

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

2 **23RD FEBRUARY 2006 AT 10.30 A.M:**

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4 CHAIRMAN: Good morning, Mr. Quinn.

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6 MR. QUINN: Miss Harney please.

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8 **MS. MARY HARNEY, HAVING BEEN SWORN, WAS EXAMINED**

9 **AS FOLLOWS BY MR. QUINN:**

10
11 Q 1 Good morning, Tanaiste.

12 A Good morning, Chairman.

13 Q 2 You have been written to by the Tribunal on the 30th January this year, you
14 have responded to a series of questions addressed to you, I propose to read
15 your response and then ask you one or two questions arising out of that if
16 that's okay. Your response is to be found at 2822 and 2823 of the brief and
17 you say "Dear Mr. King, I refer to your letter of 19th January regarding lands
18 at Ballycullen and Beechill. I understand the Tribunal has requested two
19 things of me. Firstly, a detailed narrative in relation to all meetings and
20 contacts I had with Mr. Derry Hussey and Mr. Chris Jones, representatives of
21 The Jones Group and/or Ballycullen Farms in respect of the lands at
22 Ballycullen and Beechill and secondly, the particulars in relation to meetings
23 about the correspondence enclosed. First I have sought all relevant
24 documentation maybe of assistance to the Tribunal and to myself in providing a
25 narrative statement and any documentation, I have no personal diaries, records
26 of minutes relating to any of these matters I have sought from the Department
27 of Environment and Local Government where I was Minister of State at the time,
28 all records relevant to the Tribunal's request. I am enclosing for you now all
29 the documents the Department has located in relation to your enquiry. I am
30 informed by the Secretary General of the Department that the research has not

1 so far turned up any diaries, although they were apparently extant seven or
2 eight years ago. I did not take away any relevant papers from the Department
3 when I ceased to hold office. Might I suggest therefore, any further inquiries
4 in this regard might be directed through the Department who would facilitate
5 the Tribunal."

6
7 Under the heading narrative statement you say "Assisted now by the documents
8 you supplied, my best recollection is that I was approached by Mr. Derry Hussey
9 whom I knew socially for many years and I clearly met himself and Mr. Chris
10 Jones. The lands at Ballycullen were in my then constituency and I was a
11 member of Dublin County Council until June of 1991. These lands were the
12 subject of rezoning decision in May 1991, but it's clear from the minutes of
13 the meeting that I did not attend the meeting. Nor did I participate in the
14 decision. I do not recall notes or minutes being taken at these meetings but
15 if they were, they would be in the records of the Department. I did not take
16 away any notes myself nor did my personal assistant. I do not recall who, if
17 anyone, attended the meeting apart from those people mentioned in the
18 documentation. It was likely to have been one of my personal assistants who
19 handled constituency matters. I do not recall the details of what was
20 discussed. To the best my knowledge, the meetings would have taken place in my
21 office in the Department of Environment but in the absence of diaries, I cannot
22 be certain of this.

23
24 If I can be of any further assistance to the Tribunal, please do not hesitate
25 to contact me. Yours sincerely". And I think accompanying that document, that
26 statement sorry, was a document from, given to you by the Secretary General of
27 the Department of the Environment, which is page 2824 and it's a handwritten
28 note to you detailing a search which had been carried out within the Department
29 which more or less confirms what I just read from your statement, isn't that
30 correct?

1 A That's correct.

2 Q 3 Now, Tanaiste, I think you were a member of Dublin County Council up until June
3 of 1991?

4 A That's correct.

5 Q 4 And it is, as you have said in your statement, the case that these lands at
6 Ballycullen were situated within your constituency?

7 A They were yes, they were on the boundary between my constituency and the Dublin
8 South constituency, but they were actually in my constituency.

9 Q 5 We know in the 1983 Development Plan, these lands were zoned for agricultural
10 development, isn't that right?

11 A That seems to be the case, yes.

12 Q 6 Sometime in 1990, at the suggestion of the manager, the 1990 draft plan
13 purported to show industrial zoning on some of these lands, is that correct?

14 A That's correct, yes, I think 70 acres was to be rezoned industrial.

15 Q 7 Yes. And we know that sometime in 1991, you had a meeting with the Jones Group
16 and particularly Mr. Chris Jones, possibly on the 12th February 1991, if we
17 could have document number 2825 please. This is a copy of a letter which you
18 gave to the Tribunal and it's a copy of a letter which was already in the
19 possession of the Tribunal, which was sent to you by Mr. Derry Hussey on the
20 24th January 1991, isn't that right?

21 A That's correct and the note on the top of that, I got that from the Department
22 of Environment, it was my then private secretary, Aidan Kinch and that would
23 confirm the meetings did take place certainly, that one in the office of the
24 Department.

25 Q 8 Now as I say in 1991, these lands would have been, appeared in the Draft
26 Development Plan, 1990, having a partial industrial zoning, the lands
27 themselves had been the subject of a planning application for a business park
28 and 348 houses and that application had been refused in December 1990. If we
29 could have document number 1333 please. On the 10th December 1990, Dublin
30 County Council had refused the application to develop these lands, I don't know

1 if you were familiar with that at the time?

2 A To be honest with you, I mean the letters speak for themselves that the
3 Tribunal sent to me, that I have been able to source from the Department and
4 it's clear that I had meetings to discuss those lands, but you know, 14 or 15
5 years on, I haven't got total recall of all the events of the time but it's
6 clear to me, with the assistance of the letters that, part of the lands was
7 proposed to be zoned industrial, that was opposed by the residents. That's
8 noted in the letter.

9 Q 9 Yes.

10 A And then subsequently they went on to rezone the lands for residential.

11 Q 10 It was also, I think, opposed by one of the PD Councillors, Ms Breda Cass, who
12 has given evidence here and on the 8th February, she lodged a motion, if could
13 we could have 124 please, to have the lands dezoned from the proposed
14 industrial zoning to agricultural zoning. She was one of three councillors?

15 A I think at the time she was Fine Gael councillor, she joined the Progressive
16 Democrats in the run up to the 1991 local elections.

17 Q 11 So it would be sometime after, it was between February and June she would have
18 joined?

19 A Yes, my memory is around March, maybe April, May, if the election was in June,
20 I think about a month or six weeks before the election, she joined.

21 Q 12 There's no doubt but that by the time you did meet with Mr. Jones, you were of
22 the view, you had some view on the local attitude to these lands as appears
23 from that letter of the 24th January 1991, if we could have 2825 again. In the
24 third paragraph you said that the proposal by the planners to zone 70 acres for
25 industrial purposes is a great help but as you said, there is certainly
26 considerable resistance to this locally. So you would have been aware that
27 there was considerable local opposition to industrial zoning?

28 A That's right, yes.

29 Q 13 And you would have brought this to the attention of Mr. Jones?

30 A Yes.

1 Q 14 Now, I think you received then on the 13th February 1991 a further letter from
2 Mr. Jones thanking you for the meeting at 1383 please and you sought, "any
3 assistance from you in having the lands suitably zoned to the satisfaction of
4 all concerned would be greatly appreciated." Do you see that?

5 A Yes, I do.

6 Q 15 Now we do know on the 21st February, Mr. Dunlop was retained by Mr. Jones and
7 had been retained at this stage, it would appear, to assist in having the
8 lands rezoned and in August of 1991, Mr. Dunlop provided a report to Mr. Jones
9 and in the course of that report, he highlighted a number of people who ought
10 to be canvassed for their support in relation to the rezoning and if I could
11 have 1504 please. Amongst the people he identified were a number of
12 councillors, then he went on to say "There will also be a need to brief the
13 following government ministers" and you were identified there by Mr. Dunlop as
14 somebody who ought to be, whose support ought to be enlisted. And I think in
15 January of 1992 if we could have 1589 please, Mr. Hussey again wrote to you
16 seeking to arrange a meeting with Mr. Jones in relation to the lands The draft
17 plan had now been on public display and I think a meeting, possibly took place
18 on the 2nd March 1992. If we could have 2826 please.

19
20 In that letter, Mr. Hussey thanks you for meeting himself and Mr. Jones and
21 they found the interview helpful and I think they enclosed further copies of
22 the submissions to have the lands zoned for "medium to low density residential
23 development and open spaces." Again that's a second meeting. Have you any
24 recollection of that second meeting at that time?

25 A Well clearly with the assistance of the documentation, the meetings took place
26 and obviously we discussed the rezoning and I suppose one meeting taken out of
27 context may look unusual. For me meetings are part of my life and I would have
28 several meetings every day, I probably have had thousands of meetings since
29 then. But generally at a meeting like that, when somebody would want to lobby
30 me or brief me, or enlist my support, we would probably have a fairly frank

1 discussion about the proposal and I would have always, since I left the
2 Council, referred people to the councillors and asked them to go and talk to
3 the local councillors, would have been the normal thing I would have done, I
4 think.

5 Q 16 Do you recall speaking to any of your councillors in relation to the
6 representations you had received from Mr. Jones and Mr. Hussey?

7 A No, I don't because when the, in the 1991 election, the Progressive Democrats
8 elected seven councillors to Dublin County Council at the time. And I met them
9 shortly after the election having had experience on the council, and I
10 encouraged them always to do their own thing in relation to rezoning and not to
11 apply a whip system and I think consistent with that, I certainly would never
12 have lobbied, them or asked them to vote for a particular rezoning. And I
13 think even those, a number of them have since left the party and joined other
14 parties, I think they would confirm that I never sought their support for any
15 developer or any development proposal of that kind.

16 Q 17 Now I think in your statement, you said you had known Mr. Hussey for a number
17 of years, is that correct?

18 A That's right, Mr. Hussey is the husband of Gemma Hussey who was a Fine Gael
19 Minister and politician for many years and they are people that I would regard
20 myself as socially friendly with. They are people I have a high regard for.
21 And I would have seen them frequently at social events around politics and in
22 Dublin generally.

23 Q 18 Had you known Mr. Chris Jones?

24 A Never, no, I hadn't.

25 Q 19 Now we have also heard mention here of two people closely associated with
26 Mr. Jones and Mr. Hussey, namely Mr. Oliver Brooks and Mr. Frank Brooks, did
27 you know either of those?

28 A Those names mean nothing to me.

29 Q 20 Mr. Dunlop had been retained by March 1992 and again, it appears that he had a
30 lot of contact with a number of councillors, did he lobby you or contact you in

1 relation to this development?

2 A Well clearly, I have known Mr. Dunlop since the time I first became a Fianna
3 Fail Senator when he was then the press officer and my only recollection of
4 Mr. Dunlop and I ever engaging on a professional basis when, as Minister for
5 Enterprise Trade and Employment, around 1998 we had a working dinner with the
6 IDA in Merck Sharpe & Dome and I think some of their executives from the U.S.
7 in a Dublin restaurant and to the best of my recollection, I don't think
8 Mr. Dunlop and I ever engaged professionally on planning or any other matters.

9 Q 21 We know also that Mr. Liam Lawlor appears to have had some involvement with
10 Mr. Hussey and, sorry Mr. Jones in relation to the development, did Mr. Lawlor
11 lobby you or seek your support in relation to these lands?

12 A Mr. Lawlor and I didn't have much of a relationship since sometime in the mid
13 '80s, obviously I was a councillor with him as a member of the Fianna Fail
14 group in the '80s but thereafter he didn't have any contact with me and I don't
15 think I would have been the person he would have been seeking to win support
16 from in a direct sense, in any event.

17 Q 22 So arising from the two meetings you had with Mr. Jones and Mr. Hussey, it
18 would appear you didn't contact anyone or make any contact?

19 A No, I think to the best of my recollection the norm would be when people lobby
20 me about a proposal and it happens all the time, that I would have referred
21 them to the councillors and would have asked them to speak to the councillors.
22 I didn't, to the best of my recollection, write to the County Council or speak
23 to anybody, I think I probably would have had a frank -- my normal meetings
24 would be, I would be pretty frank with them, I'd tell them the lay of the land,
25 as it were and they would proceed but it's clear to me that I didn't lobby
26 anybody and I didn't do anything about it in a personal sense and clearly I
27 didn't attend a meeting when I was a councillor when these lands were being
28 rezoned.

29 Q 23 Finally --

30 A I might just add, which may be helpful, it was a fact in that part of Dublin

1 that there were a lot of farmers concerned about the city circling the farm and
2 that was a big issue and I note that's referred to in the letter and that's
3 something I would have empathised with because my father farmed and my brother
4 currently farms on the edge of an urban area, so the letter refers to the
5 difficulty of trying to farm a Friesian farm, I know sometimes farmers might
6 use it as an excuse, it's something that it would have meant something to me
7 and I would have understood.

8 Q 24 If we could have 703 please, accompanying Mr. Jones's statement was a schedule,
9 schedule A of political contributions which he had said were made over a number
10 of years by him and in this schedule, in the second grouping, you will see
11 there for the 31st May 2002, a political donation of 1270 pounds towards
12 general election donation which appears to have been attributed to you, can you
13 recall?

14 A Can I just say I have checked that, because when I got the documentation from
15 the Tribunal, that was a donation to the party nationally in the 2002 election.
16 And was probably sent to me as party leader, as donations would be. But that
17 donation is lodged to the national party election campaign of 2002.

18 Q 25 Had you sought --

19 A And I can have that confirmed -- well the party would frequently send letters
20 in the leader's name looking for money, to be honest with you, over a long
21 number of years as party leader so whether we had sent a letter to the Jones
22 Group or not, I can't be certain. But one thing I am certain of, because I
23 have checked it, is that the money was sent to the party nationally and lodged
24 in the party's national accounts for the 2002 election.

25 Q 26 Thank you.

26 A And I believe made out to the Progressive Democrats, although it might have
27 been sent to me but that's something I could clarify if it's helpful to the
28 Tribunal.

29 Q 27 Thank you, Tanaiste.

30

1 CHAIRMAN: Do any of the parties wish to cross-examine? Can I just ask you
2 one thing, Tanaiste, back in the early 1990s, were you aware or did you hear of
3 rumours about payments to councillors, was it spoken about amongst politicians
4 in the Dublin County Council area?

5 A Yes, in the late 1980s, a number of would have had, I specifically remember
6 having discussions with Tom Kitt and Chris Flood and we were concerned about
7 things. Now, they were suspicions, to be honest. There appeared to be some
8 people who had a lifestyle that mightn't have been compatible with their
9 obvious income and between 1989 and 1992 as Minister of State, involved in
10 Government, we had the Section 4 process changed whereby you had to have a
11 majority of the local councillors sign the motion, because there was a pattern
12 emerging where the Councillors from very different area would sign the motion
13 for the rezoning at the behest of maybe the local councillors who wanted to be
14 perhaps, on side with the residence and that was something I was concerned
15 about. And we had that changed in the piece of legislation sometime between
16 '89 and '92 and there was also the issue around if your land was rezoned, even
17 if services couldn't be provided, you were entitled to compensation. And we
18 had that changed in a piece of legislation around that time and because that
19 was of my direct experience on Dublin County Council, and issues I would have
20 learned from that experience.

21

22 CHAIRMAN: All right. Thank you very much for attending

23

24 A Okay, thank you, chairman.

25

26 MS. DILLON: I think the next matter, Chairman, is the availability of
27 Mr. Dunlop for cross-examination, I understood that Mr John O'Halloran sought
28 to cross-examine Mr. Dunlop for about 10 minutes this morning.

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30 CHAIRMAN: Well he isn't here at the moment.

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MS. DILLON: I understood if anybody else wished to cross-examine Mr. Dunlop, with the exception of the Jones Group, that cross-examination was to take place this morning.

CHAIRMAN: Well, perhaps in those circumstances, if we were to rise, say, until a quarter past 11?

MS. DILLON: The next witness is scheduled for 12 o'clock and it's Mr. Tony Fox, so in between the Tanaiste's evidence and Mr. Fox's evidence, this cross-examination was to take place and I think what happened was that Mr. O'Halloran wrote and asked for the special facility of having Mr. Dunlop recalled for this cross-examination. So I would expect him to be here. So if you would rise and allow us to make an inquiry in relation to the matter. Thank you sir.

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

AND RESUMED AS FOLLOWS:

MS. DILLON: Good afternoon, Sir. The position is, is that yesterday the witnesses listed whose evidence was to be taken today were, the Tanaiste, Ms Harney, to be followed by the cross-examination of Mr. Dunlop by Mr. John O'Halloran and others who had sought the return of Mr. Dunlop for cross-examination. Mr. Sean Gilbride and Mr. Tony Fox.

The Tribunal was told late yesterday that Mr. Gilbride was unavailable today, but had received no communication in relation to the cross-examination of Mr. Dunlop by Mr. O'Halloran and others and assumed, it having been requested, and it having been granted by the Tribunal, that it would take place at the conclusion of the evidence of an Tanaiste.

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Now I understand that Mr. Staunton instructed by Mr. John O'Toole, on behalf of Mr. O'Halloran, will address you on the reasons as to why there was no attendance this morning in relation to the cross-examination of Mr. Dunlop. And following that, Mr. Fox is here for his evidence. Thank you.

MR. STAUNTON: Chairman, Mr. Dulley appears on behalf of Mr. O'Halloran. He's actually in court at present, but is expected to be here within 15 minutes. Obviously I apologise on behalf of Mr. Dulley, who's expected to be here very shortly. So I'll be seeking the Tribunal's indulgence just to, that perhaps --

CHAIRMAN: Well, having made the request to cross-examine Mr. Dunlop, Mr. Dulley should have been here at 10.30. Is there any reason why the Tribunal is only now being informed that Mr. Dulley has a difficulty? It's inconvenient, not just for the Tribunal, but for Mr. Dunlop and other witnesses that where an arrangement is made and where your client and your legal colleagues are being facilitated, that that isn't then respected. Is there any reason why Mr. Dulley wasn't here at 10.30 or shortly after 10.30? It would have been clear that the opportunity to cross-examine Mr. Dunlop was going to arise after Ms. Harney gave her evidence.

MR STAUNTON: Chairman, actually we only received notice at about half 11 this mornings, there was a mix up on behalf of the solicitor for Mr O'Halloran in respect of the actual time that would be available to cross-examine Mr. Dunlop and Mr. Dulley had been instructed in another matter but will be due here very shortly. Obviously I apologise on behalf --

CHAIRMAN: Well I don't know if it suits Mr. Dunlop to stay. Mr. Redmond?

MR. REDMOND: Mr. Chairman, the difficulty is that Ms. Dillon informed us

1 that we were required to be here at 10.40, that the matter would take some ten
2 minutes and we have stayed here in good faith until midday. The difficulty is
3 that I have prior commitments and Mr. Dunlop has prior commitments and as I
4 have already informed Ms. Dillon, we are required effectively to withdraw now.
5 We said that we would stay until midday to be as facilitative as possible, but
6 unfortunately it's now incumbent upon me to withdraw.

7
8 CHAIRMAN: Alright well, I think in those circumstances, Mr. Dunlop does not
9 have to stay. Your solicitor will have to write to the Tribunal, if you still
10 wish to seek an opportunity to cross-examine Mr. Dunlop at a later stage and
11 then we will deal with that request when it comes in.

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13 MR. REDMOND: I am obliged, Mr. Chairman.

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15 MR. STAUNTON: Very good, Mr. Chairman, my instructing solicitor said he will
16 correspond with the Tribunal in relation to that. And I apologise on behalf of
17 Mr. Dulley.

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19 MS. DILLON: Mr. Tony Fox please.
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1 **MR. TONY FOX, HAVING BEEN SWORN, WAS EXAMINED**

2 **AS FOLLOWS BY MS. DILLON:**

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4 MR COSTELLO: Good morning, Mr. Chairman and Members of the Tribunal, I think
5 Mr. Fox will be with us in a moment, he has just arrived in fact.

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7 CHAIRMAN: All right. Mr. Costello.

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9 CHAIRMAN: Good afternoon, Mr. Fox.

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11 MR FOX: Good afternoon, chairman.

12
13 Q 28 MS. DILLON: Good afternoon, Mr. Fox, you were formerly a member of Dublin
14 County Council and presently a member of Dun Laoghaire/Rathdown County Council?

15 A That's right, yes.

16 Q 29 And you were a member of the Fianna Fail political party?

17 A Yes.

18 Q 30 Between 1991 and 1993, as a councillor, you were engaged in the review of the
19 1983 Development Plan?

20 A Yes.

21 Q 31 In the course of that Development Plan, you came to consider and vote upon the
22 proposals to rezone the lands at Ballycullen.

23 A That's right.

24 Q 32 The record shows that you voted in favour of the rezoning, is that correct?

25 A That's correct, yes.

26 Q 33 And the record also shows that in October of 1993, you voted in favour of
27 confirming the meeting? Confirming the rezoning, isn't that is correct?

28 A Correct.

29 Q 34 Can I ask you first of all, Mr. Fox, whether you recollect the Ballycullen
30 lands being discussed at any Fianna Fail party meeting in advance of the full

1 meeting of the council proper?

2 A I have no recollection of it but we would usually have maybe I might have
3 attended or maybe not been able to attend but it was a process that we would go
4 through.

5 Q 35 And the course of that process has been outlined to the Tribunal, the matters
6 that were on the agenda for consideration at that meeting would be discussed by
7 the Fianna Fail councillors, is that correct?

8 A Oh yes.

9 Q 36 And it in general, a political or a party position would be adopted, is that
10 correct?

11 A Well, the proposers, whoever, would make a submission or debate on it in
12 relation to it and it wouldn't be, say, adopted by the members, you would be
13 guided by the debate. You wouldn't take a decision, complete decision.

14 Q 37 I think Mr. Ryan told the Tribunal that in general, the Fianna Fail party would
15 present a united front as he described it in relation to rezoning matters.
16 Would you agree with that?

17 A I wouldn't say, I wouldn't totally agree with that. But -- I didn't.

18 Q 38 Sorry, in what way would you disagree with it?

19 A That you would be guided by the discussion and by the local councillors in that
20 particular area and it could so happen that you would always be in favour or
21 whatever but there would be sometimes people wouldn't, so you would be left to
22 vote your own way.

23 Q 39 Right, and insofar as the vote on the Ballycullen lands is concerned, Mr. Fox,
24 which took place on the 29th October 1992 and the vote is recorded at page 1902
25 please. It's the bottom of that -- if the bottom of that could be enlarged?

26 A I see it.

27 Q 40 And if you could identify there your colleagues in Fianna Fail first of all,
28 for the Tribunal.

29 A Seamus Brock, Larry Butler, Betty Coffey, Richard Conroy, Liam Creavan,
30 Margaret Fox, sorry, that's my wife's name -- Margaret Farrell, myself, Tony

1 Fox, Cyril Gallagher, Sean Gilbride, John Hannon, Finbar Hanrahan, Michael
2 Kennedy, Don Lydon, Marian McGennis, Colm McGrath, I think he was a member of
3 Fianna Fail. Trevor Matthews, Charlie O'Connor, Ann Ormonde, Ned Ryan and GV
4 Wright.

5 Q 41 Can I ask you just there in passing about Mr. Morrissey, was Mr. Morrissey at
6 that time a member of Fine Gael who subsequently joined the PDs? Can you
7 remember?

8 A Tom Morrissey. I know him, I know that he was in Fine Gael and is in the PDs
9 now, I am not sure when the change came about.

10 Q 42 If you look at the following page, please, the next page of the people who
11 voted against the rezoning, can you identify any member of Fianna Fail who
12 voted against the rezoning of those lands?

13 A No.

14 Q 43 So the position is, Mr. Fox, that for whatever reason, the record shows that
15 all members of Fianna Fail who voted on the Ballycullen lands voted in favour
16 of the rezoning and no member of Fianna Fail voted against it, isn't that
17 correct?

18 A That's correct, yes.

19 Q 44 Now and you say that that is not as a result of the party, at a meeting in
20 advance of the actual council meeting adopting a united or agreed position but
21 rather everybody coming to their own view independently, is that your position?

22 A Well as I said earlier to you, all members mightn't be at the meeting, if there
23 was a meeting held and you know, there would be and has been meetings held
24 prior to the Development Plan, these meetings.

25 Q 45 Yes.

26 A I mean it's not always possible and myself included, I mean that wouldn't be
27 able to be there for all that time, between going to a meeting first and then
28 being at the plan itself. You know? So I am saying that I couldn't say that
29 everybody, that was at the meeting, or not at the meeting, that's what I'm
30 saying.

- 1 Q 46 Is that what you are saying is you can't say whether everybody member of Fianna
2 Fail who voted in favour of the rezoning motion was in fact at the Fianna Fail
3 meeting that took place in advance of the council meeting?
- 4 A Yes.
- 5 Q 47 Right. What I want to ask you is what was the purpose of Fianna Fail having a
6 meeting at all, in advance of the council meeting?
- 7 A Well we always do, like I mean it's sort of, it does happen and it still
8 happens, that we would have a meeting in our ordinary council meeting.
9 Presently we meet of a Sunday evening in the Lep.
- 10 Q 48 These are special meetings of Dublin County Council, is that right?
- 11 A Yes.
- 12 Q 49 And a special meeting means it's a meeting only to consider one thing, the
13 Development Plan, isn't that right?
- 14 A That's right, yes.
- 15 Q 50 The Development Plan is a reserved function, isn't that right?
- 16 A That's right, yes.
- 17 Q 51 And it's reserved for county councillors only, isn't that correct?
- 18 A Absolutely, yes.
- 19 Q 52 And you are required I think and you have been advised as all councillors were
20 that in exercising that jurisdiction, you are exercising a quasi-judicial
21 function?
- 22 A Yes.
- 23 Q 53 In other words you must go and make your decision with nothing on your mind
24 other than the merits of the case, isn't that right?
- 25 A Yes.
- 26 Q 54 Now in those circumstances where it's a reserved function where you are
27 exercising a quasi-judicial function, where it's a Development Plan meeting as
28 opposed to an ordinary meeting of the council, what was the purpose in Fianna
29 Fail having any meeting in advance of the council meeting?
- 30 A Well it would be to discuss the agenda.

- 1 Q 55 Why?
- 2 A Well that's the policy that would we took. That was the procedure that we had.
- 3 We would have a meeting prior to, if possible and members, you weren't obliged
- 4 to go to the meeting, but that is what was there.
- 5 Q 56 But for what purpose?
- 6 A For to go through and maybe, like, at any meeting would be to listen to the
- 7 discussion of people that had the motions down or whatever.
- 8 Q 57 The --
- 9 A At local councillors in the area, they would, you know, that could be, even
- 10 though they mightn't be always at the meetings, whatever, either, I am saying I
- 11 wasn't at all meetings. But it was policy that we had.
- 12 Q 58 In circumstances where the only job that you were going on to do at the council
- 13 was the making of the Development Plan?
- 14 A Yes.
- 15 Q 59 Which was something in which you could only consider the merits of the case,
- 16 isn't that right, the material and the merits, you are exercising a
- 17 quasi-judicial function?
- 18 A Prior to that you would have got a lot of submissions and lots of
- 19 representations between residents associations all those people, you know that
- 20 wish to make representations.
- 21 Q 60 I am asking you what happens at the Fianna Fail meeting in advance of the
- 22 council meeting that assists you in coming to a decision as to how you will
- 23 vote on a piece of land.
- 24 A That happens that makes you?
- 25 Q 61 No. I didn't say makes you?
- 26 A Or assists you?
- 27 Q 62 Yes, what happens at the Fianna Fail meeting that could assist you in deciding
- 28 how you will vote on a piece of land?
- 29 A Well you could get a lot more information from the local councillors, people
- 30 that would be in that particular area that would be probably meeting residents

- 1 associations, meeting those groups and you would get greater knowledge.
- 2 Q 63 From your Fianna Fail colleagues?
- 3 A Yes.
- 4 Q 64 And would that information be of assistance to you deciding how you would vote
- 5 in relation to the matter?
- 6 A Course it would.
- 7 Q 65 Would you consider what you heard at the meeting, the Fianna Fail meeting, that
- 8 took place in advance of the council meeting if you were at it, was something
- 9 that would be of importance or considered by you in deciding how you would
- 10 vote?
- 11 A Oh yes.
- 12 Q 66 And would you agree with Mr. Ryan where he said that in general, the Fianna
- 13 Fail councillors tended to present a united front in relation to rezoning
- 14 matters?
- 15 A Well if you take, look at the record overall, Fianna Fail was most, was pro
- 16 development, so I am saying that it could come out at any given time a all the
- 17 members would vote, sometimes, as I said, they mightn't. But that would be a
- 18 decision for the individual themselves at the time.
- 19 Q 67 Did you have any discussions with Mr. Frank Dunlop about the Ballycullen lands?
- 20 A Absolutely not.
- 21 Q 68 Did you meet with Mr. Dunlop in September of 1992?
- 22 A September 1992?
- 23 Q 69 Yes.
- 24 A Was that raised before? Or, 1992.
- 25 Q 70 On the 21st September 1992 at 1772.
- 26 A I have a recollection, right, I think that's when or sometime in September that
- 27 he came to my house with somebody, is that right?
- 28 Q 71 This is what you have told the Tribunal that it's your recollection that that
- 29 entry on the 21st September 1992 was an occasion on which Mr. Dunlop came to
- 30 your house with another party?

- 1 A That's right, I know now, yes.
- 2 Q 72 Was that the only occasion on which Mr. Dunlop went to your house?
- 3 A That's not the only occasion overall the time, but I mean in September.
- 4 Q 73 That was the only time he visited you in September 1992?
- 5 A Yes.
- 6 Q 74 Did he -- did Mr. Dunlop over a period of time call to your house on other
7 occasions?
- 8 A He did in relation to a module that wasn't, material contravention.
- 9 Q 75 Yes, but you don't have to say what the subject matter of the meeting was Mr.
10 Fox, I am trying to establish Mr. Mr. Dunlop called to your home?
- 11 A He did, yes.
- 12 Q 76 Did he call on more than one occasion?
- 13 A He called on a few occasions over the time.
- 14 Q 77 And on each occasion on which Mr. Dunlop called to you, what did he want to
15 discuss with you?
- 16 A The occasions that he called prior to that meeting that you are talking about
17 was in relation to, it was the Texas Homecare.
- 18 Q 78 Was it always in relation to the Development Plan?
- 19 A Well the Development Plan was nothing to do with the material contravention.
- 20 Q 79 The material contravention had to do with a piece of land and the development
21 of it, isn't that right, Mr. Fox?
- 22 A Yes, but it wasn't part of the --
- 23 Q 80 Of the Development Plan as such, it was a material contravention of the then
24 existing plan?
- 25 A That's right.
- 26 Q 81 But when this Dunlop came to see you about Texas Homecare, it was in connection
27 with seeking your support for a material contravention, is that right?
- 28 A Yes, but I tell you needn't have come to me for speaking support. We had
29 already strong support for that in the area and I don't know what he was even
30 coming to me for or who sent him as I said at the time. Because that

- 1 particular material contravention was backed by the community and all of that,
2 as I said before, for the jobs and all that it gave in the area and it's a
3 thriving development. So I don't know what he came, it was a waste of time --
- 4 Q 82 The point is that he did come, Mr. Fox and you accept that he came?
- 5 A Yes.
- 6 Q 83 And he came to you in connection with seeking your support for the change in
7 the zoning or planning status of a piece of land, isn't that right?
- 8 A That's right, the material contravention.
- 9 Q 84 When he came to you in September of 1992 with another person, it was also in
10 connection with your support for the rezoning of a piece of land, isn't that
11 right? On the 21st September.
- 12 A Yeah yes, well I said I don't know the particular date but in September, yes,
13 he did come.
- 14 Q 85 You said that Mr. Dunlop called to your house on a few occasions, did
15 Mr. Dunlop call more than those two occasions? Did he come to see you, to your
16 house three or four times?
- 17 A Yes. As I said I think going back, he came the first time unannounced to me in
18 relation to that material contravention as I said, I don't know who sent him or
19 whatever. But he came, that was probably '89 or '90 and then there was a
20 number, he set up meetings relation, to the residents association and all that
21 end of it and he would have come probably three or four times.
- 22 Q 86 Did Mr. Dunlop ever come to discuss anything with you other than the rezoning
23 of land?
- 24 A Yes, the material contravention.
- 25 Q 87 Accepting that you call it a material contravention, but the material
26 contravention was changing the planning status of a parcel of land for Texas
27 Homecare, isn't that right?
- 28 A It was from the industrial end of it.
- 29 Q 88 Yes, it was changing the zoning?
- 30 A Yes, you are right.

1 Q 89 Now accepting for the moment, if you will, Mr. Fox, that we will deem that to
2 be something to do with the development of land in general, am I correct in
3 understanding to that on all of the occasions on which Mr. Dunlop came to see
4 you, he came to see you in connection with the Development Plan or changing the
5 zoning status of lands.

6 A But I think he also came in relation to problems that was on that site, in
7 relation to that I was dealing with as well.

8 Q 90 That's the Texas Homecare site?

9 A Yes, because that went on for a couple of years in relation to, getting it
10 developed, that was only changing the material contravention on it. The
11 zoning, if you like to call it as you said, on it. In 1990. So then it had to
12 go through the process of this plan and you know, through the --

13 Q 91 The purpose of Mr. Dunlop calling to see you, Mr. Fox, did it have anything to
14 do with your business as a tailor?

15 A Did it --

16 Q 92 Did it have anything to do with the business at which you worked?

17 A Not that I'm aware of it.

18 Q 93 Did it have anything to do with Mr. Dunlop's business which was lobbying for
19 support for the changing of the planning status of lands?

20 A He came in relation to and he is called a lobbyist so he was coming in relation
21 to them two items that I said to you.

22 Q 94 He called to your house to seek your support to try and achieve for his
23 developers what they wanted in connection with the land, is that right?

24 A Yes. The once he brought a person and that person spoke to me. I don't recall
25 him, but the person that he brought to me and I have said it here before in
26 relation to -- the name, but the discussion was with that particular person.

27 Q 95 But it was to do with the rezoning of lands in west Dublin, isn't that is
28 right?

29 A It was, yes.

30 Q 96 Is it the position then that the meetings that took place between yourself and

1 Mr. Dunlop were focused on the one thing that you both had in common, your
2 function as a county councillor rezoning land and Mr. Dunlop's desire to get
3 lands rezoned for his clients. Is that what you had in common when you met?

4 A I mightn't have it in common with him. The point was I was well in the
5 material contravention of it. There was no problem, nobody needed to come to
6 it in that area. None whatsoever. So maybe he had his own, whatever, he was
7 doing in relation to it, but the community was fully supportive of it.

8 Q 97 That's why Mr. Dunlop came to see you, Mr. Fox, isn't that right, there's no
9 difficulty with this?

10 A I know there's no difficulty, I am only saying when you say we had both in
11 common, I mean it was, I was fully behind that.

12 Q 98 Yes, you were a councillor who was going to exercise your quasi-judicial
13 function in voting for or against proposed rezoning?

14 A Yes.

15 Q 99 Mr. Dunlop was a lobbyist whose function was to get support for the rezoning of
16 lands for his client, is that right? And that was the mutual matter the two of
17 you had. You had an interest in the rezoning of lands because you were a
18 councillor and he had an interest in the rezoning of lands because he was
19 lobbying for the rezoning of lands, is that right?

20 A Yes.

21 Q 100 Okay.

22 A The community had an interest in that --

23 Q 101 You are talking about the Texas Homecare, right, but in addition to that
24 certainly so far as one other development in west Dublin is concerned,
25 Mr. Dunlop brought the developer out to your house to meet you, isn't that
26 right?

27 A Yes.

28 Q 102 And apart from those two occasions, you said that Mr. Dunlop called to your
29 house on a number of occasions. On each occasion on which Mr. Dunlop called to
30 you, was it it discuss land and the rezoning of land?

1 A No.

2 Q 103 What else did you discuss with Mr. Dunlop?

3 A Well it was discuss the Texas Homecare.

4 Q 104 Are the only two developments that you were --

5 A I think I said it to you earlier and I didn't get to finish, in relation to,
6 that when the material contravention went through, there's a long process after
7 that in relation to the development of the site. And the construction of
8 what's on it and that took a long time. And there was issues in relation to
9 that. That he had to come out and I was on to him in relation to it. And it
10 was about boundary treatment.

11 Q 105 And did you --

12 A It was about a lot of other issues in relation to the works going on on the
13 site.

14 Q 106 And are you --

15 A Sorry to cut across you, are you telling the Tribunal so I'm clear about this,
16 that the only two developments you ever discussed with Mr. Dunlop were the
17 Texas Homecare and Quarryvale? The time you are talking about.

18 Q 107 So between 1991 and 1993, the only two developments you ever discussed with
19 Mr. Dunlop were Texas Homecare and Quarryvale?

20 A Yes, that's the only ones I recall.

21 Q 108 Did he ever did you say the Carrickmines lands with you?

22 A Carrickmines?

23 Q 109 Yes, remember you gave evidence here in Carrickmines --

24 A Paisley Park.

25

26 JUDGE FAHERTY: Paisley Park.

27 A Thanks. No.

28

29 MS. DILLON: He never discussed those lands with you?

30 A No.

- 1 Q 110 Did he ever discuss the Ballycullen lands with you?
- 2 A No.
- 3 Q 111 Did he ever seek your support for any other development in Dublin other than
4 Quarryvale and Texas Homecare?
- 5 A There was the motion that I signed in relation to -- it was here too, in
6 relation to the one out in Carrickmines.
- 7 Q 112 Yes. The motorway?
- 8 A The motorway.
- 9 Q 113 You signed a motion in relation to that, isn't that right?
- 10 A Yes.
- 11 Q 114 And that was in connection with what lands?
- 12 A That was in connection, it was Galvin and Monarch and all them, that was
13 involved in that.
- 14 Q 115 Did he seek your support for those lands?
- 15 A Absolutely not, I went through that all before here and it's categorical he had
16 no hand, act, or part in that.
- 17 Q 116 And insofar as the Ballycullen lands are concerned, in September of 1992, did
18 Mr. Dunlop contact you about the Ballycullen lands or Beechill lands?
- 19 A No.
- 20 Q 117 Could I have 1830 please. This is a record of telephone calls to Mr. Dunlop's
21 office on the 15th October 1992.
- 22 A Yes.
- 23 Q 118 And you will note that at 11.10, Tony Fox leaving for council, can get him
24 there and then at 11.50, Tony Fox, in the council now. Now do you accept first
25 of all you were probably that Tony Fox?
- 26 A I would say to, yes.
- 27 Q 119 That you are telling Mr. Dunlop that you are going into the council at 11.10
28 and when you get there at 11.40, you were telling him that you are in there, is
29 that right?
- 30 A Well I was probably returning a call and that I would, I didn't get him and

1 then I probably returned a call again from the council.

2 Q 120 Yes. On the day following those telephone calls, on the 16th October 1992, the
3 Beechill lands were rezoned by the council.

4 A Yes.

5 Q 121 Do you think your telephone calls to Mr. Dunlop might have been anything to do
6 with the Beechill lands or what was happening in the council in connection with
7 the Beechill lands?

8 A As I said, I have no recollection of the call. I didn't have any contact with
9 him.

10 Q 122 What business would you have had with Mr. Dunlop on the 15th October 1992 that
11 would have required Mr. Dunlop to know precisely where you were?

12 A What do you mean to know precisely where I was? I was returning a call.

13 Q 123 But you are remember Mr. Dunlop ringing you?

14 A Well I mean it's there so I -- don't recall it.

15 Q 124 Right.

16 A I would say that and which does happen, that I get phone calls and messages at
17 at home and I would ring them probably the next day or whatever but I mean in
18 general, I would be returning calls.

19 Q 125 I just want to draw to your attention, Mr. Fox, the messages that you are
20 recorded as leaving. At 10.11 -- 11.10 you tell Mr. Dunlop's office you are
21 leaving for the council and you can be contacted at the council, do you see
22 that?

23 A Yes.

24 Q 126 At 11.50 you contact him and tell Mr. Dunlop or leave a message with his office
25 that you are in the council now.

26 A Yes.

27 Q 127 Isn't that right?

28 A That's right, yes, well it states it there, so --

29 Q 128 That would suggest, Mr. Fox, that for whatever mutual interest yourself and
30 Mr. Dunlop had, you considered it important enough on the 15th October 1992

1 that Mr. Dunlop would know where you were.

2 A What I was doing was returning, when I read made the call and probably the
3 person said where are you going now that he can contact you, I said I'm going
4 into the council.

5 Q 129 Do you remember that?

6 A I don't remember it, no but that's what I'm saying. I would probably say if I
7 rang you up and I said I and couldn't get through to you, and you had rang me
8 earlier, I would turn around and say I am going wherever, that if you want to
9 contact me.

10 Q 130 And on the 29th, sorry, sorry Mr. Fox, are you satisfied that those calls would
11 not have been in connection with either the Beechill rezoning or the
12 Ballycullen rezoning?

13 A Yes, I am quite is sure.

14 Q 131 Then ask you tell the Tribunal what the content of your discussion were with
15 Mr. Dunlop when you finally made contact with him?

16 A I didn't make contact.

17 Q 132 How do you know?

18 A I don't recall making contact with him.

19 Q 133 But presumably you were anxious to contact him on that date because it records
20 telephone --

21 A I wouldn't say I was anxious to, I could be returning a call and it could have
22 been any date.

23 Q 134 But it's not any date with respect Mr. Fox?

24 A I am saying to you with respect, yeah but I'm saying to you it could be any
25 date.

26 Q 135 Do you remember meeting either Mr. Frank Brooks or Mr. Oliver Brooks in
27 connection with the Ballycullen rezoning?

28 A Well I know Frankie Brooks very well. He is a member of Fianna Fail. He is in
29 one of the local cumanns. I would often meet Frankie Brooks in in relation to,
30 I don't recall any official meeting with him but in relation to social and

1 going to meetings, at the cumann and the constituency Comhairle Dail Ceanntar
2 which would meet monthly or six weekly, I would see him there, not that he
3 would always be there but I do know him.

4 Q 136 Do you think it's likely he canvassed you for support in relation to the
5 Ballycullen Farms?

6 A I presume he would mention and we would discuss it.

7 Q 137 With respect, Mr. Fox, he would have, do you remember Mr. Brooks speaking to
8 you and looking for your support for the rezoning of the Ballycullen Farms?

9 A I don't actually particularly recollect, it is 15 years ago so I'm saying that
10 I am only saying that I would be surprised if he didn't mention it to me.

11 Q 138 But you are absolutely satisfied Mr. Dunlop did not mention it to you?

12 A Absolutely.

13 Q 139 Notwithstanding that you would accept that Mr. Dunlop's job as a lobbyist was
14 to get support from as many councillors as he could in connection with the
15 rezoning of lands?

16 A Well I put it this way to you, if the Brooks like, Frank Brooks, was, and it
17 would seem that he was he was supporting on it, it would be him that would come
18 to me or come to us.

19 Q 140 Did anybody ever tell you or indicate to you, be it Frank Brooks or the Oliver
20 Brooks or anybody that Mr. Dunlop was working on this project?

21 A Never heard of him being involved in it.

22 Q 141 Now Mr. Dunlop says that he made a payment to you in connection with these
23 lands and you deny that, isn't that right?

24 A Absolutely, yes.

25 Q 142 Did you receive any money from either Mr. Frank Brooks or Mr. Oliver Brooks or
26 Ballycullen Farms in 1992?

27 A Well I note that there's a 250, I think it's 250.

28 Q 143 That's correct.

29 A From Brooks, from Mr. Jones.

30 Q 144 Mm.

- 1 A Now I have no record of it but I do accept I got it, like.
- 2 Q 145 Prior to you seeing the document where Ballycullen Farms or Mr. Jones were
3 claiming they had paid you 250 pounds, had you any recollection of receiving
4 any money from Mr. Christopher Jones or Ballycullen Farms?
- 5 A No, I didn't have it, no.
- 6 Q 146 So you don't remember receiving any of those funds, if you got them, is that
7 right?
- 8 A That's right, yes.
- 9 Q 147 But you accept, having seen the list, that it's likely that you did in 1992
10 receive that sum of 250 pounds?
- 11 A Yes, I accept that, yes.
- 12 Q 148 And do you think --
- 13 A I have no record of it, unfortunately, I have no records of that that time.
- 14 Q 149 Is it likely that you would have received that money from Mr. Oliver Brooks?
- 15 A No, I am nearly sure I wouldn't have, no.
- 16 Q 150 Mr. Frank Brooks?
- 17 A No.
- 18 Q 151 How would you have received it or from whom would you have received it?
- 19 A I can't a hundred percent say overall but I would say that it possibly came in
20 the post to me, you know.
- 21 Q 152 As a cheque?
- 22 A Yes.
- 23 Q 153 And can you, you don't remember the cheque?
- 24 A When you say --
- 25 Q 154 You don't remember the cheque?
- 26 A I don't remember the cheque, no.
- 27 Q 155 But do you think that it's likely that you received those funds because of your
28 mutual involvement in Fianna Fail with Mr. Oliver Brooks?
- 29 A Again, like it was well known at the time to, that I was looking to run in the
30 Senate too. I was after trying the general election end of it, so I was, that

1 would be in the Brooks, the Brooks would know that end of it so I don't know
2 how it became about but anyway, it would seem there that there's 250 there for
3 me and it would be a political donation to what I was involved in.

4 Q 156 Prior to 1992, did you ever receive a political donation from Mr. Jones,
5 Ballycullen Farms or Mr. Frank books or Mr. Oliver Brooks?

6 A Not that I have any evidence or record or recollection of, I don't believe I
7 did. But I am just saying --

8 Q 157 After 1992, do you have any recollection or evidence or record of any other
9 payment from either Mr. Christopher Mr. Oliver Brooks, or Christopher Jones?

10 A No.

11 Q 158 So that the only time you would have received a payment from either Mr. Brooks
12 or Ballycullen Farms was 1992?

13 A That's right, yes, but as I said in relation to that time and in that period
14 around January or March or December, that I was looking to run in the Senate
15 and I was encouraged to do that, you know, so that would be out and people
16 would, supporters could have mentioned that, would need some contributions to
17 offset the cost. I mean, I am saying that 250, well it was, it was 250 you
18 said?

19 Q 159 That's what Mr. Jones says.

20 A So I'm saying maybe it was to do with that. I would say it was mostly to do
21 with that if I did get it.

22 Q 160 Did you issue, was it your practice at that time or subsequently to issue
23 receipts or political donations received?

24 A No, sure I --

25 Q 161 Or did you keep or maintain a separate account for the receipt of political
26 donations?

27 A No. I didn't at that time and now we do but it's a pity we hadn't got it, then
28 it would be easier to look back on what you did get or you didn't get.

29 Q 162 I think, Mr. Fox, that the Tribunal sent you a document containing particular
30 lodgments that were of interest to the Tribunal in or around the time or post

- 1 the time of the Ballycullen rezoning, before or after that period of time. I
2 think you have received that document, is that right?
- 3 A I have, yes.
- 4 Q 163 And that's at page 2866. Now can I ask you first of all to confirm that the
5 Anthony Fox on the first four lodgments, which is account number 04345261 is
6 yourself?
- 7 A Yes.
- 8 Q 164 You have a son called Anthony?
- 9 A Anthony junior, yes.
- 10 Q 165 That's why I'm asking you about this account, that it's your account and not
11 your son's account.
- 12 A He lives in New York.
- 13 Q 166 Was he in New York in 1992?
- 14 A He was, yes, he is there at present, his wife's due a baby. She's gone in to
15 have a baby today.
- 16 Q 167 Well we won't keep you very much longer, Mr. Fox. If we can just look first of
17 all at the first lodgment which is the 21st October 1992 and if we have page
18 2847 please.
- 19 A I have it here.
- 20 Q 168 Yeah, this is the bank statement, I just want to show you these, page 28 --
21 sorry 2867?
- 22 A That's not my --
- 23 Q 169 I know it's 2867, this account. Now there are four lodgments there, you will
24 see, Mr. Fox, there's a lodgment of 300 pounds, a lodgment of 500 pounds and a
25 lodgment of 500 pounds and a lodgment of 1,000 pounds. I think insofar as the
26 lodgment of 1,000 pounds is concerned, that's a political donation from Monarch
27 Properties, is that correct?
- 28 A We discussed that here ad nauseam I think before.
- 29 Q 170 I think that was in the course of the Carrickmines module, what I want to draw
30 to your attention, this is the account in which you placed that money, is that

- 1 right?
- 2 A Yes.
- 3 Q 171 That 1,000. Now I think you did shall --
- 4 A It looks like it.
- 5 Q 172 That's what you have told the Tribunal I think, Mr. Fox, isn't that right?
- 6 A Yes.
- 7 Q 173 That that cheque for 1,000 pounds which is credited on the 4th February 1993 is
- 8 in fact the payment or political donation from Monarch Properties.
- 9 A Well as I wrote to the banks and that, with a question on that, that is what I
- 10 say it is, you know.
- 11 Q 174 What's what you believe it to be?
- 12 A Believe it to be, yes.
- 13 Q 175 Right and I think you had indicated that to the Tribunal?
- 14 A Yes.
- 15 Q 176 Isn't that right? And insofar as the other two lodgments of 500 and 500 are
- 16 concerned, I think your position is that you believe that you have asked the
- 17 bank for documents and the bank have no documents, isn't that right?
- 18 A Yes.
- 19 Q 177 And that in addition to that, you believe that they were made from your own and
- 20 your wife's resources.
- 21 A All of them?
- 22 Q 178 Well what you say is, can we have 3451 please.
- 23 A Sorry, to put things through them when I was doing it at the time.
- 24 Q 179 When you were provided with this?
- 25 A Inquiry with bank, inquiry with bank. Yes.
- 26 Q 180 The Tribunal sent you and asked you to indicate the source of the funds and you
- 27 will see there you identify Monarch Properties in the sum of 1,000 pounds,
- 28 isn't that right?
- 29 A That's right, yes.
- 30 Q 181 Now I think you had previously told the Fianna Fail inquiry that the most you

1 got was 500 pounds, is that right?

2 A Yes but look, Ms. Dillon, we went through all that time the last time and I did
3 say at the time that when I came aware at the time when I was with Fianna Fail,
4 I wasn't aware of it. So I did make the Tribunal aware about two years,
5 chairman, I think it was made, well a good long time, prior to I coming in
6 here. But the mistake was that I made and it is a mistake, looking back in
7 hindsight is a great thing but that I didn't sent it in to Fianna Fail then
8 when I came became aware of that and that is the only thing. I know there's a
9 lot of hullabaloo about in relation to what was said but that is what happened
10 and if I had that when I was there, it would have been given but I gave it --
11 when the Tribunal and I did check it, I did all that end of it. I did inform
12 the Tribunal. So the only mistake I made in that, maybe if it was a mistake, I
13 don't think, it's just that people have different ways of doing things. I
14 didn't send in that information to the Fianna Fail afterwards.

15 Q 182 Insofar as the other two lodgments are concerned, you wrote on the 23rd July
16 2001 at page 3453 and you said as follows, "I have no further information other
17 than the various County Councils etc. cheques which were accompanied by
18 documents on the 7th March 2001." The other lodgments which have just been on
19 screen, excluding the Monarch one were presumably made from my own and my
20 wife's resources, as previously explained, both of us were in occupation at
21 that time and we were both paid our wages in cash. We would also have received
22 and continue to receive cash contributions from our children towards their
23 upkeep. Is that right?

24 A That's right, presumably I said.

25 Q 183 You said presumably made, what you are saying there in relation to those
26 contributions are that they are made either from county, they are made from
27 either your own resources or from county council cheques insofar as you have
28 been able to trace the county council cheques, is that right?

29 A Well I was trying to give an answer, you were asking a question and I was
30 trying to give an answer.

- 1 Q 184 Yes.
- 2 A And that is what, after not getting the details from the banks, that I gave
3 that. I mean at the time or all the time my wife, I am a tailor and she's a
4 tailoress, machinist, so we would be doing quite a lot of, we made all our
5 children's clothes, 90 percent of them, made our own clothes, did alterations
6 and did lots of things there so there could -- in relation to it. So it could
7 be so, just thinking on that end of it, it mightn't be but all I'm thinking is
8 that the banks hadn't got the information and that's the problem.
- 9 Q 185 And if we go back to the document then that the Tribunal furnished to you at
10 2866.
- 11 A Yes.
- 12 Q 186 And insofar as the first four lodgments are concerned, those lodgments show
13 that between the 21st October 1992 and the 4th February 1993, to that account
14 you lodged 2,300 pounds which is under inquiry by the Tribunal and of which you
15 say a sum of 1,000 pounds comes from Monarch Properties.
- 16 A Yes.
- 17 Q 187 Isn't that right?
- 18 A Yes.
- 19 Q 188 Now if you move on to the next account which is the next seven, sorry six
20 lodgments, I beg your pardon which is account 0435188, do you see that account?
- 21 A Yes.
- 22 Q 189 Is that again your account?
- 23 A It is, yes.
- 24 Q 190 And those lodgments that are made there, the next six lodgments total 3,528
25 pounds.
- 26 A Yes.
- 27 Q 191 Do you see that?
- 28 A Down to where did you go? Oh yes.
- 29 Q 192 If you come down to, we have dealt with the first four lodgments.
- 30 A I see it.

- 1 Q 193 We are now looking at the next six lodgments to that account and those six
2 lodgments which take place between the 16th October 1992 and the 8th January
3 1992 total 3,528.13?
- 4 A Yes.
- 5 Q 194 And the four lodgments before that came to 2,300 pounds, do you see that?
- 6 A Yes.
- 7 Q 195 Right. That would mean, Mr. Fox, that between the 16th October 1992 and the
8 4th February 1993, you lodged 5,328.13 pence to those two accounts.
- 9 A Yes.
- 10 Q 196 Do you see that? In addition to that, if you go down to the next line
11 immediately beneath that, which is an account with An Post, do you see that
12 account?
- 13 A Joint account, yes.
- 14 Q 197 In the name of A 879984, is that your account?
- 15 A Yes, it's a joint -- Margaret, my wife and my own.
- 16 Q 198 Do you see there's a lodgment of 500 pounds there on the 11th December 1992?
- 17 A Yes.
- 18 Q 199 Now the total amount of those lodgments come to 3,528.13.
- 19 A Yes.
- 20 Q 200 And those lodgments are made between the 16th October 1992 and the 4th February
21 1993.
- 22 A Yes.
- 23 Q 201 Now, apart from the explanation in relation to the sum of 1,000 pounds from
24 Monarch Properties, I think your position is as set out in the letter, that you
25 would have made those lodgments available from cash resources that were
26 available to you, is that right?
- 27 A Cash?
- 28 Q 202 You said you were paid in cash.
- 29 A I didn't say about them lodgments. You were asking me a particular lodgment?
- 30 Q 203 I was asking but the first four lodgments, is that right?

1 A Yes, first two -- sorry, yes.

2 Q 204 First four I think were queried, isn't that right, and I think insofar as the
3 lodgment in relation to the 500 pounds into An Post is concerned, 3456 please.

4 A Joint account, yes.

5 Q 205 You said that particular lodgment on the 11th December was an accumulation of
6 savings. Do you see, is that your handwriting there at the bottom?

7 A It's not mine but it's the person who was doing it for me.

8 Q 206 You are saying that that 500 pounds came from an accumulation of savings, in
9 other words, it's not coming out of any other account, is that right?

10 A Yes, because I was trying to put on in relation to when the banks weren't able
11 to identify in relation to these lodgments but in relation to all them there, I
12 was on the county council and I would be getting my cheques expenses, right, I
13 was on the general council of the county council as well, I would be attending
14 some conferences, I would be doing some site visits. So there was quite a
15 large amount of that money in relation to council expenses and general council,
16 some as I said, I'm still on the general council of the county council and in
17 relation to -- I was paid in cash, my wife was paid in cash, wages, right, the
18 family was paid the same. And also, as I said to you there, we did quite a
19 good bit of, I made clothes and made alterations and bits of things like that
20 and my wife the same. We would look after all our needs and clothing, we did
21 that.

22
23 So in relation to them, there would be accumulation of savings, wages, the kids
24 in America sending home money and we have two kids over there in America and
25 they would be sending home dollars and did and continues to do and they sent
26 them frequently. So there was a lot in the sense of, say, cash because and the
27 banks, as I said, I tried the banks, I have written to the council for -- my
28 solicitor has written to the council for to see in relation to any monies that
29 was paid to me during that period. I sent in that document that you had up
30 there earlier.

1 Q 207 Yes.

2 A So that is all gone through. But I can tell you, I can tell you that none,
3 none of them lodgments that goes back over 15 years ago includes any money from
4 Frank Dunlop. I can tell you that.

5 Q 208 Well let's just continue with the exercise anyway Mr. Fox, if we can. At page
6 2866 if we go back to the document the Tribunal sent to you and it's your
7 position insofar as those lodgments are concerned, they are either you say
8 county council cheques or they are, you were paid in cash, they are money from
9 your own resources, is that right?

10 A They would be monies and then in relation to the going for convention, there
11 could be some political donations in there in relation to when I went for the
12 convention for the Fianna Fail in November and for the Senate. So there could
13 be some small donations in there included and I have said that.

14 Q 209 If we look at the figures, I misled you, Mr. Fox, and Mr. Quinn has done the
15 tot for me again and in fact the tot of the first four and four, eight, two 10,
16 11 lodgments comes to 6,228.13 pence and I said it was around five and a half
17 so in fact I am wrong. So between those dates of the 16th October 1992 and the
18 4th February 1993, you lodged 6,228.13 pence to those three accounts, do you
19 accept that?

20 A Yes, I have no problem with it.

21 Q 210 Can I ask you to consider for a moment a document in dealing with your income
22 for the period 1992-1993, 3471 please. Now this records your income for the
23 year ending 5th April 1993. And I want to draw to your attention that your
24 total pay for the year up to the 5th April 1993, which is from the 5th April
25 1992 to the 5th April 1993 was 7,554.70 pounds. Your tax deductible was 639
26 pounds and the employee share of PRSI was 585, leaving a net balance of 6,332
27 pounds. Do you see that, Mr. Fox?

28 A I do, yes.

29 Q 211 So that is your annual salary between the 3rd April 1992 and the 3rd April
30 1993. Do you see that and you accept that that's correct?

1 A Well it's there.

2 Q 212 And that's a document provided by your employer, isn't that right?

3 A Yes.

4 Q 213 Now insofar as your wife's salary is concerned, could I have page 3472 please.

5 Now, that is a record from Leo Fashions Limited, who employed your wife, and

6 what I want to show to you is the fourth line down which records your wife's

7 gross pay in 1929 at 6,559 pounds, do you see that?

8 A Yes.

9 Q 214 And then the Tribunal was furnished with a document from, at 3470 from Leo's

10 Fashions, setting out the deductions and what I want is the last line of that

11 document please. And the last line of that document which records your wife's

12 salary over a 52-week period records that the gross pay was 5,113.44, sorry,

13 it's Irish pounds, sorry. And that it sets out what the tax deductible was

14 leaving, at its best, an proximate income of around 5,000 pounds, would you

15 accept that?

16 A Yes, well --

17 Q 215 So that between yourself and your wife in between the period 1992 and 1993,

18 your joint income, as disclosed in the documents to the Tribunal, would have

19 been of the order of 11,000 pounds, would you agree with that?

20 A Yes.

21 Q 216 Now that is excluding any payment you may have received as a member of the

22 council or any payment as a member of the health board, you understand?

23 A I know that, yes.

24 Q 217 Because we haven't been provided with those figures, isn't that correct, Mr.

25 Fox?

26 A Yes, that's what I'm saying, I have tried to get all the other figures.

27 Q 218 And so has the Tribunal and they have been unable to get it. Leaving that

28 aside for the moment and dealing with these two figures for the moment, your

29 salary in 1929 to 1993 is 6,000, your wife's is 5,000 and you have 11,000

30 pounds and I want to ask you, out of a declared income of 11,000 pounds, how

1 were you in a position to lodge 6,328.13 by way of lodgments or savings to
2 those two accounts between October 1992 and February 1993.

3 A Just go back to them lodgments. As I said to you, there was council cheques,
4 there was income from the council. There was income from the general council.
5 There was income from conference. There was income from sites visits and all
6 those, right? Now I don't know how much that's in that, that includes it but
7 it would be quite substantial amount within that. It could be savings. Like I
8 mean, I did save before I was ever on the council and we did save, right,
9 before we were on the council. And we did rear our children. And I am saying
10 in that area, I took out 500 in October, which is not on that, in relation to
11 the end of -- early in October or the end of September. That was surplus,
12 money I mightn't have used either. But I'm saying that in all of that there is
13 you cannot come up with a figure unless you have all the background to all them
14 cheques and there's quite a lot of them there and the income and I am just
15 sorry the council haven't got, or these people haven't got these cheques or
16 records of these amounts.

17
18 But I can honestly tell you that they are accounts between council cheques,
19 between conference, if I was at a conference and we do go to them, and the
20 general council of the county council and some political donations in relation
21 to I going for the convention of Fianna Fail and looking to run for the Senate.
22 That is what is in there. And I said that we did do and we did do quite an
23 amount of some alterations and things like that. I made clothes, I am a
24 tailor, we reared our children and made all their clothes and that helped us
25 through and prior to 1985, I would save monies, if we had monies. We had a
26 bank account and the same thing. So there be would be an accumulation and
27 funding and monies coming from the kids that were working in the house. There
28 was, I think, two children working at that time or three or whatever. And the
29 children in America, they were sending home some funding.

30 Q 219 And you had two children, I think, in full-time education in 1992, isn't that

1 right? You had two relatively young children at that stage.

2 A Could you tell me what ages they were?

3 Q 220 David was 12 in 1992 and Conor was 10 in 1992.

4 A They would be in primary or whatever, yes.

5 Q 221 And they would have been dependent on you and your wife, is that right?

6 A That's right, but as I said, we made, we hadn't an awful lot of expenditure in
7 relation to it because we made all of their clothes, their confirmation, first
8 communion, all of those type of things and even the girls, I have made all
9 their clothes. I didn't smoke, in relation to all of that so there wasn't big
10 expenditure either.

11 Q 222 What I'm pointing out to you is this, Mr. Fox, your declared income and that of
12 your wife amounts to not more than 11,000 pounds. I am pointing out to you the
13 lodgments in a four month period in your bank account are more than half of
14 your joint income in 1992 to 1993. I have asked you for an explanation and as
15 I understand your explanation, you say that these are funds you have
16 accumulated by way of savings, they are contributions from children who are
17 working, they are cash monies you would have made in your clothing business and
18 they are the proceeds of expenses cheques incurred or obtained by you as a
19 result of your connection with Dublin County Council and the health boards.
20 They are not, there may be some political donations in the funds but none of
21 them, none of the funds that have been lodged to these accounts at this period
22 represent monies given to you by Mr. Dunlop. Is that --

23 A Absolutely. That's what I said to you earlier.

24 Q 223 But insofar as that, those lodgments amount to more than half of your joint
25 income for the period 1992-1993, they are monies that you had available to you
26 legitimately and honestly and not otherwise?

27 A That's true, and an exercise that could be done is in relation to the amount of
28 money that we do get in the council in relation to it because that there, we
29 would get X amount of money a year so if you done my yearly, I think it should
30 have when they were able to give you, because income that we would get from the

1 council for the year. So when they haven't got them then, they might have
2 sometime later on or whatever, last year, the year before, there where they
3 have records and to do a sum on what we would be getting from the council.

4 Q 224 And when we come --

5 A Because when you were doing that sum and put it out there, you are doing it
6 without all of them lodgments.

7 Q 225 Yes, but that would be done --

8 A What they are.

9 Q 226 When the Tribunal comes to do the full financial on your --

10 A I am only saying that --

11 Q 227 But you are aware, Mr. Fox, you have sought the documentation from the council
12 yourself, as the Tribunal has, that the information in relation to the expenses
13 actually paid to you in the period 1992-1993 are not available, you have sought
14 them and the Tribunal has sought them?

15 A Yes, but you are doing the sums without them and it looks off --

16 Q 228 What I have said to you, Mr. Fox, is that and I have put on screen, your
17 explanation for the source of these monies, or the explanation provided
18 included that you said they were probably the proceeds of cheques received and
19 my, the point I'm making to you, Mr. Fox, is that those lodgments in that
20 particular period are in excess in that four month period, are over 50 percent
21 of your joint salary.

22 A I take what you are saying but I'm saying to put it all into its context,
23 there's a lot more to be looked into before you can come up with and say all
24 that, you are putting a certain opinion on it or slant on it in the sense of
25 saying that -- but I'm saying if you had all the information, that income there
26 that's there would be a lot of the council and a lot of all that end of it.

27 Q 229 You don't dispute any of the lodgments?

28 A No, no.

29 Q 230 And you don't dispute that, for example the first four lodgments are round
30 figure lodgments, 300, 500, 500, 1000?

1 A Yes, and I had a habit of putting things together, I mean like two cheques like
2 I mean I wouldn't lodge them -- I'd lodge them together so they can be that way
3 too and still do it. But what I do now since all of this, I write down each
4 one, if I was putting in two cheques at the one time or lodgment or something,
5 I would put down exactly what it is and wrote it on the back of it.

6 Q 231 Are either of those accounts joint accounts?

7 A The one account, any of those.

8 Q 232 The ones we have been looking at?

9 A The bottom one.

10 Q 233 The An Post account, the last lodgement for 500, but the other two accounts
11 which are the AIB accounts, are they accounts in your name or are they joint
12 accounts?

13 A One is deposit and one is current.

14 Q 234 Sorry, do you understand me, do you share the account with anybody else?

15 A No.

16 Q 235 Are you the sole signatory on the account?

17 A Yes.

18 Q 236 Isn't that right?

19 A Yes.

20 Q 237 And I think that your wife has a separate account?

21 A Yes.

22 Q 238 In her name, isn't that right?

23 A Yes.

24 Q 239 And that's the Margaret Fox with the 900 pounds lodgment on the 2nd January
25 1993?

26 A That's right.

27 Q 240 And that's not included I think in the matter, but insofar as the money, are
28 you telling the Tribunal, just so that we are clear on this that sum of the
29 source of the lodgments to your account deposit and current came from your
30 wife's earnings?

1 A I am not saying all of it, it could happen, we do share together.

2 Q 241 I didn't say all of it, I am asking you are you telling the Tribunal that some
3 of the lodgments that are made to your own sole account come from your wife's
4 earnings?

5 A I don't think so. But occasionally it did happen, you know?

6 Q 242 Yes. Thank you, Mr. Fox. Would you answer any questions anybody else may have
7 for you.

8
9 CHAIRMAN: I think we will rise until 2 o'clock because there's a couple of
10 matters we want to deal with with Mr. Fox and Mr. Gordon I presume, you want to
11 --

12

13 MR GORDON: I will be very brief, Mr. Chairman.

14

15 CHAIRMAN: All right. Just before you start, I am just concerned, unless I am
16 mistaken, Mr. Dunlop's evidence insofar as it affects Mr. Fox, to be fair to
17 Mr. Fox, was that put to him?

18

19 MS. DILLON: Yes, Mr. Fox denies ever receiving any money from Mr. Dunlop and
20 I put to Mr. Fox that Mr. Dunlop said he had paid him in connection with these
21 lands and --

22

23 JUDGE FAHERTY: I don't think the sum was put.

24

25 MS. DILLON: The sum was 1,000 pounds. I will put that. Mr. Fox, you heard
26 what the chairman said, Mr. Dunlop says that he paid you a thousand pounds in
27 connection with your support for the Ballycullen lands.

28 A Absolutely not. I categorically deny it.

29

30 CHAIRMAN: All right. Now Mr. Gordon, do you want to?

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MR. GORDON: Just very briefly.

CHAIRMAN: I mean I don't want to put you under pressure, if you prefer we can

--

MR GORDON: Perhaps I will leave it until two o'clock.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

1 **THE TRIBUNAL RESUMED AS FOLLOWS AT 2.00 P.M.**

2
3 MS. DILLON: Mr. Fox please.

4
5 CHAIRMAN: Now, Mr. Gordon, do you wish to ask your client any questions?

6
7 **THE WITNESS WAS CROSS EXAMINED AS FOLLOWS**

8 **BY MR GORDON**

9
10 Q 243 MR. GORDON: Good afternoon, chairman and Members of the Tribunal. Just very
11 briefly if I may ask one or two questions. Good afternoon, Mr. Fox. The
12 situation this morning is, as I understand it, that you were asked to explain
13 as best you could the various different accounts that were presented on screen
14 to you in summary format and as I understand your evidence, Mr. Fox, you are
15 telling the Tribunal that the entries that were shown on screen, detail sources
16 of funds to those accounts from a variety of different places, isn't that so?

17 A That's right.

18 Q 244 And I think you said that could explain or you explained to the Tribunal that
19 in or about that period of time in your life, that you were in receipt of
20 political donations?

21 A That's right.

22 Q 245 You were working and your wife, Margaret, was working, isn't that right?

23 A That's right.

24 Q 246 And that you told the Tribunal that your income was paid to you in cash and so
25 was your wife's income paid to her in cash?

26 A That's right.

27 Q 247 And that income would have been lodged to the accounts that we have seen
28 presented on the screen.

29 A That's right.

30 Q 248 And you mentioned that from time to time when you received some assistance from

1 your children who were working at that time?

2 A Yes.

3 Q 249 Did that assistance would have been lodged to the credit of those accounts, is
4 that right?

5 A That would be correct, yes.

6 Q 250 You mentioned general council of which you were a member at that time and also
7 the county council?

8 A Yes.

9 Q 251 And you would have been in receipt at that time of allowances and expenses from
10 the general council and indeed from the county council?

11 A That's correct.

12 Q 252 And those funds were again lodged to the accounts that we saw on screen.

13 A Correct.

14 Q 253 And I think you also mentioned the Health Board, isn't that right?

15 A The Health board?

16 Q 254 The Health Board was mentioned this morning?

17 A No, I didn't mention.

18 Q 255 Were you a member of the Health Board at that time?

19 A Not at that time.

20 Q 256 And I think you finally indicated you worked some --

21 A Conference I mentioned.

22 Q 257 Pardon me?

23 A Conferences, there could have been possible conferences.

24 Q 258 I understand. Now of all the different entries that were shown to you this
25 morning and the answers that you gave to the Tribunal, Mr. Fox, is there any
26 reason at all for suspicion, can you say, in relation to any one of those
27 entries?

28 A Absolutely none.

29 Q 259 Are those accounts as they were presented to you this morning of any relevance
30 whatsoever to the matters being inquired into by this Tribunal?

1 A Absolutely not.

2 Q 260 Ms. Dillon used word "Entries under query". To your mind, Mr. Fox, is there
3 any necessity to have any one of those entries under query, to use those words?

4 A I have no problem with them being queried but there's absolutely none that I
5 have any concern about.

6 Q 261 Is there any point, to use again Ms. Dillon's word, is there any point to be
7 made when you look at those accounts, however they are analysed, in terms of
8 the matters being inquired into by this Tribunal?

9 A Absolutely none.

10 Q 262 Thank you.

11

12 CHAIRMAN: I have just one matter, Mr. Fox.

13 A Mr. Chairman, yes.

14

15 CHAIRMAN: These meetings that the councillors and Fianna Fail would have as a
16 general rule before a meeting of the council, we have heard a fair bit of
17 evidence from a number of councillors that that was the general form that a
18 meeting, that meetings of the councillors in the Fianna Fail group would take
19 place before a meeting in the council, and views would be expressed as to the
20 particular vote that was to be taken and so on and obviously, so there was if
21 you like, there was an educational purpose in having these meetings so that you
22 could learn from the views expressed by each other as to the pros and cons of a
23 rezoning and we have heard from some witnesses, understandably, that the views
24 of the local councillors, local to the lands in question would be a fair bit of
25 weight attached to their views because they would obviously have some local
26 knowledge.

27

28 And I am just wondering, is it your view, then, that the general idea that
29 mightn't have occurred in a hundred percent of cases but the general idea would
30 be that the councillors, in having this meeting, would then agree or at least

1 one of the purposes behind the meeting was to see if there was, if there could
2 be agreement as between all the councillors that a particular line or a view
3 would be taken in relation to whatever rezoning motion was to come before the
4 council. Now it's been explained to us by certainly a couple of witnesses that
5 there was no whip in place in the sense that disciplinary --

6 A That's right, yes.

7
8 CHAIRMAN: -- that a disciplinary procedure wouldn't take place in somebody
9 voted differently to the others. But it was to some degree an unofficial whip
10 in the sense that the purpose was that all the councillors would vote in the
11 same way. That's one possible reason for having the meeting. Another would be
12 having discussed the matter and attached weight to, say, the views of the local
13 councillors, that the councillors would then be completely free to vote as they
14 wished. And no one would be expected to vote with even the majority of the
15 Fianna Fail councillors.

16
17 Now, which was the case? Was it the case that the real purpose was to get
18 agreement and then everybody would vote the same way, or was the purpose merely
19 to educate the councillors and then everybody went in without any
20 pre-determined agreement as to having a how they would vote.

21 A Well I think the last, what you said there, that it was to educate and the
22 members would go in with, you know, knowledge from the local councillors and
23 whatever in relation to it and then exercise their vote accordingly.

24
25 CHAIRMAN: Well can you remember, for example --

26 A So I'm saying, that was people that was pro development in Fianna Fail.

27
28 CHAIRMAN: Can you remember for example if towards the end of one of these
29 meetings or towards the end of these meetings, one of the group would say now,
30 are we all agreed that, we vote for or against, anything of that nature?

1 A No, I never came across that.

2
3 CHAIRMAN: Or if you had all been interviewed, as you went into the meeting,
4 having had your own Fianna Fail group meeting, and if you were all to say which
5 way were you to vote, would it have been the case that some, or at least that
6 you wouldn't have known how your colleagues were going to vote or would you
7 have known as you left the room?

8 A Well I'd say that you would have an opinion. I mean definitely going into a
9 meeting because you would, as I said earlier I think this morning in relation
10 to submissions --

11
12 CHAIRMAN: But as you would emerge from the meeting on the way in to council
13 chamber, would you all have had a rough idea how --

14 A You would have a rough idea, yes, you know I mean like you would have an idea
15 in relation to it but as the debate would go on in the chamber, that's where
16 you would get more information maybe from the managers and all the people
17 making representations.

18
19 CHAIRMAN: And were there instances that you recall when on these rezoning
20 motions that a number of Fianna Fail councillors voted for and others voted
21 against?

22 A Fianna Fail? Like different --

23
24 CHAIRMAN: Within the Fianna Fail group, if there was a split view or --

25 A There has been times that --

26
27 CHAIRMAN: Is that a rare occurrence, in your experience?

28 A I would have to look up the -- you know what I mean. It wasn't something I
29 would be detailing but I would say most Fianna Fail would have went with the
30 vote.

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CHAIRMAN: Would have voted the same way?

A Yes, I would say like but I mean it wouldn't be a hundred percent or could be different times, you know, you look through the minutes and I'm just saying that overall.

CHAIRMAN: If somebody voted against -- sorry, if somebody in the Fianna Fail group was in a minority and voted differently to the, to his colleagues or her colleagues, would there be any comments made, do you know?

A Not aware of any of that, any difference, absolutely not, chairman.

JUDGE FAHERTY: Just, Mr. Fox, you have told us that Mr. Dunlop didn't lobby you regarding the lands in Ballycullen, is that correct?

A Correct, yes.

JUDGE FAHERTY: Did you know he was lobbying? He had been retained in the context of the motion that came before the council on the 28th October or the 29th October in 1992?

A Absolutely not, no.

JUDGE FAHERTY: You have told us that he did lobby you regarding other developments, the ones you have mentioned, the Texas Homecare. Obviously it was a different context, and another one in west Dublin. Isn't that correct?

A Yes, well whatever, this morning Mr. With Ms. Dillon.

JUDGE FAHERTY: Yes, and you would agree given that there's an entry in his diary, you met him in September.

A Yes.

JUDGE FAHERTY: Regarding --

1 A He called, yes.

2

3 JUDGE FAHERTY: Would you have seen Mr. Dunlop apart from that around the
4 county council?

5 A Yes, you would see him going in and out.

6

7 JUDGE FAHERTY: I think everybody agrees he was a pretty regular attender down
8 on the council.

9 A I think I said in another -- like in relation to I worked in Terenure, and I'd
10 to try get into Terenure on a bike, I had no car, I didn't have a car and all
11 that end of it, I would go going in and back out, I wouldn't have time to be
12 hanging around, I would get so much time to go to a meeting.

13

14 JUDGE FAHERTY: But it seems to be common case and no one seems to dispute it
15 but that Mr. Dunlop would be --

16 A The foyer would be packed, the foyer in the council, there could be a load of
17 people there, you know?

18

19 JUDGE FAHERTY: I accept you wouldn't necessarily see him every time but it
20 seems to be the case that certainly over the course of say 1991 after the first
21 display certainly up to the time of the making of the Development Plan,
22 Mr. Dunlop was a fairly regular attender.

23 A So I believe, like you know.

24

25 JUDGE FAHERTY: And obviously in the course of those special meetings, only
26 certain zonings would be dealt with at any given special meeting, isn't that
27 correct?

28 A That's right, well there would be agenda like, even this morning there was a
29 huge amount of meetings around that period.

30

1 JUDGE FAHERTY: Yes, there was a number of, we have heard of some of them but
2 there would have been a lot more as well.

3 A Oh yeah.

4
5 JUDGE FAHERTY: This question now regarding, given that Mr. Dunlop's job was
6 what he described as a lobbyist for, lobbyist for rezoning and he had been
7 retained by a number of developers --

8 A Sure.

9
10 JUDGE FAHERTY: Are you surprised then he wouldn't have sought your, to lobby,
11 sought the opportunity to lobby you in every development or lobby that he was
12 involved in?

13 A That would he?

14
15 JUDGE FAHERTY: That he didn't, you say he didn't lobby you for Ballycullen for
16 example, he has given two instances, I think.

17 A The Brooks were the Fianna Fail people there, so I can't even understand how he
18 would even come next or near me if he -- you know what I mean, and I say he
19 didn't come near me. But even he would be, because the Fianna Fail people
20 there like would have been, would know Frankie Brooks and that so I just can't
21 see his role there, what he was trying to even dare say that he was, that I was
22 lobbied by him, you know? Like he was -- I mean, the door was there with the
23 Brooks in relation to --

24
25 CHAIRMAN: I have heard you saying that and you recollect that you might have
26 been lobbied by Mr. Brooks.

27 A So I can't understand how he claimed that money at all in relation to -- I mean
28 I never got anything from him but just to be in here to turn around and say
29 that he gave me that amount of money, the 1,000 pounds you said this morning.

30

1 JUDGE FAHERTY: I see. But we have heard that he will, he is lobbying other
2 people who maybe Mr. Frank Brooks or Oliver Brooks might have lobbied also but
3 you are saying he didn't lobby you?

4 A Absolutely.

5
6 JUDGE FAHERTY: And just in relation to the other thing, in relation to the
7 document that went up in relation to lodgments, 2866 I think it is, when you
8 were paid, obviously you have explained in your evidence to Ms. Dillon and
9 indeed to Mr. Gordon, the source of you, you say, these lodgments. When you
10 would have gotten expenses cheques from the council or indeed from conferences,
11 would that have been basted on subsistence and mileage if you had to travel
12 over night?

13 A Yes, subsistence, mileage, over night.

14
15 JUDGE FAHERTY: There would be a set rate, is that correct?

16 A Oh yes, there's a certain rate, a rate for the mileage and there's a rate if
17 it's the meeting is over seven hours or less than seven hours and I think it's
18 the same with every organisation in relation to that and the mileage.

19
20 JUDGE FAHERTY: It's calculated in a certain way.

21 A If you are over 24 hours, you could have an overnight, well I mean a night
22 meeting, a night allowance.

23
24 JUDGE FAHERTY: Yes I understand that and in I think in respect of your own
25 wages then as well I mean, obviously we saw your tax return document that, that
26 went up earlier and obviously you were taxed on that and you would have gotten
27 a wage presumably at whatever end of the month or whatever way you were paid.
28 Just asking you in relation as I understand it, I think it was put to you by
29 Ms. Dillon that and my point is this, that when your wages would be calculated
30 or indeed your expenses, it wouldn't necessarily be in round figures, is that

1 is that the case? It would be mileage rate, multiplied by number of hours.

2 A I did say also I put some cheques together when I would be lodging.

3
4 JUDGE FAHERTY: That's what I wanted to ask you about. I think you said that
5 in passing to Ms. Dillon, that's what I want to ask you because necessarily, a
6 cheque, an expenses cheque wouldn't be in round figures. Very rarely I would
7 imagine.

8 A Round figures for an expenses check?

9
10 JUDGE FAHERTY: Yes. When you get a cheque from the council, it wouldn't be
11 300 pounds or 200 pounds, it might be 291 or 166.

12 A It could be, yeah. It could be different --

13
14 JUDGE FAHERTY: Different amounts, depending on what you were claiming.

15 A Yes.

16
17 JUDGE FAHERTY: The cheque wouldn't be rounded off, it would be very rare you
18 would get a cheque for 200 --

19 A Now and then maybe going to conference or something like that it could be
20 rounded off, different. When you would round them off by putting two cheques
21 or three cheques together or one cheque.

22
23 JUDGE FAHERTY: That's what I'm asking you, are you saying that's your
24 explanation for the fact that a number of the lodgments were in sort of
25 straight round figures?

26 A There was a number of them there in that and that could be the case. I did try
27 to get the records of them and all that end of it, you know, but out of the
28 lot, there could have been, you know, there was some different types of round,
29 on round figures as call it.

30

1 JUDGE FAHERTY: I see. All right then. And just one other thing, what was
2 your ward again? Mr. --

3 A Dundrum ward.

4
5 JUDGE FAHERTY: That was in the old county council, I know you are in Dun
6 Laoghaire/Rathdown, now but back in 1991, it was Dundrum?

7 A I have always been in Dundrum because I mean when the carve up was done.

8
9 JUDGE FAHERTY: Yes, Dundrum fell into Dun Laoghaire/Rathdown as I understand
10 it.

11 A Rathfarnham is in Dublin south.

12
13 JUDGE FAHERTY: And how far would you -- back in 1992, in terms of distance,
14 how far would you have been, your ward would have been from the ward where the
15 Ballycullen lands are?

16 A I do a bit of walking now and then I would say I could walking ways, you would
17 go over to it in 25 minutes or half an hour.

18
19 JUDGE FAHERTY: So would it be fair to describe you as, you wouldn't be the
20 councillor on the ground obviously in that ward, but would be a councillor in
21 an adjoining ward, is that correct?

22 A Well I would be --

23
24 JUDGE FAHERTY: Or a nearby ward.

25 A You had Rathfarnham, I go up through, as far as the Grange Road and then
26 Rathfarnham starts and it goes on up to Firhouse, so it wouldn't be far, I know
27 it well. Like I mean, that area, and that whole area has been developed up
28 along there, even where I live myself, like years ago, the corporation bought
29 over, it used to be lambs' fields.

30

1 JUDGE FAHERTY: Do you recall anything about the Ballycullen vote, Mr. Fox?
2 A Oh I do, at the end of, after the vote on the day, like I mean and looking at
3 the records there, that it was -- and I which I would have been in favour of,
4 no problem, in relation to, it was residential because that area would be the
5 most appropriate for a residential.

6
7 JUDGE FAHERTY: All right.

8 A There was a number of motions in relation to agricultural and industrial but I
9 think at the end of the day, that the residential was a good decision.

10
11 JUDGE FAHERTY: Very well. Thanks very much.

12
13 JUDGE KEYS: Mr. Fox, if I may ask you just two matters, I think over the
14 years you would have received political donations, isn't that correct?

15 A Yes.

16
17 JUDGE KEYS: And I think in your own evidence, you didn't keep records of
18 those up to the time until the new legislation came in, is that correct?

19 A That's right, yes.

20
21 JUDGE KEYS: And during the, prior to the legislation coming in, did you even
22 acknowledge any of the political donations you would have received?

23 A I don't recall I did, now.

24
25 JUDGE KEYS: Even out of courtesy to somebody?

26
27 A Like you know, you could--

28 JUDGE KEYS: Even out of simple courtesy to people who might donate you sums of
29 money, that you wouldn't drop a note and say thank you very much for the kind
30 contribution, that would have been a record of it, no? Never did that?

1 A No, I have no recollection of doing that.

2

3 JUDGE KEYS: Well does that mean you didn't or you could have or you have no
4 recollection of doing it?

5 A I possibly didn't write a note, you know.

6

7 JUDGE KEYS: I see. And over that period of time, I think you mentioned in
8 your evidence that Mr. Dunlop approached you in relation to two matters
9 altogether, I think it's the Texas Homecare, even though he didn't really have
10 to because you were on side anyway, isn't that correct?

11 A Yes, I don't know what he was engaged for that.

12

13 JUDGE KEYS: He did become involved in it and was a pro mover in that respect,
14 is that not so? He would have assisted in some way and also --

15 A Chief mover, the residents were the --

16

17 JUDGE KEYS: I appreciate that?

18 A Because I mean -- there was a big strong thing against that from other
19 interests in it.

20

21 JUDGE KEYS: And Mr. Dunlop was, he believed in it and approached you in
22 relation to it.

23 A It was the residents in a sense that more --

24

25 JUDGE KEYS: I appreciate that, the point is do you agree in some way he
26 assisted in the eventual result coming about in relation to Texas Homecare?

27 A I wouldn't think so.

28

29 JUDGE KEYS: You don't think so?

30 A It would have went through even without him.

1
2 JUDGE KEYS: I think he also approached you in relation to the other
3 development mentioned by Ms. Dillon, is that correct?

4 A Pardon.

5
6 JUDGE KEYS: He approached you in relation to another development?

7 A Yes.

8
9 JUDGE KEYS: And despite those two involvements, he never, ever paid you a
10 political contribution, is that correct?

11 A Absolutely.

12
13 JUDGE KEYS: Were you not somewhat surprised by that, considering -- because
14 the evidence we have heard to date is everybody knew he was, well not
15 everybody, but a lot of the councillors knew he was a lobbyist, a lot of
16 councillors admit it and so does Mr. Dunlop say that he gave political
17 contributions to different councillors.

18 A Mmm.

19
20 JUDGE KEYS: Yet you seem to be the only one he didn't give, make any payment
21 to.

22 A I don't know whether I was the only one.

23
24 JUDGE KEYS: Sorry one of, one of some that didn't receive political
25 contribution, yet you had some involvement with him in relation to two
26 projects, one on the periphery, okay, but and the other maybe in more detail.
27 And despite that involvement, he never paid you a political contribution.

28 A Absolutely, yeah.

29
30 JUDGE KEYS: And you are not surprised or even disappointed by that?

1 A I didn't seek one.

2

3 JUDGE KEYS: Tell me at the meetings that you used to have prior to votes
4 being taken, was it ever discussed as to, or did anybody ever say at the
5 meetings well, I am being very heavily lobbied by Mr. X or Mr. Y to either
6 oppose this particular motion or to vote in its favour and I would like all my
7 colleagues, you people, to agree with me. Was that ever discussed who was
8 lobbying at the meetings?

9 A No.

10

11 JUDGE KEYS: No?

12 A Who was lobbying?

13

14 JUDGE KEYS: Yes, either for or against a motion at these meetings which
15 Fianna Fail had prior to a motion coming on the floor of the council.

16 A I don't understand your question.

17

18 JUDGE KEYS: You go to these meetings, you discuss the menu, isn't that
19 correct, there are motions for, there are objections.

20 A Yes, the agenda, yes.

21

22 JUDGE KEYS: Do you ever discuss among yourselves who is pushing for this
23 motion to go through, who is lobbying, in other words, for example are the
24 residents lobbying against it? Or is Mr. Dunlop lobbying in its favour? Is
25 Mr. Y or anybody else who might have an interest in it.

26 A I don't, in relation to what, you would get submissions as I said earlier
27 from --

28

29 JUDGE KEYS: No, no, you go to the meeting yourself and you all sit down, the
30 group meetings I am talking about, the meetings Fianna Fail had before the

1 motion goes to the floor of the council. Is there any ever discussion among
2 you who is backing what motion, who is pushing for a zoning and who is
3 objecting and why are they objecting and why are they pushing so hard, was that
4 ever discussed among you?

5 A It could have, I have no particular recollection of it. You have residents,
6 you have people outside, you have all of that end.

7

8 JUDGE KEYS: Wait a minute, how can you possibly say that? How many years are
9 you had a councillor now in Fianna Fail?

10 A I am -- since '85.

11

12 JUDGE KEYS: And I presume you are at, at this stage, probably hundreds of
13 meetings, be would that's correct or is that wrong?

14 A Oh yeah, that would be right.

15

16 JUDGE KEYS: Are you saying at none of those meetings ever, the question of
17 who was lobbying for a motion to go through or not to go through was never
18 discussed among the councillors?

19 A Well, it may have been.

20

21 JUDGE KEYS: Wouldn't you have known, you were there for quite a lot of them?

22 A I was, I was at some, I wasn't at all of them, I didn't have no particular
23 recollection of -- I mean the general run of the thing, we would be taken into
24 the residents, local issues and the local things and all that end of it and
25 they would all be raised and you would be well aware of them before you went
26 into the group.

27

28 JUDGE KEYS: Is the answer then yes, it was discussed at the meetings who was
29 lobbying and who was backing who. For example, if a motion came up, are the
30 residents objecting, if they are, who are they, where do they reside in

1 relation to the lands, who is the developer, who is the owner of lands and has
2 anybody been lobbied by anybody else, by the developer or by Mr. Dunlop or by
3 another professional? Surely that must have been discussed at the meeting?

4 A People could raise up any issue they liked in relation to it at the group
5 meetings.

6
7 JUDGE KEYS: Mr. Fox, just listen to the question I'm asking, did it happen
8 that these matters were discussed as to who was lobbying who to push through a
9 motion or to object to a motion at these group meetings.

10 A As I said to you, I am not aware of names anything of the sort. I am saying
11 that in relation to at that meeting, it would be discussed in relation to the
12 local councillors would be given the most input in at the group meetings.

13

14 JUDGE KEYS: I know that.

15 A At the group and you would be guided by them, not by any lobbyist or anybody of
16 the sort.

17

18 JUDGE KEYS: I don't know, maybe I am not making the question very clear. I
19 am just trying to ascertain whether at these meetings the question of who is
20 lobbying who is ever discussed before it's decided whether to vote in favour of
21 a motion or against a motion to rezone lands. It's a very simple question. It
22 either happened, it was discussed or it's not discussed.

23 A I said to you, all, any issue that a member wanted to bring up at them meetings
24 could do that. And --

25

26 JUDGE KEYS: Yes, I know they could.

27 A And they did do it.

28

29 JUDGE KEYS: Was it done? That is the question I am asking you. Was it done?

30 A It would be done, yes.

1

2 JUDGE KEYS: So a lot of people or a lot of councillors knew before they went
3 in and voted as to who was lobbying who, whether they were residents
4 associations, whether they were individuals who had made approaches to
5 councillors, so everybody knew before they voted who was lobbying for and
6 against.

7 A They might.

8

9 JUDGE KEYS: They might. Would they most of the time know? Is it an obvious
10 question which should be asked, that if a local councillor in an area said well
11 listen, there's terrible opposition by the residents here and I am, this is my
12 constituency and I think, in fairness to them, their views should be heard.
13 Would anybody say well, who is pushing this motion in the first instance?

14 A Well, them issues would be raised in relation to --

15

16 JUDGE KEYS: Yes, so therefore can I accept it then, that at these meetings,
17 most of the councillors, most of the time, would know who was lobbying who
18 before they went and voted?

19 A Well some could, yes.

20

21 JUDGE KEYS: Thank you very much.

22

23 JUDGE FAHERTY: Just to fine tune that, Mr. Fox, do I take it then you are
24 saying in the course of those group meetings with Fianna Fail that Frank
25 Dunlop's name, for example, would have come up.

26 A It could have, it may have come up, yes. Anybody's name could come up, like
27 you know.

28

29 JUDGE FAHERTY: We know certainly, I don't know how many other lobbyists were
30 down in the county council, he was certainly there a great deal of the time.

1 A Yes.

2

3 JUDGE FAHERTY: Do you recall his name being --

4 A I have no recollection of it now.

5

6 JUDGE FAHERTY: You are not ruling it out that his name wouldn't --

7 A I wouldn't rule out anything because I'm saying that's the place where you can
8 make, in relation to it and you would be listening to the local councillors
9 overall.

10

11 CHAIRMAN: Do you want to raise anything else, Mr. Gordon?

12

13 MR. GORDON: No, chairman.

14

15 CHAIRMAN: All right. Thank you, Mr. Fox, thank you.

16 A Thank you, thank everybody.

17

18 CHAIRMAN: We are finished today?

19

20 MS. DILLON: In the absence of Mr. Gilbride, yes.

21

22 CHAIRMAN: All right. We will sit at half ten tomorrow.

23

24 MS. DILLON: May it please you, sir.

25

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

27 **FRIDAY, 24TH FEBRUARY 2006 AT 10.30 A.M.**

28

29

30