

1 THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY, 4TH NOVEMBER 2003

2 AT 10.30 AM:

3

4 CHAIRMAN: Good morning.

5

6 MS. DILLON: Good morning, Sir. Before Mr. Dunlop resumes the witness-box, I
7 should outline in the interests of clarity what has occurred. Last Wednesday,
8 the Tribunal was informed for the first time that Mr. Dunlop had located a
9 series of telephone records. These records are records apparently that were
10 maintained or kept in the office of Frank Dunlop & Associates and they recorded
11 incoming telephone calls. Redacted versions of these have been circulated to
12 the affected parties and by way of illustration, if I could just ask Mr.
13 Kavanagh to call up for the 22nd September 1993 page 198. Sorry, I beg your
14 pardon, 1231.

15

16 These records were kept in Frank Dunlop & Associates by somebody who is as yet
17 unknown to the Tribunal and they recorded incoming telephone calls. Mr. Dunlop
18 on discovery of these documents on Wednesday informed the Tribunal of the
19 existence of the documents and furnished the original of the documents for the
20 relevant Fox and Mahony period to the Tribunal on Wednesday evening.

21 That was then followed by an analysis carried out by Mr. Dunlop of certain
22 telephone calls around the relevant period that Mr. Dunlop says may possibly
23 relate to Fox and Mahony. The document that was prepared by Mr. Dunlop is at
24 page 1245 and all of the parties have been circulated with this document. In
25 this document, Mr. Dunlop states that these are "extracted from the folder of
26 messages to Frank Dunlop's office marked March 1993 to September 1993 which
27 Frank Dunlop believes are possibly relevant to the Fox Mahony module.

28 Remember that the Baldoyle race course lands were being considered in DCC at
29 about the same time."

30

1 And if goes through a series of handwritten records which Mr. Dunlop has
2 extracted from the typed version that we have seen earlier and which Mr. Dunlop
3 says are possibly related to the Fox and Mahony module.

4
5 Included in the persons identified as having made phone calls to Mr. Dunlop's
6 office within this period are 11 new parties who will now be requested or have
7 already in fact been requested by the Tribunal to provide narrative statements
8 and who will be called to give evidence in the course of the module, although
9 it is not anticipated that these witnesses will take very long. It appears
10 from the telephone records that had been provided by Mr. Dunlop and we will
11 have to deal with Mr. Dunlop as to how they were maintained and kept, that
12 there was a significant level of activity between a number of councillors and
13 Mr. Dunlop's office over the relevant period of the Fox and Mahony module. The
14 relevant period would be March 1993 and April 1993 leading to the first
15 rezoning on the 28th April 1993 and again, in September 1993 leading to the
16 confirming meeting.

17
18 It is proposed therefore to recall Mr. Dunlop to deal with the late discovery
19 of these documents and the issues that arise from these documents. The
20 Tribunal informed last week the parties who are now affected by this and it
21 should be made perfectly clear it's not being suggested by Mr. Dunlop or by
22 anybody else that else that these new parties are the subject of any allegation
23 of corruption because that, as far as I am aware, is not the position. Some of
24 the parties who have been contacted by the Tribunal, one was Mr. Tony Fox, and
25 Mr. Fox has written today to the Tribunal complaining about the procedure
26 that's being adopted in this module and Miss Gribben will hand you up to a
27 letter and in fairness to Mr. Sean Costello and company and Mr. Tony Fox, I
28 propose to open that letter to you. The letter is dated 4th November 2003,
29 "Dear Ms. Gribben, I refer to your two letters of the 31st ult received by
30 courier of the 30th inst. I am providing these documents to my client and

1 shall take his instructions."

2

3 Now the documents to which reference is being made there, Mr. Chairman, are all
4 of the extracted versions from the telephone messages, together with
5 Mr. Dunlop's handwritten memorandum in relation to same, which is partly on
6 screen, the minutes of the meeting of April 1993 and the minutes of the meeting
7 of September 1993.

8

9 "I note that you are to call Mr. Dunlop this morning and have notified us of
10 this fact in order, I presume, so that may I in a position to cross-examine
11 him. At this point I do not know what allegation if any is made by Mr. Dunlop
12 concerning my client or indeed what evidence he intends to give concerning this
13 matter insofar as it relates to my client. As a result of this, I will not be
14 in a position to cross-examine Mr. Dunlop. The procedure adopted by the
15 Tribunal in the past has been to provide us with certain documents, including a
16 narrative statement setting out the allegations being made by Mr. Dunlop
17 concerning my client, this afforded me the opportunity to take such
18 instructions so as to leave me in a position where we could cross-examine
19 Mr. Dunlop on the allegations he makes.

20

21 At this point, with less than 24 hours' notice, I am not in a position to
22 attend the Tribunal with a view to cross-examining Mr. Dunlop. I find it
23 utterly unacceptable that Mr. Dunlop will be giving evidence today concerning
24 my client on the public record in circumstances where I do not have advance
25 notice of such evidence.

26

27 I trust that no matter concerning or touching upon my client will be raised
28 with Mr. Dunlop without advance notice to us and in circumstances where we had
29 adequate opportunity both to take instructions and to attend the Tribunal."

30

1 Now, insofar as Mr. Tony Fox is concerned, as I understand it, the most that
2 will be said, if it is permitted, that Mr. Dunlop will leave his evidence,
3 there was a phone call in the week beginning 9th March 1993 which possibly
4 related to Fox and Mahony and that there was another phone call in the week
5 beginning the 27th September. There's no suggestions or allegations of
6 corruption against Mr. Fox in connection with this matter. Mr. Dunlop told the
7 Tribunal when he was originally giving evidence in Fox and Mahony that he had
8 contacted a number of councillors and on Day 421 he identified a number of
9 councillors to whom he had spoken in connection with the Fox and Mahony module.
10 As we went through the list of those who had voted in favour of the rezoning
11 motion and he mentioned Mr. Tony Fox in that regard as a person that he had
12 spoken to. He did identify Mr. Tony Fox on that occasion as a person that he
13 had spoken to but as I understand it, he puts the matter no higher than that.
14 The purpose of circulating these people with additional documents is, first of
15 all the Tribunal only got them last Wednesday. Secondly, insofar as there is
16 any statement, it is the statement that's on screen with which the parties have
17 been circulated and Mr. Dunlop appears to be putting it no higher than such
18 conversations or telephone calls that took place may possibly have been in
19 connection with the Fox and Mahony module.

20
21 In those circumstances I cannot see anything adverse in leading the evidence
22 with relation to Mr. Fox today but that's subject to any direction you may give
23 in view of the matters raised in the letter from Mr. Fox's solicitor.

24
25 CHAIRMAN: Mr. Dunlop has already given evidence in relation to Mr. Fox, isn't
26 that right, when he said that he had spoken to Mr. Fox. He didn't go beyond
27 that.

28
29 MS. DILLON: Yes, sir, I am trying to find you the actual reference. No, sir,
30 I can't find that reference and in case I am in error in saying Mr. Dunlop gave

1 that evidence, I can't find that reference at the moment so I mean all I can
2 say therefore is that the only allegation, and it's not an allegation that's
3 against Mr. Fox, is that there were two telephone calls, one in March and one
4 in September that that may relate to the Fox and Mahony lands.

5
6 CHAIRMAN: And presumably Mr. Dunlop will simply confirm that and won't say any
7 more in relation to Mr. Fox. If he is to say more, obviously Mr. Fox's
8 solicitors would be entitled to know in advance so that they could be here.

9
10 MS. DILLON: Absolutely. Yes.

11
12 MR. ALLEN: Chairman, I wonder if I might intervene at this stage, hopefully
13 for the purpose of assisting the Tribunal. I don't want to cut across my
14 friend and the matters that she's bringing to your attention. I would like to
15 make it clear however that insofar as the document, a portion of which is on
16 the screen is concerned, in relation to individuals other than the obvious ones
17 like Senator Wright, Mr. Gilbride, etc, Mr. Dunlop won't be giving any evidence
18 of any kind. This document, for the avoidance of doubt, consists of extracts
19 as Miss Dillon has told you from the two folders which were A, found on
20 Wednesday, B, provided to the Tribunal on Wednesday and at the request of
21 Miss Dillon, this document came into being following upon a discussion between
22 herself and my instructing solicitor, Mr. Hugh Garvey. In other words, that it
23 was thought by the Tribunal's legal team that it would be helpful if extracts
24 were prepared for this particular module because of the modular -- because of
25 the particular modular form by which the Tribunal adopts. It goes no further
26 than that. There's no question of Mr. Dunlop on my instructions giving any
27 evidence affecting anybody who have not already been affected by his evidence
28 arising out of the discovery of this documentation.

29
30 CHAIRMAN: Well we would have no difficulty in Mr. Dunlop being called simply

1 to give evidence that the phone calls which, which according to his records,
2 were received in his office; that as far as he is aware, that this is an
3 accurate record and simply on the basis that the record is evidence, that these
4 calls were received rather than anything, any evidence as to the content of
5 those calls. If there are to be new allegations made against anyone, obviously
6 those or at least the affected parties should be advised in advance, that they
7 could make arrangements to be here but I understand from Mr. Allen that
8 Mr. Dunlop won't be going beyond saying that these are records which he has
9 discovered as to calls received in his office by particular individuals.

10
11 MR. ALLEN: Yes, Chairman. The totality of Mr. Dunlop's evidence in relation
12 to this extract, these extracts prepared at the behest of the your legal team
13 will be to say look, I found these documents, they are the totality of the
14 documents. On request I prepared extracts and they are nothing more than proof
15 of receipt of telephone calls. I think for anything else to happen, Chairman,
16 would be profoundly unsatisfying.

17
18 MS. DILLON: Yes, that's as I outlined my understanding this morning, was that
19 there are no allegations such as Mr. Fox's solicitor in his letter contends,
20 that it is merely that phone calls were received in the office of Mr. Dunlop
21 and that he says may possibly be in connection with the Fox and Mahony module.
22 It goes no further than that. That was my understanding of it.

23
24 CHAIRMAN: All right. Well, call Mr. Dunlop.

25
26 MS. DILLON: Mr. Dunlop please.
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30

1 MR. FRANK DUNLOP, PREVIOUSLY SWORN, WAS EXAMINED AS FOLLOWS

2 BY MS. DILLON:

3

4 Q 1 Good morning, Mr. Dunlop.

5 A Good morning, Miss Dillon. Good morning, Chairman.

6 Q 2 Mr. Dunlop, can you outline to the Tribunal the circumstances in which you
7 located the telephone records about which we have just been speaking?

8 A Yes, Miss Dillon. I discovered a number of volumes of messages into my office
9 which were kept by my secretary or secretaries and I discovered them in my
10 garage at home while I was doing some other work. I found them under a pile of
11 discarded clothes, golf clothes, garden clothes and I made arrangements with my
12 solicitor that the Tribunal be informed.

13 Q 3 These records, Mr. Dunlop, can I just take you back briefly, could I have page
14 1311, this is a list of employees of Frank Dunlop & Associates that you
15 provided to the Tribunal on Day 145. If you look at the screen beside you,
16 Mr. Dunlop, you will see a list headed "employees" and you provided this to the
17 Tribunal on public sessions on Day 145. Can you identify from that list the
18 person or persons who are most likely to have made the telephone records?

19 A The Norma -- can I name these names? Oh, they are on screen. Norma Deegan, who
20 is described as secretary and Anna Mitchell, who is described on that day as my
21 current secretary but the telephone records, the files that I have made
22 available to the Tribunal in the period in question would have been prepared by
23 Norma Deegan.

24 Q 4 The files commence on the 30th September 1991, there are some gaps in the
25 course of the telephone records that I'll come back to, Mr. Dunlop, but they
26 conclude on the 16th December 1994?

27 A Yes.

28 Q 5 Can you outline the system that you had in your office during that period of
29 time for the taking of telephone calls?

30 A Yes. Well, the arrangement with my secretary was that in my absence, a record

1 would be kept of any calls that were made to the office and I would be provided
2 with a list of the calls at appropriate times on my return; if I left my office
3 for an hour and somebody called, I would be told that somebody had called and I
4 would make the appropriate arrangements. And at the conclusion of each day, I
5 would have, as a matter of normal organised business, I would have a list of
6 the people who called the office on that given day.

7 Q 6 And obviously this was a system that was put in place to allow you to contact
8 people who were looking for you for one reason or another while you were out of
9 the office?

10 A Correct.

11 Q 7 Right. So what happened in 1994 then?

12 A That I can't tell you, I have discovered to the Tribunal the documentation that
13 I found. I have no other documentation relating to such telephone records. If
14 there are any, I do not have them. But that was the system that was in place
15 in my office and that's all I can tell you.

16 Q 8 And was that system in place also from 1994 to 2000?

17 A Yes, it is possible. It is possible but I have no records of any telephone
18 messages into my office and if I had I would have provided them.

19 Q 9 But just stick with the question of the system, Mr. Dunlop. Did you continue
20 the system through after 1994?

21 A I think that is distinctly possible that I did but I, that's all I can say to
22 you. That a system was in place on an organised basis whereby if I was out of
23 my office on a normal running of business, proper running of business, if you
24 are out of your office our secretary takes your messages and she informs you or
25 he informs you, as the case may be, of who was looking for you in your absence.

26 Q 10 Your offices were originally in Mount Street, is that correct?

27 A Correct, yes.

28 Q 11 And did you in the last number of years move from that office?

29 A No, no.

30 Q 12 No?

1 A I have been in Mount Street for the duration of my period as a public relations
2 consultant.

3 Q 13 And do you still maintain an office in Mount Street?

4 A I don't actually have an office. I am the leaseholder of the building and the
5 totality of the building is let.

6 Q 14 And at the time, that presumably was sometime after 2000 when you stopped using
7 that for your own business, is that right?

8 A Yes, correct.

9 Q 15 So at that stage I assume that the offices were packed up and cleared away?

10 A Correct.

11 Q 16 Now, who carried out that task?

12 A Well I carried out the vast majority of it myself, except for relevant
13 furniture which I had other people to assist me. I think I hired a removal
14 company or in fact I think I hired a van and we just moved the desk and some
15 chairs.

16 Q 17 But insofar as the documents --

17 A Yes.

18 Q 18 -- that were in the office in Mount Street were concerned, what did you do with
19 all of those documents?

20 A Any documents in relation to the normal business, I removed them and I put them
21 in my garage.

22 Q 19 And did you destroy any of the documents?

23 A No, I kept all the files relating to clients that I had had from the beginning.
24 You know, normal clients of a PR company and any documentation relating to
25 them, I have kept them and they are still there.

26 Q 20 So that what happened when you stopped using Mount Street as your offices, all
27 of the documentation was removed from Mount Street to your home?

28 A Correct.

29 Q 21 And there it is now?

30 A That's right.

1 Q 22 And it was in among that documentation that you located the present telephone
2 records?

3 A No, for the purposes of clarification, Miss Dillon, it was not among that
4 documentation. To use a phrase that was used here recently, I think it was
5 Mr. Hogan by happenstance while I was in the garage I moved a number of items
6 and underneath all of these items I found these volumes. They were not with
7 the other files that I had taken out of my office.

8 Q 23 And how did they come to be in your garage?

9 A Well I obviously took them when I took material from my office.

10 Q 24 Are you saying that that occurred in 2000?

11 A It could well have done, yes, I can't remember, I cannot tell you exact date on
12 which the removal took place.

13 Q 25 So if there were other telephone records from post December 1994, would the
14 logical place for them not have been with these records?

15 A Yes, that is correct.

16 Q 26 And are there they?

17 A No, they are not.

18 Q 27 Do you have any idea where they are?

19 A I have no idea.

20 Q 28 And have you searched the garage and the rest of the premises where the rest of
21 the documentation is?

22 A Yes, I have.

23 Q 29 And they are not there?

24 A No, they are not.

25 Q 30 Before I take you through the telephone records themselves, Mr. Dunlop, there's
26 a few matters that I want to draw to your attention, you swore a number of
27 affidavits of discovery to the Tribunal in the Carrick 1 module, which has just
28 been concluded. An order was made against you on the 1st November 2000, that's
29 page 1262.

1 Now this order by the Tribunal, Mr. Dunlop, and we will start with where it
2 says "It is ordered that Frank Dunlop, Frank Dunlop & Associates limited,
3 Shefran Limited and Sheila Dunlop do on or before the 14th day of November 2002
4 make discovery on oath and produce to the Tribunal of Inquiry into Certain
5 Planning Matters and Payments, State Apartments, Dublin Castle, Dublin 2 all
6 documents and records in their respective possession, power or procurement
7 relating to the lands at Carrickmines Great, County Dublin, coloured yellow and
8 outlined in red on the map attached hereto, which said lands were rezoned by
9 development in the Dun Laoghaire Rathdown County Development Plan 1998 and
10 which said documents and records include but are not limited to correspondence,
11 memoranda, financial records, bank account documents, including bank
12 statements, lodgments and withdrawal slips, cheque stubs, telephone records,
13 solicitor's documents and documents of other advisers." You got that order,
14 Mr. Dunlop.

15 A Yes.

16 Q 31 You swore an affidavit in purported compliance with that order on the 25th
17 November 2002. That affidavit commences at page 1263 but the relevant portion
18 of that affidavit you discovered certain documents to the Tribunal in
19 connection with the lands at Carrickmines Great.

20 A Yes.

21 Q 32 You did not discover any telephone records.

22 A No.

23 Q 33 Notwithstanding that on the face of the order the word 'telephone records' were
24 included --

25

26 MR. ALLEN: Chairman, I am sorry to interrupt my friend but there is a matter
27 which I think in fairness should be put to the witness by Miss Dillon if she's
28 going to pursue this line of questioning, which is that in a letter of the 6th
29 November 2002 from my solicitors to the solicitor for the Tribunal, Miss Maire
30 Ann Howard, the specific matter of how to deal with telephone records was

1 raised as follows.

2

3 "As we discussed during our telephone call yesterday afternoon, I understand it
4 to be acceptable to the Tribunal in terms of complying with the Order for
5 Discovery insofar as discovery of telephone records are concerned for my client
6 to furnish to the Tribunal with letters of consent authorising the Tribunal to
7 obtain records in relation to all telephones registered in the names of my
8 clients from the 1st January 1990 to the 31st December 1998.

9

10 In that regard my clients will to the very best of their ability and
11 recollection identify in the relevant letter of authority the telephone numbers
12 in respect of old telephones registered in their respective names during this
13 period."

14

15 Now, I presume Miss Dillon was going to bring that matter to the attention both
16 of my client and perhaps more importantly to the attention of the Tribunal
17 because if it is her intent to suggest that there was a knowing non-compliance
18 with this order, she is frankly straying from the factual matrix which
19 surrounds this matter. I have no doubt she will be able to call up the
20 document.

21

22 MS. DILLON: There's no doubt that the letter was sent. It's also absolutely
23 and abundantly clear and was perfectly clear when Mr. Allen was reading it out
24 that the telephone records in question were Telecom Eireann, not telephone
25 records privately kept by Mr. Dunlop and which, even if an order had been made
26 against Telecom Eireann, would never have discovered the documents we now have.
27 I mean it is abundantly clear when the letter refers to third parties that it
28 is parties other than Mr. Dunlop that Mr. Dunlop was consenting to and it does
29 not relate to documents that were first of all maintained by Mr. Dunlop in his
30 office and second of all, in circumstances where the only people who knew of

1 the existence of the documents were Mr. Dunlop and his employees. Any order
2 that the Tribunal might have made against Telecom Eireann in relation to
3 telephone records would not have garnered the documents about which I am
4 presently asking Mr. Dunlop.

5
6 CHAIRMAN: Mr. Allen, is that not the case? Surely if the agreement referred
7 to in that letter between your solicitor and the Tribunal solicitor would not
8 have the result that Mr. Dunlop could hide or refuse to hand over the sort of
9 documentation that has now been discovered?

10
11 MR. ALLEN: My friend is absolutely correct, Sir, when she says that it would
12 not have had the effect of generating this particular documentation but it's
13 perfectly clear the line which is being pursued here is a line of criticism
14 and/or attack on Mr. Dunlop in relation to the very late production of this
15 particular documentation. The reason that I have referred to it is because
16 there is a clear indication from that correspondence, notwithstanding what my
17 friend says of the attitude which was being adopted by Mr. Dunlop towards the
18 provision of telephone records and there is reference in -- there is an
19 open-ended offer in that letter, Sir, in the paragraph from which I read into
20 the record of the Tribunal, that upon receipt of those records, Mr. Dunlop
21 would assist in attempting to match telephone numbers, etc. I am not saying
22 that the documents which are now before the Tribunal would have been produced
23 or would have been generated or would have been discovered by virtue of this
24 order. What I am saying is that it isn't evenhanded to approach Mr. Dunlop on
25 the basis that he was in some way seeking to hide telephone records when there
26 is documentary evidence to make it clear that he was perfectly willing to do so
27 on whatever basis was acceptable to the Tribunal and I put it no further than
28 that.

29
30 CHAIRMAN: Well I understand the point you are making but I understand

1 Miss Dillon to be about to ask Mr. Dunlop why he didn't produce this
2 documentation at the time he was preparing his affidavit.

3
4 MR. ALLEN: Absolutely, Chairman, and I don't seek to interfere with that at
5 all. After all, the documentation, excluding the individuals who were newly
6 named in it, is entirely corroborative of the evidence which was given by
7 Mr. Dunlop to this Tribunal in the course of this module.

8
9 MS. DILLON: That is a matter for the Tribunal, Sir.

10
11 MR. ALLEN: It's a matter I am entitled to comment on.

12
13 MS. DILLON: I would like for the record, so that there's no ambiguity about
14 the point that Mr. Allen is making, to read the entire of the letter to which
15 Mr. Allen refers into the record so that there will be, without doubt,
16 manifestly clear to anyone either reading or hearing the letter that the
17 subject matter relating to the telephone records of third parties and not
18 records kept by Mr. Dunlop or his office. The letter is dated the 6th November
19 2000 addressed to Ms. Howard and from Mr. Hugh Garvey.

20
21 "Dear Miss Howard, I refer to your letter of the 1st inst enclosing an Order
22 for Discovery, dated the 1st November 2002, requiring my clients to make
23 discovery on oath and produce to the Tribunal all the documents and records in
24 their respective possession, power or procurement relating to the lands at
25 Carrickmines Great, County Dublin.

26
27 I refer to our telephone conversation yesterday afternoon.

28
29 As you are aware the Order for Discovery makes clear the documents and records
30 to be discovered by my clients include, inter alia, telephone records. The

1 Order for Discovery is to be complied with my clients on or before the 14th
2 November.

3
4 As we discussed during our telephone call yesterday afternoon, I understand it
5 to be acceptable to the Tribunal in terms of complying with the Order for
6 Discovery (in so far as discovery of telephone records is concerned) for my
7 clients to furnish the Tribunal with letters of consent authorising the
8 Tribunal to obtain records in relation to all telephones registered in the
9 names of my clients from the 1st January 1990 to the 31st December 1998.
10 In that regard my clients will, to the very best of their ability and
11 recollection, identify in the relevant letter of authority the telephone
12 numbers in respect of all telephones registered in the respective names during
13 this period."

14
15 Now, what was clearly being stated there was that the consent was being
16 directed to third parties, i.e. telephone agencies. It goes on:

17
18 "In that regard, Mr. Dunlop has a recollection on one occasion he hired a
19 mobile telephone in the United States while visiting the United States.
20 Mr. Dunlop is endeavouring to locate details of the entity from which the
21 mobile phone in question was hired in order to enable the Tribunal obtain from
22 that entity such records as it deems necessary concerning the mobile phone in
23 question."

24
25 So it is absolutely no question, in my submission, relating to records kept and
26 maintained by Mr. Dunlop. "To the best of Mr. Dunlop's recollection and
27 belief, he acquired a triband mobile telephone very shortly after their launch
28 on the market in Ireland and, accordingly, had no further need to hire mobile
29 phones when subsequently visiting the United States.

30

1 Furthermore my clients will, on or before November 14th, provide to the
2 Tribunal with as comprehensive a listing as possible of telephone numbers that
3 they believe they would have used for the purpose of contacting individuals in
4 relation to the lands at Carrickmines Great which lands form the subject matter
5 of the Order for Discovery.

6
7 Finally I confirm that Frank Dunlop will make himself available (if required)
8 once the telephone records have been obtained by the Tribunal. In the event
9 that the Tribunal requires him to review the telephone records in question with
10 a view to assisting the Tribunal identify any other or further relevant
11 telephone numbers, I would be very grateful if you would confirm the foregoing
12 is acceptable to the Tribunal."

13
14 But the telephone records that are being discussed are calls outgoing and that
15 is the big distinction. What we are discussing here today is calls incoming.
16 Now, Mr. Dunlop --

17
18 MR. ALLEN: Sorry, Chairman, but would you ask Miss Dillon, if you deem it
19 appropriate, to read the letter of the 21st November 2002 from Mr. Garvey to
20 Ms. Howard.

21
22 CHAIRMAN: Well is that on the same subject?

23
24 MR. ALLEN: It is on the same subject.

25
26 CHAIRMAN: Well are you taking issue with --

27
28 MR. ALLEN: I am.

29
30 CHAIRMAN: -- with Miss Dillon when she says that what that letter that she

1 has written or that she has referred to in the last few minutes referred
2 clearly to outgoing records relating to telephone calls made from Mr. Dunlop's
3 phones, either land line or mobile.

4
5 MR. ALLEN: I accept that, they would show calls going out but they would show
6 calls being returned, Chairman. What Mr.--

7
8 CHAIRMAN: Is it your point, Mr. Allen, that you object to Mr. Dunlop being
9 pressed as to why he didn't refuse the records which have been produced this
10 week why they weren't produced in 2002, is that the point you are making?

11
12 MR. ALLEN: The point I am making, Chairman, and I am sorry to linger on it, it
13 seems to me to be of some importance is this: At the core of the questioning
14 and I am not saying there's anything wrong with the questioning, I am not being
15 in any way critical of Miss Dillon but at the core of the questioning lies the
16 issue of my client's credibility, which has been called into question time and
17 time again and my concern is that in pursuing a line of questioning relating to
18 the very late, as I am only too willing to concede, the very late discovery of
19 documentation relating to telephone calls, whether they be outgoing or
20 incoming, that is it is important that the matter be seen in the round; in
21 other words that at the time the attitude portrayed by and adopted by
22 Mr. Dunlop's solicitors on his behalf manifestly on his instructions was one of
23 openness, dare I use that much-hackneyed phrase, transparency and
24 accountability. He was perfectly willing to do whatever was necessary,
25 whatever he could do to assist this Tribunal and its legal team with the
26 tracking of telephone records, be they outgoing or incoming and that is
27 important in the context of what he has already said regarding the modus
28 operandi which he operated within his office.

29
30 CHAIRMAN: He is being asked why he didn't produce this documentation earlier.

1 That may well be his explanation. He may well have a perfectly -- or his
2 failure to produce them may have a perfectly innocent explanation.

3

4 MR. ALLEN: I suspect it will, Chairman.

5

6 CHAIRMAN: But we have to have enquire and make decisions based on what he says
7 in evidence.

8

9 MR. ALLEN: I accept that. All I'm saying, Chairman, is I won't interrupt on
10 this aspect of it again, all I'm saying is that there should be an element of
11 balance to it. I suspect that these letters would never have been put to
12 Mr. Dunlop and I believe them to be relevant.

13

14 CHAIRMAN: But these letters, as I understand them or as we understand them,
15 refer to different records, to the ones that now been produced.

16

17 MR. ALLEN: Yes.

18

19 CHAIRMAN: He is not being asked to explain why he didn't
20 permit official telephone records to be sought by the Tribunal. He is being
21 asked why one year later he is producing records that clearly were available at
22 the time, whether he was aware as to where they were is another day's work but
23 that's what's being inquired into at the moment.

24

25 MR. ALLEN: Yes, the records --

26

27 CHAIRMAN: Yes? Judge Faherty points out that the order in any event goes on
28 to refer specifically to other documentation, including memoranda which clearly
29 would include the documentation that we are now looking at.

30

1 MR. ALLEN: The extracts were prepared at the behest of the Tribunal last week.

2

3 CHAIRMAN: No, no, we are talking about the records.

4

5 MR. ALLEN: The telephone records.

6

7 CHAIRMAN: The telephone records that Mr. Dunlop produced.

8

9 MR. ALLEN: There's no dispute between us in relation to that, Chairman, and I
10 will cease at this stage. I am simply saying that taken in the round, my
11 client's attitude to -- the record of my client's cooperation in relation to
12 matters of telephone records, be they outgoing or incoming, is fairly clear.
13 It was one of cooperation and I accept that Miss Dillon should now be permitted
14 to ask how he missed, in that context, all I have sought to do is contextualise
15 it, how in that context such an important tranche of records came to be
16 overlooked by him.

17

18 CHAIRMAN: All right. Mr. Dunlop can give his evidence.

19

20 MR. ALLEN: Yes, I am not going to do it.

21

22 MS. DILLON: In order that the record is absolutely clear, Mr. Allen asked me
23 to read into the record or to deal with the letter of the 21st November 2002
24 which was again a letter from Mr. Hugh Garvey to the solicitor to the Tribunal
25 in connection with the issue of telephone records arising out of the
26 Carrickmines Great inquiry.

27

28 "Dear Ms. Howard, I refer to previous correspondence, in particular to my
29 letter of the 6th November.

30

1 I confirm, lest there be any misunderstanding, each of my client's consent to
2 the Tribunal obtaining copies of records in relation to all telephones
3 registered in their respective names from 1st January 1990 to 31st December
4 1998. Mr. Frank Dunlop's current mobile telephone number is" and the number is
5 given. The home telephone numbers of Mr. and Mrs. Dunlop are also given. The
6 telephone number of Frank Dunlop & Associates Limited is also given, "although
7 our clients believe a number of telephone lines are routed from that telephone
8 number.

9
10 The foregoing are our clients' current telephone numbers. To the best of our
11 clients' recollection and belief, their business and home telephone numbers
12 have been the same throughout this period. If you have any queries concerning
13 the foregoing, please do not hesitate to contact me."

14
15 It is clear from that correspondence that what was being consented to by Mr.
16 Dunlop was the Tribunal obtaining from third parties such as Telecom Eireann
17 and matters of that sort the records that Mr. Dunlop had of, if I can call it
18 that, outgoing telephone records either by himself or by his company.

19
20 If I could have page 112 please on the screen sorry, 1112. We might be able to
21 solve this difficulty, Mr. Dunlop, that Mr. Allen has about contextualising
22 matters with this document. This is an entry, if we could have -- this is the
23 top of the page and the blanked out part are matters not relevant to the
24 present inquiry but it's a document headed 'Telephone Messages: Tuesday, 9th
25 March 1993'. Do you have the document?

26 A Yes, I do.

27 Q 34 Now as I understand it, Mr. Dunlop, what was happening here in your office is
28 that a telephone call would be received, the time at which the call was
29 received would be logged, the person who made the phone call would be
30 identified and a sheet of paper would be prepared on a daily basis, sometimes

1 two or three pages, that was there for you to return those calls?

2 A Correct.

3 Q 35 Right. That is document that was generated within the confines of Frank Dunlop
4 & Associates?

5 A Correct.

6 Q 36 Any appeal to Telecom Eireann to provide telephone records to the Tribunal
7 would not have produced this document, is that right?

8 A I don't believe so.

9 Q 37 Because this is a document that you had in your office so that you could run
10 your business?

11 A Correct.

12 Q 38 And the person who knew about the existence of this document and who dealt with
13 it and returned those calls was usually yourself?

14 A Correct.

15 Q 39 Right. And this is a document that's prepared for you?

16 A By my secretary, yes.

17 Q 40 Now on that particular phone call which is Tuesday 9th March 1993 at 9.15 am,
18 Senator Wright is noted to have rung?

19 A Yes.

20 Q 41 "Made contact with Mr. Manney, will call FD today, time unknown. Sen. Wright
21 in Leinster House this afternoon, will call you then." Is Mr. Manney to be
22 Mr. Mahony, Mr. Dennis Mahony?

23 A Yes.

24 Q 42 Beneath that at ten o'clock, "Dennis Mahony's secretary was on, please call him
25 quite urgent" and a number is given.

26 A Yes.

27 Q 43 This was a record that was taken on the 9th March 1993 which is the day before
28 your first meeting with Mr. Dennis Mahony and Mr. Noel Fox in the Shelbourne
29 Hotel about the rezoning of the Fox and Mahony lands in north County Dublin, is
30 that right?

1 A That's right, yes.

2 Q 44 Now, to go back then to the Order for Discovery in relation to Carrickmines
3 that we were looking at previously which is at page 1262, is it not the
4 position, Mr. Dunlop, that there may be records that relate to Carrickmines
5 Great or telephone contact that is similar to the one that we have just looked
6 at in the documents you provided last Wednesday?

7 A They may well be, yes, given the timeframe on the dating of the documents which
8 you have just outlined, September 1991 to December 1994, yes.

9 Q 45 Did you produce those documents on foot of the Order for Discovery?

10 A No.

11 Q 46 All right. If we move on to the Order for Discovery that was made in relation
12 to the subject lands which are the Fox and Mahony lands which was on order of
13 the 12th March 2000, page 1254 please.

14 Now the order here was an order "That Frank Dunlop and Frank Dunlop &
15 Associates make his discovery of all documents and records ... Frank Dunlop &
16 Associates Limited including electronically restored records relating to the
17 lands at Snugborough, Portmarnock, County Dublin owned in or about 1993 by
18 Mr. Noel Fox and Mr. Dennis Mahony respectively." That's the order.

19 A Yes.

20 Q 47 Back to the document of the 9th March, 1112 please. This document, Mr. Dunlop,
21 is a record that was typed and made in your office on or around the 9th March
22 1993 relating to contact between Senator Wright, Mr. Mahony and your office?

23 A Yes.

24 Q 48 It is a document that would be caught by the order that the Tribunal made in
25 connection with the Fox and Mahony lands?

26 A Yes.

27 Q 49 Was it disclosed to the Tribunal?

28 A No.

29 Q 50 Can you explain to the Tribunal, Mr. Dunlop, how it was that you omitted these
30 documents when you were swearing both of those affidavits of discovery?

1 A I didn't know I had these documents, Miss Dillon. I didn't know I had them.

2 Q 51 In the course of the Carrickmines 1 inquiry, Mr. Dunlop, as I understand it, it
3 was suggested to you on a number of occasions that meetings and contacts that
4 you had said took place between yourself and certain councillors did not occur?

5 A Yes.

6 Q 52 And that they were a fabrication on your part?

7 A Yes.

8 Q 53 And that you were telling lies to the Tribunal in putting certain people at
9 meetings in a particular context?

10 A That was alleged yes.

11 Q 54 And that was put to you?

12 A It was, yes.

13 Q 55 Now in the context of all of that, Mr. Dunlop, did it not occur to you to
14 search your mind to see is there any other information that might be available
15 to you that could assist you?

16 A No, we had provided a significant amount of documentation to the Tribunal,
17 including my personal diaries and the focus of attention was in relation to the
18 cross referencing in relation to what was in the diary. I did not know I had
19 these documents. I knew, however, that significant contact would have been
20 made, as is highlighted by this documentation, that there was significant
21 contact between me and individual politicians, groups of politicians, during
22 the period. Rhetorically, Miss Dillon, can I say to you --

23 Q 56 Go ahead.

24 A I am not asking a question, just rhetorically, why would I, deliberately,
25 consciously, in an orchestrated way, withhold these documents from the Tribunal
26 if I knew I had them, given in the context of the Fox Mahony module we are now
27 going through and the number of things I have said already in sworn evidence is
28 borne out in the context of numbers of the numbers of telephone calls at least
29 and the contacts at least if nothing else between myself and individual named
30 politicians. Remembering also what I headed the handwritten document which I

1 sent to the Tribunal on Wednesday morning, Thursday morning sorry, was to put
2 it in context for the Tribunal, I pointed out that there were other matters in
3 relation to north County Dublin before Dublin County Council at that particular
4 time so rhetorically why would I deliberately not provide this documentation if
5 it was to be of assistance in relation to as you refer in your previous
6 question, in relation to meetings or contacts? I mean I am asking -- I am not
7 asking the question, I am putting it rhetorically, it seems inconceivable, so
8 remote as to be discountable that I would in fact deliberately adopt such an
9 attitude given the circumstances of which you now have sight of, the numbers of
10 messages into my office and I don't want to trail my court but a lot of the
11 telephone calls into my office at this particular time don't relate solely to
12 politicians, they relate also to people who are involved in the Development
13 Plan.

14 Q 57 So just to be clear about this, do I understand your position to be as an
15 excuse or your explanation for the reason why in the two affidavits of
16 discovery that you have sworn to the Tribunal which should have contained these
17 documents but which do not is that you were utterly unaware of the existence of
18 these documents and that had you been aware of the existence of the documents,
19 you would have delivered them hot foot to the Tribunal because they
20 substantiate what you are saying?

21 A You use the word 'excuse', explanation. My explanation to the Tribunal as you
22 have just outlined and I have outlined it to you.

23 Q 58 It is nonetheless the factual position, Mr. Dunlop, in either case, in either
24 of the affidavits of discovery referred to, did you disclose these?

25 A That's not in dispute.

26 Q 59 If we can take it from 1994, Mr. Dunlop, can you think of any place where those
27 other telephone records or the 1994 version of the existing documentation might
28 be?

29 A No, I can't.

30 Q 60 And have you searched since you discovered these documents for the 1994 onwards

1 documents?

2 A Well, no I haven't specifically searched for anything beyond the period that is
3 outlined in the volumes that I have provided to the Tribunal and these were
4 provided to the Tribunal because they were found in toto, together. I can't
5 remember the number of volumes, I think it was four or five, six volumes of
6 them. That's what I discovered to the Tribunal. In relation to telephone
7 calls after 1994, I have no information or evidence to provide to you that any
8 such documentation exists and if it existed, where it might be. I know I do
9 not maintain an office in 25 Upper Mount Street, notwithstanding the fact I am
10 the leaseholder of the building, the building is totally let. I rarely go
11 there any more, I do not have a telephone number into the building any more.
12 People cannot contact me there so all of the documentation and the
13 concentration of my efforts to cooperate with the Tribunal are in relation to
14 the high volume of requests for information that I get from the Tribunal
15 virtually on a daily basis, even as I give evidence, if I might suggest, I get
16 correspondence from the Tribunal when I arrive home, that while I am in the
17 witness-box another letter arrives from the Tribunal in relation to
18 information. But the point I am making is I have no knowledge whatever of any
19 records of incoming telephone calls to my office after 1994 and if such records
20 did exist, I don't know where they could possibly be.

21 Q 61 OK. I had understood you to say earlier, Mr. Dunlop, and please correct me if
22 I am wrong, that you did not change your system after 1994?

23 A No, no, I did not change the system.

24 Q 62 It follows from that then that records were generated on a weekly basis, i.e.
25 Monday to Friday during business hours of telephone messages that were received
26 by your office in your absence?

27 A Yes, that could well be.

28 Q 63 If the system was continued, Mr. Dunlop, does it not follow there were at some
29 stage records from 1994 onwards similar to the one that's on screen?

30 A Yes it does, it follows logically.

1 Q 64 It follows then from that that something must have happened to those records?

2 A Yes.

3 Q 65 Or they must be somewhere?

4 A Either something happened to them or they must be somewhere.

5 Q 66 Fine.

6 A There are no alternatives.

7 Q 67 From 1994 onwards, who was the person who would have created those records for
8 you?

9 A From 1994 onwards, I can't specifically tell you when one of the secretaries
10 left, Norma Deegan, I cannot tell you specifically when she left but she's
11 certainly on the records of our books from in the period in question until at
12 least 1995 if not 1996 and then there was a new secretary whose name appeared
13 on the list that I provided to the Tribunal which you showed on screen.

14 Q 68 Right, and was that Norma Deegan or Therese Mitchell?

15 A Anna Mitchell I think.

16 Q 69 Anna Mitchell?

17 A Yes, norma Deegan left and Anna Mitchell took over.

18 Q 70 Did she continue to be your secretary from 1995 onwards?

19 A From 1995, 1996 onwards and she left sometime in 2000 or 2001.

20 Q 71 Would that be around the time you first commenced giving evidence to the
21 Tribunal?

22 A Correct, well shortly after it.

23 Q 72 So that insofar as there was a record similar to the one on screen, she is the
24 one who would have kept the record?

25 A Correct.

26 Q 73 Now if I can take you through the records, Mr. Dunlop, insofar as they relate
27 to -- sorry, can I clarify one thing with you, is it the position that all
28 documents that survived in relation to the conduct of your business in Frank
29 Dunlop & Associates are all kept in the one place?

30 A Yes.

1 Q 74 Do you have any safe deposit boxes?

2 A No.

3 Q 75 Do you have access to a safe deposit box? You don't keep documents anywhere,
4 in storage or otherwise, other than in your home?

5 A Correct -- sorry, no, I don't is the answer, you are correct.

6 Q 76 If I can take you through the records, Mr. Dunlop, and the one that's on screen
7 is probably the initiating telephone record so far as the present module is
8 concerned. I don't propose to take you through each and every telephone record
9 and I hope to be able to summarise the position and get you to accept whether
10 or not that is accurate. But insofar as the record that's on screen is
11 concerned, is that the first contact in connection with the Fox and Mahony
12 lands?

13 A Yes, it is.

14 Q 77 And when you gave evidence previously, Mr. Dunlop, in relation to the Fox and
15 Mahony lands, you had told the Tribunal that it was your understanding that
16 there had been a telephone call followed by a meeting and that the phone call
17 may have been on one day followed by a meeting on the second day or the phone
18 call and the meeting may have happened on the one day?

19 A That was my evidence, yes.

20 Q 78 The first meeting was the 10th March 1993 in the Shelbourne Hotel, Mr. Dennis
21 Mahony, Mr. Noel Fox and yourself?

22 A Correct.

23 Q 79 So on the day before that, there is a record in your office that -- and this is
24 a contemporaneous record, these are all entered at the time they are received?

25 A That's a point, sorry to be corrective, Miss Dillon, that you made earlier.
26 These records would have been made in or around the time. These records would
27 have been made exactly at the time that the call was made, the secretary would
28 log in writing or otherwise, I don't know but she would log the call and then
29 provide me with the messages on my return and if I didn't return until the end
30 of the day, she would provide me with a total list.

1 Q 80 And was it the system also you would ring in for your messages?

2 A Yes, it was.

3 Q 81 And you would be told who had rung and what it was in connection with?

4 A Correct.

5 Q 82 At 9.15 there is a record -- I should have asked you at that time which of them
6 was your secretary?

7 A March 1993, Norma Deegan.

8 Q 83 So your secretary makes a note on that page of a phone call from Senator GV
9 Wright?

10 A Correct.

11 Q 84 He says "Made contact with Mr. Manney." I understand you to say that that in
12 fact is Mr. Mahony. "Will call FD sometime today, time unknown. Senator
13 Wright in Leinster House this afternoon, will call you then." That's the
14 entry.

15 A That's the entry.

16 Q 85 Is it your belief, Mr. Dunlop, that prior to that morning on that time when
17 this phone call was received by your office, albeit not by you directly, that
18 you had no contact with either Senator Wright or Mr. Mahony in connection with
19 these lands.

20 A I did not.

21 Q 86 That would suggest that the introduction to Mr. Mahony to you as a client in
22 connection with the rezoning of these lands was introduced by Senator Wright?

23 A Yes.

24 Q 87 At 10 o'clock there's a note "Dennis Mahony secretary was on, please call him
25 quite urgent."

26 A Yes.

27 Q 88 And a phone number is given?

28 A Correct.

29 Q 89 The matter as we know was quite urgent, I think it's accepted by Mr. Mahony the
30 motion had to be lodged by that Friday the 12th, it had not been done, things

1 had to be done quite urgently and you arranged to meet him the following day?

2 A That's correct.

3 Q 90 You had the meeting in the Shelbourne Hotel and we don't need to go into that
4 again. I do want to draw to your attention two messages that may be relevant
5 to Fox and Mahony on Thursday, 11st March 1993 on page 1113.

6 There is a message "10.05 Sean in council before 11 o'clock".

7 A Yes.

8 Q 91 Is that a reference to Sean Gilbride?

9 A Yes, it is.

10 Q 92 You will remember you were giving evidence previously about obtaining
11 signatures on the motion -- obtaining the signatures on the motion that you did
12 not have an entry in your diary for either the 10th, 11th or 12th for Sean
13 Gilbride though we saw he was present in Dublin County Council Special
14 Development Plan Meeting on the 12th?

15 A Correct.

16 Q 93 And you had suggested you could have met him at that time in order to obtain
17 his signature?

18 A Correct.

19 Q 94 On the following day, Friday 12th 1993 at 1114, there is also a message from
20 Sean Gilbride at 4.15?

21 A That's correct.

22 Q 95 Now he says "Missed you in Royal Dublin, in DCC now". So presumably, what
23 Mr. Gilbride is telling your secretary there is that he had tried to meet you
24 in the Royal Dublin but he is now in Dublin County Council, it's now 4.15?

25 A In the context of having to have the Mahony motion lodged by five o'clock on
26 the 12th, this phone call is the 12th?

27 Q 96 Is that the likely context in which that phone call was made?

28 A Either one, the one that you outlined earlier and that one. The records of
29 calls into my office by Sean Gilbride.

30 Q 97 But obviously when he is telling you missed you in the Royal Dublin but now in

1 Dublin County Council so you would know where he was?

2 A Correct.

3 Q 98 Because you obviously needed to meet him for something?

4 A Correct.

5 Q 99 We know from your diaries of the same date, 12th March 1993, that you were
6 there?

7 A Correct.

8 Q 100 We know you got Mr. GV Wright's signature at 9.30 am that morning?

9 A That is correct.

10 Q 101 Does that not suggest to you at 4.15 you were still trying to make contact with
11 Mr. Gilbride and if you were, the matter you probably were dealing with may
12 have been the motion to do with Mr. Mahony's plans?

13 A It may well have been.

14 Q 102 Your telephone entries, sorry your telephone messages received on an incoming
15 basis, Mr. Dunlop, show extensive contact between councillors and your office?

16 A In relation to that, Miss Dillon, in the context of the Fox Mahony lands I am
17 taking from the 9th March 1993 until the vote in Dublin County Council on the
18 28th April 1993, Senator GV Wright called my office 11 times. Sean Gilbride
19 16, Liam Creavan 12, Michael Joe Cosgrave 13, Liam Lawlor, 47.

20 Q 103 You have not identified Mr. Lawlor as being a person whom you contacted in
21 connection with your Fox and Mahony lands in your handwritten memorandum
22 Mr. Dunlop?

23 A Yes. Extensive contact is the phrase that you used between councillors but I
24 take your point and if it is necessary, I retract that name.

25

26 CHAIRMAN: Mr. Lawlor wasn't a councillor.

27 A He wasn't a councillor, you are quite correct, Judge. But my position in
28 relation to the phrase that you use 'extensive contact' was that there was
29 extensive contact.

30 Q 104 MS. DILLON: Yes. If one looks at the overall picture, Mr. Dunlop, in relation

1 to the councillors that you have identified up to last Wednesday as having an
2 involvement or who have been spoken to by the Tribunal and now the additional
3 names that have come up as having been spoken to or their possibly being
4 contacted in connection with these lands, it seems from the records that the
5 Tribunal has analysed that you have provided that between the 9th March 1993
6 and the 30th April 1993, there were 11 telephone calls from Mr. GV Wright to
7 your office.

8 A We did the same exercise.

9 Q 105 We did the same exercise. I want to draw to your attention two of those,
10 Mr. Dunlop, because I think it's possibly significant. In the week beginning
11 the 22nd March to the 26th March, there are five telephone calls from Mr. GV
12 Wright?

13 A Yes.

14 Q 106 And you will recollect that you had identified the 25th March 1993 as a
15 possible payment meeting for Mr. GV Wright?

16 A Correct.

17 Q 107 In the week beginning the 19th April to the 23rd April, there are four
18 telephone calls from Mr. GV Wright and you will recollect that you had
19 identified the 19th April as being a possible paying date for Mr. GV Wright?

20 A That's correct.

21 Q 108 If we were to look at the telephone records for the week beginning 22nd March
22 for Mr. GV Wright, Mr. Dunlop?

23 A Yes.

24 Q 109 On the 22nd March at page 1118, Mr. Wright rings twice. He rang at 11.10 and
25 he will call again from Leinster House at approximately 11.30 and the 12.10 he
26 rings.

27 A Yes.

28 Q 110 On the following page, which is 1119, on the 23rd March, Mr. GV Wright rings at
29 10.05 as does Mr. GV Wright, Mr. Liam Creavan and Michael Kennedy and that
30 afternoon at 2.05, at page 1120?

1 A Yes.

2 Q 111So on those two days, the 22nd March and the 23rd March, Mr. GV Wright contacts
3 you on four occasions.

4 A Correct.

5 Q 112On the 24th March, there is a phone call at one o'clock from Mr. GV Wright,
6 that's page 1121. On the 25th March Mr. Dunlop, you meet Mr. GV Wright from
7 the Senate and that's page 1992. Now taking that sequence that you had on the
8 24th March, on the 23rd March you had two telephone calls from GV Wright on the
9 22nd March, you had two telephone calls from him on the 24th March -- sorry if
10 Mr. Kavanagh could highlight the 25th March please, not the 22nd, just the page
11 will do so -- in the three days leading up to the meeting of the 25th March,
12 there are five telephone calls coming in to your office from Mr. GV Wright?

13 A Correct.

14 Q 113Would you in the normal course have returned those phone calls?

15 A Yes.

16 Q 114And is it likely that those phone calls were to set up meetings or that you
17 would meet as obviously you did on both the 25th and 26th because you also met
18 him on the 26th.

19 A Correct.

20 Q 115You also met Mr. GV Wright on the 22nd March?

21 A In Leinster House, yes.

22 Q 116In Leinster House at 2.30?

23 A Yes.

24 Q 117On that date he had called you twice before the meeting?

25 A Both before lunch, yes.

26 Q 118Both before lunch. Would that have been to set up the meeting?

27 A Yes, I would believe so.

28 Q 119Again if I can take you on to the week beginning the 19th April, and the first
29 is the 21st April -- sorry, I beg your pardon -- yes, sorry on the 16th April
30 1993, there is a telephone call from Mr. GV Wright and that's Friday, it's on

1 page 1142 at 10.08 and you will also note there, Mr. Dunlop, it's a matter I
2 want to come back to you, was a telephone call from Mr. Fox that date and you
3 can recollect you told the Tribunal you did not speak to Mr. Noel Fox on his
4 own ever?

5 A Correct.

6 Q 120 Just staying with the issue of GV Wright for the moment, on the following day
7 which was Monday, 19th April, there was a telephone call at page 1145 from
8 Mr. GV Wright?

9 A I apologise, I think that's my mobile phone, I forgot to turn it off.

10

11 MR. ALLEN: I want to make it clear it's not mine, Chairman.

12

13 Q 121 MS. DILLON: I just want to draw something to your attention, Mr. Dunlop,
14 about your telephone records for the 19th April. There are a duplicate set of
15 records provided by you to the Tribunal for the 19th April, the first set do
16 not have a little cross beside them and that is the page that's on screen at
17 the moment.

18 A Yes.

19 Q 122 If you turn to the duplicate of that page, Mr. Dunlop, the duplicate of that
20 page is on 1148, and this again is the same date, the 19th April?

21 A That is correct, yes, Monday, 19th April, yes.

22 Q 123 You have two sets of entries for the 19th April, each of them replicate the
23 other, they are photocopies, the only difference between the two is that on one
24 copy, there are little Xs or asterisks beside some of the names not on the
25 first copy. Does that indicate that you returned the call?

26 A I can't give you an explanation as to why the Xs or the asterisks, as you refer
27 to them, I don't know why they're there. It's possible but I mean, I can't
28 give you an explanation as to why those Xs are there.

29 Q 124 Throughout all these telephone records, some entries have Xs beside them and
30 some don't.

1 A Correct, yes.

2 Q 125If you look at the entry that's for 11.50, "Paula McMahon, Evening Herald:
3 Would like to talk to you before one o'clock, a story she wants to use for
4 tomorrow's edition re: planning permission linked to Penine Holdings."

5 A Yes.

6 Q 126Was this the start of the story that led to the publication in the paper the
7 day of the rezoning motion of Penine Holdings which was ultimately
8 unsuccessful.

9 A Yes.

10 Q 127You will note on both copies you do not have an asterisk beside that telephone
11 call indicating, I would suggest, you did not return the call.

12 A I would consider that unlikely, Miss Dillon, given that it was a telephone call
13 from a journalist, I wasn't in the habit of avoiding taking calls and in fact I
14 did speak to a number of journalists at the time so I wouldn't logically
15 conclude that because there was not an asterisk there, it doesn't mean I didn't
16 return the call.

17 Q 128On the 19th April --

18

19 CHAIRMAN: Miss Dillon, the stenographer needs a break.

20

21 MS. DILLON: Sorry, Sir.

22

23 CHAIRMAN: We will rise for about ten minutes.

24

25

26

27

28

29

30

1 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

2 AND RESUMED AS FOLLOWS:

3

4 Q 129MS. DILLON: Mr. Dunlop, you will see from the extract that's on screen that
5 there's an entry at 3 o'clock on that date which is I think the 19th April, if
6 we could scroll back to the top of that document please. Page before that.
7 Yes, the 19th April, you will see that entry there in connection with Sheila
8 Terry, who is providing you with phone numbers, just page 1148 again Mr.
9 Kavanagh please. Yes, 1148 please.

10 You will see on the 19th April, Mr. Dunlop, at 3 o'clock, Sheila Terry rings
11 you and she gives you or our office phone number for Stephen O'Byrnes home and
12 office, Stephen O'Byrnes was at that time I think general secretary of the
13 Progressive Democrats or press officer for the Progressive Democrats, I can't
14 quite remember which.

15 A Yes, I think he was, yes, I think he was the press officer.

16 Q 130And I think Mr. Mahony will tell the Tribunal that he himself made direct
17 contact with Mr. Stephen O'Byrnes and thereafter he met Miss Cait Keane and
18 Miss Sheila Terry?

19 A Correct.

20 Q 131Earlier on that day at two o'clock on the 19th April, page 316 you had met
21 Sheila Terry in the Royal Dublin.

22 A Sorry, earlier on which day?

23 Q 132The same day, the 19th April.

24 A Had I?

25 Q 133It's on the screen there?

26 A Sorry I do beg your pardon, I am looking at the list of telephone calls, I beg
27 your pardon. I was looking at the wrong document.

28 Q 134So at two o'clock you meet Sheila Terry in the Royal Dublin?

29 A Yes.

30 Q 135On the 19th April and you have already identified the 19th April on being two

1 dates which you possibly paid GV Wright?

2 A Correct.

3 Q 136At 3 o'clock on the same date, Miss Terry contacts your office and provides the
4 telephone numbers for Stephen O'Byrnes?

5 A Correct.

6 Q 137And you subsequently receive a telephone call from Mr. Stephen O'Byrnes I think
7 on the 21st April 1993, Mr. Stephen O'Byrnes rings your office, page 1154.

8 That's on screen there beside you?

9 A At 5.30.

10 Q 138Yes. Was your contact with O'Byrnes and Miss Terry in relation to this matter
11 to do with the Fox and Mahony lands?

12 A No.

13 Q 139Although you are aware that Mr. Mahony had himself contacted Ms. Terry and
14 O'Byrnes?

15 A Yes, I am so aware.

16 Q 140So it is a coincidence both of you were contacting the same people at
17 approximately the same time?

18 A It is.

19 Q 141All right. Now, there are a number of other diary entries but that I want to
20 deal with, Mr. Dunlop, but can I first first of all run through the analysis
21 that has been done in relation to the number of telephone calls that your
22 office received and we are looking first of all at the period the 9th March
23 1993 to the 30th April, the vote in question was on the 28th April.

24 A What happened to my pen?

25 Q 142So Mr. GV Wright contacts your office on ten occasions between those dates.

26 A Correct.

27 Q 143Sean Gilbride contacts your office --

28 A 11, if you include, Ms. Dillon, I think the day of the vote or the day after
29 the vote, you come up with computation of 11.

30 Q 144Very good, Mr. Dunlop. That is up and to including the 30th April.

1 A Yes.

2 Q 145Mr. Sean Gilbride leaves 16 telephone messages with your office during that
3 period?

4 A Correct.

5 Q 146Mr. Liam Creavan leaves 12 messages within that period?

6 A Correct.

7 Q 147Mr. Michael Joseph Cosgrave leaves -- how many did you get?

8 A 13.

9 Q 14813, that's correct. Michael Kennedy leaves six telephone messages?

10 A Yes, I have Mr. Kennedy in one period giving me, making five phone calls and in
11 another, which may account for if you go to the end of the month, yes, six.

12 Q 149Six. Mr. Kennedy has told the Tribunal in his statement to the Tribunal that
13 he has a recollection of discussing these lands with him in 1991 and that he
14 was approached by Mr. Dennis Mahony to sign the amendment motion which he did?

15 A Well it couldn't have been in 1991, Miss Dillon because the matters didn't
16 arise until 1993.

17 Q 150I accept that, Mr. Dunlop, but certainly he doesn't appear to be suggesting
18 that he had any contact with your office during this period?

19 A Oh right, yes, sorry, I beg your pardon.

20 Q 151What Councillor Kennedy tells the Tribunal is that in connection with
21 Mr. Dennis Mahony, "Mr. Mahony approached me to countersign the amendment
22 motion but to the best of my recollection I had no other dealings with him" and
23 insofar as you are concerned, he says "In 1991 Frank Dunlop approached me in
24 relation to Baldoyle Racecourse lands and Fox Mahony lands to sign rezoning
25 motion, I did not sign and subsequently I received County Council agenda
26 showing motion signed by the other councillors. The above is my recollection
27 of events."

28 A Mmm.

29 Q 152Now, Councillor Kennedy is certainly not indicating that there was any level of
30 contact between himself and your office during this period?

1 A Yes, he is not.

2 Q 153There's one telephone call from Miss Nora Owen?

3 A Yes.

4 Q 154There are no telephone calls from Mr. Sean Barrett?

5 A Not in that period.

6 Q 155There is one telephone call from Mr. Larry Butler?

7 A Yes.

8 Q 156Now, it is accepted by Mr. Mahony that in May of 1993 he made a political
9 donation of 250 pounds to Mr. Larry Butler?

10 A I see.

11 Q 157Did you have any discussion with Mr. Mahony about that political donation?

12 A No, I did not.

13 Q 158Ms. Sheila Terry, there was one phone call?

14 A Yes, I think we have discussed that phone call.

15 Q 159And Mr. Stephen O'Byrnes, there was one phone call but you say they were
16 unrelated?

17 A Unrelated.

18 Q 160Mr. Al Smith, who was an official in Dublin County Council, made two phone
19 calls to you during that period?

20 A Yes.

21 Q 161Were they in connection with the Fox and Mahony lands?

22 A No.

23 Q 162All right. There is an entry in relation to Miss Sylvia Fox to which I will
24 return in a moment, Mr. Dunlop. Miss Ann Devitt made three telephone calls in
25 that period to the 30th April?

26 A That's correct, yes.

27 Q 163Miss Therese Ridge made --

28

29 CHAIRMAN: 17.

30

1 MS. DILLON: 17 telephone calls in that period.

2 A Correct.

3 Q 164And I think Ms. Ridge informed you, for example, in one of the telephone calls
4 that meetings were being changed from the 26th to the 27th, and she left
5 numbers where she could be contacted?

6 A That's correct.

7 Q 165And she also gave the dates that certain meetings would be taking place?

8 A Correct. And I think also, Ms. Dillon, she provided me with a list of
9 councillors on one occasion.

10 Q 166Who were leaving office?

11 A Yes.

12 Q 167Miss Betty Coffey contacted you on four occasions?

13 A Correct.

14 Q 168Ms. Marian McGuinness contacted you on three occasions?

15 A McGuinness, yes.

16 Q 169Mr. John Hannon contacted you on three occasions?

17 A Correct.

18 Q 170Mr. Colm McGrath on three occasions?

19 A Correct.

20 Q 171Mr. John O'Halloran on 14 occasions?

21 A Correct.

22 Q 172Mr. Tony Fox on one occasion?

23 A I have actually, in the period the 9th March to the 28th April, I have him down
24 for two, Miss Dillon, but perhaps maybe --

25 Q 173We'll double check that.

26 A I'll double count it, yes.

27 Q 174Mr. Liam Cosgrave, contacted you on one occasion?

28 A Correct.

29 Q 175And that was a note that he had left to say that he had tried you at your house
30 and he was now trying the office I think?

1 A Correct.

2 Q 176All right. Councillor Tom Hand contacted you on 29 occasions?

3 A Yes.

4 Q 177Right. On some of these records, Mr. Dunlop, you are being provided with
5 information?

6 A That's correct.

7 Q 178You were also being provided, if I read through the telephone records
8 accurately, in some cases with the movements or anticipated movements on a
9 daily basis of a particular councillor or councillors?

10 A That is correct.

11 Q 179For example, Mr. Sean Gilbride rings you on one occasion, "I am at home now but
12 I'll be in Dublin County Council in ten minutes"?

13 A Correct.

14 Q 180Tom Hand tells you when he is at home and when he is going to be in the
15 council?

16 A Yes.

17 Q 181So that it would appear that, can you explain why it was you would have needed
18 to know where these councillors were at any given time?

19 A Well, they may well be a number of explanations in relation to the specifics on
20 a specific day. But normally if, to take an example, if we take Councillor
21 Sean Gilbride as he then was, he was, I believe, a teacher and his normal
22 practice would be no ring me, to tell me that he was either at home and on his
23 way to the council or ring me from the council to say that he was there. This
24 would apply in particular in relation to his support for a variety of motions
25 in relation to the Development Plan and the meeting would not necessarily be --
26 I shouldn't use the word necessarily -- the meeting with would not be to either
27 ascertain or copperfasten his support, that was a given, the meeting would be
28 for a report from him as to his estimate as to who would or would not support
29 it, a given motion.

30 Q 182So is it the situation, Mr. Dunlop, insofar as all of these contacts are

1 concerned and we must bear in mind these are redacted contacts, in other words
2 there are other contacts between councillors and your office in this period of
3 time that do not relate to Fox and Mahony and which therefore are not on
4 screen?

5 A Yes, that is correct.

6 Q 183The records that exist, Mr. Dunlop, for the period from the 9th March to the
7 30th April shows extensive contact?

8 A Huge.

9 Q 184Between councillors and your office?

10 A Yes, huge contact.

11 Q 185And this is incoming contact?

12 A Correct.

13 Q 186You would have seen it as part of your job, as I understand it when you were
14 giving your evidence earlier, the week before last, you explained that it was
15 your job to go out and lobby and secure votes in connection with the rezonings?

16 A Absolutely.

17 Q 187Right. That would have entailed you meeting the councillors?

18 A Yes.

19 Q 188So why were they all contacting you, Mr. Dunlop?

20 A Well in the preface to my answer, to the question you asked me a few moments
21 ago, Ms. Dillon, is that I would have generated calls to councillors, some of
22 these calls may be return calls, may be returning my call or because of my
23 relationship with a particular councillor in relation to a particular motion,
24 they would be calling me to give me information, inform me of what was going on
25 or what was said or what attitude was being adopted by a particular person. So
26 if you combine my exercise in lobbying the councillors for their support, they
27 would feel they comfortable about calling me in relation to particular matters.

28 Q 189So there was regular and ongoing contact and discussion between yourself and
29 councillors on a very extensive basis?

30 A Daily.

1 Q 190 Right. Can I ask you, Mr. Dunlop, to deal with the meeting you had with Mr.
2 Mahony on the 13th April 1993 which is evidenced both from your diary and Mr.
3 Mahony's diary on page 309 and 310. 309 first please.

4 This is a meeting on the, that is -- on the 13th April 1993, Mr. Mahony has an
5 entry for 10.30, F Dunlop, and your diary, which is 3.10 I think or this is --
6 has a similar entry

7 A That is correct, yes, 10.30, Dennis Mah/Shelb.

8 Q 191 It is common case now, Mr. Dunlop, you were paid by Mr. Mahony at the meeting
9 on the 23rd March 1993?

10 A Yes.

11 Q 192 It also seems to be the position that Mr. Mahony was involved in speaking to
12 councillors and presenting his case leading up to the first rezoning on the
13 28th April 1993?

14 A By agreement, yes.

15 Q 193 What I want to draw to your attention is that following this meeting on the
16 13th April on the 14th April 1993, your office receives a phone call from
17 Mr. Noel Fox, it's at 1139 please.

18 A Yes.

19 Q 194 Now you will see at 105 there's a phone call from Mr. Noel Fox, telephone
20 number is given and it says FD, that's yourself, knows him and earlier that
21 morning at 9.40, Mr. Dennis Mahony had rung?

22 A Yes.

23 Q 195 Now, you had met Mr. Mahony on the 13th April 1993, on the 14th April, Mr. Fox
24 contacts you.

25 A Mmm.

26 Q 196 Now you had previously told the Tribunal, Mr. Dunlop, that you had never spoken
27 to Mr. Fox, is that right?

28 A That's correct.

29 Q 197 Did you speak with Mr. Fox?

30 A I don't believe I did, I have no recollection whatever of speaking with Mr. Fox

1 in relation to the lands in question, other than on the occasion that you have
2 already alluded to.

3 Q 198 Which is the 10th March?

4 A 10th March.

5 Q 199 On the 16th April 1993 at page 1142, you also receive a phone call?

6 A Yes.

7 Q 200 From Mr. Noel Fox at a number at which he is available from 11 o'clock?

8 A Correct.

9 Q 201 Is it possible, Mr. Dunlop, that what happened, and I only put this forward as
10 a pure hypothesis, at the meeting of the 13th April, Mr. Mahony told you Mr.
11 Fox was pulling out and that Mr. Fox contacted your office subsequently to
12 confirm that he was withdrawing from the proposed rezoning?

13 A Yes, it is eminently possible.

14 Q 202 In that case, is it not likely that you spoke to Mr. Fox to confirm he was in
15 fact withdrawing from the rezoning motion?

16 A I have no recollection of talking to Noel Fox at all about that and that is
17 absolute as far as I am concerned. I have no recollection of talking to him.
18 What I have said to you or what I did say to you in previous days was that
19 Dennis Mahony told me that Noel Fox was withdrawing and he told me why, gave an
20 explanation. When I discovered these documents to the Tribunal in recent days,
21 these telephone calls appear obviously because they were obviously made to my
22 office and my secretary recorded them but I have no recollection whatever of
23 talking to Noel Fox about the lands.

24 Q 203 There are also entries around this time, three entries in connection with the
25 Sylvia Fox?

26 A Yes.

27 Q 204 And you have noted in your handwritten memorandum to the Tribunal, you cannot
28 recollect what the connection with Sylvia Fox was, do you know whether she was
29 related to Mr. Noel Fox?

30 A No, I don't, Ms. Dillon, and the reason I put it in my handwriting, when I was

1 making this list overnight for the Tribunal was because of the name Fox. I
2 have no idea who Sylvia Fox is, I have no idea whether she is related to Noel
3 Fox. She may well be, I don't know. I have absolutely no recollection of a
4 Sylvia Fox.

5 Q 205 Taking that sequence of events into account, Mr. Dunlop, in view of the fact
6 you met with Mr. Mahony on the 13th April 1993 and that is followed by two
7 phone calls from Mr. Fox on the 14th and 16th April 1993, isn't it likely the
8 that the common matter you were discussing or that had arisen at that stage was
9 the withdrawal by Mr. Fox of his lands from the zoning motion?

10 A I would accept that premise, that contention.

11 Q 206 If that is correct?

12 A If it is correct.

13 Q 207 Subject to anything Mr. Mahony and Mr. Fox had to say, it would mean at the
14 paying meeting of the 23rd March 1993, Mr. Fox was still an active participant
15 in the proceedings?

16 A That would logically follow.

17 Q 208 It would follow?

18 A Yes.

19 Q 209 Now if I could ask you to move on to deal again with the summarised version of
20 the telephone records, Mr. Dunlop, leading up to the September rezoning. Now
21 in the period from the 23rd August to the 1st October, Mr. Dunlop, which would
22 effectively be the month of September --

23 A Yes.

24 Q 210 -- there were four phone calls from Mr. GV Wright, both in the seven- or
25 eight-day period immediately prior to the confirming meeting, there were three
26 telephone calls from Sean Gilbride in the same period?

27 A That's correct.

28 Q 211 There were 11 phone calls from Mr. Liam Creavan, six of whom are in the six- or
29 seven-day period prior to the confirming meeting?

30 A That's correct.

1 Q 212 There were two telephone calls from Mr. Al Smith, who is an official with
2 Dublin County Council. Were they in connection with these lands?

3 A No.

4 Q 213 There are four phone calls from Ms. Therese Ridge, one of which is in the two
5 weeks leading up to the confirming meeting?

6 A Yes.

7 Q 214 You wish to say something?

8 A I meant to say correct.

9 Q 215 There are eight phone calls from Mr. Colm McGrath, two of which are in the week
10 and a half leading up to the meeting?

11 A Yes.

12 Q 216 There are six phone calls from Mr. John O'Halloran, one of which is in the two
13 weeks leading up to the meeting. There is one phone call from Mr. Tony Fox
14 which is in the week leading up to the meeting?

15 A Yes.

16 Q 217 There are five phone calls from Mr. Tom Hand, one of which is in the two-week
17 period prior to the confirming meeting in September?

18 A Correct.

19 Q 218 Is it likely that these conversations or phone calls or some of them were in
20 connection with the continued support in connection with the rezoning of Mr.
21 Mahony's lands?

22 A Inter alia, yes.

23 Q 219 Among other matters?

24 A Yes.

25 Q 220 What was happening here as I understand it, Mr. Dunlop, you were being
26 contacted by these people not necessarily in relation to one matter but other
27 matters would impinge as well?

28 A Correct.

29 Q 221 So that it's not specifically possible with the exception, say, of phone calls
30 from Mr. Noel Fox or Mr. Dennis Mahony insofar as the councillors are

1 concerned, there would have been a number of matters that you were dealing with
2 which would have included the Mahony lands, as it then was in September 1993?

3 A That's correct and you will bear in mind, Ms. Dillon, I explained previously
4 here is that nobody could guarantee on any given day at Dublin County Council,
5 be it a rezoning motion or a confirming motion or de-zoning motion, that it
6 would be taken on the day that it was listed by the secretariat of the council.
7 It may well appear on the agenda, which it would but it wouldn't necessarily
8 follow the day on which it was scheduled to take place, it would actually take
9 place on that day. Something else might interfere and it might be postponed
10 until the following day or the following meeting.

11 Q 222 Yes. There are a number of entries, Mr. Chairman, that relate to Mr. Dennis
12 Mahony and I don't think anything significant turns on the entries in March and
13 April of 1993 but there are one or two entries that relate to the success fee
14 in December of 1993 that I would like to put to Mr. Dunlop, if that's
15 agreeable, so that Mr. Mahony can then be later asked about those entries. Mr.
16 Mahony has been furnished with the documentation. You recollect, Mr. Dunlop,
17 we dealt with the September invoice, the success fee on the last occasion on
18 which you were here?

19 A Correct.

20 Q 223 And you had an entry in your diary, Dennis Mahony to ring for the 20th December
21 1993?

22 A Yes.

23 Q 224 And if I can summarise what apparently happened, you raised an invoice on the
24 1st December for 5,000 pounds plus VAT, you never gave that invoice to Mr.
25 Mahony?

26 A No?

27 Q 225 You said that there was telephone contact between you and ultimately there was
28 a meeting on the 3rd February 1994 which you sought a success fee of 5,000
29 pounds which Mr. Mahony refused to pay but you ultimately agreed 2,000 pounds?

30 A Correct.

1 Q 226 In the course of that that conversation, you attributed certain matters as
2 having been said by Mr. Mahony which it's clear from the cross-examination by
3 Mr. Mahony's counsel will be disputed by Mr. Mahony?

4 A That is correct.

5 Q 227 But what was not available at that time, Mr. Dunlop, the telephone records or
6 entries in connection with Mr. Dennis Mahony in December of 1993?

7 A Yes.

8 Q 228 An the first one is the 17th December 1993, 1238 please. Now, at 10 past 10 on
9 the 17th December 1993, Dennis Mahony rang your office?

10 A That's correct.

11 Q 229 Now presumably as I understand it from what has been said, Mr. Mahony wasn't
12 offering to pay you a success fee?

13 A Correct.

14 Q 230 So he is obviously here returning a phone call you made to him?

15 A I would imagine so, yes.

16 Q 231 So that you had initiated sometime prior to the 17th December, not by way of
17 furnishing the invoice, telephone contact with Mr. Mahony?

18 A Correct.

19 Q 232 And you have an entry in your diary Dennis Mahony to ring, at 664, for the
20 20th. It's on the screen beside you, first entry for Monday, December 20th.

21 A Yes.

22 Q 233 On the 20th December 1993, Mr. Mahony again rings your office, 1239 please, at
23 11.40?

24 A That's correct.

25 Q 234 There's no little asterisk or tick beside that, I just draw that to your
26 attention, Mr. Dunlop?

27 A Yes.

28 Q 235 On the 23rd December at 1241, Mr. Mahony rings as do Mr. John Hannon and Mr. GV
29 Wright. Mr. Dennis Mahony leaves a message he has heavy flu, will not talk on
30 the mobile and will call later.

1 A Yes, that's the message.

2 Q 236 That was the message that was taken by your secretary at the time?

3 A Correct.

4 Q 237 On the 1st February 1994 at 1242 Mr. Dennis Mahony rings again, would you have
5 returned that call, these calls?

6 A Yes, it is it was the practice to return calls. I can only say that any call
7 that appears as an incoming call that appears on these lists, it would be my
8 practice to return them.

9 Q 238 So that would mean sometime prior to the 1st February, you contacted Mr. Mahony
10 and he is now returning your call?

11 A Correct. I don't mean to interrupt you, you will note that on certain
12 occasions during the course of these messages being listed by my secretary she
13 does say returning your call. She hasn't said that in the context of Mr.
14 Mahony in any of these here except in one, if I recollect correctly, he rang to
15 say it wasn't urgent and, you know, I could call him again. But it doesn't say
16 that but the likelihood is that the contact with Dennis Mahony in February of
17 1994 and Dennis's call to me was as a result of my making contact with him or
18 trying to make contact with him through his office.

19 Q 239 So following this telephone contact on the 1st February 1994, on the 2nd
20 February 1994 at 1243, Susan, who is Mr. Mahony's secretary, changes the date
21 of the meeting from 11 to 11.30 on Thursday.

22 A Yes, changed the time to 11.30, that is correct.

23 Q 240 And there is in capital letters 'yes' written beside it?

24 A Because my interpretation of that, Miss Dillon, is that I was contacted by my
25 secretary and asked would that be suitable and I said yes.

26 Q 241 And it would appear to be the practice throughout these telephone records,
27 Mr. Dunlop, that why where your secretary takes instruction or direction from
28 you or contacts somebody on your instructions, she notes that in capitals?

29 A Yes, she does.

30 Q 242 On the 3rd February 1994, the meeting takes place in the Berkley Court, 665 and

1 666. Now you will see there on the 3rd February, the meeting with you is for
2 11 am and it's followed by lunch with Noel Fox at 12.45?

3 A Yes.

4 Q 243And in your diary, which is at page 666, this meeting is also recorded. And
5 there's no dispute, as I understand, between yourself and Mr. Mahony that it
6 was at this meeting that you sought your success fee?

7 A Yes, there's no such dispute.

8 Q 244Right. So what that sequence of events shows, Mr. Dunlop, is that mid December
9 1993, there was a certain level of contact between Mr. Mahony and your office
10 and you and Mr. Mahony?

11 A That is correct.

12 Q 245Which culminated in meeting at which the success fee was agreed at 2,000 pounds
13 and paid some days later on the 8th February?

14 A Yes.

15 Q 246Is that right?

16 A That's correct.

17 Q 247As I said, Sir, there are a few entries in relation to Mr. Mahony which I
18 haven't dealt with specifically but I can deal with them with Mr. Mahony rather
19 than take any time and arising out of this matter, I have nothing further for
20 Mr. Dunlop at this time.

21

22 CHAIRMAN: Does anybody wish to cross-examine?

23

24 MR. HOGAN: Mr. Chairman, just one or two questions if I may.

25

26 THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. HOGAN:

27

28 Q 248Mr. Dunlop, you mentioned Mr. Liam Lawlor at the start of your evidence and I
29 would just like you to confirm any such contact you had with Mr. Lawlor was not
30 in connection with these lands.

1 A Mr. Hogan, absolutely I so confirm.

2 Q 249 Thank you. Then you said to the Tribunal in your response to Miss Dillon that
3 you don't believe that you spoke with Mr. Noel Fox at any stage, isn't that so?

4 A That's correct.

5 Q 250 Now, you will recall that when I cross-examined you on the last occasion you
6 said to me at page 46 of the transcript, in response to question 265, you said
7 that "You never had a conversation on your own with the other participant, Mr.
8 Fox".

9 A That's correct.

10 Q 251 And doesn't it appear, looking at the entries for mid-April of 1993 as if at
11 the very least, Mr. Fox endeavoured to contact you?

12 A Yes, it does.

13 Q 252 And isn't it also the case that shortly thereafter an amending motion had to be
14 put down to delete the references to Mr. Fox's lands on the motion, isn't that
15 so?

16 A That's correct, yes.

17 Q 253 And isn't it therefore all the more likely that you had at least some contact
18 with Mr. Noel Fox in relation to this; after all, you were taking a fairly
19 large step of deleting the references to him on the motion, isn't it to be
20 expected therefore you would have obtained confirmation in some form with Mr.
21 Fox?

22 A The only caveat I would enter into that, Mr. Hogan, is that the rezoning
23 motions was not prepared by me as I gave evidence and you asked me about it on
24 the last occasion. Given the documentation which I have now disclosed to the
25 Tribunal in relation to incoming telephone calls and the fact that Noel Fox's
26 name appears twice, I would accept the possibility that there was a
27 conversation with Noel Fox. I have absolutely no recollection of any
28 conversation with Noel Fox about this matter other than my meeting him with
29 Dennis on the 10th March -- Mr. Mahony, sorry, I beg your pardon.

30 Q 254 Mr. Dunlop, again it may be a matter of detail and nothing hugely may turn on

1 it but again, isn't it to be expected if there were two telephone calls from
2 Mr. Fox and given the importance of this issue, that you would not have taken
3 the step of arranging for his name to be deleted from the rezoning motion
4 without having spoken to him?

5 A Yes.

6 Q 255And therefore that does, in fact, make it all the more likely that contrary to
7 what you earlier suggested, you did in fact speak with Mr. Fox?

8 A It is likely, as I have said to you, yes.

9 Q 256Now, then just turning to the telephone contact in December, again I take it
10 that -- December 1993.

11 A Right.

12 Q 257Again I'd like you to confirm the last telephone contact prior to December 1993
13 between Mr. Dennis Mahony and yourself appears to be in early May, isn't that
14 so?

15 A That's not the case.

16 Q 258Sorry?

17 A There's contact with Mr. Mahony in December 1993.

18 Q 259Yes, no, I think we may be at cross purposes. I think I am right in saying
19 that prior to December of 1993, December of 1993, the last contact, according
20 to these telephone records --

21 A Right.

22 Q 260-- was in early May of 1993?

23 A In other words post the zoning motion.

24 Q 261Shortly after it, yes?

25 A Correct, yes.

26 Q 262So judging by these telephone records, there doesn't appear to be any contact
27 between you and Mr. Mahony until December of 1993?

28 A That's correct.

29 Q 263And the next entry then comes on the 17th December of 1993?

30 A That's correct, yes.

1 Q 264 That's page 111 at 10 past 10 on the 17th December 1993?

2 A Correct.

3 Q 265 I think you said to Ms. Dillon, it's to be expected, isn't it, that this came
4 in response to a telephone call from you?

5 A As I explained to Ms. Dillon, there's nothing else other than Mr. Mahony's name
6 attached. Given the circumstances that I outlined when I was giving evidence
7 here in relation to the success fee and given Mr. Mahony's contact on the 17th
8 December at 10.10, the likelihood is that Dennis Mahony was returning the call
9 from me. I am not saying that it is but the likelihood is that it is because
10 otherwise I generated the contact so he was returning the call.

11 Q 266 And in all events, there is sequence of messages of people endeavouring to
12 contact each other and you finally met up on the 13th February?

13 A Correct.

14 Q 267 Thank you very much.

15

16 CHAIRMAN: Thank you Mr. Hogan. Does anybody else wish to --

17

18 MR. MONTGOMERY: Mr. Chairman.

19

20 THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS

21 BY MR. MONTGOMERY:

22

23 Q 268 Mr. Dunlop, you mentioned this morning the extensive contact and continued
24 support from the various councillors and indeed that's very much evidenced by
25 the list of the telephone messages coming into your office. Ms. Dillon took
26 you through the various parties that were involved in these telephone contacts.
27 It's rather surprising there's one name that's totally omitted, namely that of
28 Cyril Gallagher, deceased. In the context of extensive contact and continuing
29 support, is that not somewhat usual?

30 A No, I -- well his name doesn't appear, Mr. Montgomery. He didn't make calls.

1 I think his name does appear elsewhere but his name doesn't appear in this
2 period. No, I wouldn't regard that as unusual because I generated calls to
3 Cyril at his home and made arrangements to meet him and then did meet him or
4 met him by chance or by organised arrangement in Dublin County Council or at
5 other locations.

6 Q 269 Other than the one entry to your diary we have seen and I take it there's
7 probably other entries, this isn't evident in relation to the Fox and Mahony
8 lands?

9 A That's correct.

10 Q 270 Consequently it seemed unreal you were paying Mr. Gallagher money to sign a
11 motion in respect of something there was no further contact about?

12 A Not in my terms, Mr. Montgomery, it's not unreal.

13 Q 271 Thank you.

14

15 THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS

16 BY MR. KENNEDY:

17

18 Q 272 MR. KENNEDY: Mr. Chairman, just a few brief questions for Mr. Dunlop. Martin
19 Kennedy, Mr. Dunlop, for Mr. Wright. If I could deal briefly with what perhaps
20 we might describe as your fortuitous finding of your telephone phone records
21 last week during a lull in these proceedings. You describe them as being found
22 in a box in your garage?

23 A I didn't say that, Mr. Kennedy.

24 Q 273 Well would you remind us what you said? You found them underneath some old
25 golf clothing?

26 A Yes, that is what I said.

27 Q 274 Were they in a box?

28 A No.

29 Q 275 When did you vacate your premises in Mount Street?

30 A Sometime after I gave evidence here in May of 2000. I don't have an office

1 there and haven't had an office there for quite sometime.

2 Q 276Can we take it you vacated your premises before you left the premises?

3 A I am the leaseholder of the premise and while my offices were there, the rest
4 of the building was sublet by me.

5 Q 277Was the portion of the building that you then occupied during which these
6 telephone records would have been made, was that vacated by you?

7 A That has been vacated by me.

8 Q 278Has it been sublet?

9 A Yes, it has.

10 Q 279When did that subletting commence?

11 A That I cannot tell you.

12 Q 280You would have a lease, I presume?

13 A Oh yes.

14 Q 281Perhaps you might enquire for us?

15 A Yes, we can provide you with the relevant information.

16 Q 282So did you, I think you said you undertook some of the physical labour involved
17 in clearing out your office?

18 A Yes, I did.

19 Q 283Did that include putting these telephone records somewhere?

20 A Yes, it obviously did.

21 Q 284Can you help us by telling us how did the telephone records get from your
22 office in Mount Street to your residence, which I believe is in County Meath?

23 A I think I already explained that to you.

24 Q 285I didn't hear the explanation.

25 A Well that I brought any material from the office to my home by van.

26 Q 286I am specifically talking about the telephone records.

27 A Yes.

28 Q 287Do you recall putting them into a box?

29 A No, I don't.

30 Q 288Do you recall putting them anywhere?

1 A No, I don't.

2 Q 289Do you recall finding them last week?

3 A Well obviously I do, I have given them to the Tribunal.

4 Q 290That's all I have to say about that for the moment, Mr. Dunlop.

5 Just attached to what Mr. Montgomery was asking you, he was questioning you
6 about the fact you had no contact with Mr. Gallagher, no obvious telephone
7 record of being contacted you in 1993 when you allege you paid him 1,000 pounds
8 each.

9 A No, Mr. Kennedy, what I said to Mr. Montgomery was quite specific in relation
10 to a very specific question. In the period in question, Mr. Gallagher's name
11 does not appear on the list of incoming calls to my office.

12 Q 291Nor does Mr. Larkin's name appear?

13 A That is correct.

14 Q 292And your allegation to this Tribunal in the context of my client is that
15 sometime in 1993 you made a payment of 2,000 pounds to Mr. Wright in the
16 context of this module?

17 A Yes.

18 Q 293And you also say that you made a payment of 1,000 pounds each to Mr. Larkin and
19 to Mr. Gallagher?

20 A Correct, the evidence will show that is what I said.

21 Q 294That's what you said. I am going to remind you now because it will come up
22 again when Mr. Wright gives his evidence, that he will say he got no such
23 payment from you in 1993, there's clear conflict on that. He acknowledges he
24 did get a payment from you in 1991 in the Dail bar and curiously enough,
25 Mr. Gallagher and Mr. Larkin received 1,000 pounds each at that time as well,
26 isn't that correct, in 1991?

27 A That's correct.

28 Q 295Or at that time, I won't say as well but they received 1.000 pounds in 1991 at
29 the same time that Mr. Wright acknowledges he got 2,000 pounds from you towards
30 electoral expenses?

1 A Correct.

2 Q 296It's rather curious in 1993 there's no record of Mr. Gallagher or Mr. Larkin,
3 both of whom are now deceased, having any contact with you on your telephone
4 system?

5 A I don't accept it is curious at all.

6 Q 297It is a fact.

7 A The documentation shows quite clearly that they did not initiate telephone
8 calls to my office in this period.

9 Q 298Thank you, Mr. Dunlop.

10 A Thank you Mr. Kennedy.

11

12 MR. O'DULACHAIN: Cormac O' Dulachain, instructed on behalf of the late
13 Mr. Thomas Hand. While Mr. Dunlop is still in the box, I want to raise a
14 matter with the Tribunal in relation to the evidence he has just given in
15 relation to the discovery of a further box of documents in the past week, I
16 believe in his garage. And it was simply to indicate, as far as I am aware,
17 there's nothing alleged against Mr. Hand in this particular module and there's
18 no purpose for us to be here this morning other than we were notified that some
19 new information rather than disclosures were coming into being. But we are
20 taking considerably by surprise by the fact that Mr. Dunlop now discloses, five
21 years after being first contacted by the Tribunal, that further documentation
22 has come to his attention and Mr. Allen, on his behalf, has been very quick to
23 highlight the relevance of that documentation and to attach to them the words
24 credibility and corroboration and the corroborative value of same.

25

26 It appears now that Mr. Dunlop, if you take it on the basis of his evidence,
27 you have to, that the non-disclosure is an innocent non-disclosure, it is
28 manifest that Mr. Dunlop is incapable of searching his own premises. It is
29 manifest that he is incapable of complying with an Order for Discovery and I
30 would suggest to the Tribunal at this stage that the Tribunal should direct one

1 of its own officers to assist Mr. Dunlop to carry out a fresh and thorough
2 search of all his properties and that the Tribunal should itself take into
3 possession all documents which have any bearing on the work of this Tribunal
4 and I make that submission for the following reasons:

5
6 1: There are particular circumstances in relation to this witness where there
7 has been previous disclosure which would have appeared to have been deliberate.

8
9 There has been evidence entered in the year 2000 by this witness which he has
10 altered his own evidence subsequently.

11
12 There has been a considerable period since 2000 of three years when this
13 documentation could have come to light. There has been a module that went on
14 for nearly one year to which this documentation could have had relevance and
15 may have foreshortened that time. The nature of this inquiry is important, the
16 allegations made against parties are grave, there's been considerable public
17 expense, considerable private expense to the parties and in those
18 circumstances, for the Tribunal simply to be satisfied that a party will
19 voluntarily and without the assistance of the Tribunal bring all material to
20 its attention on foot of the standard Order for Discovery, I would submit the
21 Tribunal can no longer rely on those traditional means to ensure that all
22 documentation is disclosed to the Tribunal and that parties appearing before
23 the Tribunal can be dealt with in a fair manner and on the basis of full
24 disclosure.

25
26 CHAIRMAN: Thank you.

27
28 MR. ALLEN: Chairman --

29
30 MS. DILLON: If I could just reply before Mr. Allen replies in relation to

1 that. First of all, I would like to know if Mr. Dulachain wishes to avail of
2 the opportunity to cross-examine Mr. Dunlop, which I understood he was about to
3 do rather than make the submission while he was still in the box and if he
4 doesn't have any questions, I will deal with the submission if he wishes me to
5 deal with it.

6
7 MR. ALLEN: Chairman, I wish to be heard and I think it's right that Counsel
8 for the Tribunal should have the final say in relation to this but I do wish to
9 be heard in relation to what I will charitably characterise as Mr.
10 O'Dulachain's somewhat surprising intervention. He announced himself as really
11 having no function or purpose here, the only assertion he made with which I
12 find myself in complete agreement. He nonetheless chooses to turn up and
13 rather ironically as representative of the late Councillor Hand, and I intend
14 no disrespect to his family and don't wish to add to their burden arising out
15 of this matter, but I rhetorically invite the Tribunal, yourself and your
16 colleagues to consider how long it took the Hand family and their legal
17 representatives to discover the existence of a bank accounts in Australia.
18 Just bear with me if you will, if I may, Mr. Chairman, for a moment.

19
20 This is clearly an orchestrated sort of attack, as it were, on Mr. Dunlop by
21 somebody who disqualified himself at the beginning of his attack on the basis
22 that he shouldn't be here at all and I agree with him. In fact the sooner we
23 are without him the better.

24
25 CHAIRMAN: Mr. O' Dulachain, as I understand it, does not act or does not
26 represent the member of the Hand family who resides in Australia. As far as I
27 know, that's the position.

28
29 MR. O'DULACHAIN: That's correct, but I don't think that was what Mr. Allen
30 was referring to but maybe if he stuck to substance rather than personal abuse,

1 it might assist the Tribunal.

2

3 CHAIRMAN: In relation to your being here, Mr. O' Dulachain, as I understand
4 it, you were circulated with the phone records insofar as they refer to
5 Mr. Hand.

6

7 MR. O'DULACHAIN: We were informed yesterday, I think by letter, that a matter
8 would arise this morning. I believe documentation has been sent by the
9 Tribunal but it hasn't been received.

10

11 CHAIRMAN: All right. Do you wish to cross-examine Mr. Dunlop?

12

13 MR. O'DULACHAIN: I do not, no.

14

15 CHAIRMAN: All right.

16

17 MR. ALLEN: Sorry, Mr. Chairman, that's the only point I was making in relation
18 to this. Ms. Dillon has already flagged it and I'll stop at this point. Mr.
19 O'Dulachain and I regret very much if he thinks I was abusing him personally or
20 in any other way, I think that he is getting excited or overheated about these
21 things, but he was invited to cross-examine Mr. Dunlop but what he chose to do
22 was not cross-examine him but to make a speech.

23

24 CHAIRMAN: I understood Mr. O' Dulachain, having made a brief statement, was
25 then going to cross-examine.

26

27 MR. ALLEN: Of course that turned out not to be the case.

28

29 CHAIRMAN: He decided not to do so, we'll just leave it.

30

1 MR. ALLEN: Thank you, Chairman.

2

3 MS. DILLON: Just insofar as that submission from Mr. O' Dulachain is
4 concerned, it's for the Tribunal to determine its own procedures and not for
5 any party appearing r before it.

6

7 CHAIRMAN: Is there anyone else who wishes to cross-examine Mr. Dunlop? Do you
8 wish to ask him anything, Mr. Allen?

9

10 THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. ALLEN:

11

12 Q 299MR. ALLEN: There was one question arising out of colleague, Mr. Hogan's,
13 questioning, Mr. Dunlop. I don't think there's any need to get too excited
14 about this but there appears to be a suggestion that whatever the significance
15 may be, if it be a fact, that contrary to your recollection you may have spoken
16 to Mr. Noel Fox, you follow that, that's how I understood the penetrating
17 thrust of Mr. Hogan's cross-examination of you, do you follow?

18 A Yes.

19 Q 300I just want to be clear that is your understanding because what's what I have
20 heard you say on at least three or four occasions this morning; if such a
21 conversation did take place, you have no recollection whatever?

22 A Correct.

23 Q 301Of such conversation?

24 A Yes.

25 Q 302And that remains the position?

26 A That remains the position.

27 Q 303That's the position you had when you got in the box and the position when you
28 leave for lunch?

29 A Correct.

30 Q 304Thank you.

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CHAIRMAN: We understand Mr. Dunlop's evidence to have been in response to Mr. Hogan that that while contact with Mr. Fox might have been likely, he has no recollection of it.

A Correct.

JUDGE FAHERTY: Mr. Dunlop, just one question, you said that you have client files still stored in at your home, in your garage?

A That's correct.

JUDGE FAHERTY: Did you just say to Miss Dillon while you accept there may be other similar telephone records, you don't have them now in your possession?

A No, I do not.

JUDGE FAHERTY: Have you searched among the client files to ascertain they are not intermingled?

A If I could put that in context, I have searched client files on a number of occasions on various orders that were made requesting my submission of information or provision of information to the Tribunal and there are no such documentation in those client files which are normally files in relation to normal -- normal clients of the business.

JUDGE FAHERTY: I see.

CHAIRMAN: Just one thing, Mr. Dunlop, the records that you have produced would not include, as I understand it, you can correct me if I am wrong, would not include names of persons who would call you or who would ring through to your office looking for you and would be put through to you because you are there?

A No, those records, Judge, relate to calls that were made to my office either in my absence or if I was there or having a meeting, my secretary would record the

1 fact those calls were received and then provide me with the information for
2 recall purposes.

3

4 CHAIRMAN: All right. Two o'clock, thank you.

5

6 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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1 THE TRIBUNAL RESUMED AS FOLLOWS AT 2.PM:

2

3 MS. DILLON: Good afternoon, Sir. Mr. Dennis Mahony please.

4

5 MR. DENNIS MAHONY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

6 BY MS. DILLON:

7

8 Q 305 Good afternoon, Mr. Mahony, please take a seat. The first thing I want to do,
9 Mr. Mahony, is outline to you the areas where it appears there's no dispute and
10 then outline to you areas where it appears that there is dispute and see if we
11 are in agreement in relation to those matters and then I propose to take you
12 chronologically through the events that happened.

13 A All right.

14 Q 306 Is that all right?

15 A That's all right.

16 Q 307 Now the matters that are not in dispute is that you agreed to retain Mr. Dunlop
17 in order to achieve rezoning on the lands at Drimnigh in County Dublin?

18 A Correct.

19 Q 308 A meeting took place on either the 10th or the 11th March at which yourself,
20 Mr. Noel Fox, and Mr. Dunlop were present?

21 A Correct.

22 Q 309 It is in dispute what transpired at that meeting in some respects but I'll come
23 back to those.

24 A All right.

25 Q 310 You agreed a fee of 10,000 pounds in cash and that you paid Mr. Dunlop 10,000
26 pounds in cash?

27 A I did.

28 Q 311 It is likely that the meeting at which you paid Mr. Dunlop was the 23rd March
29 1993?

30 A As far as I can ascertain, that was when it happened, yes.

1 Q 312 It was agreed between yourself and Mr. Dunlop that you would lobby certain
2 councillors on your own behalf?

3 A It was.

4 Q 313 And you did so?

5 A I did.

6 Q 314 That originally Mr. Noel Fox's lands were included in the rezoning motion but
7 were removed on the 28th April 1993?

8 A Correct.

9 Q 315 That at some point in time between December 1993 and February 1994 there was
10 contact between yourself and Mr. Dunlop which culminated in a meeting on the
11 3rd February 1994 at which you agreed to pay him a success fee of 2,000 pounds?

12 A Yes, in the Berkley court, yes.

13 Q 316 That on the 8th February, 1994, you paid Mr. Dunlop 2,000 pounds in cash at
14 your offices in Kilbarrack?

15 A Correct.

16 Q 317 That Mr. Wright had an involvement in those lands or in advising you prior to
17 Mr. Dunlop being retained?

18 A Correct.

19 Q 318 That your relationship with Mr. GV Wright continued after the rezoning was
20 obtained and that you met with Mr. Wright regularly throughout the entire of
21 the 1990s?

22 A Yes.

23 Q 319 What is in dispute, Mr. Mahony, as I see it, is whether or not you knew what
24 Mr. Dunlop was doing in order to achieve the rezoning. Sorry, let me rephrase
25 that, whether or not you knew what Mr. Dunlop says he was doing in order to
26 achieve the rezoning, i.e. paying councillors.

27 A It never, ever crossed my mind.

28 Q 320 All right. There seems to be dispute about whether it was GV Wright who
29 introduced Mr. Dunlop into the equation or whether you selected Mr. Dunlop to
30 do the work for you?

1 A My memory says that Mr. Wright recommended Mr. Dunlop.

2 Q 321Yes.

3 A That is my memory of it.

4 Q 322And that accords with what Mr. Dunlop has told the Tribunal also.

5 A OK.

6 Q 323Mr. Wright, on the other hand, suggests in his statement that you told him that
7 you had decided to go to Mr. Dunlop. I'll come back to deal with these in
8 detail, Mr. Mahony. I am just identifying areas of conflict at the moment.

9 A Yeah.

10 Q 324What is also in dispute is what was said at the critical meetings which were
11 the 10th March 1993 and the 3rd February 1994. So what I propose to do, Mr.
12 Mahony, through the documents is take you through the chronological sequence of
13 events that will bring us up to the submission in December 1991 and thereafter
14 what happened with the lands and what was going done up to and including the
15 retention of Mr. Dunlop, is that all right?

16 A That's OK.

17 Q 325OK. And I propose to lead you through most of this evidence until we come to
18 the introduction of Mr. Dunlop so if I am in error in anything I am suggesting
19 to you, Mr. Mahony, please point that out.

20 A Right.

21 Q 326You originally purchased these lands in 1981 for 180,000 pounds?

22 A That's right.

23 Q 327You initially purchased these lands in order to farm the lands, is that
24 correct?

25 A That is correct.

26 Q 328But at some stage you decided to get out of the farming of the lands because of
27 a vandalism problem?

28 A That is correct.

29 Q 329Can you indicate to the Tribunal when approximately that was first decided that
30 you would do something with the lands, in some way try and develop them?

1 A The earliest I can think of was in my land was lying idle but in 1991-92 I
2 started to look at it and I had discussed with GV Wright and Noel Fox and it
3 was just whether you could have any kind of development on it. That was
4 cursory and would be 1991-92.

5 Q 330I'll come back to that in a moment. A small matter that pre-dated that, Mr.
6 Mahony, I don't think there's any dispute on this, you made a number of
7 political donations to Fianna Fail, a payment of 5,000 pounds in 1987, that's
8 correct, isn't it?

9 A Yeah, it's there, yes.

10 Q 331Page 124 please.

11 A Is this in my statement?

12 Q 332No it's not in your statement, it's on the screen beside you, Mr. Mahony.

13 A Yes.

14 Q 333And there was also another payment on the 8th June 1989 I think in the context
15 of a general election page 128, in the sum of 1,000 pounds which, while it's
16 attributed to your son, is from Dennis Mahony Limited?

17 A Correct.

18 Q 334I think you also made a payment to Fianna Fail which you have identified in an
19 appendix to your statement, page 129 please, in June of 1989 of 2,500 pounds.
20 That's on screen now, Mr. Mahony, is an appendix to the statement you provided
21 to the Tribunal and this lists a number of political donations and payments
22 made by you but excluding ones from your personal account.

23 A OK.

24 Q 335So the first payment there is June 1989, Fianna Fail, 2,500 pounds. Can you
25 recollect, Mr. Mahony, to whom you actually paid that 2,500 pounds?

26 A Not offhand at the moment, no.

27 Q 336Is it possible that you may have made that payment to Mr. GV Wright?

28 A No.

29 Q 337No, it's not possible?

30 A Definitely not.

1 Q 338 You would have, would you have paid it to Fianna Fail headquarters?

2 A Yes, I think at that time -- would that be an election time?

3 Q 339 Yes.

4 A Well that would have gone to the Taoiseach's office and down. At the time, to
5 explain, various people would ask for donations, various cumann or whatever so
6 I normally made the donation directly to Mr. Haughey's, if he was Taoiseach or
7 whoever and that covered the whole lot.

8 Q 340 You had a relationship with Mr. Haughey?

9 A Yes.

10 Q 341 You knew Mr. Haughey and it's clear from the diary entries we'll be going
11 through, you met with Mr. Haughey on an infrequent but nonetheless regular
12 basis?

13 A Right.

14 Q 342 I ask you this as to whether you are sure you paid the money to Fianna Fail is
15 for this reason, the Fianna Fail records do not disclose receipt of that
16 payment though they do disclose receipt of the earlier payments we have seen in
17 1987.

18 A I think I'd have to come back to that, I don't understand that.

19 Q 343 Yes. I mean it is likely we will be back on Thursday, Mr. Mahony, and I wonder
20 would you mind checking your records again. We have, behind that payment of
21 2,500 pounds, if we could have page 130, this is an extract, Mr. Mahony, from
22 your cheque payments book and if we turn that around, we'll see that cheque
23 number 2680 in the sum of 2,500 pounds was drawn in favour of Fianna Fail on
24 the 9th June 1989, and that is attributed in the cheque payments book to
25 'sundries'.

26 A Mmm.

27 Q 344 And on your cheque payments summary for 1989 at page 131, under the heading
28 "Fianna Fail" you have a payment of 2,500 pounds. This is an extract from your
29 company's records, Mr. Mahony.

30 A Righto.

1 Q 345And it deals with the cheque payments summary for 1989, records a payment of
2 2,500 pounds to Fianna Fail.

3 A It's the same one we are talking about?

4 Q 346We are talking about a payment in June of 1989 to Fianna Fail.

5 A All right. Bear with me.

6 Q 347Yes.

7 A OK. I'd have to come back on that one, I wouldn't know offhand. These are
8 figures as were handed to me by my financial man but I'll get you -- I'll have
9 the story for you but I thought they were all checked out.

10 Q 348Yes, it is undoubtedly the case, Mr. Mahony, that the cheque for 2,500 pounds
11 was cashed because at page 133, it's debited to your company's account on the
12 13th June 1989.

13 A Right.

14 Q 349And you will see that the cheque number 2680, which is the number of the cheque
15 in the cheque payments book that's attributed to Fianna Fail is debited to your
16 account on the 13th June 1989 which is around the time of the general election.

17 A Right.

18 Q 350But there are, the Tribunal has not received any records from Fianna Fail that
19 such a payment was made to headquarters, if I may put it like that.

20 A All right.

21 Q 351And it is because of the absence of those records from Fianna Fail I am asking
22 you is it possible that in fact while this is a cheque that's drawn in favour
23 of Fianna Fail, you may have paid it to somebody other than Fianna Fail
24 headquarters?

25 A No, that wouldn't make sense to me but if you give me the day, I will have it.
26 There is an answer to it, I don't know what it is.

27 Q 352All right. Well perhaps by Thursday, Mr. Mahony, it's likely you will be back
28 on Thursday and if you could endeavour to establish in the interim whether that
29 payment in fact went to Fianna Fail or whether it is possible it might have
30 been handed to some other person, is that all right?

1 A That's perfect, yeah.

2 Q 353 Now, there's one entry in one of your diaries I want to draw to your attention,
3 simply if possible it can be eliminated from the inquiries, page 137, an entry
4 on the 2nd January 1990, do you see that entry that says GV, 118. There's
5 obviously financial calculations being carried out.

6 A The 2nd January?

7 Q 354 Of 1990.

8 A Yeah, I can explain that to you, Miss Dillon.

9 Q 355 My question to you, rather than asking anything about your financial records
10 that we don't want to know about, can you confirm that's not in connection with
11 GV Wright?

12 A I can.

13 Q 356 Thank you, we can move on from that then. I think Mr. Mahony you would accept
14 that your diaries record fairly continuous contact with Mr. Noel Fox?

15 A Yes.

16 Q 357 You also on a fairly regular basis but not as frequently had contact with
17 Mr. Haughey, Mr. Charles Haughey?

18 A Yeah.

19 Q 358 And you also met Mr. GV Wright on a regular basis?

20 A Reasonably, yes.

21 Q 359 In February of 1990, there is an entry in your diary for Mr. Frank Benson?

22 A Yes.

23 Q 360 And Mr. Benson is a planning consultant?

24 A Yes.

25 Q 361 Did you retain Mr. Benson in connection with the subject lands?

26 A No.

27 Q 362 And therefore the diary entries that relate to Mr. Benson do not relate to any
28 proposals you may have had then in mind in relation to the redevelopment of
29 these lands?

30 A No.

1 Q 363OK. When was the first time that you spoke with Mr. Noel Fox about doing
2 something in connection with these lands?

3 A I would have thought about 1991, we would always be talking some way about
4 that. 1991 would figure, I think, yes.

5 Q 364Did you ever discuss these lands with Mr. Haughey?

6 A No, never.

7 Q 365On the 26th June 1990, Mr. Mahony, you met with Mr. GV Wright, it's page 150,
8 it's the 26th June 1990. Now, just to put this in context, Mr. Mahony, on the
9 22nd June 1990, at a meeting of Dublin County Council to consider the progress
10 of the Development Plan, review map 8 had been noted and map 8 of the
11 Development Plan contained your lands, all right, and at that stage, what was
12 being considered in connection with your lands was B and B and G, that's
13 agriculture and green belt. That was considered by the council and the map was
14 noted on the 22nd June 1990, four days before you met Mr. GV Wright.
15 Understand?

16 A Right.

17 Q 366And if you want to see that, Mr. Mahony, you will see at page 145 please, that
18 map 8 was noted. You see there under Development Plan review?

19 A Yes.

20 Q 367"Map following discussion to which councillors Malone, Wright, Dunne, Maher and
21 Riney contributed. The manager replied to queries by members and map 8 was
22 noted" and the Tribunal has been told by the council officials that when a map
23 is noted, it means they have in effect agreed it without proceeding to a vote.
24 And what was being proposed at that stage in connection with map 8, page 148
25 please, what was being proposed at that stage and this was the final version of
26 it in 1991 was the same as it had been in 1983 which was green belt and
27 agriculture, do you understand?

28 A Yes.

29 Q 368Now four days after that meeting took place, you met Mr. GV Wright on the 26th
30 June, back to 150 please. Can you assist the Tribunal at all, Mr. Mahony, what

1 would have been the likely matters that you would have been discussing with Mr.
2 Wright on that occasion?

3 A I don't really remember that, it's just too far back. I don't really remember
4 that.

5 Q 369 You also met Mr. Noel Fox on the 27th July 1990 and you again met Mr. GV Wright
6 on the 23rd August 1990. You also met Mr. GV Wright on the 5th November 1990?

7 A What date in August, Miss Dillon, please?

8 Q 370 23rd August you met Mr. GV Wright, that's page 152.

9 A Yeah.

10 Q 371 And I just point out to you, Mr. Mahony, that your meeting with Mr. GV Wright
11 on this Tuesday is at 10.30 a.m?

12 A Right.

13 Q 372 So it's in the course of business hours, if we can call it that?

14 A All right.

15 Q 373 You also then meet with Mr. GV Wright at 7.30 on the 5th November 1990, and
16 that's at page 153 please.

17 A Yes.

18 Q 374 Do you recollect whether you discussed the subject lands with Mr. Wright at
19 that time?

20 A I haven't done a trawl on the 1990 but we would be discussing that type of
21 thing, yes.

22 Q 375 Would you have been aware at this point in time that the Development Plan
23 review had commenced, within the council I mean, that the councillors were
24 considering maps and the manager's report and there was a Draft Development
25 Plan and a written statement being prepared?

26 A No, no.

27 Q 376 But would you have been discussing with Mr. Wright the future prospects of
28 these lands?

29 A I would.

30 Q 377 And can you outline to the Tribunal what kind of discussions you had with Mr.

1 Wright at that time?

2 A No, I really couldn't because I don't really remember the details of those
3 times. I know that it's a bit airy fairy but that is the way. We just had a
4 discussion on it, I'm sure. I don't remember them.

5 Q 378 You don't remember?

6 A Not really, no.

7 Q 379 You also made another political payment around this time, Mr. Mahony, in
8 November of 1990. You met Mr. Wright on the 5th November and on the 9th
9 November 1990, I think it is, sorry, I beg your pardon, on the 2nd November
10 1990, you made another political contribution of 500 pounds to Fianna Fail,
11 page 158 please. This is a receipt from Fianna Fail and it's addressed to John
12 O'Mahony but it's Dennis Mahony Limited?

13 A Yes.

14 Q 380 You see there again that Fianna Fail are in a position to produce the receipts
15 of monies that were paid directly to head office which is why I have asked you
16 to consider again the position in relation to the June 1989 payment to Fianna
17 Fail.

18 A I will.

19 Q 381 Did that donation to Fianna Fail have anything to do with your conversations
20 with Mr. Wright at that time?

21 A No.

22 Q 382 No?

23 A No.

24 Q 383 You also met Mr. Wright on the 23rd November 1990.

25 A Yes.

26 Q 384 Page 163 please. And again I draw to your attention it's at 11 a.m. on a
27 Friday, Mr. Mahony, and it appears to be during business hours yet again and
28 again, can I ask you were the subject lands the matter of discussion at this
29 point in time?

30 A Is I couldn't recall that quite frankly, no.

1 Q 385 Throughout this period, Mr. Mahony, you were still dealing with Mr. Frank
2 Benson, is that right?

3 A This period?

4 Q 386 Yes.

5 A I can advise you that Frank Benson was a personal friend of mine.

6 Q 387 That's fine?

7 A And we had various meetings and discussions, never in connection with land out
8 there.

9 Q 388 Never in connection with those lands?

10 A Never, never.

11 Q 389 You also met Mr. GV Wright on the 9th April 1991. Sorry, I beg your pardon
12 that's at page 180. Now this is very indistinct but I think you can confirm
13 from your original diary that you have in front of you that that relates to
14 Mr. GV Wright?

15 A It does, yes.

16 Q 390 Again I draw your attention that the time of the meeting is 11 a.m. and can you
17 assist the Tribunal what was the purpose of that meeting was or whether you
18 were discussing the lands with Mr. Wright at that stage?

19 A I would have been discussing the land with him I presume, if I had a meeting
20 with him at that time, yes.

21 Q 391 Well, at this stage now it's April 1991 and did Mr. Wright outline to you what
22 you would have to do to get the lands rezoned?

23 A Not that I can remember, I am sure, it's very possible but I don't remember, my
24 memory of the time is there were discussions going on. To what detail or
25 effect, I can't be much help to you. I'll do the best I can.

26 Q 392 But what was your understanding of these meetings with Mr. Wright at which you
27 discussed these matters? Was it just general discussion or was Mr. Wright to
28 be involved in your behalf in some way?

29 A It would be general discussion.

30 Q 393 Just general discussion?

1 A Yeah, and if land comes up or whatever, I had land which had become a problem
2 because of vandalism, of course I discussed it but in what detail, I have no
3 memory of that detail.

4 Q 394But you knew or had you formed a view at this stage, Mr. Mahony, that you
5 wanted to get the lands rezoned?

6 A Yes.

7 Q 395Had you discussed that with Mr. Fox the adjoining lands, his lands?

8 A I am sure we probably did. Yes, of course we did. Noel Fox has been my
9 financial advisor for 40 years so we would be discussing it.

10 Q 396And you were meeting throughout this period when you were meeting with Mr. GV
11 Wright, you were also meeting Mr. Fox on an even more regular basis than you
12 were meeting Mr. Wright?

13 A Oh I would naturally.

14 Q 397Yes. Insofar as you were discussing the rezoning of lands with Mr. Wright at
15 this stage in April 1991, correct me if I am wrong but what you were discussing
16 was both your lands and Mr. Fox's lands?

17 A It would be.

18 Q 398So am I correct in understanding that from the start, what you were, from the
19 very start both lands were combined effectively but you were the one who was
20 talking to Mr. Wright about them?

21 A No, I don't think that's correct.

22 Q 399All right. But had you discussed prior to April of 1991 with Mr. Fox the
23 rezoning of his lands?

24 A Not to my knowledge.

25 Q 400So I had understood you to say a few moments ago, Mr. Mahony, and perhaps I am
26 wrong in that at this point in time you would have discussed the rezoning of
27 the lands with Mr. Fox and Mr. Wright but not together.

28 A What I'm trying to say to you, if I did, it was in general conversation. I
29 can't say I did not discuss it with Noel Fox, Noel Fox would be, we would be
30 socially contactable but I don't remember any specific programme or progress at

1 that time.

2 Q 401Did you have any discussions with Mr. Wright around this time about what would
3 have to be done to get the lands rezoned?

4 A I don't remember specifically, I will say no, I am absolutely not sure of your
5 question.

6 Q 402You are absolutely not sure?

7 A Absolutely not sure.

8 Q 403OK. The lands were a concern to you, Mr. Mahony, as I understand it. There
9 had been vandalism and you had difficulties with the lands. You were meeting
10 Mr. GV Wright, a councillor, on a regular basis because your families had known
11 each other for long periods of time?

12 A That's right.

13 Q 404The Development Plan, as we have seen, had commenced at this stage and your
14 lands which were on Map 8 were noted in June of 1990, and the proposed zoning
15 of agriculture and green belt.

16 A Mmm.

17 Q 405Now can you ever remember discussing with Mr. Wright during the times that you
18 were meeting him in that period how you would go about getting your lands
19 rezoned?

20 A I don't remember but I would accept it.

21 Q 406That you did?

22 A Yes.

23 Q 407And isn't it likely if you asked Mr. Wright how do I go about getting my lands
24 rezoned, that he would have told you?

25 A Oh yes, yeah.

26 Q 408And if you were discussing the rezoning of lands at that stage with Mr. Wright,
27 isn't it likely also that you were talking about rezoning your lands and your
28 neighbour's adjoining lands, Mr. Fox's?

29 A Yes, if you say so, it's likely.

30 Q 409It's not if I say so, Mr. Mahony. I am saying isn't it no more than likely,

1 isn't it likely because of your friendship with Mr. Noel Fox if you received
2 advices from Mr. Wright about how to go about getting your lands rezoned, you
3 would have discussed that with Mr. Fox?

4 A No.

5 Q 410No, that's not likely?

6 A No.

7 Q 411So did Mr. Fox then independently of you form a view that he desired to get his
8 lands rezoned?

9 A I am sure he did.

10 Q 412And at some stage the two of you came together on it.

11 A Yes.

12 Q 413So that your discussions with Mr. GV Wright up to this point in time at least
13 related only to your lands and not to Mr. Fox's lands?

14 A Absolutely, yeah.

15 Q 414Did you know did Mr. Fox ever meet with Mr. Wright independently of you?

16 A Sorry?

17 Q 415Do you know did Mr. Fox ever meet with Mr. GV Wright independently of you?

18 A In connection with the lands?

19 Q 416Or in any connection.

20 A Well we live in a small community but I don't think Mr. Fox ever discussed his
21 lands with Mr. Wright.

22 Q 417You don't think so?

23 A I don't think so.

24 Q 418You made a political donation to Mr. GV Wright in June of 1991. I think you
25 originally told the Tribunal, Mr. Mahony, that this payment was in fact in
26 September?

27 A That's right.

28 Q 419But you corrected that subsequently?

29 A I did.

30 Q 420If I could have page 191 please. Now I think to be fair, Mr. Mahony, what you

1 are now telling the Tribunal and what the documentation, the cheque records
2 substantiate is the payment to Mr. GV Wright and the payment to Nora Owen were
3 made in June of 1991 and not September as stated there?

4 A That's right.

5 Q 421The payment to Sheila Terry in September 1996 was never made to Ms. Terry?

6 A Correct.

7 Q 422And you have corrected that and told the Tribunal that in fact that was a
8 payment to a GAA club for a prize?

9 A Correct.

10 Q 423But if we could look simply at the fact that you are meeting with Mr. GV Wright
11 at around this period in 1991 and you made a political donation to him at that
12 time, is that right, in September?

13 A Yes.

14 Q 424Of 1991. And you also made a payment to Mrs. Nora Owen at that time, page 192
15 please. Now, these are cheque stubs, Mr. Mahony, that you have provided to the
16 Tribunal.

17 A All right.

18 Q 425And you will see that the first cheque stub which bears the number 500151 is
19 made out to GV Wright and it's cancelled and there are two other cancelled
20 payments, both in the sum of 500 pounds, can you see that on the screen, both
21 of those amounts were debited from your account, 193 please, on the 20th June
22 1991 and the 28th June 1991 respectively?

23 A All right.

24 Q 426And you will see that these payments have on the face of the statement been
25 attributed, you see beside the 20th June 1991, someone has written the words GV
26 Wright 500 and beneath the 28th June 1991, Nora Owen 500.

27 A Yes.

28 Q 427Can you recollect the reason why you made these political donations at that
29 time?

30 A I presume it was election time.

1 Q 428We can confirm that for you.

2

3 MR. HOGAN: I think the local elections in that year were in June of 1991.

4

5 Q 429MS. DILLON: The local elections in 1991 were the 21st May to the 27th June,
6 polling day was the 27th June 1991. Both of these were councillors standing in
7 your area, is that correct?

8 A Correct.

9 Q 430And insofar as you attributed a payment to Sheila Terry in 1996, you were
10 incorrect in relation to that?

11 A Yes.

12 Q 431I'll come back to deal with that. Now if we move on, Mr. Mahony, to September
13 of 1991. If I could have page 149 please. Between the 2nd September 1991 and
14 the 3rd December 1991, the Draft Development Plan was put on display for three
15 months, Mr. Mahony. The Tribunal has heard evidence in regard to that.

16 A Right.

17 Q 432The lands that are outlined on the map in front of you are Mr. Fox's lands
18 which are the bottom portion of lands and your lands are the northern portion
19 of lands and in the 1991 Draft Development Plan, your lands were zoned entirely
20 agriculture or proposed to be rezoned entirely agriculture and Mr. Fox's lands
21 were agriculture and green belt. The dividing line being the railway. You can
22 see on the map there ahead of you. That was put on public display from the 2nd
23 September 1991 to the 3rd December 1991 to afford the public to make
24 representations if they wished in connection with the proposed Draft
25 Development Plan and you understand all of that, do you?

26 A Well, more or less, yes.

27 Q 433All right. If somebody wished to change the zoning on their lands as proposed,
28 the normal method would be to make a submission and that submission would have
29 to be with the council by the close of the three-month period and that would be
30 the 3rd December 1991. So, your lands, what is being proposed with your lands

1 at this point in time, Mr. Mahony, was agriculture and what was being proposed
2 from Mr. Fox's lands was agriculture and green belt; no development would be
3 permitted on either of those zonings, all right? Now, what did you do about
4 making a submission, if anything, to Dublin County Council in that period?

5 A This is -- I did nothing, I personally did nothing but I believe there was
6 something done on my behalf, is that where we are coming?

7 Q 434I don't know, Mr. Mahony, you did nothing?

8 A I did nothing.

9 Q 435In the course of that period did you meet Mr. GV Wright?

10 A Which?

11 Q 436Did you meet with Mr. GV Wright between September and December? If I show you
12 page 199 of the brief.

13 A I accept that, yeah.

14 Q 437In September 1999 you met Mr. GV Wright on the 11th September. The map was put
15 on public display on the 2nd December, is it likely that what you are
16 discussing with Mr. Wright at that meeting was how you would go about getting
17 your lands rezoned?

18 A I presume it would be.

19 Q 438And Mr. Wright in all probability informed you that you would have to make a
20 submission to the council before the close of the Development Plan on public
21 display, the 3rd December 1991.

22 A All right.

23 Q 439Now, we know, Mr. Mahony, that a submission was prepared and was lodged with
24 Dublin County Council on the 2nd December 1991. Did you organise that?

25 A No.

26 Q 440Who organised that.

27 A I don't know. I am not sure it was -- if you give me a moment to reflect. I
28 did not organise it, I gather it was suggested to a local planner or local
29 architect that he might apply for Noel Fox and myself to have it rezoned.
30 That's as near as I can get to it.

1 Q 441 Do you have any recollection of a submission being made on your behalf at all
2 in 1991?

3 A No, no.

4 Q 442 The submission is at page 164. That's the covering lettering that goes with
5 the submission. Mr. Hogan has told the Tribunal he was asked by Mr. GV Wright
6 to prepare that submission. He has also told the Tribunal that he never had
7 any correspondence with either Mr. Fox or yourself but that he did speak with
8 Mr. GV Wright when Mr. Wright was on the telephone, he thinks, to one or other
9 of you. So, first of all, can I ask you, do you ever recollect speaking with
10 Mr. Hogan on the telephone?

11 A No.

12 Q 443 Did you ever meet Mr. Hogan, do you know anything about him?

13 A No, nothing.

14 Q 444 Did you ever see this submission?

15 A No, just latterly when it was being -- when it was being presented to the
16 Tribunal I saw the copy of it, the first time I saw it.

17 Q 445 Are you saying that when the documents came out from the Tribunal to your
18 solicitor that that was the first time you saw this document?

19 A Correct.

20 Q 446 Were you even aware in December of 1991 that such a submission had been made?

21 A No.

22 Q 447 You met with Mr. GV Wright on the 11th September and you also met with Mr. Noel
23 Fox on the 3rd October and the 25th November of 1991 so you met with Mr. Fox
24 about seven or eight days before this submission went in. Can you explain to
25 the Tribunal why you think or do you have any view as to why Mr. GV Wright
26 would have taken it upon himself to organise this on your behalf?

27 A No, I have no view on that.

28 Q 448 Well did you ask him to look after the matter for you?

29 A Not to my memory, no.

30 Q 449 Well did you ever have a conversation with Mr. Wright where you said you

1 obviously knew each other fairly well, "Well, look, Mr. Wright, or GV, can you
2 look after this for me? I don't know anything about how the council works"?

3 A Well I -- I don't recall that at all, that whole episode at all.

4 Q 450But it's unlikely, I would suggest, Mr. Mahony, that Mr. Wright would go to the
5 trouble of instructing Mr. Hogan, obtaining the submission and ensuring it was
6 with the council by the 2nd December 1991 without telling either you or Mr. Fox
7 about it.

8 A Well I knew nothing about it.

9 Q 451Did you even know that it was necessary to put in a submission?

10 A I had no knowledge of the submission at all until the Tribunal.

11 Q 452Did you ever give Mr. Dunlop a map of the lands?

12 A He says he picked a map up in my office.

13 Q 453That is correct, Mr. Dunlop has told the Tribunal that on the 11th March 1993,
14 following his first meeting with you, he travelled down to Kilbarrack to
15 collect a map because he didn't have a map.

16 A Right.

17 Q 454OK, and that's what he says. Now do you agree he went out to you and pick
18 picked up a map?

19 A Yes.

20 Q 455The map that Mr. Dunlop picked up or the map that he prepared in connection
21 with this is at page 935. That's an extract from the Development Plan, this is
22 the map that was lodged by Mr. Dunlop on the 12th March 1993 on behalf of
23 yourself and Mr. Fox which is signed by the councillors. If you accept that he
24 picked up the map from you, this is the map that he picked up, oK?

25 A Right.

26 Q 456There is also a attached to the submission a map. Could we have page 176
27 please. This also is an extract from the same location, covering the same
28 lands, both yours and Mr. Fox's and I think I am correct in saying that
29 Mr. Dunlop identified it as being the same map. Now, do you agree that it's
30 the same map?

1 A I do.

2 Q 457Right. If you gave Mr. Dunlop a map in March of 1993, was it the map that
3 Mr. Hogan put in on your behalf in December 1991, was it?

4 A I presume it was.

5 Q 458Well if you have never seen the submission before you got the documents from
6 the Tribunal, Mr. Mahony, where did you get the map you gave Mr. Dunlop?

7 A I don't know.

8 Q 459But you must have got it from somewhere, Mr. Mahony?

9 A I must have but can I have time to try and recall?

10 Q 460Do you want to take a break?

11 A I'd like a break. This -- I am at sea at the moment. I need to take a break,
12 if that's --

13

14 CHAIRMAN: That's fine.

15 A It's a bit new to me.

16

17 CHAIRMAN: You can let us know.

18

19 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

20 AND RESUMED AS FOLLOWS:

21

22 A Thank you, Chairman.

23 Q 461MS. DILLON: The point, Mr. Mahony, that we were discussing was that the map
24 that's attached to the submission is the same or similar to the map that was
25 used to propose the motion for rezoning. You accept that Mr. Dunlop collected
26 the map from your office on the 11th March 1993, is that right?

27 A That's right.

28 Q 462So by the 11th March 1993, you had a copy of a map of the lands in question.

29 Where did you get that map?

30 A I don't honestly remember.

1 Q 463 Do you think that it is likely that you may have got it from Mr. Wright?

2 A I can't answer that. I don't know how I got it.

3 Q 464 But you accept that you gave a map to Mr. Dunlop?

4 A Yes.

5 Q 465 And that you didn't have that map with you on the 10th March 1993 when you met
6 him in the Shelbourne Hotel with Mr. Fox?

7 A No, I did not.

8 Q 466 That he picked it up the following day?

9 A Yes.

10 Q 467 And was -- did Mr. Dunlop just pick up the map, was that all you left out for
11 him or that you gave him? Did you only give Mr. Dunlop a map on the 11th March
12 1993?

13 A Yes, he picked it up.

14 Q 468 Were there any other pages or documents with it other than the map?

15 A Not to my knowledge.

16 Q 469 I just want to put to you what you said in your statement to the Tribunal, Mr.
17 Mahony, in relation to this matter.

18 This is at page 74 please. Do you have that Mr. Mahony? At paragraph 8 you
19 say, this is headed rezoning application: "I initially considered that I would
20 apply to have the lands rezoned by means of what is come to be known as a
21 Section 4 motion whereby very low density housing would be permitted on site
22 through the installation of septic tanks. In the end I did not proceed with
23 this as I learned a new Draft Development Plan for Dublin was in the course of
24 proceeding through the council. I decided instead to apply to have the lands
25 rezoned for low density housing under this plan.

26

27 Paragraph 9: As it happened, a long time friend of mine, Noel Fox, also had
28 lands of approximately 30 acres adjoining my lands. We discussed the matter
29 and we decided that we should both jointly pursue the rezoning issue. I set
30 about investigating the procedures which we might with advantage follow in that

1 regard. It was in this context that I spoke with and met GV Wright, TD. Mr.
2 Wright was and is a longstanding family friend and he was a councillor for my
3 local area. He and I have had regular social contact over of the years and he
4 is a person whose advice I would value greatly. Mr. Wright believed that the
5 Drimnigh area needed more housing and he considered the project had much merit.
6 He accordingly decided that it ought to be supported.

7

8 Paragraph 10: An application for rezoning was then made in our joint names in
9 respect of these lands."

10

11 Now, Mr. Mahony, can I ask you, when you talk about the application was
12 rezoning was then made in joint names, are you talking about the submission
13 that was put in in December of 1991?

14

15 MR. HOGAN: I think Mr. Chairman, in fairness, Miss Dillon should put the
16 paragraph 11 to the witness as well.

17

18 MS. DILLON: Paragraph 11 says: "To this end I met Mr. Wright on two
19 occasions in February 1993. My diary entries show that the first meeting took
20 place at 5.30 on February 5th, 1993 and the second at 7 pm on February 15th
21 1993. It subsequently became clear to me that Mr. Wright was exceptionally
22 busy as were all other councillors as there was a plethora of rezoning
23 applications pending in the light of the Draft Development Plan and he was
24 neither able nor willing to invest the necessary time as far as my application
25 was concerned." And then he goes on to explain why Mr. Mahony did not have
26 sufficient time to deal with the matter.

27 Now what I am asking you, if we go back to paragraph 10, Mr. Mahony, is whether
28 the application for rezoning that you say was then made was the submission that
29 was made in December of 1991 or the motion that was lodged by Mr. Dunlop in
30 March of 1993.

1 A What was lodged in 1993 would have been, I am not sure of the technicality, but
2 would have been the map that he picked up in my office. My statement explains
3 an awful lot of the procedure of the whole thing which I had lost track of
4 there before I had to go out and the map that Mr. Dunlop picked up in my office
5 conceivably must have been a map that was lodged earlier. It's the one I don't
6 recall and I don't know how I happened to have the map in my office but that's
7 the one he picked up and that's the one I gather he went with for rezoning.

8

9 CHAIRMAN: Mr. Dillon, it would seem to me 10 and 11, paragraphs 10 and 11 have
10 to be read in conjunction with each other.

11

12 MR. HOGAN: Mr. Chairman, if I may, paragraph 11 starts "To this end, I met
13 Mr. Wright on two occasions in February 1993." I think, with respect, the
14 statement makes it abundantly plain it's referable to the events of 1997 and
15 not to 1991.

16

17 MS. DILLON: Well that ultimately is a matter for the Tribunal.

18

19 CHAIRMAN: Yes.

20

21 MS. DILLON: But what -- if what you are saying, Mr. Mahony, is correct, then
22 it means that if the map that you gave Mr. Dunlop was the map attached to
23 submission 535 that was made in December 1991, by March of 1993, you had at
24 least a copy of that map, isn't that right?

25 A Yeah, I suppose it is.

26 Q 470 So that when you told the Tribunal earlier that the first time you ever saw the
27 submission was when the papers came out from the Tribunal, you at the very
28 least had the map. Do you understand the point, Mr. Mahony?

29 A I just want to answer you there in case -- I did not see the submission or knew
30 anything about it one bit until it appeared in the Tribunal.

1 Q 471Right. If we assume for the moment --

2 A Sorry if it's not making sense but it's a long time ago and I wanted to get it
3 in its own context, I haven't thought of 1991 but if that was sought and it was
4 in my name and it winds up as the one that we proceeded with, well then I
5 accept that that is the map. Of course I do. But I don't remember ever seeing
6 that until it was discovered to me in the Tribunal.

7 Q 472Yes.

8 A And I would accept that -- I am not -- the first map we applied, I am not sure
9 did we actually apply for rezoning in the 1991 map?

10 Q 473Yes, your application was an application for rezoning.

11 A OK, well I don't remember that but I might have remembered but I definitely I
12 had no memory of that map nor that application until it was discovered to the
13 Tribunal and I said to my advisers I have never seen that and I don't know who
14 this guy is and it transpired afterwards that he said he didn't think that I
15 knew.

16 Q 474Yes. So the position then, if all of that is correct, Mr. Mahony, is that Mr.
17 Wright was the person who organised this submission on your behalf and on
18 behalf of Mr. Fox, the submission that was made in December of 1991.

19 A Yes, I suppose Mr. Wright would answer that.

20 Q 475Mr. Hogan has already told the Tribunal the man who prepared the submission --

21 A Pardon?

22 Q 476Mr. Hogan, the man who prepared the submission?

23 A Yes.

24 Q 477On behalf of yourself and Mr. Fox has told the Tribunal it was Mr. Wright who
25 asked him to do the job.

26 A Well that's OK by me.

27 Q 478Right. Although you have no recollection of seeing the submission dated the
28 2nd December 1991, you do accept that you had the map, you had a map of the
29 lands by March of 1993?

30 A I do.

1 Q 479 Do you know where you got that map?

2 A Pardon?

3 Q 480 Where did you get the map?

4 A I don't remember.

5 Q 481 Well did you get it from Mr. GV Wright?

6 A I don't remember, I don't remember how I had it. I know that there was a map
7 that I had and it was picked up by Mr. Dunlop but I don't know how it came into
8 my being. I don't know. I don't remember getting it.

9 Q 482 If we go back, Mr. Mahony, and after that submission was made to Dublin County
10 Council in December of 1991, in 1992 you also met Mr. GV Wright on a number of
11 occasions, isn't that right?

12 A Yes.

13 Q 483 You met him on the 29th April 1992 at page 207 please. Now, at this point in
14 time in April of 1992, Mr. Mahony, the rezoning application that had been
15 lodged on your behalf had been lodged with Dublin County Council and if what
16 you say is correct and Mr. Hogan is correct, it was done at the behest of Mr.
17 Wright and you knew nothing about it.

18 A No, I may have known something about rezoning or discussing rezoning. I don't
19 remember any application made in my name.

20 Q 484 You initially thought that you would apply to have a Section 4 motion.

21 A Yes.

22 Q 485 Did you discuss that with Mr. Wright?

23 A I presume I did, I don't remember.

24 Q 486 And was it from him that you learned that a new Draft Development Plan for
25 Dublin was in the course of proceeding?

26 A Yes, that would make sense, yes.

27 Q 487 And because you learned that, you decided to apply to have the lands rezoned?

28 A Well I certainly discussed having the land rezoned.

29 Q 488 With Mr. Wright?

30 A Yes.

1 Q 489And was it your understanding that Mr. Wright was looking after this for you?

2 A Yes.

3 Q 490That you were leaving this matter of the rezoning from the time you first
4 started discussing with him in his hands?

5 A That would be normal thinking, I don't exactly remember the time.

6 Q 491But certainly something had occurred between yourself and Mr. Wright by
7 December of 1991 that caused Mr. Wright to organise a joint rezoning submission
8 for yourself and Mr. Fox.

9 A Yeah we obviously had discussions but I did not know that there was an
10 application made.

11 Q 492But Mr. Wright knew enough to make the submission in the joint names of Mr. Fox
12 and Mr. Mahony, is that right? Page 164 please.

13 A Mmm.

14 Q 493Isn't that right? This is the application for submission on behalf of
15 Messrs. Fox and Mahony so what whatever had passed between yourself and Mr.
16 Wright by December of 1991, Mr. Wright instructed Mr. Hogan to prepare a
17 submission not just on your behalf but also on behalf of Mr. Fox.

18 A That's right.

19 Q 494You see that from the document?

20 A That's right.

21 Q 495It would follow from that, Mr. Mahony, that by December of 1991, both yourself
22 and Mr. Fox had decided that you would have your lands rezoned or apply to have
23 your lands rezoned.

24 A I would imagine at the time when we were probably discussing this with
25 Mr. Wright, Mr. Fox, Mr. Wright or whatever and he decided that he would put it
26 down in both our names and this man, Hogan, applied. That's the only scenario
27 I can remember of it.

28 Q 496But do you remember having meetings with Mr. Wright at which Mr. Noel Fox was
29 present?

30 A No.

1 Q 497No?

2 A No.

3 Q 498Well why did you just tell the Tribunal that what is likely to have what
4 happened is that you sat down with Mr. Wright and Mr. Fox and discussed this?

5 A I am surmising.

6 Q 499You are surmising?

7 A You asked me a question, I must tell you the truth, I don't remember.

8 Q 500But --

9 A I don't remember Mr. Fox and myself sitting down together with Mr. Wright.

10 Q 501If we look at the document that was submitted Mr. Mahony on your behalf and Mr.
11 Fox's behalf, the fact of that document being submitted in time to the council
12 would suggest that by the 2nd December 1991 that both yourself and Mr. Fox had
13 decided you would like to try and have your lands rezoned?

14 A Yes, we would have decided that anyway.

15 Q 502And that Mr. Wright instigated this through Mr. Hogan?

16 A I would accept that, yes.

17 Q 503If we come on to the events of February and March, Mr. Mahony, you say in your
18 statement at paragraph 10 and 11 that you met Mr. Wright on two occasions in
19 February of 1993, February 5th and February 15th. Do you see that, paragraph
20 11?

21 A Yes.

22 Q 504It's only a small point but there doesn't appear to be a diary entry, if we
23 have page 235 for the 5th February 1993 but there is for the 9th February 1993.

24 A There's no entry for the 5th.

25 Q 505But there is for the 9th February?

26 A There is, yes.

27 Q 506And you also met Mr. Wright on the 15th February in the company of Mr. Fox.

28 I'll come to that in a moment.

29 A Yes, I see that.

30 Q 507Now after your meeting with Mr. Wright on the 9th February, you met Mr. Fox on

1 the 12th February?

2 A Yes.

3 Q 508 Can we ask you, Mr. Mahony, what you were discussing with Mr. Wright when you
4 met him on the 9th February?

5 A I don't really know, I don't know.

6 Q 509 If we put all this in context for a minute, Mr. Mahony. The motion to rezone
7 your lands had to be lodged with Dublin County Council by the 12th March 1993
8 to give you any chance of getting your lands rezoned?

9 A True.

10 Q 510 According to what you have told the Tribunal, you have been discussing meeting
11 with and taking advice from and dealing with Mr. GV Wright about the rezoning
12 of these lands?

13 A Right.

14 Q 511 To such an extent Mr. Wright organised putting in a submission on your
15 behalf about which you knew nothing?

16 A That's right.

17 Q 512 It was your understanding Mr. Wright was looking after the matter for you?

18 A Yes.

19 Q 513 Right. Now on the 9th February 1993, you met Mr. Wright and your motion to
20 rezone your lands had to be with the County Council by the 12th March 1993. Do
21 you think that it's likely you discussed the rezoning of your lands with
22 Mr. Wright on that occasion in view of the fact that it was all then so
23 imminent?

24 A I presume I did. I didn't --

25 Q 514 And do you have any recollection whether Mr. Wright indicated to you at that
26 stage that he would be able to look after the matter for you?

27 A I would have thought he was looking, he would be able to look after it, yes.

28 Q 515 If we move on to deal with the meeting of the 15th February, which is page 236.

29 Now this is a meeting at 7 p.m. between Mr. Fox, Mr. Wright and yourself.

30 A Yes.

1 Q 516 Do you see that?

2 A I do.

3 Q 517 Now, you had less than a month at this stage, Mr. Mahony, to get a motion into
4 Dublin County Council to get your lands rezoned, do you understand that?

5 A I do.

6 Q 518 Do you have any recollection of discussing with Mr. Wright dates or the
7 progress of your application to get these lands rezoned?

8 A I don't have any recollection but I would think it would be in all probability,
9 yes.

10 Q 519 Well the matter that was common to the three of you at this point in time, Mr.
11 Mahony, that being Mr. Fox, Mr. Wright and yourself, was the rezoning of your
12 lands, yours and Mr. Fox's?

13 A Yes.

14 Q 520 Isn't that right?

15 A OK.

16 Q 521 The submission that had been put in in December 1991 was a joint submission on
17 behalf of yourself and Mr. Fox?

18 A Right.

19 Q 522 That had been organised by Mr. Wright?

20 A OK.

21 Q 523 And as I understand yourself, it was your understanding he was looking after
22 matters for you.

23 A Pardon?

24 Q 524 It was your understanding that Mr. Wright was looking after things for you?

25 A Yes.

26 Q 525 At what stage did you form the view that Mr. Wright was not looking after
27 things for you?

28 A I don't -- looking at diaries and things, it would appear that it would be
29 later on. I don't really -- I can't put a date on it but it certainly came to
30 the, when it came to the 9th and 10th March, I would have to be in by the 12th,

1 that was when the alarm bells rang.

2 Q 526 So that by the 15th February the alarm bells were not ringing?

3 A No, I don't think so.

4 Q 527 And what you were probably then discussing with Mr. Wright, if there was no
5 difficulty on the horizon, was the rezoning of the lands?

6 A Yes.

7 Q 528 How you would get them rezoned?

8 A Well I presume that was it.

9 Q 529 And was it your understanding at around this time on the 15th February that
10 Mr. Wright was looking after this matter for you and for Mr. Fox?

11 A I would think so, yes.

12 Q 530 But you understood he was going to do whatever was going to have to be done,
13 the technicalities of the matter, the motions and the maps and --

14 A Yes.

15 Q 531 So it was not at this meeting on the 15th February that you became unhappy with
16 the way Mr. Wright was looking after matters?

17 A I don't know. I don't know whether it was on the 15th February or not. I -- I
18 don't recall that.

19 Q 532 Because on the 27th February, Mr. Mahony, you made an appointment to see Nora
20 Owen, if you look at the page that's on screen there in front of you, on the
21 27th February, the Saturday.

22 A The 27th, yes.

23 Q 533 9.30, Nora Owen and there's a telephone number beneath that and do you see
24 that?

25 A I do.

26 Q 534 Isn't it likely what you are meeting Mrs. Owen about was also the rezoning of
27 the lands?

28 A Yes.

29 Q 535 Had you become any way worried by the time you went to see Mrs. Owen about how
30 your lands were progressing?

1 A I have a date in my diary, the 27th, for Nora Owen. Yes. Now the Saturday
2 that I reckoned I met her was on the 27th March.

3 Q 536 You did also I think on that date meet her also.

4 A I probably did discuss it with her on the 28th. I would have thought that
5 would have been early, I had an appointment with Nora Owen on Saturday 27th,
6 whether I met her or not I am not sure but I had an appointment then and if I
7 met her, we would have been discussing rezoning.

8 Q 537 And you also have an entry in your diary for Mrs. Owen for a later date, I
9 think it's a date on the 27th March?

10 A Yes.

11 Q 538 But we'll come to that, what I am trying to establish here, trying to work out
12 here, Mr. Mahony, if we could have the full page back again, is what made you
13 go to see Mrs. Owen on the 27th February if everything was all right with
14 Mr. GV Wright and he was looking after things for you?

15 A It would follow if everything was all right I would go and see Nora Owen to see
16 if she would support it.

17 Q 539 If you went to see Mrs. Owen, would you have brought a map with you to show her
18 where the lands were?

19 A I couldn't tell you. I don't remember. I don't remember.

20 Q 540 So do you think it likely, Mr. Mahony, that by the 27th February, you were
21 still reasonably satisfied that Mr. GV Wright was looking after the file for
22 you?

23 A I presume so.

24 Q 541 And you thought he would do everything that had to be done to get your map and
25 motion ready and organised?

26 A Yes.

27 Q 542 Do you remember discussing maps or motions at all with Mr. Wright?

28 A No.

29 Q 543 There are no diary entries for Mr. Wright in your diary, Mr. Mahony, between
30 the 15th February and the time that you met Mr. Dunlop.

1 A The 15th February.

2 Q 544 If you look at the screen in front of you, there's an entry for Mr. Fox, Mr.
3 Wright and yourself, do you see that?

4 A Yes.

5 Q 545 There's no other entry diary in your diaries for Mr. Wright between that date
6 and the date that you first met Mr. Dunlop on the 10th March.

7 A All right.

8 Q 546 At some stage, Mr. Mahony, between the 15th March and the 9th March, when you
9 first rang Mr. Dunlop's offices, you formed the view that you needed
10 Mr. Dunlop's help?

11 A I did, yeah.

12 Q 547 Now can you tell us how that came about?

13 A Well basically Mr. Wright intimated that it was more than he could handle with
14 everything that was going on and that I should think of taking on Mr. Dunlop
15 and I phoned Mr. Dunlop and that's how it carried on from there.

16 Q 548 That didn't happen you have told us at this meeting of the 15th February,
17 because you have told the Tribunal that at that stage you thought everything
18 was all right.

19 A Yeah.

20 Q 549 So you had some other meeting with Mr. Wright?

21 A Obviously.

22 Q 550 That led you to contacting Mr. Dunlop?

23 A Yes.

24 Q 551 And was it Mr. Wright who told you or recommended you to go to Mr. Dunlop?

25 A Yes, it would follow, he did intimate to me -- I didn't know Mr. Dunlop.

26 Q 552 Do you say that it was Mr. Wright who introduced the name of Mr. Dunlop to you?

27 A I think so. I was dealing with Mr. Wright at the time and he couldn't handle,
28 he couldn't handle the amount of work to be done, all the councillors had to be
29 looked after. As far as I can remember, he suggested Mr. Dunlop, yes.

30 Q 553 And following that, did you telephone Mr. Dunlop to make an appointment?

1 A Yes.

2 Q 554 Can I have page 1112 please.

3 Now before we go on to deal with this, Mr. Mahony, up to the point in time that
4 you got in touch with Mr. Dunlop or immediately prior to that, you thought that
5 Mr. Wright was looking after the matter for you, that he was going to organise
6 the map and the motion.

7 A Yes.

8 Q 555 It follows from that then that you had a meeting with Mr. Wright at which you
9 became aware he was not going to be able to look after the matter for you?

10 A Yes.

11 Q 556 You think to the best of your recollection that it was Mr. Wright who
12 introduced the name of Frank Dunlop?

13 A I do.

14 Q 557 And following that, you contacted Mr. Dunlop?

15 A Yes.

16 Q 558 But up to that point in time, it had been your belief that Mr. Wright was
17 looking after it for you?

18 A Yes.

19 Q 559 Now the entry that's on a screen, Mr. Mahony, is a record of incoming telephone
20 calls to the office of Mr. Frank Dunlop or Frank Dunlop & Associates on the 9th
21 March 1993. The first entry relates to Senator Wright and it says "Made
22 contact with Mr. Manney, will call FD today, time unknown, Senator Wright in
23 Leinster house this afternoon, will call you then." And Mr. Dunlop says he
24 thinks the reference to Mr. Manney is a reference to Mahony, that's you.
25 That's then followed at ten o'clock by a phone call from your secretary.
26 "Please call him, quite urgent". This is the 9th March 1993. Now what was the
27 urgent matter, Mr. Mahony?

28 A The urgent matter was to meet with Mr. Dunlop as soon as possible.

29 Q 560 Why?

30 A Because the rezoning was the 12th March.

1 Q 561 So that it was an urgent matter, you did need to get in contact with Mr. Dunlop
2 and you met Mr. Dunlop on the 10th March?

3 A That's right.

4 Q 562 Was Mr. Fox with you?

5 A He was.

6 Q 563 Where did the meeting take place?

7 A Shelbourne Hotel.

8 Q 564 Can you tell the Tribunal what transpired at that meeting? If you just tell
9 the Tribunal from your recollection.

10 A I met with Mr. Dunlop. Mr. Fox and myself met with Mr. Dunlop in the
11 Shelbourne and told him the story that we were behind time. We had a brief
12 discussion and he said that that was his line and that he would be able to do a
13 good job. So I -- we discussed it a little further and I said would you
14 prepared to take it on and he said he would, my fee is 10,000 pounds in cash
15 and I agreed. At that stage Mr. Fox really took no part in the discussion
16 because actually he was lukewarm anyway but that is exactly as it happened.
17 The meeting didn't take more than 20, 30 minutes I would have thought.
18 Mr. Dunlop then went to my office to pick up these maps and he took over from
19 there. I, on my own, canvassed six or seven councillors who I knew and that's
20 it.

21 Q 565 In your statement to the Tribunal, Mr. Mahony, you had originally told the
22 Tribunal that while there were entries in your diary for Mr. Dunlop for both
23 the 10th and 11th March 1993, you believe there was in fact only one meeting?

24 A Correct.

25 Q 566 But, in fact, if I understand you correctly to say you are accepting that
26 Mr. Dunlop did meet you on the 11th when he went out to Kilbarrack to pick up a
27 map?

28 A He didn't meet me, he picked it up from my secretary.

29 Q 567 He did travel to Kilbarrack?

30 A That was the 11th.

1 Q 568And there was a second contact albeit through your secretary on the 11th?

2 A Yes.

3 Q 569But the first face to face meeting was the 10th March 1983?

4 A Yes.

5 Q 570Can we discuss, first of all, Mr. Dunlop's fee of 10,000 pounds in cash. Do

6 you agree by the end of the meeting it was agreed that you would, that

7 Mr. Dunlop would be paid 10,000 pounds in cash?

8 A Yes.

9 Q 571How was that to be funded, Mr. Mahony? As between yourself and Mr. Fox.

10 A It was never discussed, if you realise Mr. Fox and myself have been in business

11 a long time together and I agreed the fee. Mr. Fox has been my financial

12 adviser for 40 years. We would have sorted that out later on. That is the

13 context of that, absolutely.

14 Q 572When you paid Mr. Dunlop the money, which was the 23rd March 1993, was Mr. Fox

15 still in, was he still seeking to have his lands rezoned?

16 A I think he was. Sorry, I am not sure of the dates and technicalities now and I

17 don't want to trip myself up. As far as I was concerned, Mr. Fox was gone but

18 I don't know whether he was officially gone. His lands were to be withdrawn

19 from the map, I am not sure what date that was done at but as far as I am

20 concerned, he was out of it but I don't know whether he was officially out of

21 it or not.

22 Q 573As of the 10th March 1993, Mr. Fox was in?

23 A Yes.

24 Q 574Now obviously you had made contact with Mr. Fox about whatever Mr. Wright had

25 told you. Mr. Wright had told you sufficient to lead you to form the view that

26 Mr. Wright was no longer looking after the file for you?

27 A Yes.

28 Q 575All right, you then contacted Mr. Fox?

29 A Yes.

30 Q 576You made an arrangement to meet Mr. Dunlop?

1 A Yes.

2 Q 577So presumably Mr. Fox was attending the meeting with you in order to retain
3 Mr. Dunlop to achieve the rezoning on his lands?

4 A He was at the meeting at my invitation to see if he wanted to go to rezone his
5 land, yes. And he decided he didn't eventually.

6 Q 578But the map, Mr. Mahony, that was lodged on the 12th April 1993 with Dublin
7 County Council -- I beg your pardon, the 12th March 1993 included Mr. Fox's
8 lands?

9 A It did.

10 Q 579So that whatever decision Mr. Fox may have made subsequently, as of the 12th
11 March and presumably as of the 10th March, the instruction to Mr. Dunlop was to
12 apply to have both lots of lands rezoned?

13 A Correct.

14 Q 580So at the meeting that transpired, the instruction that was given to Mr. Dunlop
15 was to seek the rezoning of Mr. Mahony's lands and Mr. Fox's lands and the map
16 that was given to Mr. Dunlop on the following day was a map of both plots of
17 lands?

18 A That's right.

19 Q 581The motion that was lodged to the council was in connection with both plots of
20 lands, is that right?

21 A Yes.

22 Q 582It follows from that if Mr. Fox had decided at the meeting of the 10th March he
23 was not going to proceed with it, the scenario would have changed; in other
24 words only your lands would have been put forward?

25 A That's right.

26 Q 583So nothing transpired at that meeting on the 10th March in relation to whose
27 lands were included other than it included both your lands and Mr. Fox's lands.

28 A That's right.

29 Q 584So that when you and Mr. Fox went to meet Mr. Dunlop, it was on the joint
30 enterprise of getting both of your lands rezoned?

1 A Right.

2 Q 585And the retention of Mr. Dunlop was in that context?

3 A That's right.

4 Q 586Now, it is clear that Mr. Fox subsequently withdrew but at the moment we are
5 only looking at matters that occurred on the 10th March, do you understand?

6 A Yes.

7 Q 587At that meeting did you have any discussion with Mr. Dunlop about the role
8 Mr. GV Wright had played in this matter up to that point in time?

9 A It would be hearsay but I saw Mr. Dunlop said I said Mr. Wright wasn't looking
10 after it but it's hearsay. I don't specifically remember any words, if that's
11 what you are asking me.

12 Q 588You accept, Mr. Mahony, that Mr. Wright had been looking after the file for
13 you, up to a point in time, very close to your meeting with Mr. Dunlop; that
14 despite your belief he would look after the file, he had not done so, is that
15 right?

16 A Yeah.

17 Q 589So you had been let down, as it were, by Mr. Wright?

18 A Yeah.

19 Q 590It was in the context of Mr. Wright not doing what you had understood he would
20 do that you were forced to go to Mr. Dunlop, isn't that right?

21 A Yes.

22 Q 591I mean if Mr. Wright had done the job, you wouldn't be going to Mr. Dunlop. At
23 that meeting is it likely you would have discussed what Mr. Wright had not
24 done?

25 A It was obvious to Mr. Dunlop, I don't know. We haven't, we obviously haven't
26 got the plans ready to lodge but that was obviously discussed.

27 Q 592But Mr. Wright's role in the matter up to that point in time, isn't that a
28 likely topic -- you find yourself in an emergency situation with Mr. Dunlop on
29 the 10th March 1993?

30 A Mmm.

1 Q 593And the reason you are arrived at an emergency situation, Mr. Mahony, is Mr.
2 Wright had not done what you had understood he would do?

3 A Yes.

4 Q 594And it would appear from the telephone attendances that are on screen the
5 introduction of you was through Senator Wright to Mr. Dunlop?

6 A Right.

7 Q 595OK. Isn't it likely then in that context that you had some discussion with
8 Mr. Dunlop about Mr. Wright?

9 A Yeah, as I said, the application wasn't up to date and that's why I retained
10 Mr. Dunlop.

11 Q 596Mr. Dunlop says that you were angry or that you were annoyed with Mr. Wright
12 for not having done what you had understood he would do?

13 A That's not correct.

14 Q 597You were not angry?

15 A Yes.

16 Q 598What discussion did you have with Mr. Wright about Mr. Dunlop?

17 A Pardon?

18 Q 599What discussion did you have?

19 A I don't know of any. I just said that I am quite sure I said the thing is not
20 up to date, can you get it done?

21 Q 600Are you saying that Mr. Wright's name was never mentioned at all?

22 A I am not saying that at all, no. I'm just saying I don't remember the
23 discussion I would have had about Mr. Wright.

24 Q 601You are talking to Mr. Dunlop for 30 minutes, Mr. Mahony?

25 A I wasn't, no.

26 Q 602Well, 20 minutes. What did you talk about?

27 A Well the first thing he did was a deal.

28 Q 603On?

29 A I retained him and then he talked about the map and I presume and where he
30 would go from there and I said I would take on six or seven councillors of my

1 own who I know was friendly. That was all that went on.

2 Q 604 So are you saying you don't remember any discussion about Mr. Wright or are you
3 saying there was no discussion about Mr. Wright?

4 A I would say there was none.

5 Q 605 I mean it appears that Senator Wright rang Mr. Dunlop the day before about you.

6 A Well that was the introduction and the introduction was because Mr. Wright
7 couldn't cope with the application and said he couldn't do it.

8 Q 606 You say Mr. Dunlop looked for 10,000 pounds in cash?

9 A Yes.

10 Q 607 Mr. Dunlop says, and it's only a difference as to detail, that 10,000 pounds in
11 cash was agreed between you. Do you have a clear recollection that Mr. Dunlop
12 required to be paid in cash?

13 A Absolutely.

14 Q 608 Was it your normal practice to retain cash?

15 A No.

16 Q 609 Have you ever retained the professional services of anybody else in a similar
17 fashion?

18 A No.

19 Q 610 Is this the only occasion on which you had retained a professional person and
20 paid them in cash?

21 A Yes.

22 Q 611 It was therefore an extraordinary incident in your business life which has
23 spanned a considerable period of time, isn't that right?

24 A That's right.

25 Q 612 In the course of your business, you would have had occasion to deal with
26 architects, engineers, purchase and sales of cars, very high turnover business,
27 isn't that right?

28 A That's right.

29 Q 613 And a very, very multicompany business, isn't that right?

30 A Yes.

1 Q 614And this is the only occasion on which you were requested to pay cash, is that
2 right?

3 A Yes.

4 Q 615And it is the only occasion on which you agreed to pay cash?

5 A Yes.

6 Q 616Why did you agree to pay Mr. Dunlop in cash?

7 A Because I was so thrilled to get him, when he said to me 10,000 in cash, I
8 really didn't think, I said yes, that's grand.

9 Q 617Why cash, if your whole practice up to that point in time has been to pay other
10 than in cash?

11 A He asked me for cash and I was so bent on getting him to take over this job to
12 rezone my land which I had had for 12 years idle, that is the only explanation
13 I can give you.

14 Q 618There was no question of a VAT invoice, is that right, you never got an invoice
15 from Mr. Dunlop?

16 A No.

17 Q 619When it came to the time of paying the success fee, you never got an invoice
18 from Mr. Dunlop then either?

19 A No.

20 Q 620Right, so this was purely a cash transaction you sourced from your own funds?

21 A Yes.

22 Q 621Did you source this from any bank account?

23 A No.

24 Q 622Where did you source it from?

25 A My own funds.

26 Q 623Where were these funds kept?

27 A I kept them in a safe at my office, in a safe in my home and I kept them there
28 for security reasons.

29 Q 624Did you make any documentary record of the fact that you had paid 10,000 pounds
30 in cash to Mr. Dunlop?

1 A No.

2 Q 625Did you make any note, entry, memoranda or record of any description that you
3 had paid this money to Mr. Dunlop?

4 A No.

5 Q 626We have seen, Mr. Mahony, that when you were making political donations you
6 were accustomed to do so by way of cheque including relatively small cheques,
7 as we will see one to Mr. Larry Butler on Thursday in the sum of 250 pounds,
8 isn't that right?

9 A That's right.

10 Q 627And your political donation that we have seen to Mrs. Owen and to Mr. Wright
11 were by way of cheque from your personal account, is that right?

12 A That's right.

13 Q 628Why didn't you give Mr. Dunlop a cheque drawn on your personal account?

14 A He asked me for cash and I agreed it.

15 Q 629You could have made the cheque out to cash?

16 A It didn't dawn on me, I had cash available to me.

17 Q 630Is this the only transaction in your business career which you paid somebody in
18 cash?

19 A In business? Yes.

20 Q 631You made no record of this transaction at all, isn't that right?

21 A That's right.

22 Q 632Other than meet Mr. Dunlop on the 10th March 1993 and paying him on the 23rd
23 March 1993?

24 A All right.

25 Q 633Are you accustomed to keep a record of the withdrawals you made yourself,
26 either at your business or at home?

27 A No.

28 Q 634How are you able to keep track of the funds otherwise, Mr. Mahony?

29 A Those funds I had were virtually stationary. They were not funds I used. They
30 were there for a purpose.

1 Q 635 Be that as it may, the purpose to which you applied them or a portion of them
2 was the payment of Mr. Dunlop.

3 A No, they were not there for that purpose.

4 Q 636 Whatever their original purpose was, Mr. Mahony, the purpose to which you
5 actually applied 10,000 pounds of those funds was in paying Mr. Dunlop.

6 A That's right.

7 Q 637 Did you remove the money from your safe and go meet Mr. Dunlop and hand it over
8 to him in cash?

9 A Yes.

10 Q 638 Did you ask him for a receipt?

11 A No.

12 Q 639 To furnish anything in writing to acknowledge that you had paid this sum to
13 him?

14 A No.

15 Q 640 What protection were you giving yourself in conducting your business with
16 Mr. Dunlop in this fashion?

17 A Mr. Dunlop had already started work at this stage by the time I paid him. I
18 presumed that was receipt enough for me.

19 Q 641 From your point of view, Mr. Mahony, and from the documents that you have
20 provided to this Tribunal, this is an entirely traceless transaction, isn't
21 that right, from your point of view?

22 A Yes.

23 Q 642 In that the source of the funds is identified by you as a fund that you held in
24 cash either in one of two occasions, that you paid Mr. Dunlop these funds as
25 you say, you made out, sought no receipt, obtained no receipt, isn't that
26 right?

27 A That's right.

28 Q 643 And you did so and it is a singular transaction that you had never conducted
29 business like this before. And you did do, as I understand your evidence,
30 because you were grateful to Mr. Dunlop for taking on the job?

1 A Yes.

2 Q 644And for no other reason?

3 A Absolutely.

4 Q 645Did it ever occur to you, Mr. Mahony, that you were leaving yourself exposed in
5 paying Mr. Dunlop in this fashion, in paying him 10,000 pounds a cash which, in
6 1993, was a very significant amount of money?

7 A At that time I didn't think. I was -- I went ahead and did it.

8 Q 646Whatever the urgency might have been, Mr. Mahony, about getting the motion in
9 by the 12th March, by the time it came to pay Mr. Dunlop on the 23rd March, you
10 had your motion in, the urgency was gone, is that right, you could have sat
11 down with Mr. Dunlop and renegotiated?

12 A I didn't.

13 Q 647So it would have been the formal transaction you could have conducted at that
14 time, why didn't you ask him for an invoice?

15 A I paid him in cash, that's what he asked me. There was no invoice and there
16 was no records and that's it.

17 Q 648In your statement, Mr. Mahony, you were at pains to draw the Tribunal's
18 attention to the fact that at paragraph 24, and I think also in one of the
19 opening paragraphs, paragraph 3, which is at page 72: "I wish to say
20 immediately that while I retained Frank Dunlop in March 1993 and paid him sums
21 of 10,000 pounds and 2,000 pounds respectively, these sums were paid
22 exclusively in respect of his professional services as a public relations
23 consultant and lobbyist who was expert in this area. In so far as there is any
24 suggestion that I paid these monies in the knowledge that it was to be used in
25 whole or in part for the purpose of influencing the votes of councillors, I
26 emphatically reject it. As far as I was concerned, I discharged Mr. Dunlop's
27 professional fees and I had no reason whatsoever to believe these monies were
28 to be used for any other purpose whatsoever."

29

30 You also say on a similar theme in your concluding paragraphs at paragraph 24,

1 page 79: "In conclusion, I would wish to stress once again that the sums which
2 I paid to Mr. Dunlop were in respect of his professional fees for professional
3 services rendered on my behalf. It never occurred to me that any of the monies
4 which I paid him would be of use for any other purpose. Indeed, as far as I am
5 concerned, I have no reason to suppose any money paid to councillors by
6 Mr. Dunlop or anybody else in respect of my application for the rezoning of the
7 Drimnigh lands."

8

9 Now, leaving aside the issue of the councillors for the moment and
10 concentrating on the moment that you were paying Mr. Dunlop's professional fees
11 for professional services, why then -- if that's your stated position -- did
12 you pay him in cash?

13 A The only reason I paid him in cash, he asked for it in cash. I concluded a
14 deal, I was so glad to get him and that was the reason I paid in cash.

15 Q 649The urgency to retain Mr. Dunlop was over once you got the map in by the 12th
16 March, is that right?

17 A That the urgency may have been over but the job wasn't completed.

18 Q 650That may be if you if you were paying Mr. Dunlop professional fees and you were
19 retaining him on a professional basis, Mr. Mahony. I suggest to you there
20 should have been invoices, it should have been recorded in your books and
21 accounts and there are no invoices and this transaction with Mr. Dunlop is not
22 recorded anywhere, isn't that the position?

23 A Correct.

24 Q 651And does that does not bear the hallmarks of a transaction involving two
25 professional persons, Mr. Mahony, isn't that right?

26 A Yes.

27 Q 652Yes, it bears a cash-under-the-books transaction, this is what this was, isn't
28 it?

29 A No.

30 Q 653You are not paying VAT?

1 A No.

2 Q 654 There was no invoices raised?

3 A No, well, no, I didn't look for an invoice.

4 Q 655 This does not bear, I suggest to you, Mr. Mahony, the hallmarks of a legitimate
5 professional transaction in that none of the documentation that would surround
6 such a legitimate professional transaction are present in this case, isn't that
7 right?

8 A Accepted.

9 Q 656 So that you, from the start, must, I suggest to you, had understood or believed
10 that there was something unusual about the relationship that you had with
11 Mr. Dunlop because you were agreeing from the start to pay him in cash?

12 A It never crossed my mind. As I explained to you, I did the deal with him what
13 he asked me for and that was it and I honoured it.

14 Q 657 But you never paid anyone else in cash, Mr. Mahony?

15 A No.

16 Q 658 The only time you in your whole career you ever paid anybody in cash was
17 Mr. Dunlop, is that right?

18 A Yes.

19 Q 659 And had this been a professional legitimate transaction, Mr. Mahony, I suggest
20 to you that it would have been surrounded by the hallmarks of a legitimate
21 transaction, namely invoices, receipts, entries in books of account, isn't that
22 right, Mr. Mahony?

23 A Yes.

24 Q 660 Such as we saw with your 500 pounds cheque to Nora Owen? There are no such
25 hallmarks of legitimacy surrounding this transaction, Mr. Mahony, isn't that
26 the fact?

27 A Yes.

28

29 MR. HOGAN: I object to the premise of the last question, Sir, because with
30 reference to Nora Owen, there is no, of course, professional transaction

1 involved, it was simply a political contribution which came from Mr. Mahony's
2 personal account but the inference is there was some talk of professional deal
3 with Mrs. Owen and I think Miss Dillon ought to make that clear.

4
5 MS. DILLON: I am not suggesting for a moment there was a professional deal
6 with Miss Owen. I am making a point to Mr. Mahony when he is making a
7 political donation in the sum of 500 pounds, a much smaller sum, he does so by
8 way of cheque. We have seen both from your company accounts political
9 donations that were made in sums ranging from 500 to 5,000 pounds.

10 A That's right.

11 Q 661 We have seen political donations from your personal account, two sums of 500
12 pounds. In all of those cases the cheques from your company were entered into
13 your cheques payments book they were recorded and analysed under the
14 appropriate heading and we saw in your bank statement beside the two cheques
15 the name of Nora Owen had been entered and GV Wright had been entered. In each
16 of those transactions, which are not commercial transactions as Mr. Hogan
17 kindly remind me, there is a trace, there is a paper trail, isn't that so?

18 A That's correct.

19 Q 662 But in this transaction with Mr. Dunlop, there's absolutely no paper trail from
20 your point of view, isn't that right?

21 A That's correct.

22 Q 663 And I suggest to you, Mr. Mahony, that such a cash transaction indicates very
23 strongly that that was being conducted between yourself and Mr. Dunlop was not
24 a legitimate professional transaction but something other than that.

25 A It's there as I told you.

26 Q 664 It is. And when you came to pay the success fee, Mr. Mahony, in February of
27 1993, you paid that in cash too, didn't you?

28 A Yes.

29 Q 665 And you kept no record of that transaction either?

30 A No.

1 Q 666 So that in both of your transactions with Mr. Dunlop, what is singular about
2 them in comparison to the rest of the business that you have conducted
3 throughout your professional life, is that these are the only two transactions
4 that you conducted in cash, isn't that right?

5 A Yes.

6 Q 667 And for which there is neither track nor trace?

7 A Right.

8 Q 668 Of any paper of any kind whatsoever?

9 A That's right.

10 Q 669 And I assume, Mr. Mahony, that the source of the funds for the 2,000 pounds you
11 paid Mr. Dunlop in cash in February of 1994 was from the same fund that you had
12 originally paid him the 10,000 pounds, isn't that right?

13 A Yeah, well -- yeah.

14 Q 670 I suggest to you, Mr. Mahony, that if this is the legitimate transaction for
15 which you contend, that there would be a documentary record in relation to
16 these sums being paid to Mr. Dunlop and their purpose. Would you like to
17 comment on that?

18 A Yeah, OK.

19 Q 671 You agree with that?

20 A OK.

21 Q 672 I am moving on, I think Mr. Mahony's has had a long day and I am moving on to
22 something different, I don't know if you feel it's appropriate.

23

24 CHAIRMAN: Mr. Mahony isn't here tomorrow.

25

26 MS. DILLON: No, Mr. Fox is here tomorrow. There are five witnesses for
27 tomorrow and Mr. Mahony will return on Thursday.

28

29 THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,

30 WEDNESDAY, 5TH NOVEMBER 2003 AT 10.30 A.M.

