

11:47:38 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,**

2 **29TH JULY 2004, AT 12.00 NOON:**

3
4 MS. DILLON: Good morning. Mr. Flynn please.

12:05:08 5
6 **CONTINUATION OF QUESTIONING OF MR. PADRAIG FLYNN**

7 **BY MR. LAWLOR.**

8
9 MR. LAWLOR: Mr. Chairman, could I have your guidance on a matter, not to get
10 into controversy later. On day 352 of the proceedings, the issue arose
11 regarding what I believe may arise during the questioning regarding the
12 redacted statement and what's allowable and can be discussed and cannot be
13 discussed. And on day 352, responding to Mr. O'Higgins for Senator Cosgrave,
14 the following quote was put and it's because of what I interpreted you said,
15 but can't find it in the transcript the other day, Chairman, that you hadn't
16 read the total statement that you were giving to Mr. Flynn in the witness-box
17 and it's to do with the telephone conversations, and Mr. O'Neill was
18 questioning Mr. Flynn and what was said on that day in the Tribunal:

12:06:13 20 "Mr. Dunlop is the Tribunal's witness and not that of Mr. Gallagher, that is
21 the core feature of the Tribunal of Inquiry, that it is conducted by the
22 Tribunal itself and not by its counsel. A fact recognised by Denham J in the
23 course of her judgment of Lawlor V Flood on the 8th October 1999, the Tribunal
24 itself inquires into matters rather than its counsel." And I just want your
12:06:42 25 advice, Chairman, if you haven't seen the statement, that can it be blacked
26 out, because the witness gave the impression that the blacked-out content was
27 to his advantage and would explain a very fundamental point before this
28 Tribunal, namely was it a personal or a party donation. And it's just that it
29 appears here, if I have the right interpretation in the Supreme Court, the
12:07:06 30 point was being put that it is your witness, not Ms. Dillon's witness, and

12:07:11 1 whatever decisions have to be made regarding that matter would have to be for
2 yourself and your two learned colleagues.
3
4 CHAIRMAN: Oh absolutely. Any decisions of that nature are matters for the
12:07:24 5 Tribunal. It's a matter for the --
6
7 MR. LAWLOR: If you haven't seen it, you can't rule on it to decide whether it
8 should be admissible in public hearing or not.
9
12:07:34 10 CHAIRMAN: I understood your point to be was were matters of that nature
11 matters for the Tribunal or matters for the counsel for the Tribunal. They are
12 matters for the Tribunal, should there be an issue in relation to them.
13
14 MR. LAWLOR: I am not going to get into in any detail because I know, I can
12:07:53 15 predict what your position is and rightly so, Chairman, but the same started
16 with Mr. Gilmartin in the witness-box when he is asked about the statement that
17 the High Court has now ruled on. I got the impression that Mr. Flynn could
18 advance his evidence to his advantage, if the statement that he gave of the
19 telephone records wasn't redacted and that somebody had advised Mr. Gilmartin
12:08:17 20 to take a particular position, which is to Mr. Gilmartin's advantage. And it's
21 as simple as this, we don't need to be rocket scientists, and I can ask the
22 question anyway under cross-examination, Mr. Gilmartin was told claim it was a
23 Fianna Fail party donation, don't be claiming you gave P Flynn 50,000 pounds or
24 you can be accused trying of to bribe a minister.
12:08:41 25
26 CHAIRMAN: I think that's a matter that -- wait now, that is going to be dealt
27 with.
28
29 MS. DILLON: Yes, subject to any questions that Mr. Lawlor may wish to put to
12:08:49 30 this witness in relation to that, it was my intention to raise that matter with

12:08:53 1 Mr. Flynn in re-examination and --
2
3 JUDGE FAHERTY: It arose in cross-examination.
4

12:08:57 5 MS. DILLON: As it arose for the first time in cross-examination by Mr.
6 O'Neill and was not a matter that had been adverted to up to this point in
7 time, so subject to anything Mr. Lawlor may wish to ask and subject to any
8 ruling the Tribunal may wish to make on any questions Mr. Lawlor may wish to
9 ask, I will be raising that in re-examination.

12:09:15 10
11 CHAIRMAN: All right.
12

13 MR. LAWLOR: Would it not be better to raise it and clear up it now before I
14 commence my cross-examination.

12:09:20 15
16 CHAIRMAN: It will be dealt with in the course of the day.
17

18 MR. LAWLOR: Then I can come back and ask questions after. Thank you,
19 chairman.

12:09:28 20
21 CHAIRMAN: Now Mr. Lawlor, you are cross-examining Mr. Flynn.
22

23 Q 1 Mr. Flynn, I just wanted to start where it all began with Arlington, and you
24 had an approach I think from Mr. Gilmartin wanting to brief you what he and he
12:09:48 25 is associates in Arlington wanted to do on the Bachelors Walk derelict
26 buildings, is that correct?
27 A Correct.

28 Q 2 And that was back in November 1987. Is that your first recollection of the
29 meeting, the personnel? Messrs. Dadley and Gilmartin?

12:10:09 30 A Yes. Mr. Gilmartin wrote to the Secretary General of the Department and a

12:10:17 1 meeting was arranged on the 4/11 and I met Mr. Gilmartin and Mr. Forman and
2 Mr. Price.

3 Q 3 If I could have day 465, page 16 please. Just at the line 4, question 41, I
4 think Mr. Dadley was Chairman of Arlington Retail. He had just fairly recently
12:11:06 5 I think joined the company and down at line 12, you will see there Mr. Flynn,
6 "Ted Dadley introduced me to Tom Gilmartin in 1987."
7

8 So these two colleagues were coming together, they sought to brief you, you met
9 them and that was the first -- if you go to Q44:

12:11:25 10

11 "He was introducer of Bachelors Walk and he was going to act as coordinator and
12 did so on the site assembly." I think that's roughly correct as well, isn't
13 it?

14 And then to go down, line 23, question 46, he says then "that he met Padraig
12:11:41 15 Flynn, the Minister for the Environment, at the instigation of yourself, who
16 promised wholehearted support to the project.
17 Answer: That's correct."
18

19 And that's your position on your first introduction and your response to the
12:11:55 20 request for a meeting and the actual meetings, isn't that correct?

21 A A meeting took place, yes.

22 Q 4 If I could just have document 3377 please. This, Mr. Flynn, is a note from Mr.
23 Jack Kirwan of the legal practice representing Arlington. If you just pick it
24 up there please on 12:

12:12:43 25 "A meeting with the Minister for the Environment, Messrs. Price, Dadley meeting
26 Mr. Flynn the Minister for the Environment and they hope to get an assurance of
27 his cooperation in supporting this scheme, if necessary, by confirming the CPO.
28 It was stressed that the CIE factor should be emphasised in discussions with
29 the minister. The other main point where they want the cooperation from the
12:13:06 30 minister is to change the designated area rules for tax purposes."

12:13:14 1 First of all, just dealing with the CPO, did they request you to consider
2 enacting the necessary procedures for a CPO?

3 A No.

4 Q 5 Do you have any recollection of whether they raised it?

12:13:29 5 A I beg your pardon?

6 Q 6 Do you have any recollection whether they raised the question of a compulsory
7 purchase order being put on the Bachelors Walk site?

8 A No, I have no recollection concerning that matter.

9 Q 7 What about the CIE issue?

12:13:43 10 A Yes, I'm sure that they did raise that matter. This is a memo from whom?

11 Q 8 This is Mr. Jack Kirwan of Hickey -- some legal practice, Kirwan, solicitor.
12 Lawyers for Arlington. And they go on then to say that:
13
14 "The other main point where they want the cooperation from the minister is to
12:14:14 15 change the designated area rules for tax purposes."
16
17 And then further down, you will pick it up there if you would please, "I hope
18 that they can persuade the minister of this. I find their argument less than
19 convincing. It is likely that the minister will cooperate in extending the
12:14:31 20 time factor. Arlington are taking the view with the minister and may indeed be
21 of the view that unless they can get the designated area extended, they may not
22 be prepared to go ahead with the scheme. They did not, of course, expect to
23 get an instant decision from the minister. They also intend to have a meeting
24 with McSharry, and if necessary Charlie Haughey in relation to this."

12:14:57 25
26 Now, it's my recollection, subject to your evidence, that you had already in
27 cooperation with the normal procedures, decided to extend that tax designation
28 and didn't require any lobbying from Arlington or anybody else and before you
29 ever met them, I think, you had already taken the decision in principle, is
12:15:18 30 that right?

12:15:19 1 A The government had taken the decision.

2 Q 9 Yes. With your recommendation to government.

3 A Correct.

4 Q 10 But did you -- well at this meeting you didn't tell them that, did you?

12:15:30 5 A No, certainly not.

6 Q 11 But you are aware that Mr. Gilmartin had somewhat different emphasis on this

7 matter regarding the tax designation, he was, he wanted it all or nothing or he

8 at certain stages he had different views on it, were they ever expressed to

9 you?

12:15:48 10 A Not at that meeting, no.

11 Q 12 If we could have day 455, page 12 please, line 23. Now, line 23 please.

12

13 "Notwithstanding that Mr. Gilmartin appears to have been informed by Mr. Flynn

14 of the government's decision in December 1987, Arlington was seeking written

12:16:48 15 confirmation of the government's decision in relation to the extension of both

16 the site and the time limits."

17

18 Now, the suggestion here, Mr. Flynn, is that you had effectively disclosed to

19 Mr. Gilmartin verbally a budget secret, not yet to be introduced until the

12:17:07 20 Minister for Finance rose in the house in the -- is that what happened, is that

21 true?

22 A No. I had authorisation from the government to discuss the matter privately

23 with the developers.

24 Q 13 And did that ever happen with any other developer?

12:17:28 25 A No.

26 Q 14 Would you agree that it seemed to be a rather close cosy working relationship

27 at a very early stage then?

28 A The government was very anxious that the development would go ahead, and they

29 authorised by formal note that I could speak with the developer privately.

12:17:54 30 Perhaps it might be page 1500.

12:18:01 1 Q 15 Okay, if you want that up, we'll get it.

2 A If my memory serves me correctly, I think it's page 1500. Perhaps that's it.

3 Q 16 That's the handwritten note from who to who please?

4 A That is a handwritten note of the secretary to the Government.

12:18:29 5 Q 17 If I could have page 467 please. Could you tell the Tribunal, Mr. Flynn, why

6 you think the Bachelors Walk Arlington project never proceeded?

7 A The only way I could respond to that, Mr. Chairman, is to reiterate had a what

8 Mr. Barry Boland said in evidence, it was changed circumstances for Arlington's

9 position.

12:19:06 10 Q 18 Well is it your recollection that Mr. Gilmartin in his evidence to this

11 Tribunal, in the early part of his evidence, was that he felt there was shadowy

12 figures, blackmail, road blocks and there was corruption and a whole spiel of

13 allegations as to why the project failed?

14 A I know nothing about that, Mr. Chairman.

12:19:29 15 Q 19 Well are you aware that his evidence then eventually said it was commercial

16 factors, Stock Exchange collapse in the UK, property sector and various other

17 commercial, non-political reasons, are you aware that he has given that

18 evidence to the Tribunal?

19 A Yes, and I understand it was confirmed by Mr. Boland, Arlington's man in

12:19:53 20 Ireland.

21 Q 20 Day 466, page 62 please. Just there, question 252. And I presume that Mr.

22 O'Donnell is Mr. Gilmartin's counsel on the day.

23

24 "Yes, but the question that Mr. O'Donnell just put to you is that Mr. Gilmartin

12:20:34 25 complains specifically and you concurred that my name is referred to, Lawlor

26 was one of the frustrations. Can you give us some specific detail on that

27 matter please?

28 Answer: Mr. Lawlor, you said that you would help us, were my words, were of

29 corridors of power, the corridors and the doors were firmly closed,

12:20:54 30 frustration.

12:20:56 1 Question: Mr. Dadley" -- this is Mr. Dadley giving evidence, Mr. Flynn --
2 "have you not or are you not now telling the Tribunal, you didn't have access
3 to any cabinet minister and even the Prime Minister?

4 Answer: I'm sorry, I didn't quite hear that.

12:21:11 5 Question: Are you saying to the Tribunal that you did not have access or
6 ministers refused to meet with you, to be of assistance in your project, is
7 that what you are telling the Tribunal?

8 Answer: No, I did not say that.

9 Question: You said the doors were firmly closed."

12:21:32 10
11 This, Mr. Flynn, is after you met Mr. Dadley at the Reform Club, and he is now
12 making the case to the Tribunal here that as a result of not agreeing to make a
13 contribution to the Fianna Fail party, that you and I and others changed their
14 attitude towards being supportive of the project. What's your view to the
15 Tribunal on Mr. Dadley's views on that matter?

16 A Not accurate. Any time Mr. Dadley sought a meeting, he was facilitated to the
17 best of my recollection.

18 Q 21 If we could have document 1774 please. Just moving on from Arlington,
19 Mr. Flynn, we are just -- this is Mr. Gilmartin, when it comes up on screen
12:22:24 20 regarding the one and only meeting that I had anything to do with regarding the
21 city manager, Mr. Redmond, arranging that meet and Mr. Gilmartin at that
22 meeting was talking about motorway facilities and services related to the
23 Quarryvale lands. And you will note there that he is informed of the, the
24 fourth paragraph:

12:22:46 25
26 "We fully accept and note that the point raised that your council acts as agent
27 for the Department of the Environment Roads Division on overseeing the
28 construction of the motorway and national primary road schemes. We believe if
29 agreement can be reached, that our proposal for a business park, etc."

12:23:12 30

12:23:12 1 So, Mr. Gilmartin is acknowledging that it's your department has to address the
2 issue, if any issue should arise. And if I could just have the response from
3 the principal officer of the then Dublin County Council. 1795 please. This is
4 Mr. Michael Hartnett, and he is setting out similarly:

12:23:32 5
6 "However, this matter has been considered by the technical staff of Dublin
7 County Council and their counterparts in the Department of the Environment and
8 it is the considered view that it would be premature to make decisions now with
9 respect to any particular area until an overall policy for the motorway ring
10 has been determined."

11
12 Just putting to you that at that early stage, Mr. Gilmartin was informed by the
13 then county manager in my presence that if he wanted any access on or off the
14 M50, it really it was a matter that had to be addressed by your department.

12:24:05 15 Did Mr. Gilmartin ever ask any such facilities from the DOE?

16 A Not that I'm aware of.

17 Q 22 You are aware that Mr. Gilmartin set about proceeding from that meeting in the
18 following six to 12 months to acquire roughly 180 acres at Quarryvale and part
19 of that land was local authority-owned lands, isn't that right?

12:24:31 20 A I'm aware of that from the documentation.

21 Q 23 Now, the managers commenced in November 1988 to consider the matter and issued
22 instructions, and the principal officers in the corporation and the county
23 council instructed the valuer, Mr. McLoone, to have discussions with
24 Mr. Gilmartin.

12:24:58 25 Now, I don't get into great detail because it's above the issue but you have
26 the eventual responsibility I suppose for local authorities. But you are aware
27 of Mr. Gilmartin's allegations about interference and frustrations in acquiring
28 the local authority lands, are you?

29 A Only insofar as he complained to me about delays.

12:25:26 30 Q 24 And did you ever make inquiries to see whether they were justified or not

12:25:29 1 because your secretary, the department, would ring the manager any day and find
2 out is the complaints Mr. Gilmartin making justified or, you say he was making
3 complaints against the local authority who you department had ultimate
4 responsibility for?

12:25:49 5 A I am not aware that any of my staff contacted the local authority in any of
6 these matters. As I have said in examination and last week, I did say to
7 Mr. Gilmartin on a number of occasions that the inevitability of gradualness
8 applies in matters connected with local authorities.

9 Q 25 Gradualness now and allegations against the county manager and Dail deputy are
10 a little beyond graduality, if that's what is his complaint?

11 A He complained about delays.

12 Q 26 And you didn't feel they were worthy of establishing whether they were
13 reasonable complaints or otherwise?

14 A It wasn't necessary because very often the next time I met Mr. Gilmartin, his
15 attitude had changed quite dramatically and everything was going quite well.

12:26:16 16 Q 27 I have attempted to extract from the evidence and the brief an the diary
17 entries and the notebook entries and so forth, Mr. Flynn, meetings, schedules
18 and so forth, and I conclude that you met Mr. Gilmartin about seven times.
19 Would that be a fair assumption?

12:27:10 20 A I heard evidence to that effect but I don't think it's accurate. I met him
21 more often than that, in my personal opinion now, without having diaries in
22 front of me or whatever. They were very short meetings anyway.

23 Q 28 Well we'll come to that in evidence, because unfortunately Mr. Gilmartin and
24 that's why it's going to take a bit of time. Mr. Gilmartin has a very
12:27:37 25 different view of the meetings and what was discussed and the longevity and the
26 shortness of it, we'll come to his evidence in due course now, we'll comment on
27 the individual responses he felt regarding that. If we could have day 456
28 please, page 77. Now, line 18, 19, 20, I have to put it to you that your
29 recollection of when you first became aware of the Quarryvale project and
12:28:30 30 Mr. Gilmartin's are diametrically opposed.

12:28:34 1
2 He has a brochure here in the early part of his contacts and meetings and your
3 evidence last week was that 90 percent of the emphasis with Mr. Gilmartin in
4 discussions was on Bachelors Walk and his evidence as we will go through it, is
12:28:52 5 sort of very complex regarding his discussion with you about Quarryvale. Do
6 you, having considered the matter further, have a different view now on it?
7 A No.
8 Q 29 Just on that there, "I had the brochure, this is before I purchased any of the
9 lands and I had a brochure drawn up. As a matter of fact I think that the
10 meeting with Mr. McLoone was in '87 rather than '88."
11
12 He is even trying to put it a year previous. Now, are you telling the Tribunal
13 that Mr. Gilmartin never showed you his brochure?
14 A He never showed me a brochure.
12:29:30 15 Q 30 Well when you went to the Burlington Hotel, there was a brochure on display and
16 copies of it, and you went the brief day for a private viewing, is that right?
17 A Yes, the day before the arranged conference or launch or whatever one would
18 like to call it.
19 Q 31 And was the brochures available that day?
12:29:59 20 A I can't recall.
21
22 CHAIRMAN: I think it was the Berkeley Court.
23
24 MR. LAWLOR: Sorry?
12:30:04 25
26 CHAIRMAN: I think the Berkeley Court Hotel.
27
28 Q 32 MR. LAWLOR: Sorry, did I say the Burlington? Sorry, the Berkeley Court, yes,
29 it was, Chairman.
12:30:10 30 A The Berkeley Court, on the 4th.

12:30:13 1 Q 33 Yes. Now, could I just ask you to comment, really it arose in the statement of
2 Mr. Redmond on page 4112. The very top of the page, the word Mr. Flynn used to
3 describe the situation was that "he has taken O'Callaghan out". The zoning
4 now -- do you -- Mr. Gilmartin's evidence is that there was quite an effort
12:30:56 5 made on behalf of government in the global sense to support his project and the
6 only way the project could advance was that the owner of the official town
7 centre site would come to some sort of commercial arrangement with the owner of
8 that site, if Mr. Gilmartin's project was to get any hearing. And
9 Mr. Gilmartin's evidence has been that he would have informed you that he had
12:31:20 10 satisfactorily concluded some form of commercial arrangement with Mr. O'
11 Callaghan. Now is that fact or fiction?
12 A At some stage as I said, Mr. Gilmartin said that he was having negotiations
13 with Mr. O' Callaghan. The details, he didn't impart to me.
14 Q 34 Are you saying you were one hundred per cent behind Mr. Gilmartin's project in
12:31:58 15 Westpark?
16 A The matter never arose.
17 Q 35 Well just go down to the paragraph there:
18
19 "I'm certain that no one of the minister's side fully appreciates the
12:32:15 20 difficulties the Quarryvale project presented for the then Dublin city and
21 county manager. The matter had to be considered by him from two separate
22 points of view. Firstly, as Dublin county manager, because all the lands were
23 situated in that administrative area. The County Development Plan was adopted
24 in 1983, the Council Statutory Development Plan. The county manager and
12:32:40 25 Mr. Prendergast had made it clear that Mr. Gilmartin's stated objective --
26 namely the biggest shopping centre in Europe (via the brochure) was at complete
27 variance with the County Development Plan."
28
29 Now, on the first day there Mr. Gilmartin ever mentioned to you, Mr. Flynn, his
12:33:01 30 Westpark project, did you appreciate that it was a contravention of the then

12:33:05 1 County Development Plan?

2 A He didn't go into any details in that regard, he just told me that he was

3 acquiring land in that particular area for a project.

4 Q 36 Day 460 please, page 26, just up there on top, Mr. Flynn, on line 3, question

12:33:43 5 130.

6

7 "Yes but that was -- the review" -- this is Mr. Gilmartin giving evidence --

8 "the review of the Dublin County Development Plan had started in 1987 as we

9 mentioned and it continued on."

12:33:57 10 That's incorrect, the review commenced in 1988. "And it wasn't finalised until

11 I think the 10th of December 1993." And if you go down then to line 15.

12

13 "And who assured you that the land would be rezoned in the process?

14 Answer: Well Mr. Flynn, Mr. Lenihan on numerous occasions, Mr. Ahern and

12:34:25 15 others. Because they wanted the investment. And this was one of the best they

16 ever seen."

17

18 Now, is that sworn evidence from Mr. Gilmartin wholly wrong?

19 A Well any development that would have taken place there would have required

12:34:51 20 activity by the local authority, which I had nothing to do with. And if my

21 memory serves me correctly, I think it was on the, Mr. Chairman, the maybe the,

22 in his evidence on the 24/3 this year, Mr. Gilmartin said that I had nothing

23 whatsoever to do with zoning as far as Quarryvale was concerned, and I agree

24 with him.

12:35:21 25 Q 37 Maybe we could have day 470, page 100 please. You see Mr. Gilmartin's evidence

26 here on line 12, Mr. Flynn is that.

27

28 "It is my understanding that the Taoiseach of the day, Charles Haughey, and a

29 number of other government ministers, Minister Flynn with responsibility for

12:35:59 30 the Department of the Environment and some other Dublin-based ministers,

12:36:03 1 possibly Minister McSharry met with the city manager, Mr. Feeley, and his
2 assistant city manager, Mr. Morrissey and Mr. Sean Haughey and I am not sure,
3 Mr. Redmond and so forth, and they discussed the necessity for the Dublin local
4 authorities, corporation, county council, to be as flexible and as progressive
12:36:24 5 as they could in hearing applications for development. I don't think there's
6 the slightest suggestion at that meeting."

7 And Mr. Gilmartin interjects and said "No, it was triggered by this scheme.
8 That all road blocks would be removed, they were their words, not mine. So
9 that meeting was triggered by Quarryvale and nothing else."

12:36:48 10
11 Now, that again fact or fiction, because Mr. Gilmartin is absolutely adamant
12 that the Taoiseach and yourself and your other ministerial colleagues had city
13 and county management in and told them to remove all road blocks?

14 A That is not true.

12:37:05 15 Q 38 Day 470 again on page 101. "But I think it's a step very far forward for you
16 to be making suggestions that the Taoiseach and other ministers conveyed to the
17 management of the Dublin city and county that this scheme was to get approval
18 because it would fly completely in the face of local democracy. The plan
19 wasn't finally reviewed until 1993. It was a matter for the 78 members of the
12:37:53 20 then council, and for you to be making those -- I put it to you Mr. Gilmartin
21 it never happened. A meeting that you are speaking about in the context of how
22 you're explaining the meeting never happened."

23 And Mr. Gilmartin goes on to say "The meeting happened and I was told they were
24 going to arrange it. I was not aware of the meeting itself, or when it took
12:38:13 25 place. I was notified or let know afterwards that the meeting did take place,
26 and it was triggered by my arrival with investments into Ireland and they
27 wanted all road blocks removed and they called the meeting, specifically
28 triggered."

29 So, Mr. Gilmartin is again claiming in that sworn evidence on day 470, exactly
12:38:37 30 what has been on the previous page, so are you suggesting that that isn't true

12:38:43 1 as well?

2 A The meeting was not called to discuss only Mr. Gilmartin's projects. The

3 meeting was arranged to discuss matters with the county manager and the city

4 manager and his officials. And I'm sure there is a minute of that meeting

12:39:05 5 because there were civil servants and others present. It was not -- it was not

6 called to discuss specifically Quarryvale or Bachelors Walk or any other

7 particular project that was being undertaken in the city or the surrounds of

8 Dublin.

9 Q 39 Could I ask, Chairman, has any minutes been discovered?

12:39:28 10

11 MS. DILLON: No, inquiries have been made and no minutes have been provided by

12 any department, any written record other than the correspondence that emanated

13 following the meetings and which are contained in the brief. And the note of

14 the Department of Finance in advance of the meeting of the 2nd February which

12:39:46 15 is also in the brief. But there is no contemporaneous record that has been

16 discovered to the Tribunal other than Mr. Redmond's statements of his

17 recollection.

18

19 Q 40 MR. LAWLOR: Thank you, counsel. If I could have again day 470, page 102

12:40:02 20 please. Now, we are just quickly, we will skip through it because it's again

21 refers at 4A to the Development Plan 1993 etc. but question 428.

22

23 "Well I put to you this way Mr. Gilmartin. The first plan contradicting your

24 support for the Myles Wright Report of 1966 -- he doesn't know what he is

12:40:33 25 talking about there.

26 Answer: No I'm not, I'm absolutely correct in what I was told otherwise the

27 ministers were lying to me."

28

29 So you can see Mr. Flynn Mr. Gilmartin has a very very strongly held view that

12:40:48 30 he believed you in particular and your other colleagues were hook line and

12:40:52 1 sinker directing the county management to approve, in whatever format his
2 Westpark proposal. So, are you again desisting from Mr. Gilmartin's sworn
3 evidence that this is not the case and never happened?

4 A I'm saying, what question are you precisely asking me?

12:41:17 5 Q 41 I'm just putting to you Mr. Gilmartin's evidence there on those days, that the
6 ministerial meetings with the local authority officials were directing from you
7 and the then Taoiseach and other ministers that the management should
8 facilitate and remove all road blocks to allow Mr. Gilmartin build his Westpark
9 scheme?

12:41:36 10 A That is not true.

11 Q 42 I 100 percent believe you, but unfortunately we have to go through this,
12 because Mr. Gilmartin is the reason we are having a module, he has made his
13 claims and we just have to test him to see are the other people that were
14 involved of the same opinion as Mr. Gilmartin.

12:42:02 15 A Mr. Chairman? Were Mr. Chairman, may I say this? That Mr. Gilmartin's project
16 in Bachelors Walk was mentioned but not, the meeting was not called to
17 specifically deal with that.
18

19 CHAIRMAN: I understand that.

12:42:20 20 A I don't want anybody to feel that -- there were lots of projects in the
21 pipeline at the time. And the meeting was called with the city and county
22 officials to try and get on with business. That's all.
23

24 Q 43 MR. LAWLOR: I appreciate that. If I could have page 2638 please. Just down,
12:43:00 25 pick up the paragraph Mr. Flynn: "Because of the complexity involved." This
26 is Mr. Gilmartin talking to his financial adviser, Mr. Brian McDonald, I
27 believe of Deloitte Touche. "Because of the complexities involved in getting
28 the appropriate planning permission -- we are talking about Quarryvale here --
29 it is to be that special legislation will be introduced to short circuit this.

12:43:25 30 Also it may the be that the site will be zoned for urban renewal relief. Some

12:43:30 1 of these provisions may be announced in the budget of the 31st January. It is
2 Tom's intention to bring in a partner to develop the project once planning
3 permission is obtained. One possibility is Arlington Securities. His plan is
4 to realise part of his gain by selling to the partner and continue his
12:43:49 5 involvement probably as a minority shareholder. As regards valuations, Tom
6 reckons the plot is now worth 20 million pounds for a 50 percent shareholding
7 and once the rezoning is achieved its value will increase to 100 million
8 pounds."

9
12:44:12 10 Now, if we then go to -- well you never promised an appropriate permission or
11 that you would introduce special legislation to Mr. Gilmartin, is that correct?

12 A That's correct.

13 Q 44 And if it was to be, you would have been the minister responsible for doing so,
14 isn't that right?

12:44:40 15 A For the introduction of legislation?

16 Q 45 Yes, urban, he is saying that special short-circuit the planning which would
17 mean abolishing your ministerial directives and putting a Custom House urban
18 renewal relief scheme is proposed. The site will be zoned for urban renewal
19 relief. That's what Mr. Gilmartin told his financial adviser on 15th January
12:45:06 20 1990. Would you agree with me what's suggested by Mr. Gilmartin in that
21 paragraph, is just pure nonsense?

22 A Well it's not true.

23 Q 46 Well -- okay. If we could go to day -- the day is not on the page, Chairman,
24 it's -- before I ask Mr. Kavanagh to do that, to put the page on -- I'll just
12:46:07 25 read it anyway. This is Mr. Gilmartin giving evidence.

26 "He details the fact he became involved with you and he says he told
27 Superintendent Burns that government ministers were anxious that your project
28 went ahead and he stated Mr. Pdraig Flynn TD Minister for the Environment
29 asked him (this is Mr. O' Callaghan) to step aside and let the Gilmartin
12:46:32 30 project go ahead. As a result of this, he and O'Callaghan came to an

12:46:36 1 arrangement with Mr. Gilmartin that the latter project went ahead. They agreed
2 to work together, the decision was communicated to Dublin County Council."

3
4 Now, Mr. Gilmartin's claiming there to Chief Superintendent Burns, that you
12:46:51 5 were the one that had requested that O'Callaghan would step aside for
6 Mr. Gilmartin's project. What do you --

7
8 MS. DILLON: I think in fact, I can't comment on this absolutely but in
9 fairness to Mr. Lawlor, because he hasn't goes the day page, I think in fact
12:47:08 10 what he is reading is Mr. Owen O'Callaghan's interview with Superintendent
11 Burns because Mr. Lawlor will recollect that Mr. Gilmartin never spoke with
12 Mr. Burns, he only spoke to Mr. Sreenan and I think what is being quoted there
13 is in fact the Gardai note of the meeting that took place on the 5th April
14 19989 between Mr. Owen O'Callaghan and Superintendent Burns.

12:47:38 15
16 MR. LAWLOR: Yeah, I would suggest that is probably correct.

17
18 MS. DILLON: What Mr. Lawlor has told the Tribunal is that is Mr. Gilmartin's
19 evidence.

12:47:38 20
21 MR. LAWLOR: Sorry, it would be Mr. O' Callaghan's recollection.

22
23 MS. DILLON: Yes.

24
12:47:43 25 MR. LAWLOR: Or Chief Superintendent Burns recollection of his discussion with
26 Mr. Owen O'Callaghan. Is that right?

27
28 CHAIRMAN: That's correct. Yes. Based on that, you can put the question to
29 Mr. Flynn.

12:47:55 30 Q 47 MR. LAWLOR: It's just the question I'm putting is does it surprise you Mr. O'

12:48:00 1 Callaghan in discussing the matter has suggested that, because it's your
2 evidence that you had no dealings, contact with otherwise with Mr. O' Callaghan
3 on the matter, is that right?

4 A That's correct, confirmed by Mr. O' Callaghan himself.

12:48:20 5 Q 48 Which is a change from what he told Chief Superintendent Burns. Well, if we
6 just have day 513 please, page 105 -- question 535 please. It's Ms. Dillon,
7 it's your own evidence, Mr. Flynn.

8
9 "Yes" if we look at 114. "What Mr. Gilmartin is saying to the Gardai that on
12:49:03 10 that occasion, Mr. Gilmartin is saying the Taoiseach called a meeting which is
11 presumably the meeting on the 2nd. Yes, well the Taoiseach called, there were
12 a few meetings, we had several meetings, I don't know, they were just two but
13 we had meetings of the special task force of the Taoiseach and ministers for
14 the purpose that you have explained. Yes. And what Mr. Gilmartin is saying to
12:49:25 15 the guards on the 9th March 1989 is the Minister for the Environment announced
16 that the Clondalkin deal was not going ahead."

17
18 And if we go on down to the question then "Did Mr. Gilmartin discuss with you
19 Quarryvale?

12:49:47 20 Answer: Mr. Gilmartin did and I told and I don't think it was quite so soon,
21 he did discuss me with me that he had another interest other than Bachelors
22 Walk.

23 Question: It would follow, would it not, Mr. Flynn, if these records are
24 accurate, if Mr. Redmond is accurate in his recollection and that you had
12:50:04 25 knowledge of Mr. Gilmartin's Quarryvale project, certainly at the latest by the
26 2nd February 1989."

27
28 Now, the Berkeley Court launch wasn't until sometime in the middle of 1990. So
29 the claim here is that you had knowledge of what Mr. Gilmartin's intentions
12:50:24 30 were much earlier than it appears your evidence is outlining. And it's very

12:50:29 1 important because Mr. Gilmartin is making claims in sworn evidence about
2 comments and support and encouragement from the Minister for the Environment of
3 the day which created a tremendous expectation in his own mind, that this
4 project was going to go ahead and all road blocks should be removed.

12:50:47 5 Do you accept that there is that dilemma herewith Mr. Gilmartin's evidence and
6 his attitude towards what was supposed to be done or not done for or against
7 him?

8 A Well, I'm not aware of that except to say that Mr. Gilmartin's great interest
9 was in getting Bachelors Walk up and running. He was very distracted that
12:51:13 10 Arlington were not performing and complained a lot about them and as I have
11 said, he certainly acquainted me that he had never project in mind and he was
12 acquiring property out on the west side of Dublin but the details didn't go
13 into it as to who he was dealing with. But he did invite me in June of 1990 to
14 the Berkeley Court. I went out there on the 4th, not the day of the launch but
12:51:48 15 the day before that and I had a look at the mock-up.

16 Q 49 Day 472, page 36 please. Now, line 13 there, question 130, this is
17 Mr. Gilmartin giving evidence:

18
19 "Could we help the Tribunal by telling, Mr. Gilmartin, who you have referred to
12:52:30 20 the plan was being reviewed and it would be prioritised and so forth, who
21 informed of you that?

22 Answer: Well Mr. Flynn, Mr. Ahern and others, and I think Mr. McSharry at a
23 meeting in the thing. Where we went through the various things we had for
24 discussion. As did Mr. Tom Boland who was then chairman of the county council,
12:52:53 25 and numerous others, who said that there was a review of the Dublin plan, was
26 just about to take place and that they would, since Neilstown was a failure and
27 they knew it wouldn't be built on, that they would put it through for to vote
28 and then they done a census of the vote of the council on the time, it came
29 back 44 for, 11 against and 11 that was remained to be pursued, so in other
12:53:21 30 words there was practically over 50 councillors who were in favour of the

12:53:27 1 scheme.

2 Question: Fine. Just back now. I have to put it to you Mr. Gilmartin for the

3 Tribunal you have just said that the Taoiseach, the former Minister for

4 Financial and the former Minister for the Environment informed you that they in

12:53:41 5 some way could interfere in the democratic process of the County Dublin

6 reviewing of the Development Plan."

7

8 So, we commenced that review in 1988, Mr. Flynn, and the presentation in the

9 Berkeley Court wasn't until June. Now Mr. Gilmartin, I first met in May of

12:54:03 10 '88, he already seemed to have quite a lot of knowledge but didn't disclose it

11 at the time and he has had numerous meetings with you. And he is suggesting

12 here that you and other ministers were telling him that you were going to have

13 the County Dublin Development Plan prioritised for review. Now is that true?

14 A No.

12:54:25 15 Q 50 And did you ever discuss the reviewing of the Dublin County Development Plan

16 with Mr. Gilmartin?

17 A No.

18 Q 51 If we could have page 459, page 13 please.

19 A And further Mr. Chairman, now that I reflect on it, there never was a meeting

12:54:57 20 between Mr. Gilmartin and myself and the Taoiseach and Mr. McSharry and Mr.

21 Ahern.

22 Q 52 I concur with you there, Mr. Flynn. And just on line 75, this is, it seen gets

23 better now, question 75, sorry.

24

12:55:23 25 "Well it would appear to be the 2nd February of 1989.

26 Answer: Yes -- Mr. Gilmartin again -- well I would have told Mr. Flynn

27 probably at a previous meeting that, that was the case because I was told that

28 the road blocks would be removed and that they even discussed at that time that

29 it would give it same the status as the dock, but they ruled that out

12:55:56 30 eventually because it might be too controversial but they wanted to get these

12:56:01 1 two investments. So I was made aware of this."
2 Was there ever the slightest intention of --
3
4 MS. DILLON: Mr. Lawlor should finish the quotation. "I was aware of this
12:56:16 5 meeting but I was not party to it."
6
7 Q 53 MR. LAWLOR: So we are now having yourself the Minister for the Environment,
8 you are going to give Customs House docks type designation to the lands out of
9 Quarryvale, did that ever arise?
10 A The matter never arose and was never considered. By me or by government.
11 Q 54 I would fully accept that is absolutely correct. Day 463, page 61 please, line
12 question 448. It gets better, Mr. Flynn. Here Mr. Gilmartin is giving you
13 credit for telling him that the three satellite towns, question 448.
14
15 "Well what did you mean understand by designation?
16 Answer: Tax incentives. That's correct. I was told by the government and by
17 Mr. Flynn" -- sorry, this is 1A Mr. Flynn -- "that's correct, that's what I was
18 told by the government and by Mr. Flynn and others, that all three towns would
19 get designation". That never happened, sure it didn't? Tallaght got it?
12:57:45 20 A Never.
21 Q 55 If I could have page 2647 please. Now this is the proposal heading after the
22 first paragraph of the proposal heading, Tom Gilmartin is extremely confident,
23 could I have that out please. It's an AIB internal memo, Mr. Flynn, produced
24 by Mr. Mr. Edward Kay, bank official.
12:58:26 25
26 "Tom Gilmartin is extremely confident that the Palmerstown site will receive
27 designated status as part of the 1990 budget proposal, and also be declared an
28 enterprise zone with significant planning benefits."
29
12:58:43 30 Sorry, anyway, it just gets more ridiculous. But he is crediting obviously

12:58:50 1 yourself with, sorry we'll get it up again and just get it clear. Just the
2 very top of the page there which will comprise of 1-- sorry. "Tom Gilmartin is
3 extremely confident, etc, enterprise zone with significant planning benefits,
4 no doubt. We therefore wish to secure the remaining elements of the site etc,
12:59:28 5 you can't see, something to do with the budget, which would comprise of a 1.9
6 million square feet retail, 400,000 square feet of something else and leisure,
7 etc etc."

8
9 Now, that's Mr. Gilmartin's telling his bank that that the government of the
12:59:45 10 day in the budget of 1990, give designated status and enterprise zoning.

11
12 MS. DILLON: I don't wish to cut across Mr. Lawlor's cross-examination but
13 Mr. Lawlor is aware, and has been in correspondence with the Tribunal in
14 relation to the issue of tax designation, which was not dealt with by me with
13:00:12 15 the witness because the Tribunal directed both publicly and privately in
16 correspondence, Mr. Lawlor, that this is a matter that will be dealt in the
17 next module. I don't wish to in any way object or impede Mr. Lawlor in his
18 cross-examination but Mr. Lawlor is aware of this, and that this is the
19 situation in relation to the matter. I'm simply drawing or alerting Mr. Lawlor
13:00:24 20 to the fact that he may now be transgressing the ruling of the Tribunal.

21
22 MR. LAWLOR: Mr. Flynn, we'll leave the tax designation if we ever get around
23 to it. Did you ever talk about zoning for the Quarryvale lands?

24 A No.

13:00:42 25 Q 56 I thought so actually myself.

26
27 CHAIRMAN: Mr. Lawlor, it's now one o'clock so we will adjourn until two.

28

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

13:01:22 30

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

13:01:22 1
2
3 MR. LAWLOR: Thank you, Chairman. Mr. Flynn, if you could quickly tell me that
4 when you viewed the project at the Berkeley Court, did you express to
14:05:01 5 Mr. Gilmartin or any of his technical people the scale, the size and the sort
6 of the unacceptability of the project that they were envisaging? Because you
7 did say your evidence that it was a colossal scheme, words to that effect,
8 maybe I'm not quoting you accurately, but you did say it was a huge scheme, I
9 think.

14:05:22 10 A I can't recall any conversations of that nature. It was a very brief visit
11 indeed.

12 Q 57 Because you do appreciate that Mr. Gilmartin -- well A, having the minister
13 come to view his scheme and B, not to express any of the problems that were
14 associated with its success, could tend to give Mr. Gilmartin a false
14:05:41 15 impression that you were enthusiastic to see Westpark as the scheme go forward?

16 A No, that conversation didn't take place, Mr. Chairman.

17 Q 58 Day 460, page 26 please. And if you pick up for me question 134 please.
18 Mr. Gilmartin is claiming here, Mr. Flynn, on -- maybe I'll go up to 131. It's
19 to do with the County Development Plan.

14:06:29 20
21 "It wasn't finalised until I think the 10th December 1993.
22 Answer: Yes, that was the preferred option for me. I was advised that the
23 site would be adopted because of the prominence of the site and it was regarded
24 as one of the best sites in Ireland.

14:06:43 25 Question: You mean that you were promised that it would be rezoned as part of
26 the rezoning?
27 Answer: Incorrect, as part of the review of the Myles Wright Plan.

28 Question: Well the review of the 1983 County Development Plan" -- now
29 Mr. Gilmartin corrects himself -- "That's correct.

14:07:05 30 Question: And who would have assured that you the lands would be rezoned in

14:07:09 1 the process?"

2 And he says "Mr. Flynn, among others".

3 Now, did that ever happen or could it even have happened?

4 A No, and it could not have happened.

14:07:17 5 Q 59 But can you understand why Mr. Gilmartin might have come to this Tribunal and

6 given evidence to that degree of detail about what he expected and what

7 assistance he believed was available in this country to him for his project?

8 A Mr. Chairman, I can't account for what Mr. Gilmartin might have been thinking

9 at any time.

14:07:43 10 Q 60 We have a module here, courtesy of Mr. Gilmartin, and it's because of this

11 evidence that government ministers and Dail Deputies and people were for him or

12 against him or whatever, and he has repeatedly throughout, as I'm bringing to

13 your attention, Mr. Flynn, quotes about what he perceived to be your support

14 for his project. Now, do you tell the Tribunal that Mr. Gilmartin has

14:08:07 15 fabricated all this evidence and put it on the record at this Tribunal and that

16 none of these encouragements, comments, support, ever occurred?

17 A Well I can't answer that, Mr. Chairman. I don't know what Mr. Gilmartin was

18 thinking. But certainly I was aware of the projects that he was involved in

19 and as I say, the Bachelors Walk was the one that I was hoping would go ahead

14:08:34 20 but it didn't, unfortunately.

21 Q 61 I think your evidence was that all your meetings were very cordial and friendly

22 with Mr. Gilmartin, isn't that right?

23 A That's correct.

24 Q 62 Page 1145 please. Just to pick up there the valuer, now he is claiming here in

14:09:13 25 his evidence, I didn't actually realise:

26

27 "I told this to the minister -- this is about the 100,000 pounds demands being

28 put on Mr. Gilmartin, he is not being specific who in this instance -- marked

29 out names to fill in, Sean Walsh, and explained what it was all about if I had

14:09:33 30 a brochure. I organised meetings and probably met 12 out of 78, met two or

14:09:39 1 three and it was bingo every time, brown paper bag, 100,000 pounds each, did
2 not meet the rest. I rang some and said sorry I could not make their meeting."
3

4 CHAIRMAN: Mr. Lawlor, just explain to Mr. Flynn what this document is.

14:09:58 5
6 MR. LAWLOR: Yes, I believe, Chairman, it's Assistant Commissioner Hugh
7 Sreenan's conversation with Mr. Gilmartin on the telephone because he was
8 refusing at that time to cooperate, from what I can gather.
9

14:10:08 10 JUDGE FAHERTY: It's the 9th March telephone record as I understand it.
11

12 MR. LAWLOR: Sorry, judge?
13

14 JUDGE FAHERTY: It's the 9th March 1989 telephone record as I understand it.
15

14:10:16 15
16 Q 63 MR. LAWLOR: Thank you very much. Yes, Hugh Sreenan on the 14th December gave
17 it, yeah, to the Tribunal.

18 "So Mr. Sreenan is getting this information, I told this to the minister and he
19 said if it goes on, the deal was not worth doing. I did not mention names as
14:10:35 20 it became an embarrassment for the government." You would have never, I
21 trust, minister, said that at that time to Mr. Gilmartin?

22 A That's correct.

23 Q 64 These demands were being put him on him that the deal wasn't worth doing?

24 A That's correct.

14:10:51 25 Q 65 Now, "The valuer announced that the deal was not on and thought I was going to
26 hit him. The valuer was embarrassed."

27 Now that's the valuer Mr. McLoone, who was going now to do what he should have
28 done in the first instance and advertise the land and put it out for tender
29 which you expressed to the assistant city and county manager was the correct
14:11:12 30 course of action when you met Mr. Morrissey, isn't that right?

14:11:15 1 A That's correct.

2 Q 66 And then the next signs of Mr. Gilmartin, that's aggression at his own
3 admission and on page 4080, this is former Councillor Hanrahan's note to the
4 Tribunal, Mr. Flynn.

14:11:37 5 "Mr. Gilmartin" -- the third paragraph -- "first came to my attention in the
6 late '80s when he started aggressively pursuing me. He phoned his house a
7 number of occasions, etc etc". And just go to the next page, I know we are
8 under time pressure, on the second last paragraph, "When, according to
9 Mr. Hanrahan's evidence, he explained to Mr. Gilmartin his opposition to the
14:11:59 10 Westpark project, Mr. Gilmartin became incensed. His manner turned threatening
11 and abusive, he told me I would be very sorry for refusing to support his
12 scheme. We parted on bad terms as a result of his aggressive and bullying
13 behaviour towards me."
14

14:12:15 15 Now, Mr. Gilmartin also used the line with Councillor Hanrahan that "he had
16 friends in high places in Fianna Fail, and he was the only person within Fianna
17 Fail who could not even look at his proposal. He further claimed to her --
18 this is his wife -- that he was well connected within Fianna Fail and that
19 refusing to support him would go down badly within the party."
14:12:39 20

21 So, there's two examples when Mr. Gilmartin didn't appear to be getting his
22 way. You say you never had any such experience about Mr. Gilmartin and his
23 attitude, well you were agreeing with him along the line, really?

24 A Well I was supporting his view in the hope that the Bachelors Walk development
14:12:57 25 would go ahead, but Mr. Gilmartin was never aggressive or never used bullying
26 behaviour to me, I tell you.

27 Q 67 If I could go to day 455 please, page 58. This is the nub of what we are all
28 here from your own point of view, Mr. Flynn. Line 11.
29

14:13:39 30 "Among the issues the Tribunal will have to consider in relation to the handing

14:13:43 1 over of the 50,000 pounds cheque are as follows;

2 When did the meeting take place?

3 Where did the meeting take place?

4 Why did the meeting take place?

14:13:53 5 Did Mr. Flynn at any time indicate to Mr. Gilmartin that a substantial donation

6 would assist in sorting out his difficulties?

7 Next, what was said at the meeting?

8 Next, did Mr. Flynn at any time suggest that Mr. Gilmartin make a donation to

9 the Fianna Fail party or any person?

14:14:10 10 Next, was the 50,000 pounds payment to the Fianna Fail party or to Mr. Flynn?

11 Next if anybody was told of the payment and when and by whom they were told?

12 Next, did the payment of this money involve corruption on the part of

13 Mr. Gilmartin or Mr. Flynn or both."

14

14:14:30 15 Now, you are aware of Mr. Gilmartin's evidence on this very important matter

16 from your own personal point of view, is that you requested contribution for

17 the Fianna Fail party, isn't that right?

18 A Are you asking me a question?

19 Q 68 I'm asking you to agree with me that Mr. Gilmartin's evidence in this Tribunal

14:14:51 20 has been that, he has under oath vehemently claimed that you requested a

21 donation for the Fianna Fail party, you are aware of that, are you?

22 A Yes.

23 Q 69 And your evidence to date is that that is wholly incorrect?

24 A Wholly untrue.

14:15:11 25 Q 70 And I, Mr. Flynn, happen to believe you because I never heard Mr. Gilmartin

26 mention in all the times I had to listen to him anything about Fianna Fail,

27 contributing to Fianna Fail or in whatever other format. So now, we get then

28 to the redacted statement problem. Why do you believe Mr. Flynn (sic) is

29 falsely claiming that he gave you a contribution for Mayo west and now claims

14:15:41 30 under sworn evidence that it's for the Fianna Fail party? Can you explain what

14:15:46 1 has happened as to the evidence we have heard from Mr. Gilmartin on this
2 matter?

3
4 MS. DILLON: Mr. Lawlor I think in error has just said "why do you believe
14:15:55 5 Mr. Flynn is falsely claiming he gave you a contribution", I presume he means
6 Mr. Gilmartin.

7
8 Q 71 MR. LAWLOR: So, could you tell the Tribunal, Mr. Flynn, what you think about
9 Mr. Gilmartin's claims about this matter, which is so important to you
10 personally?

11 A Mr. Gilmartin's claim is incorrect.

12 Q 72 Now, did Mr. Gilmartin ever tell you why he changed your version of his story?

13 A Yes, he did.

14 Q 73 And could you tell the Tribunal what he told you?

14:16:34 15 A He explained to me why it was that he was making this statement that he was
16 making and he said that to me in the conversations by telephone that he had
17 with me in September, October of 1998.

18 Q 74 Yes but, Mr. Flynn, what's vital for the Tribunal in coming to the conclusion
19 as to the reasons why he has done what he has done and could you tell the
14:16:57 20 Tribunal why he has done what he has done, if he explained it to you?

21 A Well Mr. Chairman, I need your advice here.

22 Q 75 Just answer the question.

23
24 CHAIRMAN: Wait now. If there's a -- if you want to give a name of someone
14:17:14 25 who might not be aware that his name is about to be given, then you are free to
26 write down the name. I don't know what you are going to say but if your answer
27 is to the effect that someone told him to give that information to the
28 Tribunal, and if that person is unaware of that fact, which presumably he is at
29 this stage, then the appropriate thing to do is for you to write down the name.

14:17:49 30 A May I write down. I want to write something to you, if I may.

14:17:53 1
2 CHAIRMAN: All right.
3 (Witness writes on paper, handed to Chairman.)
4

14:18:13 5 Q 76 MR. LAWLOR: Could I ask Mr. Flynn, you don't need to name anybody, did a
6 professional adviser advise Mr. Gilmartin why he should change his story?
7 A I don't --
8

9 CHAIRMAN: Is there a name? If there is, we would want to you write it down.
14:18:33 10 (Paper handed back to witness, handed to Chairman.)
11 Could you just explain, without mentioning the name, Mr. Flynn, what you
12 purport to say about what Mr. Gilmartin said about this individual, whose name
13 will remain secret for the time being?
14 A Yes, thank you. Mr. Gilmartin was explaining to me a lot of matters connected
14:19:10 15 with affairs attached to the Tribunal and matters connected with the whole
16 business that we are discussing here. And at that time he was, I would say,
17 quite distressed, and he indicated to me the reason why he felt he had to
18 change his evidence. And it was because he was advised a certain way.
19

14:19:41 20 CHAIRMAN: Are you suggesting, Mr. Flynn, that that an individual, the
21 individual whose name you have written down, that Mr. Gilmartin said to you
22 that this person had --
23 A That individual had put certain scenario to Mr. Gilmartin.
24

14:19:57 25 CHAIRMAN: Well is it that this person told him to give a particular version?
26 A No, no. Sorry, he had put a certain scenario to him and Mr. Gilmartin felt
27 quite threatened at this time, and he felt that he had to alter his position
28 because of what was said to him. I know I'm restricted, Mr. Chairman.
29

14:20:27 30 CHAIRMAN: Obviously --

14:20:28 1 A I'm trying to accommodate.
2
3 CHAIRMAN: It's an issue that the Tribunal will have to look into and --
4 A I understand, yes. I understand that.
14:20:35 5
6 Q 77 MR. LAWLOR: Mr. Flynn, I don't want -- I'm not asking and we are not going to
7 name anybody, but did Mr. Gilmartin get legal advice that if he stuck with the
8 story he gave you 50,000 pounds, he could be seen as the giver of an attempted
9 50,000 pounds bribe to you. It's a simple straight question and it's a yes or
10 no?
11
12 CHAIRMAN: But how can Mr. Flynn say whether Mr. Gilmartin got advice? You
13 can ask him did he, did Mr. Gilmartin tell you he got advice?
14
14:21:07 15 MR. LAWLOR: No, I'm just asking Mr. Flynn to tell me what Mr. Gilmartin
16 believes was the reason why he had to change his position and I'm putting the
17 scenario; is it because he was concerned and agitated and upset as you said he
18 was and worried that if it was in the public domain that he gave you 50,000
19 pounds for Mayo west, that it could be construed that he had been A, looking
14:21:33 20 for all sorts of assistance in his project and B, it could be construed that he
21 tried to bribe you. I don't believe for a second it was possible, you told him
22 you would do nothing for him. But I mean the giver is as guilty as the taker
23 in some instances. Was Mr. Gilmartin concerned he was going to be seen as the
24 giver of a 50,000 pounds attempted bribe?
14:21:56 25 A He was quite distressed.
26 Q 78 I'm sure he was, but was he or was he not?
27 A Mr. Chairman, the way Mr. Gilmartin related it to me is accounted for in the
28 contemporaneous notes which I cannot delve into it because I'm not allowed.
29
14:22:18 30 CHAIRMAN: Well, you can perhaps if Mr. Lawlor's point was put to you this

14:22:24 1 way, did you understand from Mr. Gilmartin that he was giving a version of the
2 reason for the 50,000 pounds because he was told by somebody else to give that
3 version or advised by somebody else to give that version?

4 A Not that he was told, but he was advised in a certain way which led him to take
14:22:47 5 the decision that he took.

6
7 CHAIRMAN: And did you understand him to be saying to you that the truth was
8 something different to what he was telling you?

9 A Yes, that is true, Mr. Chairman.

14:23:04 10 Q 79 MR. LAWLOR: So my question is as I have outlined it, that's correct?

11 A It's as the Chairman has stated, Mr. Lawlor.

12 Q 80 No, the Chairman is here to, like the umpire in Wimbledon, to watch the match.
13 I'm here to ask the questions and I'm entitled to get straight answers about a
14 man who was made a most outrageous allegations against me --

14:23:34 15
16 CHAIRMAN: Maybe if you ask the question again because it's a little time
17 since.

18
19 Q 81 MR. LAWLOR: Yes, I appreciate that. Mr. Flynn, Mr. Gilmartin has done you an
14:23:44 20 incredible disservice, changed a position for which you, under sworn evidence,
21 have given, that he gave you a donation for Mayo west and he is giving you
22 cause as to why he did that and changed it to a donation for the Fianna Fail
23 party nationally, and I'm putting it to you that he did that because somebody
24 or himself in his own recognition, we'll leave out any third party, came to the
14:24:13 25 conclusion that the giver of the 50,000 pounds donation to you, in the sense of
26 the ministerial position you held and in the project Mr. Gilmartin was trying
27 to advance, could be construed as a bribe. Now, that's what I'm putting to
28 you. That's the question. Is Mr. Gilmartin of the frame of mind in speaking
29 to you on the telephone that that interpretation could be put on the
14:24:41 30 contribution he gave to you for Mayo west?

14:24:44 1 A Mr. Gilmartin confirmed to me on many occasions that he gave me the political
2 contribution for my political campaigns in the west. And he also confirmed to
3 me by explanation as to why he had to go a different road because of matters
4 and things that were said to him.

14:25:09 5 Q 82 That it could be seen as a corrupt payment to you?
6 A Am I at liberty to answer that, Mr. Chairman?
7 Q 83 Of course you are.
8
9 CHAIRMAN: Yes, by all means, there are two issues raised by Mr. Lawlor as I
14:25:22 10 understand them. The first is, did you understand him to say to you that he
11 was either told or advised by someone else to say A, that the 50,000 pounds was
12 a payment for Fianna Fail rather than to you personally and B, did he lead you
13 to understand that this was being done for the purposes of supporting a case
14 that you had taken a bribe.

14:25:51 15 A He was told that if he persisted in saying that it was given to me for my
16 personal election campaigns, that it would be interpreted as a bribe and that
17 it was --

18 Q 84 Thanks, Mr. Flynn.
19 A Thank you.

14:26:07 20 Q 85 That cuts out three quarters of this documentation. Mr. Gilmartin, Mr. Flynn,
21 time and again, has suggested that the Dublin county planners at a senior level
22 were very supportive of his Westpark proposal. Were you aware of whether they
23 were or were not?
24 A I was not aware.

14:26:30 25 Q 86 I can dispense very quickly with the supposed Dail meeting, you had been
26 meeting with Mr. Gilmartin in a way that was your responsibility to advance, in
27 particular, the inner city project and whatever other investment, you could
28 have been seen to encourage in a proper way. Mr. Gilmartin has claimed that
29 the then Taoiseach, Charles Haughey, requested me to arrange a meeting for him
14:27:03 30 with Mr. Gilmartin.

- 14:27:04 1 Now, we have both concluded that this meeting as envisaged by Mr. Gilmartin
2 never took place, isn't that right?
- 3 A As far as my recollection goes, no such meeting took place as described by
4 Mr. Gilmartin.
- 14:27:20 5 Q 87 Right. Well we both agree on that and even to the extent that Senator O'Rourke
6 probably is not a mile apart in whatever may or may not -- but could it have
7 happened on the many occasions Mr. Gilmartin was in the Dail, meeting with you
8 and on occasions others, that he could have been at your office when there was
9 a vote called and all of those people, including the Taoiseach, could have been
10 coming back to from a vote and Mr. Gilmartin could have met the Taoiseach and
11 four or five members of the cabinet? Did you ever in a social way introduce
12 him to the Taoiseach of the day in that sort of sense, so that there's some
13 sort of credibility to Mr. Gilmartin's claims that he met these people, because
14 it's been the basis of lengthy inquiry here, and everybody has been trying to
15 agonise over the serious allegation, you know, that he met somebody that
16 demanded or sought 5 million pounds from him in the circumstances. So could
17 you tell the Tribunal was he ever in attendance at your office when there was a
18 vote and everybody was coming back to the vote, and you would have introduced
19 him to these people in the way it's been explained?
- 14:28:11 20 A No.
- 21 Q 88 It never happened?
- 22 A No.
- 23 Q 89 There is a serious difference regarding Senator O'Rourke saying what she has
24 said and what you have said, do you agree with that?
- 14:28:41 25 A Yes, I have read her statement concerning the matter but I cannot reconcile it
26 with what actually happened.
27
- 28 CHAIRMAN: Well do you have a different account as to what might have
29 happened?
- 14:28:59 30 A No, my recollection is that it did not take place but I have read Senator Mary

14:29:05 1 O'Rourke's letter and explanation.
2
3 JUDGE KEYS: Do I take it then that you reject Senator O'Rourke's account of
4 what happened, that it just didn't take place?
14:29:17 5 A Well what she said concerning --
6
7 JUDGE KEYS: She put you there.
8 A Pardon?
9
14:29:22 10 JUDGE KEYS: She puts you in the company, doesn't she? Is that right?
11 A She puts me in the --
12
13 JUDGE KEYS: You read her statement and I presume you read the transcripts of
14 her evidence?
14:29:32 15 A Yes.
16
17 JUDGE KEYS: I take it you are rejecting her evidence as being accurate?
18 A Yes.
19
14:29:38 20 JUDGE KEYS: That's fine, thank you.
21
22 Q 90 MR. LAWLOR: I just wanted to get it absolutely clear on this contribution
23 business to finish with it, Mr. Kavanagh in his evidence, the national
24 fundraiser for our party of the day, Mr. Flynn, said that Mr. Gilmartin was
14:30:03 25 never on any list or ever had anybody request any contribution at a national
26 level for the Fianna Fail party, isn't that right?
27 A I beg your pardon?
28 Q 91 I'm just -- I mentioned do you recall and agree with me that Mr. Paul Kavanagh
29 in, his evidence on day 501 at question 52, now, it's just question:
14:30:50 30

14:30:50 1 "Mr. Gilmartin is unknown to you, he is not on your normal list of
2 contributors, isn't that right?"
3 And the answer is "No."
4 Question: So the second leg of that inquiry then I would assume would mean you
14:31:05 5 would have inquired from Mr. Flynn."
6
7 I'm putting it to you that the Fianna Fail party never sought at its national
8 level in the formal fund-raising activities support from Mr. Gilmartin, is that
9 your --
14:31:19 10 A I'm not aware that they ever sought anything from Mr. Gilmartin.
11 Q 92 Right. If we could have just have a day 475, page 19 please. You will recall,
12 Mr. Flynn, that you brought to the Government, and the government approved the
13 tax designating of the Tallaght town centre lands, isn't that right?
14 A That's correct.
14:31:43 15 Q 93 Now, Mr. Gilmartin here is telling us that on question 7, line 19, well I'm not
16 going to waste time on it but we did visit that yesterday, that he is speaking
17 about the Balgaddy site in Clondalkin. And I will put to you, it's me, I
18 believe, questioning Mr. Gilmartin:
19
14:32:08 20 "The infrastructure around Westpark, Blanchardstown and Tallaght were major
21 disincentives for anything happening up there, etc etc."
22 Now, Mr. Gilmartin has claimed that the assistant city and county manager asked
23 him to look at the Tallaght site. Now is it your recollection that you had
24 granted the tax designation on a universal lobbying of the then Deputies Mervyn
14:32:33 25 Taylor, Pat Rabbitte and everybody else and it was a very widely accepted
26 decision that got the town centre underway in Tallaght and it was well under
27 construction at the time Mr. Gilmartin is referring to the fact that he was
28 asked to go out and look at the site, would that be right?
29 A Well from memory, Mr. Chairman, I know the Tallaght town centre, some 35 acres
14:33:04 30 I think, was designated and that decision had been, was taken finally, a

- 14:33:09 1 government meeting following the memo of the 10/12/1987. And from my
2 recollection, the construction started January/February 1989 and I know the
3 official opening of the Tallaght centre was on the 23rd October 1990.
- 4 Q 94 Mr. Gilmartin claims that the management in Dublin Corporation who were a party
14:33:42 5 to the legal and contractual agreements regarding the Tallaght town centre is
6 they had land in that town centre as well as Quarryvale and Blanchardstown,
7 couldn't possibly have been asking Mr. Gilmartin to go and look at that sort of
8 green site for a town centre, would you agree with that?
- 9 A Yes. It was a general widespread support for Tallaght town centre for reasons
14:34:10 10 that were outlined here on a number of occasions.
- 11 Q 95 One of your excellent decisions of many, I might say. Page 3729 please. Now
12 this is Mr. Gilmartin through his solicitors writing to the Tribunal on heading
13 4:
14 "During a meeting with Dublin Corporation and involving the then Minister for
14:34:47 15 the Environment, Pdraig Flynn, several possible remedies were suggested to
16 Mr. Gilmartin as a means of overcoming the obstacles to obtaining planning
17 permission."
18 So, I just pause there. Mr. Gilmartin obviously informed his solicitors that
19 he had very major obstacles to overcome and this is fairly recent, it's
14:35:07 20 February the 2nd, 2004 and it goes on then to say "he had encountered in
21 relation to the Westpark development and as Mr. Gilmartin did not fully
22 understand the possible remedies that were being put forward by Dublin
23 Corporation and by the Minister for the Environment, he engaged a consultant."
24
- 14:35:29 25 Now, did you ever tell Mr. Gilmartin, as Minister for the Environment, how to
26 overcome his planning difficulties?
- 27 A No, and in that paragraph 4 there, I have no recollection of having such a
28 meeting with Dublin Corporation and there is no evidence to my knowledge being
29 put forward in support of the fact that that meeting took place.
- 14:35:53 30 Q 96 Can I have 2364 please. Just on that, there was six of these guidelines set

14:36:05 1 out, there Flynn, and I am not going to delay the Tribunal with them this
2 afternoon. They have been well versed here but there were very major
3 requirements of requiring planning legislation, ministerial directors, EIS
4 guidelines, all to be set aside. You are aware of that list, are you?

14:36:24 5 A Yes, Mr. O'Malley's list.

6 Q 97 Yes.

7 A Right.

8 Q 98 And it's just beggars belief that anybody could give any serious consideration
9 to giving effect to the six requirements on it, would you agree with that?

14:36:35 10 A That was my evidence here last week with Mr, in response to Mr. Redmond.

11 Q 99 Now, just to go down then you see what's been being said here a meeting in
12 Buswells Hotel with a very impressive team of experts in their phone field,
13 there Mr. Gilmartin is the leader, the developer, he doesn't claim he is but
14 he's there any way at the top of the list. But down at the second last
14:36:58 15 paragraph, "It was generally agreed as being beneficial to the Westpark
16 proposal if the minister were with to withdraw the current directive on the
17 grounds that it against the spirit of the EC directives." Did you ever
18 contemplate withdrawing the ministerial directive for Mr. Gilmartin?

19 A Certainly not.

14:37:15 20 Q 100 Did he ever ask you to?

21 A No, he did not.

22 Q 101 And does it surprise you now, with the wisdom of hindsight, that he was needing
23 that to be successful and never sought assistance with it?

24 A Hindsight is a wonderful science but it doesn't apply here.

14:37:39 25 Q 102 Well to Mr. Gilmartin maybe. Day 498 please, page 107.
26 Just there, Mr. Flynn, at 16A, this is Mr. William Murray, deputy county
27 planning officer for the Dublin County Council and his senior colleague was Mr.
28 Gay McCarron and you probably remember those leading executives working in the
29 then council, I presume you will remember Mr. Gay McCarron probably anyway,
14:38:35 30 would you?

14:38:36 1 A No, I'm sorry --

2 Q 103 Okay, just that he was just the senior county city and planning officer and his
3 assistant was a Mr. Murray and Mr. Murray in giving evidence here, on 16A,
4 having attended or facilitated Mr. Gilmartin with a meeting, went on to say:

14:38:55 5

6 "I got as far as saying what our concerns were in relation to a development of
7 that size in that location. Mr. Gilmartin had really no great regard for our
8 concerns and basically he said, that he could drive a coach and four through
9 our Development Plan and we reacted in the sense that we had been trying to
10 implement that plan for a large number of years and continuing to do it and he
11 used words 'I have friends in high places' and with that close on from, Mr.
12 McCarron drew the meeting to a close, it was a most extraordinary end to a
13 meeting and I remember it distinctly to this day. Mr. Gilmartin asked could he
14 have the last word and he was told no, the meeting was over and off we go. It
15 was a most extraordinary meeting in my whole career as a planner, so it sticks
16 in my mind."

17

18 Now what Mr. Gilmartin I suggest to you, Mr. Flynn, is claiming there to the
19 two most senior planners in the then Dublin County Council, that he was going
20 to get his planning permission at Westpark through friends in high places and
21 running right through the evidence here from Mr. Gilmartin, is that he is
22 claiming, falsely I believe, that you were the friend in the high place that
23 was giving him all these promises and commitments, and do you reject you ever
24 did do anything in that sense for him?

14:40:26 25 A As you quite rightly say, it was false.

26 Q 104 Could I have 3268 please. Now, it's up there in the phone conversation,
27 Mr. Edward Kay of Allied Irish Banks, Mr. Flynn.

28

29 "Tom Gilmartin told me that he met Pdraig Flynn on the 11th and discussed the
14:40:58 30 up to date position in relation to the Palmerstown site. Flynn was generally

14:41:02 1 positive and stated that Gilmartin would be pleasantly surprised within the
2 next three weeks. He apparently would not elaborate on this and this it
3 appears not to mean designation.
4

14:41:14 5 Flynn was adamant that Gilmartin proceed as soon as possible to apply for an
6 outline planning permission and to get the proposed development generally
7 known. It appears that the government believed that this is vital before they
8 can make any move to be seen to assist the project as of now. No public
9 perception of the potential is around and in addition, there's the situation
14:41:39 10 where it contravenes existing zoning on the site".
11

12 Did any such discussion to justify him telling his bankers what he was claiming
13 you were saying to him, does it have any basis in fact?

14 A No, and it couldn't have. Mr. Gilmartin, I think to my certain knowledge,
14:42:05 15 never applied for planning permission for anything in this country, ever.

16 Q 105 Correct. Absolutely.

17 A And the question of zoning was not a matter for the minister, it was a matter
18 for the local authority.

19 Q 106 So what Mr. Gilmartin was claiming to his bankers was false?

14:42:23 20 A Correct.

21 Q 107 If we could just have page 2768 please. You will agree with me, Mr. Flynn,
22 that you, I and everybody else, Deputies Mitchell, God be good to him,
23 McGiolla, Lenihan, etc, all wanted to see something built in north Clondalkin,
24 it was something of immense importance and it was following on your achievement
14:42:53 25 in Tallaght to get something done for north Clondalkin, isn't that right?

26 A Yes.

27 Q 108 Now, the elected members were giving information to this matter and I'm not
28 going to go into it because it will be the basis of a further module if there
29 ever is one, this is what Mr. McCarron was telling the elected members at the
14:43:13 30 time, which was really a thumbs down for Mr. Gilmartin's project after all the

14:43:16 1 coming and going, continue the pressure for the Fonthill Road, continue
2 pressure for tax incentives, continue positive marketing of local authority
3 lands for private housing, etc etc. Resist additional zonings in the west of
4 Lucan.

14:43:29 5 So it is recommended up on top that the council continue to implement and
6 reinforce the 1972 and 1983 Development Plan policies for the completion of the
7 new town of Ronanstown.

8
9 Now, did you concur with that policy as minister who had the receiving of
14:43:51 10 county development plans and the guardian of them really in the hands of local
11 authorities to implement?

12 A I would have supported the '83 Development Plan because it was agreed by the
13 representatives of the communities out there. And we certainly would have
14 wished to have seen Tallaght and Blanchardstown and Clondalkin and the people
14:44:11 15 there and the community there provided with the best possible facilities,
16 certainly.

17 Q 109 If I could just have page 3827. Now, I just want to ask about this letter
18 because I believe it's something very serious for one of the leading legal
19 practices in the country to put pen to paper, obviously under client's
14:44:44 20 instructions, but the second paragraph there:

21
22 "We are instructed by our client that during those telephone conversations,
23 Pdraig Flynn asked our client to lie to the Tribunal in relation to the
24 circumstances surrounding the payment by our client of the sum of 50,000 pounds
14:44:58 25 to Mr. Flynn. We are instructed by our client that he repeatedly told
26 Mr. Flynn that he would not perjure himself for anyone, and that the best he
27 could do for Mr. Flynn was to keep out of the Tribunal."

28
29 Now, if you could square that, Mr. Flynn, with the earlier evidence that you
14:45:19 30 have given here today, the only one that has perjured themselves on this

14:45:25 1 Tribunal on this matter is Mr. Gilmartin.

2

3 CHAIRMAN: Mr. Lawlor, that's a comment and it's a matter for ourselves.

4

14:45:32 5 Q 110 MR. LAWLOR: Well Mr. Flynn I put it another way to you, Mr. Gilmartin is
6 suggesting that you wanted him to perjure himself at the Tribunal. Did you
7 ever in your life make any such outrageous suggestion to the man?

8 A I did not and I said it quite clearly and unambiguously to Mr. Gilmartin's
9 counsel last week when the same question was put to me by Mr. O'Neill. The
10 answer is no.

11 Q 111 Are you aware, Mr. Flynn, that Mr. Gilmartin saw you as the final arbitrator in
12 how he could get his scheme off the ground; that he possibly saw you as having
13 the same legislative planning powers as your counter part in London still has
14 today and that is the appeal function, decision-making.

14:46:42 15 Do you believe Mr. Gilmartin ever felt that you were in that position? You
16 have been referred to as Secretary of State or Environment in some of the
17 Arlington comments. Did you ever form that opinion that Mr. Gilmartin might
18 have seen you in that light?

19 A I can't imagine what he might or might not have felt but certainly the power
14:47:02 20 that you refer to did not and does not reside with the Minister for the
21 Environment here in the Irish Republic.
22 It did once upon a time but it did not and does not so far as this particular
23 situation and timing is concerned.

24 Q 112 If I could just have day 473, page 82 please. If I just ask you to pick up
14:47:58 25 there on question 203, Mr. Flynn. I'm questioning Mr. Gilmartin:
26 "Were you ever of the opinion, Mr. Gilmartin, that the Minister for the
27 Environment on the similar basis that still prevails today with the Secretary
28 of State for Environment in the UK had the appeal function?

29 Answer: Sorry, what's the question?

14:48:18 30 Question: Were you ever of the opinion that the appeal function rested with

14:48:23 1 the Minister for the Environment?

2 Answer: I wasn't of that opinion but the final decision, as I understood it,

3 rested with him."

4

14:48:34 5 So, Mr. Gilmartin was of the opinion that you had at the stroke of a pen to

6 sign an appeal for his application to grant the permission in Quarryvale

7 subject to all the bells and whistles that would have to be put on it about

8 size and so forth, did he ever assume or suggest to you that you had that

9 power?

14:48:57 10 A No, and that power does not reside with the Minister for the Environment.

11 Q 113 Well, are you aware, Mr. Flynn, that Mr. Paul Sheeran, Mr. Gilmartin's friend

12 and colleague who you may know of through your brief, Mr. Paul Sheeran, a

13 former bank manager in Blanchardstown, has stated in his written note and

14 there's been various qualifications and comment about it, that he thought that

14:49:24 15 by making the contribution under whatever heading to your good self or to the

16 Fianna Fail party as they were claiming, could smooth his path towards zoning

17 and tax designation. You are aware of that document in the possession of the

18 Tribunal, are you?

19 A Yes.

14:49:40 20 Q 114 And do you believe Mr. Gilmartin believed that there were strings attached to

21 the contribution he gave to you, which you told him you would accept no strings

22 attached, but do you believe he thought there was strings attached?

23 A No, I don't believe so.

24 Q 115 Well could I just put it to you that the amount of evidence that he has given

14:50:07 25 about wanting assistance and wanting to get road blocks removed in planning and

26 so forth that on day 475, page 143, when he was being questioned sorry, 399,

27 Chairman.

28

29 "No but, Mr. Gilmartin, did you say those words" -- I just go back up.

14:50:58 30 "Mr. Gilmartin, did it need zoning?

14:51:02 1 Answer: It needed zoning, yes.

2 Question: Did you put utter the words to Mr. Sheeran that you paid the 50,000

3 pounds to smooth the way for zoning.

4 Answer: No, I made a lot more statement than that to him about the crooked --

14:51:17 5 Question: No.

6 Chairman: But Mr. Gilmartin did you say those words?

7 Answer: I possibly did.

8 Chairman: Or something close to those words.

9 Answer: I possibly did that. That they would and that it would smooth the

14:51:34 10 way, smooth my path through the quagmire of corruption and zoning etc.

11 Question: Well now the payment was made to facilitate the smoothing of the path

12 for zoning, that is your evidence now today?

13 Answer: No, that's not my evidence. I was demanded a donation to the party --

14 was demanded of me.

14:51:45 15 Question: No, we are dealing with Mr. Sheeran's words attributed to you.

16 Answer: Mr. Sheeran will explain in full.

17 Question: No, you have to.

18 Answer: I don't have to. Mr. Sheeran is putting these words.

19 Chairman: Mr. Gilmartin, you can't obviously explain Mr. Sheeran said what he

14:51:58 20 said but you can be asked as you have been, did you say those words.

21 Answer: I possibly did."

22

23 And then finally page 3436, just on the paragraph below there, Mr. Sheeran is

24 going on to say:

14:52:36 25

26 "My understanding at the time and since is that P Flynn advised Mr. Gilmartin

27 there were no guarantee or promises on the zoning planning issue, it was simply

28 a contribution to Fianna Fail with no strings attached and no promises or

29 obligation by the Fianna Fail party or individual members. That is to the best

14:52:56 30 of my recollection as told to me by Mr. Gilmartin".

14:53:00 1
2 Then he goes on under 3 "The overriding reason as stated above, that
3 Mr. Gilmartin had formed an opinion from advices received through people
4 connected to or part of Fianna Fail, that a donation to party funds would be
14:53:13 5 helpful to his projects."
6

7 So, could you just clear up for the Tribunal it what Mr. Sheeran and
8 Mr. Gilmartin were talking about and the strings they were attaching to your
9 contribution were a pack of lies, to put it mildly, but what's your comment to
14:53:30 10 the Tribunal on this matter?
11

12 CHAIRMAN: Mr. Lawlor, Mr. Sheeran simply recorded that Mr. Gilmartin had said
13 it. It wasn't his evidence. It's his evidence as to what --
14

14:53:42 15 Q 116 MR. LAWLOR: Well did you believe Mr. Gilmartin felt that they gave you the
16 contribution that it would be of assistance to his projects?

17 A No.

18 Q 117 I suppose --

19 A And he understood that.

14:53:57 20 Q 118 Well, it's obvious that you and I didn't come to praise him today, unlike Mark
21 Anthony at Caesar's funeral, we came not to praise him but to bury him and I
22 think we have effectively done that. Thank you, chairman.
23

24 CHAIRMAN: Mr. Lawlor, that's a totally inappropriate comment.

14:54:18 25 Mr. Madden, do you want to ask Mr. Flynn some questions?
26

27 MR. MADDEN: I don't have any questions for Mr. Flynn. I believe the Tribunal
28 counsel are going to raise another issue with Mr. Flynn and I will reserve my
29 position in that regard.
30

14:54:34

14:54:34 1 CHAIRMAN: Mr. Flynn, do you want a break for a few minutes?
2 A Sorry, no, unless you want to, I'm as anxious as you are to have the matter
3 finished as quickly as possible.
4

14:54:45 5 CHAIRMAN: All right.
6

7 **THE WITNESS WAS THEN QUESTION BY MS. DILLON AS FOLLOWS:**
8

9 Q 119 MS. DILLON: Good afternoon, Mr. Flynn. Can I ask you first of all about a
14:54:50 10 document that Mr. Lawlor raised with you which is an attendance of the 12th
11 April 1993, 3268 please. This is a document that Mr. Lawlor asked you to
12 comment on, what I want to draw to your attention is the second sentence where
13 it is stated Tom Gilmartin told me he had met Pdraig Flynn on the 11th and
14 then he sets out what he says was discussed between you. You have seen this
14:55:13 15 document?

16 A This is Mr. Gilmartin's document?

17 Q 120 Yes. It's actually the bank's document.

18 A Sorry.

19 Q 121 It's referring to a discussion that Mr. Gilmartin says he had with you on the
14:55:22 20 11th April of 1990.

21 A No, didn't happen.

22 Q 122 Didn't happen. Now you in your, what I want to draw to your attention, page
23 195, is that you have already told the Tribunal you had a meeting with
24 Mr. Gilmartin on the 10th April 1990.

14:55:36 25 A Yes.

26 Q 123 But you were unable to recollect what that meeting was about. Day 514, page 52
27 please.
28

29 Question 314: "So what did he want to see you about in connection with
14:56:13 30 Quarryvale on the 10th April 1990.

14:56:16 1 Answer: I cannot recall, but it would obviously have to be how things were
2 going insofar as his other project was concerned. He was finding it, I think
3 he used to complain about delays, it was delays that were causing him the
4 greatest concern."

14:56:30 5
6 That was your evidence on day 514 in relation to the meeting of the 10th April
7 1990.

8 A Yes.

9 Q 124 Now, how then are you in a position if you cannot recall the substance of the
10 meeting to positively assert that certain things were not discussed?

11 A Because I cannot -- on that, what he said took place on the 11th?

12 Q 125 Yes.

13 A This is the 10th you are talking about.

14 Q 126 Well let us assume for the moment they are one and the same meeting.

14:57:04 15 A Oh well I certainly can't recall any matters related to that meeting that
16 Mr. Gilmartin spoke about banks or anything like that. He did not,
17 Mr. Chairman, discuss his dealings or his meetings with banks or people like
18 that with me. That's the reason I can be so sure that --

19 Q 127 I'm not suggesting to you, Mr. Flynn, as you well know that Mr. Gilmartin
14:57:19 20 discussed with you anything to do with his banks. I am putting to you what you
21 previously said to the Tribunal about the meeting on the 10th April 1990 where
22 you cannot recall what the meeting was about.

23 A Precisely.

24 Q 128 That's what you are recorded as saying. Yet you can positively assert things
14:57:34 25 were not discussed at such a meeting and what I'm asking you is if you cannot
26 recall what happened at the meeting, how can you say what did not happen?

27 A I can positively recall that I did not discuss matters of banking with
28 Mr. Gilmartin. And there is no conflict between either of those two replies I
29 suggest to you.

14:57:57 30 Q 129 And in relation to the decision to notify Arlington of the extension and of the

14:58:07 1 tax designation, you were asked earlier with Mr. Lawlor that document 1500 be
2 put on screen and in fairness to you after it was put on screen, I don't think
3 you were asked any questions about it, and I suspect and you may correct me if
4 I am wrong, that what you want to draw the Tribunal's attention to in relation
14:58:22 5 to this document is where the document records -- this is a record of an
6 informal government decision, first of all, is that correct?
7 A No. It is the record of the official government decision of the 18th December
8 1987.
9 Q 130 And what you --
14:58:40 10 A That wouldn't be the full record but it would be a note taken by the secretary
11 to the government which applies to that meeting.
12 Q 131 And item number 2 says the second line says:
13
14 "Minister may indicate intentions to go ahead with 2 (1)" and that was I think
14:58:58 15 the time extension "and 2 (2) which was the boundaries extension and 2 (4)
16 which was the tax designation of Tallaght to developers privately."
17 A Yes.
18 Q 132 Now, I think the point you wished to make in answer to Mr. Lawlor was that it
19 was that decision that allowed you to contact Arlington?
14:59:17 20 A Yes.
21 Q 133 Right. But I think you also in reply to Mr. Lawlor indicated that Arlington
22 was the only developer that you spoke to, is that correct?
23 A Yes, that's from memory, yes.
24 Q 134 Notwithstanding that the 2 (4) that is referred to in this document relates to
14:59:34 25 the tax designation of Tallaght?
26 A That's right.
27 Q 135 So it was authorising you to contact Monarch Properties or Mr. Philip Monaghan,
28 is that correct?
29 A If I wished to do.
14:59:43 30 Q 136 If you wished to do so. But in fact the authority you were given was not

14:59:46 1 limited to contacting Arlington, is that correct, it was other developers who
2 were affected by the designations or extension?
3 A It would apply to both, if I so chose.
4 Q 137 And your recollection was the only such developer you spoke with was Arlington?
14:59:59 5 A Yes.
6 Q 138 Why was that?
7 A Because Mr. Gilmartin had phoned me.
8 Q 139 And in advance of Christmas of --
9 A Not in advance, I think I phoned him sometime before Christmas to say that the
15:00:12 10 question would be that the Bachelors Walk extension would be granted.
11 Q 140 And --
12 A But I advised it not be made public.
13 Q 141 And --
14 A In fact he didn't want it made public either.
15:00:26 15 Q 142 And the other matter that I want to ask about are the telephone records and
16 what you have indicated on the handwritten document that you have handed in to
17 the Tribunal today and I don't want you to name anybody or discuss anything but
18 can I deal with the matter in the following way.
19 It appears from the transcripts, Mr. Flynn, that when Mr. Gilmartin was being
15:00:48 20 cross-examined by counsel on your behalf, it was never put to Mr. Gilmartin
21 that he in fact had said to you in the course of these conversations that he
22 had been advised to change his story, is that correct?
23
24 MR. MADDEN: Sorry, Chairman, before Mr. Flynn answers that, I think I
15:01:08 25 expressly reserved my position in relation to the telephone conversation
26 because of the reaction issue.
27
28 MS. DILLON: I accept that that is so, but this has nothing to do with the
29 redaction.
15:01:17 30

15:01:17 1 MR. MADDEN: Sorry, Chairman, in my submission it has everything to do with
2 it, if I were to deal with the position properly, I would have to actually
3 advert to all of the telephone conversation.
4

15:01:27 5 MS. DILLON: Do you say, Mr. Flynn, so that we are clear about this that the
6 unredacted version of the telephone records names the person whom you say
7 Mr. Gilmartin told you advised him to say that the donation was for Fianna
8 Fail?

9 A The unredacted versions say a lot more than that, Mr. Chairman.

15:01:49 10 Q 143 I'm sorry, you must be precise here now, Mr. Flynn. Are you telling the
11 Tribunal that the unredacted version of the document that you say is your
12 contemporaneous note of your telephone call with Mr. Gilmartin identifies the
13 person by name whom you say Mr. Gilmartin told you gave him certain advices?

14 A That is my memory.

15:02:12 15 Q 144 That that person is identified as giving that advice to Mr. Gilmartin?

16 A I didn't say that. I said -- now let's, please now, don't do that. Don't do
17 that now.

18 Q 145 I'll rephrase the question, Mr. Flynn, so that there is absolutely no
19 ambiguity.

15:02:26 20

21 MR. MADDEN: Sorry, chairman.
22

23 CHAIRMAN: Mr. Flynn, the question is do you believe that in your telephone
24 record in the redacted portions of it, that the name that you have given us on
15:02:39 25 a piece of paper is recorded there?

26 A Yes.
27

28 CHAIRMAN: All right. Well that's --
29

15:02:49 30 Q 146 MS. DILLON: And do you say that that name is recorded in the context of being

15:02:51 1 the person identified by Mr. Gilmartin as having given him the advice that he
2 should say the 50,000 pounds was for Fianna Fail as opposed to you?
3 A I didn't say that. I said that he was advised. He wasn't advised what to say
4 but he was advised that if he said it in a certain way, it would be interpreted
15:03:12 5 in a certain way. That's a different thing now, Mr. Chairman.

6
7 MS. DILLON: And is the --

8
9 CHAIRMAN: Well just to, because this is important, is it your evidence that
15:03:21 10 the information that you have given to us on a piece of paper, insofar that it
11 identifies the person who indicated this or advised Mr. Gilmartin to take this
12 line, that that is, that that information is in the redacted portions of your
13 telephone --

14
15:03:44 15 MR. MADDEN: Chairman, before Mr. Flynn answers that, I think he should be
16 given the unredacted documentation so that he can look at the matter.

17
18 MS. DILLON: I propose to do that after Mr. Flynn gives his testimony as to
19 whether or not the information he has provided in handwriting to the Tribunal
15:03:59 20 is contained in the unredacted portion.

21
22 CHAIRMAN: Well then he should be given an opportunity to look at the --

23
24 MS. DILLON: But -- well I would suggest not, for this reason; is that for the
15:04:11 25 first time today an assertion, to the best of my knowledge, an assertion is
26 being made by Mr. Flynn that Mr. Gilmartin told him in the course of a
27 telephone conversation that he received certain advices from a certain person.
28 A That is not what I said, counsel.

29
15:04:29 30 CHAIRMAN: Well explain then --

15:04:31 1 A What I said was that it is recorded in those contemporaneous notes, matters
2 that were put to Mr. Gilmartin. I didn't say he was advised to say one thing
3 or other. But that he was told, that if he said it in a certain way, it would
4 be interpreted in that way.

15:04:50 5
6 CHAIRMAN: All right. And you say that that, that the detail that you have
7 just given us is contained in the redacted portions?

8 A Yes, I'd like to see them if I may.

15:05:00 10 CHAIRMAN: Well then he is entitled to see them.

11

12 CHAIRMAN: So we will rise for a few minutes.

13

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

15:05:20 15 **AND RESUMED AS FOLLOWS:**

16

17 Q 147 MS. DILLON: Mr. Flynn, you have available to you a typed version of your
18 handwritten notes of these telephone conversations, is that correct?

19 A Correct.

15:24:53 20 Q 148 You have available to you a redacted and an unredacted version, is that
21 correct?

22 A Well, I have the unredacted version here, yes.

23 Q 149 And do the unredacted versions bear the Tribunal reference MM.PF 1.2 and a page
24 number at the top?

15:25:12 25 A No.

26 Q 150 Is there anything written at the top of the typed version?

27 A Not that I can see, except a transcript of handwritten notes of telephone
28 conversations with Thomas Gilmartin.

29 Q 151 For ease of reference then, Mr. Flynn, because I propose to ask you to identify
15:25:28 30 by reference to the internal Tribunal pagination, so that the transcript

15:25:34 1 accurately reflects your evidence, I am going to hand you a copy of the
2 unredacted version that bears at the top of it a Tribunal reference (document
3 handed to witness) and therefore without in detail going into the unredacted or
4 redacted version of it, I am going to ask you to indicate where on each page
15:25:52 5 you say the person is identified as being the person who gave certain advices
6 as you said early today, I think in connection with the 50,000 pounds. Do you
7 understand?
8 A No, I did not say that, the person whose name I gave to the Chairman is not in
9 this specifically attached to that point that you raised.
15:26:18 10 Q 152 In relation to the use of the word advice, I just want to read you back your
11 own evidence, Mr. Flynn, so that we are clear precisely on this matter.
12 Earlier today you were asked by Mr. Lawlor "Did you understand from
13 Mr. Gilmartin that he was given reason that he put 50,000 pounds --
14
15:26:35 15 MR. MADDEN: Sorry, Chairman, I wonder could it be put up on screen?
16
17 MS. DILLON: It can't because it's a raw version, I can give my friend a copy
18 of what has been printed off. It's page 36 of today's draft and it's on this
19 issue, Mr. Flynn, and the reply that you gave to Mr. Lawlor is "not that he was
15:26:57 20 told" -- you are talking about Mr. Gilmartin and the reply is -- "not that he
21 was told but he was advised in a certain way the decision that he took."
22
23 So it was you who use the word 'advise' today, Mr. Flynn. That's the point I'm
24 drawing to you first of all, now if I'm going to take you through each page of
15:27:18 25 the telephone records and I am going to ask you to indicate to the Tribunal
26 where on that page the person whose name you have given in handwritten note to
27 the Tribunal is identified as being the person who gave certain advices.
28
29 CHAIRMAN: But as I understand it, Mr. Flynn says the name doesn't appear.
15:27:39 30 A That's right.

15:27:39 1
2 CHAIRMAN: So that's his evidence now but the name which he has written down
3 does not appear on any of these pages.
4 A Sorry, the name appears on some of the pages but not specifically related to
15:27:53 5 this specific advice.
6
7 CHAIRMAN: All right. Now leaving aside the name, the evidence that you gave
8 in relation to what that individual supposedly advised or suggested to
9 Mr. Gilmartin, does an account of that without the name appear anywhere in the
15:28:15 10 telephone records?
11 A Oh yes.
12
13 CHAIRMAN: Could you indicate to the Tribunal the page where you say it --
14 A Page 9. I'm just checking if it's the same on this one now. Sorry, it doesn't
15:28:37 15 seem, no, page 9 does not relate to the numbered page so I'll have to go
16 through it, Mr. Chairman. I can have this shown to you, if you like, but it
17 doesn't -- I know it's in here but I haven't quite related it to the one that
18 Ms --
19
15:28:57 20 MR. MADDEN: I think, Chairman, if I might just make a suggestion. There are
21 various telephone conversations on dates. I think if we start with trying to
22 determine what date we are talking about first, and then relate the page to the
23 particular date, then it might be helpful.
24
15:29:15 25 CHAIRMAN: All right. Can you refer us to the date, Mr. Flynn, of the
26 telephone conversation?
27 A Of this particular one that we are talking about? It's Saturday, the 26th
28 September 1998 and I am looking for that in these ones that I have been given.
29
15:29:43 30 MS. DILLON: That commences on page 10.

15:29:45 1
2 CHAIRMAN: Yes.
3 A Yes, it does. Just one moment now. It's page 11, Mr. Chairman.
4
15:29:54 5 CHAIRMAN: All right.
6
7 MS. DILLON: Does that record bear Tribunal reference MM.PF 1.2 page 11?
8 A It does.
9 Q 153 And can you indicate where on that you say that the information is contained?
15:30:10 10 A 7. Line 7.
11 Q 154 Counting from the top or the bottom?
12 A From the top.
13 Q 155 Are you saying, Mr. Flynn, that the words contained within quotation marks on
14 MM.PF 1.2 page 11 at line 7 is attributable to the person's name you have given
15:30:52 15 in writing to the Tribunal today?
16 A I am not saying that.
17 Q 156 What exactly are you saying?
18 A I am saying that is what Mr. Gilmartin said to me.
19
15:30:58 20 CHAIRMAN: As -- that's what he said to you. Was it -- did you understand him
21 to be saying it to you, or repeating something that was said to him?
22 A Repeating something that was said to him.
23
24 CHAIRMAN: All right.
15:31:11 25
26 Q 157 MS. DILLON: By the person whose name --
27 A By the person whose name.
28 Q 158 You have given to Tribunal in writing today?
29 A Yes, but I'm not saying he said it.
15:31:21 30

15:31:21 1 CHAIRMAN: I think we understand this, as I understand it, Mr. Flynn is saying
2 that these words which are quoted or have quotation marks in your record, these
3 are words that were said to you by Mr. Gilmartin as having been said to him by
4 the person --

15:31:41 5 A Correct.

6
7 CHAIRMAN: That clarifies it.

8 A You have it accurate.

9

15:31:47 10 Q 159 MS. DILLON: Is that the only reference in the notes?

11 A No, there are lots of references in the notes.

12 Q 160 Well up to page 11, there are no references, is that what you are saying?

13 A Well if you go back to the previous page, I have to go back to this again now,
14 from the bottom, counting up, one, two, three, four, five, again seven and then
15 if you want to go on further.

16 Q 161 Just deal with them one at a time and the issue we are dealing with now, Mr.
17 Flynn, just so that we are clear about it, is not the name of this person
18 simply appearing on the document but where you say that person appears in the
19 context of having given certain advice to Mr. Gilmartin.

15:32:45 20 A The Chairman has interpreted exactly the way it is.

21

22 CHAIRMAN: I think it's clear it may be that we are going to have to go back
23 and get further details in the form of a statement from Mr. Flynn in relation
24 to issues arising with the thing. I don't think it's useful to engage in a
15:33:07 25 debate at a public hearing of that document which is partly redacted. It's a
26 matter that obviously the Tribunal will have to investigate and possibly return
27 to at some date in the future.

28

29 MS. DILLON: Well in that case, I should point out that Mr. Hugh O' Neill for
15:33:29 30 Mr. Gilmartin reserved his position in relation to this issue, if you recollect

15:33:33 1 on the last occasion and he would also, I assume, be interested in the answers
2 that Mr. Flynn has given and of course any statement that may be obtained from
3 Mr. Flynn in relation to these documents. So in those circumstances, it might
4 be as well to stand this issue down.

15:33:48 5
6 CHAIRMAN: All right. We will for the moment and we can return to it in the
7 autumn.

8
9 MS. DILLON: Other than that, then, I have no further questions.

15:33:56 10
11 CHAIRMAN: Mr. Madden, do you want to ask any questions?

12
13 MR. MADDEN: No, Chairman, I don't.

14
15:34:00 15 CHAIRMAN: All right.

16
17 JUDGE FAHERTY: Mr. Flynn, I have just one question regarding your evidence
18 over the last couple of days. In the course of this module, a number of people
19 connected with Fianna Fail, I suppose officers or connected with the party have
15:34:20 20 given evidence, for example, Mr. Sherwin and Mr. Fleming and Mr. Paul Kavanagh,
21 and it would appear, if I could summarise part of the evidence given by those
22 witnesses that in October 1990, I think that's the date, there would appear to
23 have been a mini inquiry or some sort of inquiry between Mr. Sherwin and Mr.
24 Kavanagh being conducted about information that Mr. Sherwin went to Mr.
15:34:47 25 Kavanagh that Mr. Gilmartin was alleging to them that he had given 50,000
26 pounds to the Fianna Fail party.

27 A Yes.

28
29 JUDGE FAHERTY: You recall the evidence, you were here, they gave evidence and
15:34:59 30 I think that was something similar in their statements. And I just wanted to

15:35:03 1 ask you, were you surprised that you weren't contacted back in 1990 by the
2 party officers?
3 A Yes, indeed.
4

15:35:15 5 JUDGE FAHERTY: Yes. Because they obviously had, they had received information
6 from Mr. Gilmartin.
7 A Well if they had, they should have pursued it.
8
9 JUDGE FAHERTY: I see.

15:35:27 10 A And they should have spoken to me, either directly or through their superiors,
11 and if they had, we wouldn't be here today, Mr. Chairman.
12
13 JUDGE FAHERTY: And it would appear that Mr. Gilmartin was saying to them at
14 that point that he had given 50,000 pounds.

15:35:42 15 A But if --
16
17 JUDGE FAHERTY: As I understand their evidence, they understood to you for
18 Fianna Fail.
19 A Well if he had said that, and if they had contacted me, then we wouldn't be
15:35:54 20 here today, Mr. Chairman, because I would have immediately had Mr. Gilmartin in
21 and had those gentlemen in and the matter would have been sorted out in 30
22 seconds to everybody's satisfaction.
23
24 JUDGE FAHERTY: I see.

15:36:07 25 A Yes. Thank you very much for asking me that.
26
27 JUDGE KEYS: Mr. Flynn, just in relation to the cheque for 50,000 pounds, your
28 evidence is to the effect that it was always a donation for you, and not for
29 Fianna Fail?
15:36:26 30 A Correct.

15:36:27 1
2 JUDGE KEYS: It's highly unlikely Mr. Gilmartin would have known the trustees
3 of Fianna Fail or the name of the secretary of Fianna Fail, or the name of the
4 treasurer of Fianna Fail or the treasury, would that be correct?

15:36:41 5 A It's highly unlikely. Probably not, yes.
6
7 JUDGE KEYS: But he knew you obviously, he knew your name.
8 A Yes, of course.
9

15:36:49 10 JUDGE KEYS: Well if the cheque was to be payable for you in the first
11 instance, isn't it more probable then that he would have written your name on
12 the cheque and handed you the cheque, rather than leave it blank?
13 A But he didn't leave it blank, Mr. Chairman.
14

15:37:03 15 JUDGE KEYS: Sorry, that he put in cash instead I should say. Because he
16 didn't know the names of the treasurer or the trustees of Fianna Fail so he
17 couldn't insert that name on the cheque.
18 A No, but he could have inserted Fianna Fail.
19

15:37:18 20 JUDGE KEYS: Well, isn't it highly likely that if somebody is going to pay
21 somebody 50,000 pounds in a cheque and it was to go to an individual of which
22 he knew the name, he would have put the name on the cheque?
23 A I can't speculate about that but if he wanted it to be given to Fianna Fail, he
24 had just simply to write Fianna Fail. And he would just simply have to answer
15:37:44 25 the question when I put it to him.
26
27 JUDGE KEYS: Doesn't the same apply to you, if it was to be payable to Padraig
28 Flynn, he could have written Padraig Flynn on the cheque?
29 A That was a matter for him, I suggest.
15:37:51 30

15:37:51 1 JUDGE KEYS: But -- I see.

2 A But the reverse is more important, if he wanted it to be for Fianna Fail, why

3 didn't he write Fianna Fail on it?

4

15:37:59 5 JUDGE KEYS: Because he didn't know, it's unlikely that he knew the correct

6 names to put on the cheque; while he knew your name, if the cheque was to go to

7 you.

8 A Yes but he also knew that it was in existence a Fianna Fail party. So it was

9 just a matter of writing Fianna Fail. He didn't do that, he chose not to.

15:38:18 10

11 JUDGE KEYS: Why didn't you put your name on the cheque?

12 A I didn't write anything on the cheque. It was written when he gave it to me.

13 It was written when he gave it to me what was on it and he never raised the

14 matter again with me ever.

15:38:32 15

16 JUDGE KEYS: I see.

17

18 JUDGE FAHERTY: One matter, to follow up on my previous question, Mr. Flynn.

19 Have you any explanation or suggestion, I have heard you give evidence about

15:38:43 20 your relationship with Mr. Gilmartin and you found him, you had no falling out,

21 as I understand it.

22 A Not at all.

23

24 JUDGE FAHERTY: Over the numbers of years you met him from 1987 to 1990, as I

15:38:53 25 understand it.

26 A Correct.

27

28 JUDGE FAHERTY: Have you any explanation as to why Mr. Gilmartin would be

29 telling in October 1990 Mr. Sherwin and who went on to tell Mr. Kavanagh that

15:39:06 30 Mr. Gilmartin was saying that he had given you a cheque for Fianna Fail for

15:39:09 1 50,000 pounds when, according to you, you got an election contribution the
2 previous year from him?

3 A That's right.

4

15:39:17 5 JUDGE FAHERTY: Why do you think in 1990 Mr. Gilmartin would be saying such a
6 thing?

7 A I have no idea, but why didn't he say it to me.

8

9 JUDGE FAHERTY: I see.

15:39:29 10 A I mean he was meeting me regularly, as I told you, friendly and positive
11 meetings. Why didn't he say it to me? Why when he said it to those people,
12 why didn't he say it to me? The matter would have been all sorted out there
13 and then. There would have been no problem for me and that is the difficulty.
14 But it's no difficulty for me, Mr. Chairman. He gave it to me for my political
15:39:56 15 campaigns, told me why and told me why he changed his mind and it's as simple
16 as that in many respects.

17

18 But had Mr. Gilmartin said it to me at any time after June 1989 until the last
19 meeting we had at the end of '90, or had anybody else said it to me, they would
15:40:21 20 have immediately within one hour been in my office, all the people involved and
21 the direct question would have been put to Mr. Gilmartin and depending on what
22 answer he gave, the matter would have been resolved there and then and I would
23 not be sitting here and waiting for the last six years to get my say.

24

15:40:39 25 CHAIRMAN: All right. Thank you very much, Mr. Flynn, for attending. That
26 concludes the evidence.

27 A Can I express my thanks to you, Mr. Chairman, and to your colleagues.

28

29 CHAIRMAN: Yes, it may be and this would apply to every witness, it may be
15:40:55 30 necessary to recall you at some stage in the future. Now, that concludes the

15:41:00 1 evidence for the time being. There are a couple of witnesses plus Mr.
2 Gilmartin is to be recalled and --

3

4 MS. DILLON: Mr. Eddie Kay has to be recalled.

15:41:12 5

6 CHAIRMAN: He will be dealt with in the autumn.

7

8 MS. DILLON: That's correct.

9

15:41:14 10 CHAIRMAN: And there will be public hearings during September at some stage,
11 at different stages in September, in relation to other issues. But this matter
12 won't resume until later in the autumn.

13

14 MS. DILLON: Yes, so there would be no question of submissions at this stage.

15:41:30 15

16 CHAIRMAN: No, there will be time afforded for the parties in that. Thank
17 you.

18

19 MS. DILLON: Obligated to you, sir.

15:42:27 20

21 **THE TRIBUNAL THEN ADJOURNED.**

22

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