liam Lawlor who was a member of your party?

15:58:39 15 A No, I said I did not recollect any complaints against Mr. Lawlor at that time.
16 I only became aware of complaints against Mr. Lawlor when Mr. Feeley gave me
17 his handwritten note.

18 Q 679 So certainly by the 3rd of March, you were aware of the fact --

19 A Oh yes, that is true.

15:58:54 20 Q 680 -- that Mr. Gilmartin was complaining and I'm asking you do you think it's
21 likely that the reason you went to Mr. Charles Haughey with the matter is
22 because the complaints that were being made included a complaint against a
23 member of your own political party.

24 A I can't conclude that but I certainly went to Mr. Haughey because I felt it was
15:59:10 25 necessary to have the Garda inquiry that I had initiated, that it be expanded
26 to deal with matters that Mr. Gilmartin was complaining about and Mr. Gilmartin
27 went to Mr. Haughey and Mr. Feeley and outlined in detail what they were. I
28 asked for them to be put in writing so that there would be no, as you say,
29 ambiguity in the matter and then the Garda investigation took off. I initiated
15:59:31 30 it, I accept that. Mr. Gilmartin made the complaints to the two officials and

15:59:36 1 they came to see me and I told them that the matter would be put in the hands
2 of the Gardai.

3 Q 681 And you knew on the 3rd March 1989 that Mr. Gilmartin's allegations included
4 allegations of corruption against Mr. Lawlor, Mr. Finbar Hanrahan, of wrongful
15:59:52 5 interference by Mr. George Redmond Redmond and other matters such as that?
6 A I knew what was in the allegations as written out by Mr. Feeley.

7 Q 682 And when you came to accept 50,000 pounds from Mr. Gilmartin in the light of
8 all of the information that you had and the allegations that had been made in
9 March that you were aware of by Mr. Gilmartin, did it occur to you at the time
16:00:15 10 that you received the cheque from Mr. Gilmartin to say look, we should record
11 this so there can be no question of impropriety attaching to these funds?
12 A The question of that money was a political contribution to me from
13 Mr. Gilmartin confirmed by him then and confirmed subsequently to me by
14 telephone.

16:00:34 15 Q 683 In the light of the allegations that have been made against two politicians in
16 February and March of 1989 by Mr. Gilmartin of bribery and corruption, in late
17 May or June of 1989, you are taking 50,000 pounds from this man, a monstrous
18 enormous sum of money, equal to your annual salary, the cheque is made out to
19 cash; in the light of all you knew about Mr. Gilmartin, did it ever cross your
16:00:58 20 mind that you should have sat down with Mr. Gilmartin and said here is a
21 receipt, I want to write you a letter about this, let there be a record so
22 there is no ambiguity. Did any of that ever occur to you?
23 A I want to tell you, Mr. Gilmartin gave me a political contribution and did not
24 ask for a receipt. Had he asked for it, he would have got it.

16:01:26 25 Q 684 Did it occur to you, Mr. Flynn, in the light of the fact that allegations of
26 bribery and corruption had been made against two politicians, one of whom was a
27 member of your party about wrongfully receiving money, that when the same
28 person who made those allegations in February and March of 1989 is sitting in
29 your office and he is giving you a cheque made out to cash for 50,000 pounds,
16:01:49 30 did it ever cross your mind for one second hold on here, Mr. Flynn, I better

16:01:54 1 take care. I better get a record of this.

2 A I didn't have to take care because I trusted Mr. Gilmartin.

3 Q 685 It's 4 o'clock, sir. We will resume in the morning, I would expect to finish
4 before lunch.

16:02:26 5

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

7 **FRIDAY, 23RD JULY 2004, AT 10.30 A.M.**

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