

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,
2 6TH NOVEMBER, 2003 AT 10.30 AM.

3
4 MS. DILLON: Before Mr. Mahony resumes the witness box, Sir, could I correct an
5 error in the transcript on Day 413 which is not relevant to the present module,
6 on that day Seamus Ross was questioned by John Gallagher SC and at question 294
7 he referred to a payment of 5,000 pounds that night in cash, but thereafter on
8 the transcript the reference on one occasion is to 500 thousand pounds instead
9 of 5,000 pounds.

10
11 The questions that need to be corrected are questions 299, questions 300,
12 question 301 and question 306, in each case the transcript records a reference
13 to 500 thousand pounds but on the tape, from reviewing the tape the question in
14 fact was in relation to 5,000 pounds. So can I ask you to amend the transcript
15 to reflect that, that in fact was the question and that was put and not the
16 greater sum, which is reflected in the transcript.

17
18 CHAIRMAN: All right that will be done.

19
20 MS. DILLON: The questions are 299, 300, 301 and 306.

21
22 Thank you Sir. Mr. Denis Mahony please.

23
24 DENIS MAHONY HAVING BEEN PREVIOUSLY SWORN CONTINUED
25 TO BE EXAMINED AS FOLLOWS BY MS. DILLON:

26
27
28 Q.1 Good morning Mr. Mahony, you will recollect that on Tuesday, we were talking
29 about what transpired at the first meeting between yourself Mr. Dunlop and
30 Mr. Fox?

1 A. I do, yeah.

2 Q.2 That was the meeting on the 10th of March 1993?

3 A. Right.

4 Q.3 Mr. Fox told the Tribunal yesterday that he has no recollection of cash being
5 discussed at that meeting, does that accord with your recollection?

6 A. No.

7 Q.4 No. I had understood you to tell the Tribunal on Tuesday that at the meeting
8 with Mr. Dunlop, Mr. Dunlop requested payment of 10 thousand pounds in cash and
9 you agreed pay him?

10 A. That's correct.

11 Q.5 And did that conversation take place while Mr. Noel Fox was present, albeit not
12 participating in the conversation?

13 A. Yes.

14 Q.6 Thank you. And if I can take you back now again to March of 1993 and if I can
15 deal with your contacts with County Councillors and your contact with
16 Mr. Dunlop, after your initial meeting with him on the 10th, do you understand?

17 A. Yes.

18 Q.7 All right. You accept, I think, that you were in telephone contact with
19 Mr. Dunlop from the time that Mr. Dunlop agreed to take on the job?

20 A. I do.

21 Q.8 Right. And I think you also agree that you agreed with Mr. Dunlop that you
22 would speak to a number of Councillors yourself?

23 A. Correct.

24 Q.9 And I think that -- did you identify to Mr. Dunlop the councillor that it is
25 that you would speak to?

26 A. I think so, more or less, yes.

27 Q.10 And were those Councillors Mrs. Nora Owen, Mr. Sean Barrett, Mr. Michael
28 Kennedy, and Mr. GV Wright?

29 A. And there was --

30 Q.11 And Sheila Terry?

1 A. Yeah.

2 Q.12 Is that right?

3 A. Yes and -- and Cait Keane I think, there were -- six were there.

4 Q.13 Yes.

5 A. Yes.

6 Q.14 I think you had --

7

8 CHAIRMAN: Sorry, Ms. Dillon we have a problem with our screens here.

9

10 MS. DILLON: I beg your pardon Sir?

11

12 CHAIRMAN: We'll continue for -- sorry, continue.

13

14 MS. DILLON: May it please you Sir.

15

16 I think that you made an appointment to see Sheila Terry and she was
17 accompanied by Cait Keane.

18 A. That's correct.

19 Q.15 We will come to that in a moment but in general it was agreed between yourself
20 and Mr. Dunlop that you would approach a number of Councillors?

21 A. Yes.

22 Q.16 Now, on the 22nd of March -- I don't know is the screen still working -- no
23 it's not. I think Mr. Mahony, I will give the page reference for the benefits
24 of those who have the brief and we'll give the original hard copy to Mr. Mahony
25 and on that basis we'll proceed.

26

27 CHAIRMAN: We'll see if it's working.

28 Q.17 Page 217 please.

29

30 JUDGE FAHERTY: 270?

1

2 MS. DILLON: 270 yes. We'll get you the hard copy Mr. Mahony. I think that you
3 would prefer to use your original diary, is that correct?

4 A. It, it helps if -- I need it please.

5 Q.18 Fine. I think the diary 1993 is beside you, would you prefer if my solicitor
6 obtained the date?

7 A. I am happy with this.

8 Q.19 Do you have the 22 of March 1993, do you have the diary for the 22nd of March
9 1993 in front of you.

10

11 JUDGE FAHERTY: There is nothing on Mr. Mahony's screen.

12 A. I don't have it. Thank you. 22nd of March?

13 Q.20 The 22nd of March 1993, Mr. Mahony?

14 A. Yes.

15 Q.21 And you will see there that there are entries for two Councillors Michael
16 Kennedy at 12 am and Mr. Wright at 7 pm?

17 A. Yes.

18 Q.22 Right. Did those meetings take place?

19 A. I am not sure, I presume they did.

20 Q.23 And would they have been in connection with the proposed rezoning of your
21 lands?

22 A. They would.

23 Q.24 And at this stage, on the 22nd of March, what was being contemplated was
24 rezoning of both Mr. Fox's lands and your own, is that correct?

25 A. Yes, I would think so.

26 Q.25 Yes. Can you recollect what you would have discussed with Mr. Kennedy when you
27 met him?

28 A. I met Mr. Kennedy on two or three occasions, I am just trying to figure out, is
29 this the first one I met him on, the 12th of March? Yeah I think -- I would
30 have called to him at that stage and I would have discussed the rezoning.

1 Q.26 And did Mr. Kennedy give you any indication as to whether he would be
2 supportive of the application?

3 A. I spoke with him again, I am not sure when and I asked him -- he did say that
4 he would be interested in the project because he was a new local man and I said
5 to him that it was an excellent site and would he like to come and see it. Did
6 he come on a Saturday morning? as far as I can recollect and we went in and we
7 walked the land and he came -- when we had finished it he said to me, I think
8 that's very good and I think you are quite straight, are the words he used, and
9 I would be prepared to support it.

10 Q.27 Mr. Kennedy was asked by the Tribunal about his involvement in this rezoning
11 matter and his recollection, insofar as his statement goes, is that he was
12 approached by you to sign the rezoning motion?

13 A. No, I don't remember that at all.

14 Q.28 You don't remember that?

15 A. No, that is not a fact.

16 Q.29 Okay. And Mr. Kennedy doesn't refer to these meetings at all. But I think
17 that you subsequently met with Mr. Kennedy on the 27th of March 1993?

18 A. That's right.

19 Q.30 I think you met three Councillors on that date, Mr. Kennedy, Mrs. Owen and
20 Mr. Wright?

21 A. Yes.

22 Q.31 And was that the day on which you walked the land with Mr. Kennedy?

23 A. 9am, yes.

24 Q.32 Right. And that's at page 288. Now if I can just take you back to the 22nd of
25 March, when you met Mr. GV Wright, would that have been about the rezoning
26 Mr. Mahony?

27 A. Yeah. I would say it was, yes.

28 Q.33 Did you have any concerns at all that Mr. Wright would not support the rezoning
29 application?

30 A. No, never.

1 Q.34 So why did you need to meet him if you were sure of his support?

2 A. Well, I would presume, to discuss it with him and Mr. Wright had his own powers
3 of recruiting people and I suppose I spoke to him about that, I am not sure.

4 Q.35 If you met him -- you would have been satisfied in your own mind that he
5 himself was going to support it?

6 A. Yes.

7 Q.36 Yes. So would you have been asking him to try and gather up support among his
8 fellow Councillors?

9 A. That would be normal discussion I would think.

10 Q.37 Yes and do you remember that discussion?

11 A. No.

12 Q.38 But you think that's likely -- that you did discuss that with Mr. Wright?

13 A. Probably, it must have had something to do with the rezoning at that period but
14 I don't remember any particular definite discussion, no.

15 Q.39 Was there at any stage of this entire process, any suggestion that Mr. Wright
16 would not support the rezoning application?

17 A. Never.

18 Q.40 On the 23rd of March 1993, at page 272 please, you had a meeting with
19 Mr. Dunlop and this is the meeting at which, I think, you have told the
20 Tribunal that you paid Mr. Dunlop his 10,000 pounds in cash?

21 A. I think, yes.

22 Q.41 And I think Mr. Dunlop does not dispute that, he agrees with that, that is
23 likely to be the date?

24 A. Yes.

25 Q.42 The meeting took place in the Shelbourne, Mr. Mahony, is that right?

26 A. Yes, the Shelbourne.

27 Q.43 How did you give him the money?

28 A. I don't really remember, no more than he really remembers, but I don't know. I
29 am not sure.

30 Q.44 Well 10,000 pounds in cash is not a small amount of money?

1 A. No. In a package, I presume, that I handed to him and I presume he didn't
2 count it, he took it away, that's all I can presume.

3 Q.45 Presumably you had to retrieve the money initially from where ever you had kept
4 it, isn't that right?

5 A. Yes.

6 Q.46 And you had to put it in an envelope or do something with it?

7 A. Something with it, yeah.

8 Q.47 You are not saying you handed 10,000 pounds in cash uncovered to Mr. Dunlop in
9 the Shelbourne Hotel?

10 A. No. I said to you, in a package of some form, yeah.

11 Q.48 You -- but you don't recollect?

12 A. I don't.

13 Q.49 But you are satisfied it was at that meeting you would have handed over the
14 money to Mr. Dunlop?

15 A. I think Mr. Dunlop and myself agree that.

16 Q.50 Yes?

17 A. Yes.

18 Q.51 Would you also have discussed, at that meeting, the progress you were making in
19 your contact with Councillors and progress Mr. Dunlop was making on your
20 behalf?

21 A. I presume we did, if I had started the ball rolling, yes, I would have been
22 talking to him about it, I advised him as I went along.

23 Q.52 Yes, you were in telephone communication with him?

24 A. Oh yeah, quite a bit.

25 Q.53 And you had a number of meetings with him?

26 A. Not too many meetings, more phone calls.

27 Q.54 But when you met Mr. Dunlop on this occasion, you had spoken to Mr. Wright and
28 Mr. Kennedy?

29 A. Yes.

30 Q.55 And would you have outlined to him that you were going to speak to other

1 Councillors as well?

2 A. He knew that, yes.

3 Q.56 Yes. The sum that you paid him on this date, Mr. Mahony, was 10,000 pounds?

4 A. Yes.

5 Q.57 That was the sum that had been agreed for the rezoning of both parcels of land,
6 is that right?

7 A. That's right.

8 Q.58 Do you recollect any discussion at that stage with Mr. Dunlop about Mr. Fox not
9 proceeding?

10 A. I don't, but it could have arisen, I was never that sure that Mr. Fox was going
11 to go ahead, maybe I did discuss it with him, I don't know.

12 Q.59 But the sum that you paid him was the sum for the joint lands, isn't that
13 right?

14 A. It was, but as far as I was concerned if it was only for one land I was happy.

15 Q.60 Yes, but the agreement that had been made with Mr. Dunlop on the 10th of March
16 1993 was for him to seek or deal with the rezoning of both your lands and
17 Mr. Fox's lands, isn't that right?

18 A. Yes, that's right.

19 Q.61 And that was the motion that was lodged on the 12th of March 1993?

20 A. Yes.

21 Q.62 For both lots of lands, isn't that right?

22 A. That's right.

23 Q.63 When you paid him on the 23rd of March 1993, it was the sum you had agreed for
24 both parcels of land, isn't that right?

25 A. That's right, that's right.

26 Q.64 That's right. And subsequent to that meeting the first written indication that
27 Mr. Fox was not proceeding with the matter, insofar as the document trail is
28 concerned, is your letter to Mr. David Healy of the 23rd of April 1993, which I
29 will come to in a minute, Mr. Mahony, do you recollect writing such a letter?

30 A. No.

1 Q.65 All right, I will come to deal with it in time, anyway on the 26th of March
2 1993, you have an entry in your diary, if you would like to look at it
3 Mr. Mahony, the 26th of March 1993, at page 281, this is an entry for Mr. Sean
4 Barrett?

5 A. Yes.

6 Q.66 Now, Mr. Sean Barrett was a Fine Gael Councillor at that time, isn't that
7 right?

8 A. That's right.

9 Q.67 He was also somebody, as I understand, that you had known?

10 A. Yeah, we were socially involved.

11 Q.68 Yes. Did you meet with or did you speak with Mr. Barrett on that occasion?

12 A. I never met him and I did phone him and I didn't get him, now I am not sure
13 whether I spoke with him all right, that's a call I made, I don't know or if
14 that's a call I made.

15 Q.69 Do you think you spoke to Mr. Barrett about these lands?

16 A. I am not certain.

17 Q.70 On the 18th of April, at page 315, you have another entry for Mr. Barrett, if
18 you look at 18th of April at page 315, do you see that, that's an entry for --
19 though you have it in the hard copy in front of you --

20 A. What date is it.

21 Q.71 The 18th of April?

22 A. Yes, Sunday morning.

23 Q.72 Sunday morning.

24 A. Yeah, is that Sean Barrett? It is, yeah.

25 Q.73 Yes?

26 A. I did recall, I phoned him once and he was in America. Now, I think I spoke
27 with his wife.

28 Q.74 Do you think it's likely, because there are two entries in your diary for
29 Mr. Sean Barrett, that you did you in fact make contact with him and speak to
30 him about these lands?

1 A. I am not positive, to be perfectly honest with you, but I do know he was in
2 America and was uncontactable but I may have said something to his wife. I am
3 not sure.

4 Q.75 Right. Mr. Barrett says he has no recollection of while, he accepts he knows
5 you, he has no recollection of you approaching him about these lands?

6 A. I would accept that.

7 Q.76 You would accept that?

8 A. Yes, I would.

9 Q.77 On the 27th of March 1993, at page 288, the 27th of March, Mr. Mahony, this is
10 a Saturday?

11 A. That's right.

12 Q.78 Do you have -- have you found the page?

13 A. Sorry, I am looking at April. Yes, I have yes.

14 Q.79 You have three entries there for three Councillors, Mrs. Nora Owen, Mr. Michael
15 Kennedy and Mr. GV Wright?

16 A. Yes.

17 Q.80 First of all, dealing at 9 am, you have a meeting with Mr. Kennedy?

18 A. That's right.

19 Q.81 Was that the occasion on which you walked the lands?

20 A. I think it probably was, yes.

21 Q.82 And were the lands in question both your own and Mr. Fox's, were they --

22 A. No just mine.

23 Q.83 That you were showing him?

24 A. Just mine.

25 Q.84 You were showing him your lands?

26 A. Yes.

27 Q.85 All right. And when you spoke to Mrs. Owen was that in connection with the
28 lands also?

29 A. For mine.

30 Q.86 For your lands?

1 A. Yes.

2 Q.87 And when you spoke to Mr. Wright, what was that about?

3 A. Well certainly speaking about my own, I am not sure about the two there, I
4 don't know. But I was speaking -- well at that stage the two lands had gone in
5 together hadn't they?

6 Q.88 Yes they had?

7 A. Then I would have been speaking to GV Wright about both. But I know with Nora
8 Owen and Michael Kennedy, I was only interested in my own.

9 Q.89 But insofar as they would have been concerned as Councillors, at that stage the
10 motion that was coming before the Council was a motion for both your lands and
11 Mr. Fox's?

12 A. Mm-hmm.

13 Q.90 It was effectively one parcel of lands on one motion, isn't that right?

14 A. This was before the withdrawal?

15 Q.91 Before the withdrawal.

16 A. Yeah okay.

17 Q.92 Isn't that right?

18 A. Yeah.

19 Q.93 And at this stage nothing had been done about withdrawing Mr. Fox's lands isn't
20 that right?

21 A. That's right, yes.

22 Q.94 So isn't it likely then, at these meetings with Mrs. Owen and Mr. Kennedy and
23 Mr. Wright, what you were discussing was the rezoning of the lands, both lots
24 of lands?

25 A. No, not with -- I was discussing with Nora Owen and Michael Kennedy my own
26 lands.

27 Q.95 Yes?

28 A. But I didn't discuss Noel Fox's lands.

29 Q.96 But what you were seeking from them, if I understand you correctly, Mr. Mahony,
30 was their support?

1 A. That's right.

2 Q.97 For the motion?

3 A. For my lands.

4 Q.98 For your lands?

5 A. Yeah.

6 Q.99 But the only lands that they could support at that stage were the joint lands?

7 A. Okay.

8 Q.100Isn't that right?

9 A. Yes, that's right.

10 Q.101Because the only application that was before the Council, were the joint lands?

11 A. Yes.

12 Q.102Isn't that right?

13 A. Yes.

14 Q.103Your primary concern would have been your own lands?

15 A. Absolutely, yeah.

16 Q.104But up to that point in time, Mr. Fox's lands were still in?

17 A. Yes.

18 Q.105Isn't that right?

19 A. That's right.

20 Q.106Why would you have needed to meet with Mr. GV Wright at all, in view of the
21 fact that you always understood he was going to support this application?

22 A. Well the position he was in at that stage, he could command quite a few votes.
23 He would get support for that motion.

24 Q.107And did you expect him to seek support for your motion?

25 A. I did.

26 Q.108Right. And did he tell you that he would?

27 A. Yes.

28 Q.109Right. Now I think on the 29th of March 1993, if you like to look at your
29 diary, which is, I think, a Monday, page 290, you have an entry for Stephen
30 O'Byrnes?

1 A. That's right.

2 Q.110And on the following day, the 30th of March 1993, sorry page 293, you met

3 Mr. O'Byrnes?

4 A. Yes.

5 Q.111That meeting, I think, took place in your office in Kilbarrack?

6 A. That's right.

7 Q.112And if I could just -- there is also an entry for the 30th that says, I think,

8 "County Council lands meeting, 6.30 Stephen O'Byrnes, " does the entry --

9 A. "County Council land meeting and 6.30 Stephen O'Byrnes".

10 Q.113You were meeting Mr. O'Byrnes about the lands, is that correct?

11 A. Oh I was, yes.

12 Q.114And the entry that you have there about the County Council lands, that refers

13 to your lands?

14 A. Yes.

15 Q.115Yes. So you were meeting Mr. O'Byrnes in connection with the lands?

16 A. Yes.

17 Q.116Right. I think Mr. O'Byrnes gave evidence and he said that he was reasonably

18 familiar with the area and he advised you that Progressive Democrat policy was

19 to abide by the manager's recommendation and support the green belt?

20 A. Correct.

21 Q.117Yes. I think you, in your statement, describe Mr. O'Byrnes as noncommittal at

22 this meeting?

23 A. Yeah, well he was noncommittal at that meeting but insofar as he said he would,

24 the PDs would follow the manager's -- whatever.

25 Q.118Yes?

26 A. But he did say.

27 Q.119Yes?

28 A. That he would go and look at it.

29 Q.120That he would go and look at the land?

30 A. Because he went for six-mile runs in the evening and he knew the land and he

1 would go around it and have a look at it and come, I think whether he said he
2 would come back or not, I knew when he was noncommittal, he wasn't going to
3 follow it up.

4 Q.121And if he --

5 A. That's the feeling I had, that's why I went directly to Sheila Terry, who I
6 didn't know, but I went directly then.

7 Q.122That's what I wanted to ask you. Was the meeting with Mrs. Terry set up by
8 you?

9 A. Yes.

10 Q.123Yes. And not through Stephen O'Byrnes, is that right?

11 A. No. That's correct.

12 Q.124And if Mr. O'Byrnes did go and look at the land, did he ever come back to you
13 about the lands?

14 A. Never came back to me, no.

15 Q.125Did I understand you correctly, Mr. Mahony, to say, after your meeting with
16 Mr. O'Byrnes, you had no great hope he would do anything for you?

17 A. Correct.

18 Q.126All right. On the first of April 1993 you rang Mr. Dunlop, 1130 please. There
19 is an entry in the telephone records that were kept in Mr. Dunlop's office, not
20 in your diary -- for the first of April 1993 and you were keeping in touch with
21 Mr. Dunlop, as I understand?

22 A. Yes.

23 Q.127You were telling him how you were getting on with your and --

24 A. Yes.

25 Q.128Fine. And again on the 8th of April 1993 at 1136 or 1137, you also rang and
26 said you would call on Tuesday, 1137.

27 A. Yeah.

28 Q.129And again, would this have been more of the same, keeping in touch and updating
29 each other?

30 A. Yeah.

1 Q.130Right. Now, on the 13th of April 1993, you met with Mr. Dunlop, 309 and 310,
2 you have an entry in your diary and Mr. Dunlop has a corresponding entry in his
3 diary?

4 A. Yes.

5 Q.131If we have --

6 A. 10.30.

7 Q.132Yes, and if we could have 309 on the screen please, which is Mr -- sorry 310, I
8 beg your pardon. You have an entry for Mr. Dunlop?

9 A. 10.30.

10 Q.133And Mr. Dunlop has an entry for you?

11 A. Okay.

12 Q.134Again in the Shelbourne Hotel?

13 A. Okay.

14 Q.135Now the date, Mr. Mahony, is the 13th of April and your motion is going to come
15 for hearing sometime towards the end of April of 1993, isn't that right?

16 A. The motion for which?

17 Q.136To rezone your lands, is going to come before the Council?

18 A. 14th of April, is it?

19 Q.137No. Sorry. The date of this meeting, Mr. Mahony, is the 13th of April?

20 A. 13th of April, sorry.

21 Q.138Your lands are going to come before the Council for consideration?

22 A. Yes.

23 Q.139At a meeting at some time at the end of April of 1993?

24 A. That's right.

25 Q.140Is that right?

26 A. That's right.

27 Q.141Right. Now on the day following this meeting, on the 14th of April, Mr. Noel
28 Fox rings Frank Dunlop.

29 A. Okay.

30 Q.142All right?

1 A. All right.

2 Q.143And two days later, on the 16th of April, Mr. Noel Fox also rings Frank Dunlop?

3 A. Okay.

4 Q.144Apart from those two entries, there are no entries for Mr. Fox contacting
5 Mr. Dunlop?

6 A. Okay.

7 Q.145Do you understand. Taking that into account, do you think that it is likely
8 that it was around this time that Mr. Fox decided to withdraw?

9 A. I do.

10 Q.146You do. And it would be logical, would it not Mr. Mahony, that the reason
11 Mr. Fox would have for contacting Mr. Dunlop, would be to tell him "I am out?"

12 A. I would think so.

13 Q.147And if at this meeting on the 13th of April you had told Mr. Dunlop, look Noel
14 Fox is not proceeding, if you did do that, did you, do you recollect --

15 A. I don't recollect doing it, but it wouldn't be a sin one way or the other.

16 Q.148Do you recollect ever telling Mr. Dunlop Mr. Fox was not proceeding?

17 A. No, I don't, because I -- it wasn't a big thing in my life because I thought
18 Noel Fox was out anyway.

19 Q.149Mm-hmm?

20 A. That's it.

21 Q.150Yes. But you were proceeding with yours?

22 A. Pardon.

23 Q.151You were proceeding with your lands?

24 A. Yes.

25 Q.152Right. But the first recorded contact between Mr. Fox and Mr. Dunlop, apart
26 from the meeting on the 10th of March, is the 14th of April 1993?

27 A. Right.

28 Q.153Mr. Fox makes a phone call on the 14th of April and another one on the 16th of
29 April?

30 A. Right.

1 Q.154And what I am suggesting to you is that, it is likely, it is around that time
2 that Mr. Fox informs Mr. Dunlop that he is, or contacts him to tell him that I
3 am not proceeding, isn't that likely?

4 A. It is likely, does Mr. Dunlop say that.

5 Q.155No. Mr. Dunlop cannot recollect talking to Mr. Fox at all?

6 A. It is likely that's why he was ringing him, yeah, I would think.

7 Q.156Because Mr. Fox told the Tribunal that the only business he had had with
8 Mr. Dunlop were these lands. He had no other business with Mr. Dunlop?

9 A. No.

10 Q.157Right. Following that period of time which is the first two weeks in April
11 1993, on the 23rd of April 1993 you wrote a letter, could I have page 321
12 please? To councillor Healy, do you see that letter?

13 A. I do indeed.

14 Q.158Can you read it on the screen?

15 A. I can.

16 Q.159All right and the letter says that the, it refers to lands at Drumnigh,
17 Portmarnock and representation 535, and 535 is the representation put on the
18 2nd of December 1991 about the Fox and Mahony lands?

19 A. Right.

20 Q.160Right. And you say "The above motion, which is on the agenda for the Council
21 meet on Tuesday morning, April 27, has been amended after discussion with local
22 Councillors. This reduces the 36 hectares of land originally proposed, to
23 approximately 14 hectares. The lands excluded are highlighted in yellow as
24 illustrated on the enclosed map.

25

26 I would be most grateful if you would support the amendment and assure you it
27 is in keeping with the best interests of the area.

28

29 I am available at any time to discuss any queries which you might have, yours
30 sincerely, Denis Mahony", that's your signature, is that correct?

1 A. It is, yes.

2 Q.161Can I ask you first of all, was Councillor Healy the only person to which you
3 sent this letter?

4 A. That's my signature and that's my home address.

5 Q.162Yes?

6 A. That wouldn't be my script. I wouldn't understand that planning -- I had
7 nothing to do with the actual mechanism of putting the planning together, that
8 was Mr. Dunlop or Mr. Wright, whatever, I don't -- I don't understand it,
9 frankly. Now I signed it and it's on my home notepaper, I don't ever
10 remember -- I never heard of a guy called David Healy.

11 Q.163Are you saying somebody else prepared this letter?

12 A. No, no. No, I said it doesn't appear to be me putting it together.

13 Q.164Yes?

14 A. I think somebody dictated that to me to put together and I sent it.

15 Q.165And you sent it to Councillor Healy?

16 A. Yeah.

17 Q.166All right.

18 A. That's what I am presuming, but it's my signature, my home address.

19 Q.167Accepting all of that, there are possibly two contenders, if you are not the
20 actual author of the letter, although you signed it, there are, I suggest, two
21 contenders, one is Mr. Dunlop, who says he has never seen the letter before?

22 A. Mm-hmm.

23 Q.168And the other is Mr. Wright?

24 A. Mm-hmm.

25 Q.169Now is it likely that one or other of those drafted the letter for you and you
26 signed it?

27 A. That's a view I would take. As you can see it's more technical jargon than I
28 would be familiar with, I wouldn't -- I didn't think that one up myself.

29 Q.170Right. So somebody put the letter together and you signed it?

30 A. Yes.

1 Q.171 First of all, can I just draw your attention "the above motion has been amended
2 after discussion with local Councillors". The amendment that's been referred
3 to in that sentence, Mr. Mahony, in the letter, is the deletion of Mr. Fox's
4 lands?

5 A. Yes.

6 Q.172 That letter suggests that the decision to delete Mr. Fox's lands arose as a
7 result of discussions with local Councillors, isn't that right, if you look at
8 the letter, that letter?

9 A. Yeah.

10 Q.173 If you read the first sentence, "the above motion which is on the agenda for
11 the Council meeting on Tuesday morning April 27 has been amended after
12 discussion with local Councillors".

13 A. Yes.

14 Q.174 "This reduces the 36 hectares of land to approximately 14 hectares", do you see
15 that?

16 A. I do.

17 Q.175 So, what is being discussed there, is the deletion of Mr. Fox's lands?

18 A. Right.

19 Q.176 Isn't that right?

20 A. Yes.

21 Q.177 Right. But what the letter says, is that Mr. Fox's lands are being deleted
22 after discussions with local Councillors?

23 A. Okay.

24 Q.178 Isn't that right?

25 A. Yeah.

26 Q.179 Right. Now is that in fact the case?

27 A. That -- would you phrase that for me, ask me the question again.

28 Q.180 I will come at it this way Mr. Mahony, the Tribunal has been told that Mr. Fox
29 decided to withdraw his lands?

30 A. Right.

1 Q.181 Because of that decision by Mr. Fox, an amending motion was put in?

2 A. Right.

3 Q.182 So what initiated the amending motion was Mr. Fox's decision, do you
4 understand?

5 A. I do.

6 Q.183 He wasn't proceeding. What this letter says is that the, effectively, is that
7 the decision to remove Mr. Fox's lands arose as a result of discussions with
8 local Councillors?

9 A. Right.

10

11 MR. HOGAN: I object to the premise of that question, insofar as it suggests
12 that the reason why the motion was amended, was because of the local
13 Councillors. It just simply -- with respect, that is not borne out by the
14 syntax of that particular sentence. It simply says, on examination, it has
15 been "amended after discussion with local Councillor", that's perfectly
16 consistent, it doesn't say why it was amended, it says it has been amended.

17

18 CHAIRMAN: Well it doesn't necessarily mean that Mr. Fox's decision to delete
19 his lands didn't take place until after some discussion with local Councillors,
20 but as I understand Ms. Dillon, she is enquiring from Mr. Mahony, as to his
21 knowledge as to that particular statement in the letter, so I would have
22 thought that she should be allowed to proceed, to ask Mr. Mahony, and
23 Mr. Mahony may say that he knows nothing about that particular paragraph.

24

25 MR. HOGAN: Sir, the basis for my objection is really, perhaps I misunderstood
26 Ms. Dillon, but I thought she was putting it to the witness that this
27 particular first sentence only bore a particular construction, which was
28 potentially misleading.

29

30 CHAIRMAN: Well perhaps Mr. Mahony might be asked his understanding as to what

1 that particular sentence means?

2

3 MS. DILLON: To anybody reading that letter, Mr. Mahony, is there anything in
4 that letter, first of all, to suggest that the reason the lands were being
5 deleted was because the landowner did not want to proceed?

6 A. Is there anything in that letter?

7 Q.184Yes.

8 A. No.

9 Q.185No. The second paragraph of the letter suggests --

10

11 CHAIRMAN: Sorry Ms. Dillon, it could have that meaning. It doesn't
12 necessarily mean it can't have that meaning. I mean, what the sentence says is
13 that "A decision was taken after discussion with local Councillors", it doesn't
14 say by whom or by what other circumstances it was taken.

15

16 MR. HOGAN: With respect, I might add, Chairman, or why it was taken.

17

18 CHAIRMAN: Yes, what the sentence means, is that there was a discussion with
19 local Councillors, and a decision was then taken. It doesn't say who else was
20 involved in the decision.

21

22 MS. DILLON: Very good Sir. Mr. Mahony, did Mr. Fox, to your knowledge, ever
23 discuss this matter with any local Councillors?

24 A. Did Mr. Fox --

25 Q.186Ever discuss the rezoning of his lands with any local Councillors, to your
26 knowledge?

27 A. I couldn't answer for Mr. Fox.

28 Q.187No. But to your knowledge?

29 A. No.

30 Q.188No. You did discuss these lands with local Councillors?

1 A. Yes.

2 Q.189Yes. Up to this point in time, had you discussed whether it was in the best
3 interests of the area to delete Mr. Fox's lands with any Councillor?

4 A. Did I --

5 Q.190Discuss with any Councillor, that it was in the best interests of the area,
6 that Mr. Fox's lands would be deleted?

7 A. No, I worked my own land frankly.

8 Q.191All I am putting to you, Mr. Mahony, is an inference that I drew from the
9 letter, I may very well be incorrect in relation to that, that that letter
10 suggests that the decision to withdraw Mr. Fox's lands arose after discussion
11 with local Councillors.

12

13 MR. HOGAN: Again Sir, I maintain my objection.

14

15 MS. DILLON: I withdraw the question then, I won't proceed with that. That's
16 fine.

17

18 Now, Mr. Mahony, that letter informed Councillor Healy that the lands were
19 being withdrawn, isn't that right?

20 A. Yes.

21 Q.192And attached to that letter was a map with the lands that were going to be
22 excluded highlighted in yellow?

23 A. Okay.

24 Q.193Right. The actual map that was attached to that letter is not available, you
25 understand, the Tribunal only has the letter?

26 A. Okay.

27 Q.194If you look at the first paragraph, Mr. Mahony, the last sentence says "The
28 lands excluded are highlighted in yellow as illustrated on the enclosed map?"

29 A. Mm-hmm.

30 Q.195Okay. The only lands that were ever going to be deleted were Mr. Fox's lands?

1 A. That's right.

2 Q.196It would follow then that the map with the highlighted lands would have been
3 Mr. Fox's lands?

4 A. Yes.

5 Q.197Did you prepare such a map?

6 A. No.

7 Q.198Do you know whether when this letter was prepared, whether Mr. Healy, whether
8 it is likely that this letter was circulated to all of the Councillors?

9 A. I don't.

10 Q.199You don't know?

11 A. No.

12 Q.200Nobody else has produced such a letter, including yourself Mr. Mahony isn't
13 that right?

14 A. That's right.

15 Q.201Yes. And am I correct in understanding, that the first time you saw this
16 letter, since it was originally drafted, was when you received it in the papers
17 from the Tribunal?

18 A. Yes.

19 Q.202Does that mean you didn't keep a copy of it?

20 A. Yes.

21 Q.203Is it possible that this letter was part of a mail merge to all of the
22 Councillors?

23 A. I don't honestly have a clue, no.

24 Q.204In other words, that if this letter is seeking support, Mr. Mahony, for the
25 deletion of Mr. Fox's lands and the rezoning of your lands, there is very
26 little point, I would suggest, in sending it to one Councillor?

27 A. I agree.

28 Q.205Isn't that right?

29 A. I agree.

30 Q.206It would make perfect sense to send it to everybody, isn't that right?

1 A. That's right.

2 Q.207Isn't it more likely then, that this letter went to all of the Councillors?

3 A. This is the only one that surfaced, that is correct. I don't remember anything
4 about anything else, I don't remember signing it but I did sign it.

5 Q.208But insofar as the purpose of the letter, is to seek support for the rezoning
6 of your lands?

7 A. Mm-hmm.

8 Q.209It would be a much more purposeful exercise to send it to all of the 76
9 Councillors, isn't that right?

10 A. It would.

11 Q.210And it would make very little sense to single out Mr. David Healy and send him
12 the letter only , isn't that right?

13 A. It would.

14 Q.211Yes. Taking that into account, and because you were actively engaged in
15 seeking support for your lands, isn't it likely that this letter went to
16 everybody?

17 A. Well if I can answer it another way, if I signed 76 of them I would have
18 remembered it. I don't remember that at all. At all.

19 Q.212Is it possible that you signed one letter and it was the addressee who was
20 changed in each case?

21 A. Yes, that's possible.

22 Q.213Do you think it is likely, that Mr. Wright assisted you in preparing this
23 document?

24 A. I would have no knowledge of that. I don't know who assisted me but -- it's
25 not my phraseology, that's all I am saying. I don't remember it.

26 Q.214Do you remember -- you don't remember it at all?

27 A. I don't.

28 Q.215No, so you can't say whether or not you discussed it with Mr. Dunlop?

29 A. No, but I would have thought, if that's the 26th, then Mr. Dunlop was handling
30 the thing, he might know more about it, but I know nothing about it.

1 Q.216Right. On the 26th of April -- sorry, I want to draw to your attention one
2 thing in the letter. The motion is referred, in that letter, to being on the
3 agenda for the 27th of April, you see that?

4 A. Yes.

5 Q.217In fact the meeting was changed to the 28th subsequently, I think, for your
6 lands, your lands were rezoned on the 28th of April, Mr. Mahony, isn't that
7 right?

8 A. That's right.

9 Q.218But at one stage they were on the agenda for the 27th of April?

10 A. Right.

11 Q.219Okay. You contacted Mr. Dunlop on the 26th of April '93, 1160, this will come
12 up on screen Mr. Mahony?

13 A. Yes.

14 Q.220And this is imminent now, this is two or three days before the motion?

15 A. Yes.

16 Q.221Two days before the motion, were you touching base, again, with Mr. Dunlop to
17 see how things were progressing?

18 A. I would think so.

19 Q.222On the 28th of April Mr. Mahony, your motion came up for hearing before the
20 Council?

21 A. Yes.

22 Q.223All right. An amendment was brought to the original motion in, to delete
23 Mr. Fox's lands?

24 A. The -- sorry?

25 Q.224Mr. Fox's lands were taken out of the equation on this date?

26 A. Yes, yes.

27 Q.225And in order to do that, a motion had to be prepared?

28 A. Yes.

29 Q.226All right. Did you ask anybody to prepare that motion?

30 A. No.

1 Q.227Did you discuss it with Mr. Wright?

2 A. I don't recall. No. When I passed this on to Mr. Dunlop I forgot about the
3 whole thing. He took over and I didn't go down into the technicalities or
4 anything else. So I don't know who proposed what or whatever.

5 Q.228Could I have 343 please? This is the amending motion, Mr. Mahony.

6 A. Yes.

7 Q.229Signed by Mr. GV Wright, Mrs. Nora Owen, Liam Creaven, Sean Gilbride and
8 Mr. Kennedy. Mr. Kennedy says you approached him to sign that motion?

9 A. No. No, I think he is mixed up there, I don't remember doing that. I did not
10 approach him.

11 Q.230Are you --

12 A. I was with him. I know when I was with him and I know I found him quite an
13 excellent person to be with on the basis I was on, once I canvassed him, shown
14 him the land, he said he would vote for me, I didn't -- no, I had nothing to do
15 with that, he is just mixed up there somewhere.

16 Q.231Did you approach any of the other people who were on that list to --

17 A. To sign that.

18 Q.232Yes?

19 A. No.

20 Q.233No. Did you leave that to Mr. Dunlop?

21 A. Yes.

22 Q.234That matter. Mr. Dunlop says he didn't prepare the motion, in fact. That it
23 is not in his type script, although some of the words handwritten on it are
24 Mr. Dunlop's, but we can ask Mr. Wright about that when he comes and the other
25 Councillors who signed it, but you did not approach Mr. Kennedy to sign that
26 motion?

27 A. No. I had nothing to do with that.

28 Q.235Your motion was successful Mr. Mahony , isn't that right ?

29 A. That's right.

30 Q.236And if we could have page 347 please? Sorry 348? Sorry, next page 349, I just

1 want to run through the vote with you. The motion to delete Mr. Fox's lands
2 was passed unanimously?

3 A. Right.

4 Q.237And then the Councillors voted on your lands. They voted on your land
5 Mr. Mahony, isn't that right?

6 A. Yes.

7 Q.238You were there that day?

8 A. No.

9 Q.239You weren't there?

10 A. No.

11 Q.240Were you not in the Council on this date?

12 A. No.

13 Q.241Can I have 339 please? I think if you look at your diary, Mr. Mahony, for the
14 28th of April, I think that entry which is almost illegible reads "Council"?

15 A. No, I wasn't there.

16 Q.242But there is a line through it?

17 A. Yeah. I was in Lough Derg.

18 Q.243You weren't there that day. Can I just draw to your attention to the list of
19 persons who voted in favour of the motion, if we can go back to the page 349
20 please? Councillor Barrett voted in favour of it, isn't that right?

21 A. Yes.

22 Q.244Councillor Butler voted in favour of it?

23 A. Yes.

24 Q.245You subsequently made a donation, didn't you, to Mr. Butler on the 6th of May?

25 A. Yes.

26 Q.246Of 250 pounds for a fundraiser?

27 A. Yes.

28 Q.247Right. Did you do that after a discussion with Mr. Dunlop?

29 A. I presume that was a phone call, I don't know.

30 Q.248Do you know --

1 A. It's not a big amount, my secretary could authorise that.

2 Q.249 Yes, but did you know Mr. Butler?

3 A. No.

4 Q.250 Right. At all?

5 A. Not at all.

6 Q.251 Had you ever made a political donation to Mr. Butler before?

7 A. No.

8 Q.252 Right. Or since?

9 A. No.

10 Q.253 No, so effectively, you think you got a phone call out of the blue?

11 A. Well this is -- this is after this meeting.

12 Q.254 Yes, the 6th of May?

13 A. Yeah, well I suppose he rang up and said, you know, I am running something for
14 kids and I supported it or whatever, that wouldn't be abnormal.

15

16 MR. HOGAN: Again, I think Sir, in fairness, Ms. Dillon should put to the
17 witness page 80 of the book, just to draw the witness' attention to this.

18

19 MS. DILLON: Page 80 please? Yes I don't understand the point that's being
20 made.

21

22 MR. HOGAN: The point Sir is this, this -- the impression is being created
23 inadvertently, it was a personal donation in respect to Mr. Butler, but the
24 words "FF fundraiser" are beside that particular -- and it should, that point
25 should be --

26

27 MS. DILLON: I have no difficulty pointing that out, the document you provided
28 to the Tribunal, we'll look in a few minutes at the actual underlying
29 documentation that says "L Butler (F F fundraiser 250 pounds)", the cheque in
30 fact, was drawn on the 6th of May 1993 Mr. Mahony and we will come to look at

1 that. But what you are identifying there, you agree you paid 250 pounds to
2 Mr. Butler

3 A. Yes. If it's there, yes.

4 Q.255Right. And what I am trying to ask you is whether, apart from that donation at
5 this point in time, whether you ever before that, made a payment to Mr. Butler?

6 A. No.

7 Q.256Or after that time?

8 A. No.

9 Q.257Made a payment to Mr. Butler?

10 A. No.

11 Q.258Did you know Mr. Butler?

12 A. No.

13 Q.259Right. That's all I wanted to establish. There are underlying documents in
14 relation to that transaction of the 6th of May that I will show you, your own
15 documents, in a moment, Mr. Mahony, but if we go back to the list on 349 of
16 those that voted? B Cass, B Coffey, MJ Cosgrave, L Creaven, A Devitt, M
17 Farrell, C Gallagher, S Gilbride, R Green, T Hand, F Hanrahan, M Kennedy, now
18 you had spoken to Mr. Kennedy yourself, hadn't you?

19 A. Yes.

20 Q.260He had given you an indication that he would support it?

21 A. He did.

22 Q.261S Laing, J Larkin, S Lyons, C O'Connor, J O'Halloran, A Ormond, N Owen. You
23 had also spoken to Mrs. Owen?

24 A. Yes.

25 Q.262She had confirmed she would support it?

26 A. Yes.

27 Q.263But on the occasions you were speaking to Mr. Kennedy and Mrs. Owen, the lands
28 that were discussed were the joint lands?

29 A. I spoke to Mrs. Owen and Mr. Kennedy about my own lands only.

30 Q.264Yes, but the motion that was before the Council at that time, was the joint

1 lands?

2 A. Okay.

3 Q.265Isn't that right? C Quinn, T Ridge, N Ryan, S Terry, you had met Ms. Terry,
4 isn't that right?

5 A. Yes.

6 Q.266And you had spoken to herself and a Ms. Keane, isn't that right?

7 A. Spoken to --

8 Q.267Sheila Terry?

9 A. I had.

10 Q.268Did she indicate to you at that meeting, that she would support?

11 A. Yeah. She was supportive, yeah.

12 Q.269And did she say that she would be supportive?

13 A. Yes.

14 Q.270I don't want to mislead you here but I don't have a recollection that that was
15 Ms. Terry's evidence yesterday, that she indicated to you that she would be
16 supportive?

17 A. I think she spoke on it actually.

18 Q.271You think she spoke on it?

19 A. I think so.

20 Q.272How do you know if you weren't there?

21 A. Because somebody showed me the minutes.

22 Q.273The minutes do not record that Ms. Terry spoke on it, if you look at the page
23 in front of you?

24 A. Did Mrs. Owen speak on it.

25 Q.274Yes?

26 A. Maybe that's what -- I am mixed up.

27 Q.275That's what you are thinking of?

28 A. And Mr. GV Wright was the last person who voted in favour of it.

29 Q.276Now you would have, as I understand it, assumed that Mr. Wright would support
30 it.

1 A. Yes.

2 Q.277Is that right. Do you recollect that Ms. Terry said she would support the
3 application when you met her?

4 A. I do.

5 Q.278You recollect that?

6 A. Yes.

7 Q.279I think that you met Ms. Terry on the 15th of April 1993, if you look at your
8 own diary Mr. Mahony, for the 15th of April 1993, page 313?

9 A. Yes.

10 Q.280You have an entry for Sheila Terry?

11 A. Right.

12 Q.281Is that right?

13 A. Yeah.

14 Q.282And was that the occasion on which she indicated she would be supportive?

15 A. I bet.

16 Q.283Now subsequent to the rezoning motion Mr. Mahony, you met or perhaps you didn't
17 meet, you have an entry in your diary for a meeting with Mr. Dunlop on the 4th
18 of May of 1996, if you look at the 4th of May 1996?

19 A. That's right, 11 o'clock.

20 Q.284Right Mr. Dunlop has an entry for meeting you on the 5th of May 1996 on his
21 diary, 387 please?

22 A. I have nothing.

23 Q.285You have nothing for the 5th of May?

24 A. No.

25 Q.286Mr. Dunlop has the 5th of May for Denis M Kilbarrack?

26 A. Yeah.

27 Q.287You have an entry for the 4th of May?

28 A. Yeah, on the 10th, seems to be the same time, has he nothing for the 4th.

29

30 JUDGE FAHERTY: Is this '93?

1

2 CHAIRMAN: Is this '93? you said '96.

3

4 MS. DILLON: No, no '93, did I say '96, I did say '96 and I am incorrect. It's
5 1993. This is the 5th of May 1993 and you have an entry for the 4th of May
6 1993, is that right?

7 A. That's correct.

8 Q.288 On the 6th May 1993, you drew a cheque for 250 pounds to Mr. Larry Butler,
9 Fianna Fail fundraiser?

10 A. Right.

11 Q.289 Page 109 please? Sorry I beg your pardon, 388.

12 A. Yeah.

13 Q.290 And if we look at page 389 that's the underlying documents, this is an extract
14 from your cheque payments book Mr. Mahony, you see that, this is a document
15 that you have provided to the Tribunal and you will see that the cheque is
16 dated the 6th May 1993 and it's made out to L Butler?

17 A. Mm-hmm.

18 Q.291 Do you think it's likely, that when you met with Mr. Dunlop on either the 4th
19 or 5th of May that that might have been the matter you were discussing?

20 A. I doubt it.

21 Q.292 You doubt it?

22 A. Unless Mr. Dunlop raised it, I wouldn't.

23 Q.293 Mr. Larry Butler ran a fundraiser.

24

25 MR. HOGAN: Again before Miss Dillon continues, that's a matter I don't recall
26 ever being put to Mr. Dunlop

27

28 MS. DILLON: That's correct. I simply ask, I have -- I am not pulling issue, I
29 simply ask is that what you were discussing with Mr. Dunlop, if you met him on
30 either the 4th --

1

2 CHAIRMAN: It's not being put to Mr. Mahony that in fact such a discussion did
3 take place, he is simply being asked was it discussed at the meeting on the 4th
4 or 5th of May, it hasn't been put to him that he did in fact discuss it.

5

6 MR. HOGAN: Well, just simply, I was concerned that the implication, that the
7 line of cross-examination was about to proceed to a suggestion that this is
8 somehow the instigation of Mr. Dunlop and if that's not going to be asked, well
9 then, very well.

10

11 MS. DILLON: I was simply looking at the timing of the meetings Mr. Mahony and
12 there is no sinister implication in relation to it, and in view of the fact
13 that you didn't know Mr. Butler.

14 A. I didn't.

15 Q.294And that you had never met Mr. Butler?

16 A. Never.

17 Q.295But you had nonetheless on the 6th May written a cheque or your company had
18 written a cheque for 250 pounds to Mr. Butler?

19 A. Yes.

20 Q.296Whether taking all of that into account, is it likely that you might have
21 discussed this with Mr. Dunlop when you met on either the 4th or 5th of May
22 1993?

23 A. I would doubt it.

24 Q.297You doubt it?

25 A. Yeah.

26 Q.298I only draw that to your attention also because on the 27th of May '93 there is
27 an entry in Mr. Dunlop's diary for a fundraiser at, 628 please?

28 A. 27th of May.

29 Q.299Not your diary Mr. Mahony?

30 A. Sorry.

1 Q.300Sorry 437. On the 27th of May there is an entry in Mr. Dunlop's diary for a
2 fundraiser in Kitty O'Shea's for Larry Butler. Do you see that?

3 A. I see that, yeah.

4 Q.301It was just taking those circumstances into account, Mr. Mahony, that I wanted
5 to ask you whether it was likely that you discussed Mr. Butler with Mr. Dunlop,
6 but you have said no, that didn't happen?

7 A. No I didn't -- I say I couldn't believe it would happen.

8 Q.302Okay so who did Mr. Butler contact in your business?

9 A. Possibly me, possibly my secretary.

10 Q.303But why would -- Mr. Butler had never contacted you or your business before,
11 had he?

12 A. Not to my knowledge.

13 Q.304Not to your knowledge, why would he suddenly elect to contact you?

14 A. I presume he had a fundraiser that he wanted some money for.

15 Q.305Why would he pick you Mr. Mahony?

16 A. I presume because he voted for me, I don't know.

17 Q.306The cheque was made -- sorry, if we could have page 389 just -- so I won't be
18 accused of not putting the entire of the document -- the cheque that's drawn is
19 in favour of L Butler but the attribution is analysed under sundries in the
20 cheque payment book, do you see that Mr. Mahony?

21 A. Yes.

22 Q.307Beside that is written the words "FF fundraiser"?

23 A. Fundraiser, right.

24 Q.308Do you see that? And that entry "FF fundraiser" explains how, on page 388,
25 when you were providing your schedule to the Tribunal of the political
26 donations, you identify this as L Butler (FF fundraiser), that's how you
27 describe it?

28 A. Okay.

29 Q.309Yes. But what interests me Mr. Mahony, is how Mr. Butler came to you on the
30 6th of May to get this political donation?

1 A. I don't recall that at all.

2 Q.310 You don't think it came through Mr. Dunlop as I understand. Do you remember
3 speaking to Mr. Butler yourself?

4 A. I don't remember speaking to Mr. Butler and I don't remember speaking to
5 Mr. Dunlop about Mr. Butler.

6 Q.311 Right. But you accept that some contact between Mr. Butler and your company
7 took place?

8 A. Obviously, yeah.

9 Q.312 Within about a week or so of the rezoning motion?

10 A. Yeah, whatever the day it is there, on the cheque, yeah.

11 Q.313 Now, I think, on the 13th of September, we stay with the political donations
12 for a moment Mr. Mahony, if we could have page 129 first. Now this is a list
13 of the political donations by Denis Mahony Limited?

14 A. Yes.

15 Q.314 Now you will see there, in September of 1993, do you see that?

16 A. I do.

17 Q.315 There are two payments for a Fine Gael golf classic?

18 A. Yes.

19 Q.316 And a Fianna Fail golf classic?

20 A. Yes.

21 Q.317 The Fianna Fail golf classic, who got that money Mr. Mahony?

22 A. GV Wright, I presume.

23 Q.318 Did you make it --

24 A. He normally would run it.

25 Q.319 Mr. GV Wright?

26 A. Yeah.

27 Q.320 And in relation to the Fine Gael golf classic, who got that money?

28 A. That would normally be Nora Owen, what happened there, Ms. Dillon, is that the
29 golf classics when they come around, we found that we were short of all our
30 staff for these things, but my daughters actually used to play in the Fine Gael

1 one and then we spread the Fianna Fail one around. But we would support both
2 their classics every time.

3 Q.321 On an annual basis, is that right?

4 A. Yeah.

5 Q.322 There is no Fianna Fail or Fine Gael golf classic in 1992 or 1991 on that list
6 Mr. Mahony?

7 A. Yeah well, maybe they weren't having them then.

8 Q.323 There is in '93 and '94 and '95, there is a Fine Gael golf classic?

9 A. Yeah.

10 Q.324 Was it usually Mrs. Owen's golf classic that you supported for the Fine Gael
11 golf classic?

12 A. Pardon.

13 Q.325 Was it usually a golf classic from Mrs. Owen that you supported?

14 A. Yes.

15 Q.326 And prior to 1993 had you supported golf classics for Mrs. Owen before, before
16 '93?

17 A. I am sure we did, I don't know -- we would have, if she was running them, we
18 did.

19 Q.327 Right. And would you have supported golf classics for Mr. GV Wright before
20 this time?

21 A. Yes.

22 Q.328 You had also made donations to both Mr. Wright and Mrs. Owen in '91, out of
23 your personal account, isn't that right?

24 A. That was for election purposes.

25 Q.329 That was for election purposes?

26 A. Yes.

27 Q.330 So would you have regarded yourself as a supporter of both Mr. Wright and
28 Mrs. Owen?

29 A. Absolutely.

30 Q.331 Would you have regarded yourself as a supporter of Mr. Butler?

1 A. I don't know the man.

2 Q.332I mean, to be frank to you, Mr. Mahony, that payment to Mr. Butler sticks out
3 like a sore thumb on that list in front of you, doesn't it?

4 A. Well it's such a small amount it -- he could have got it from any of my own
5 people without coming near me. He might have had, bought a car in one of the
6 garages or I don't know, it wouldn't -- it wouldn't be a serious one.

7 Q.333Was Mr. Butler a local Councillor?

8 A. I don't know where -- I don't know anything about him.

9 Q.334Mr. Butler represents the Glencullen ward which is out near Rathdown, near
10 County Wicklow, in South County Dublin, geographically, I might be incorrect,
11 but in Glencullen he represents the Glencullen wards, that's a long distance
12 away from Drumnigh?

13 A. It would have nothing to do with us. I would imagine he phoned up and said I
14 voted for you, I am running the show for whatever -- that happens.

15 Q.335That happens?

16 A. Mm-hmm.

17 Q.336Has it happened before?

18 A. On the election end of it?

19 Q.337Mm-hmm.

20 A. No.

21 Q.338Did it ever --

22 A. No, but I meant that happens, you get a call for somebody running something and
23 he has some relationship with one of the garages for something, he is, buys his
24 cars in our place or whatever, we support them.

25 Q.339But is Mr. Butler the only person that ever turned up and said I voted for you?

26 A. I don't remember saying he voted for me, I didn't say that.

27 Q.340All right, but you can't offer any reason as to why he elected to come to you?

28 A. I suggested he may know somebody in the organisation, in our organisation or he
29 may be involved in some fleet owner or something and it wouldn't, 250 pounds
30 for a fundraiser wouldn't be a major decision, that could be made at any level.

1 Q.341In September of 1993 as I understand from Mr. Hogan's cross-examination of
2 Mr. Dunlop, you were away at the time of the second vote?

3 A. That's right.

4 Q.342Confirming meeting?

5 A. That's right.

6 Q.343Did you, between the 28th of April '93 and September, speak to any Councillors?

7 A. Between the first and the second --

8 Q.344Yes?

9 A. No, not really, I left it alone.

10 Q.345Yes. Was your son, John Mahony, involved at all?

11 A. No.

12 Q.346Did you ask him to keep an eye on matters while you were away in September?

13 A. No, I asked John to go down to the Council meeting to show that we had an
14 interest, if you wish, just to show himself, he had no hand, act or part in
15 anything other than that, in the rezoning.

16 Q.347Do you have any recollection of Mr. Wright suggesting it would be good idea if
17 a member of the family was around for the September vote?

18 A. Mr. Wright said that to me.

19 Q.348Did he say that to you?

20 A. Yes.

21 Q.349Because Mr. Dunlop told the Tribunal that he understood that Mr. Mahony's
22 presence whether it was on one or more occasion was as a result of advice from
23 GV Wright?

24 A. Yeah. No, it was on a request from me.

25 Q.350Yes but did Mr. Wright --

26 A. To represent the family.

27 Q.351Yes, I understand that exactly Mr. Mahony, but did you get advice from
28 Mr. Wright?

29 A. Mr. Wright advised me that it would be good if John could be there.

30 Q.352I think subsequent to the lands being rezoned Mr. Mahony, you transferred the

1 lands to your daughter?

2 A. That's correct.

3 Q.353And you did so in or around December of 1993, is that right?

4 A. Okay.

5 Q.354Well the documentation you have discovered to the Tribunal shows that to be the
6 case, I don't propose putting up the documentation on screen?

7 A. Okay.

8 Q.355Unless you disagree with it Mr. Mahony?

9 A. No.

10 Q.356There is an entry in your diary Mr. Mahony, for the 22nd of November 1993, for
11 Sheila Terry, 632 please?

12 A. 22nd of November.

13 Q.357Yes. '93. And Michael Joyce. 22nd?

14 A. Okay I have -- Sheila Terry, Michael Joyce. Yes.

15 Q.358Can you recollect what that was, what that was -- first of all can you
16 recollect is that Councillor Sheila Terry?

17 A. Well I only know one, yeah.

18 Q.359Can you recollect why you were meeting her on that occasion?

19 A. No.

20 Q.360I am going to move on to deal with the success fee now, I don't know whether
21 this is appropriate?

22

23 CHAIRMAN: Perhaps Mr. Mahony might like a break for a few minutes?

24

25 CHAIRMAN: About ten minutes.

26

27

28 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

29 AND RESUMED AGAIN AS FOLLOWS:.

30

1 MS. DILLON: The first matter, Mr. Mahony, that I want to clarify with you is a
2 matter that I raised with you on the last occasion, in which -- was
3 documentation that had been provided to the Tribunal by Fianna Fail, that
4 indicated that on the 14th of March 1993 you had made a donation of 2,500
5 pounds to Fianna Fail and you disputed that, do you remember?

6 A. Yes.

7 Q.361I want to clarify Fianna Fail's position, that it is not Mr. Mahony's.

8

9 MR. HOGAN: Indeed it also wasn't referable to March 1993, it was reference --
10 referable to December, you said the 14th of March.

11

12 MS. DILLON: I said --

13

14 CHAIRMAN: You said 14th of March.

15

16 MS. DILLON: Sorry, I beg your pardon, 14th of December, I wanted to clarify
17 this because your solicitor was anxious this morning that this would be
18 clarified at the appropriate time. So the situation was, Mr. Mahony, that the
19 Tribunal had received documentation from Fianna Fail that indicated on the 14th
20 of December 1993, a payment of 2,500 pounds, which was attributed to you, but
21 you dispute that it had, isn't that right

22 A. That's right.

23 Q.362I want to confirm to you that following inquiries from the Tribunal that Fianna
24 Fail have confirmed that it is not you, is that all right?

25 A. Thank you.

26 Q.363Right. Now can I take you back then to deal with the success fee?

27 A. Yes.

28 Q.364Right. There were a number of telephone contacts in December between yourself
29 and Mr. Dunlop?

30 A. Correct.

1 Q.365They culminated in a meeting on the 3rd of February 1994?

2 A. That's right.

3 Q.366Okay. Do you accept that meeting took place?

4 A. I do.

5 Q.367Can you outline to the Tribunal what you recollect about that meeting?

6 A. Yes, I met Mr. Dunlop on, in the Berkley Court, I think it's in my diary there
7 at half past 11 and he had intimated that he would be looking for a success fee
8 and I intimated to him that I didn't want anything to do with a success fee,
9 that I had done a deal with him, we had agreed if it worked out satisfactorily
10 and now why after three or four months, after the whole thing was over, he came
11 looking for a success fee, and I did not understand that that's the mechanics
12 of a deal, that's what we discussed.

13 Q.368Yes. Did Mr. Dunlop outline to you why he felt he was entitled to a success
14 fee?

15 A. He did.

16 Q.369What reasons did he give you?

17 A. That he had extra work with withdrawing the motion and I think he said he had
18 extra work with John Mahony interfering with Councillors or canvassing
19 Councillors and it delayed his time, basically that was it. It was a
20 reasonable argument between two people who thought absolutely differently.

21 Q.370Were you annoyed by Mr. Dunlop coming back to you looking for more money?

22 A. Yes.

23 Q.371Did you express yourself to him at that meeting as being annoyed?

24 A. Oh, yes, that was the tone of it.

25 Q.372Do you remember him mentioning your son, John Mahony?

26 A. No.

27 Q.373You don't?

28 A. No. Not particularly, no.

29 Q.374I thought you said a minute ago, one of the reasons Mr. Dunlop gave you at the
30 meeting, for his entitlement to a success fee, was the involvement of your son

1 John Mahony?

2 A. No, he had said it earlier, he had said it earlier that that and the withdrawal
3 of Noel Fox's land, had created extra work for him.

4 Q.375When he said it earlier, prior to the 3rd of February?

5 A. I don't know.

6 Q.376Did you know, going to the meeting of the 3rd of February, that Mr. Dunlop was
7 going to be looking for more money?

8 A. I did.

9 Q.377So you must have had a telephone conversation with him?

10 A. Yes.

11 Q.378And when you had that telephone conversation with him, did you indicate to him
12 that you would pay him extra money or not?

13 A. No. No, this was a meeting to have a discussion.

14 Q.379About extra payment?

15 A. Absolutely, yes.

16 Q.380Why did you agree to meet him at all Mr. Mahony?

17 A. To discuss it with him.

18 Q.381What entitlement had Mr. Dunlop to a success fee?

19 A. None.

20 Q.382So why didn't you just put down the phone?

21 A. I am not like that.

22 Q.383What had Mr. Dunlop done that would have entitled him to a success fee?

23 A. What had he done?

24 Q.384Yes.

25 A. Nothing -- I paid him for what he did, as I agreed to pay him and that was the
26 28th, I think, of September, this was the 3rd of February when he was looking
27 for a success fee, it didn't make sense to me and I didn't enjoy it.

28 Q.385So why did you pay it?

29 A. To close it off.

30 Q.386You had paid him the 10,000 pounds in cash he had originally sought , isn't

1 that right?

2 A. That's correct.

3 Q.387As far as you were concerned you had kept up your end of the bargain?

4 A. That's right.

5 Q.388Here is this person coming back to you looking for a success fee?

6 A. Yes.

7 Q.389You know going to the meeting, he is looking for more money?

8 A. Yes.

9 Q.390You say he has no entitlement to, it isn't that right?

10 A. Yes.

11 Q.391But you agree to pay him?

12 A. Yes.

13 Q.392Why?

14 A. To close off the entire deal and try and make it as amicable as possible,
15 that's why.

16 Q.393But why didn't you -- what reason had you to remain on amicable terms with
17 Mr. Dunlop?

18 A. What reason --

19 Q.394Had you to remain on amicable terms with Mr. Dunlop?

20 A. I shook his hand the other morning, I don't have any enemies, I don't make
21 enemies, I try to keep --

22 Q.395Sorry, Mr. Mahony.

23 A. Go ahead.

24 Q.396If the reason you paid Mr. Dunlop was to stay, stay on amicable terms with him,
25 what reason had you to stay on friendly terms?

26 A. None.

27 Q.397So what reason had you, reason, to pay Mr. Dunlop?

28 A. I told you, to close off the whole thing and forget about it.

29 Q.398Is that your normal business practice Mr. Mahony?

30 A. Pardon?

1 Q.399Would that be your normal business practice?

2 A. It would, it would yeah. It would.

3 Q.400That people that have no entitlement to money under agreements that they have
4 made with you, get money from you just by asking for it?

5 A. No. I think you asked me differently, would that be the way you would finish
6 off a deal, it is, if there is an argument, you try to settle it.

7 Q.401Is it your normal practice Mr. Mahony, to pay money to people whom you say, are
8 not entitled to it?

9 A. No.

10 Q.402Is there any other instance in which you have paid money in circumstances such
11 as you paid this fee to Mr. Dunlop?

12 A. No.

13 Q.403Insofar as this is an unusual transaction from your point of view, were you
14 annoyed with Mr. Dunlop when you met him?

15 A. Yeah. I would say you could say that, yes.

16 Q.404And isn't it likely Mr. Mahony, if you were annoyed with him, there is less
17 likelihood of you agreeing to pay him?

18 A. No, we had our discussion and in order to finish up in a normal and amicable
19 way, we agreed a sum, agreement of both sides and that is, that is it in a
20 nutshell.

21 Q.405You could have brought closure to the matter Mr. O'Mahony, sorry, Mr. Mahony by
22 refusing to pay him anything?

23 A. Of course.

24 Q.406So what reason had you, that compelled you to pay him the 2,000 pounds?

25 A. It would be my normal nature to finish up amicably and if 2,000 pounds meant an
26 amicable parting for Frank Dunlop and myself, that was cheap.

27 Q.407Right. You have never done any other business with Mr. Dunlop?

28 A. No.

29 Q.408That was the last time you met him?

30 A. Until I met him the other morning, yes.

1 Q.409 Until you met him the other morning. And the only business you had ever been
2 involved in, with Mr. Dunlop, was the rezoning of these lands?

3 A. That's right.

4 Q.410 Your agreement was for 10,000 pounds in cash, which you paid?

5 A. That's right.

6 Q.411 Which you have already described to the Tribunal as being an unusual
7 transaction because it was a cash transaction?

8 A. That's right.

9 Q.412 This similarly was a cash transaction isn't that right, this 2,000 pounds was a
10 cash transaction?

11 A. Yes.

12 Q.413 There was no reason, contractual reason, for you to pay Mr. Dunlop, is that
13 right?

14 A. No.

15 Q.414 He had, you had fulfilled your contract?

16 A. Pardon?

17 Q.415 You had fulfilled your agreement with Mr. Dunlop by paying him?

18 A. Yes.

19 Q.416 Mr. Dunlop had fulfilled his part of the bargain by doing whatever he did to
20 achieve the rezoning of your lands, isn't that right?

21 A. Correct. Absolutely.

22 Q.417 And as far as you are concerned, on the 29th of September 1993, when your lands
23 were confirmed residential, that was the end of the matter?

24 A. That's right.

25 Q.418 So out of the blue in December of 1993, Mr. Dunlop contacts you?

26 A. That's right.

27 Q.419 And you eventually meet on the 3rd of February?

28 A. That's right.

29 Q.420 By which stage you know he is looking for more money?

30 A. Yes.

1 Q.421Now you had no obligation to pay him, isn't that right?

2 A. I have no --

3 Q.422Obligation to pay him?

4 A. No.

5 Q.423No. But you elected to pay him?

6 A. Yes, we agreed obviously.

7 Q.424But you were the man with the money Mr. Mahony?

8 A. Yeah I elected to pay him, so.

9 Q.425And you agreed to pay him in cash?

10 A. Yes.

11 Q.426Why did you agree to pay him in cash?

12 A. I don't know. I don't know. If I -- I probably raised it that way, I couldn't

13 tell you, I don't remember that detail of it.

14 Q.427How did you know that he wouldn't come back three months later for another

15 2,000?

16 A. He didn't.

17 Q.428And if he had, would you have paid it?

18 A. No. Oh no, no. That was the finality of it, if you follow it down, we were

19 trying to -- he had, we both started out there opposite to each other and tried

20 to meet and we both agreed amicably to 2,000 pounds, it suited him and suited

21 me.

22 Q.429Mr. Dunlop wanted 5,000 pounds is that right?

23 A. Yeah.

24 Q.430And you agreed on 2?

25 A. Yeah.

26 Q.431In cash?

27 A. Yeah.

28 Q.432Did you make any note or record in relation to that payment?

29 A. No.

30 Q.433Did you withdraw the money from the same source as the 10,000 pounds that

1 you --

2 A. I am not sure.

3 Q.434Have you been able to find, in your bank accounts or records, any trace of that
4 2,000 pounds?

5 A. Well if I wanted to, I probably could, otherwise I would take it out of the
6 safe, to answer you, I don't know what the source was, but it wouldn't linger
7 too long in my mind where I got it, and I paid it to him.

8 Q.435Did you feel that you were being blackmailed by Mr. Dunlop?

9 A. No. No, there was never a question of that. This was an amicable deal.

10 Q.436Did you feel that there was a compulsion on you to come to some arrangement
11 with Mr. Dunlop?

12 A. No, I felt myself, a compunction to do the right thing and let us part friends,
13 rather than he thinking and I thinking -- it's as simple as that, it wasn't a
14 big boxing match or a deal like that, it was an easy deal.

15 Q.437Have you ever had any other circumstances Mr. Mahony, in your extensive
16 business career, where you have voluntarily agreed to pay money in
17 circumstances such as this?

18 A. Yeah.

19 Q.438You have?

20 A. Yeah.

21 Q.439You have done this before?

22 A. Yes.

23 Q.440And you have paid them in cash?

24 A. I didn't say that.

25 Q.441Well, I am asking you?

26 A. No.

27 Q.442No. So this is the only time in which you made such a payment in cash?

28 A. I don't know.

29 Q.443You don't know?

30 A. No. I could have done it elsewhere. I don't remember doing it specifically,

1 but I thought you asked me a question, did I do this in deals before, it's a
2 normal thing, not unusual, if there is a difference between two people they
3 settle it.

4 Q.444But there was no agreement between you, in these circumstances, for the payment
5 of a success fee, isn't that right Mr. Mahony?

6 A. Absolutely none.

7 Q.445And in the absence of any such agreement you chose to pay Mr. Dunlop when you
8 could have refused?

9 A. I know. I explained, it's to make a happy ending to it and to finish it off
10 and I hope that's what it did.

11 Q.446Do you recollect discussing at this meeting of the 3rd of February of 1994,
12 with Mr. Dunlop, that you -- asking him what had happened to the 10,000 pounds?

13 A. No.

14 Q.447You didn't?

15 A. No.

16 Q.448Did you ask him what he had done with that money?

17 A. No.

18 Q.449Do you remember any discussion about that money being used up?

19 A. No.

20 Q.450Do you say that didn't happen?

21 A. Did not happen.

22 Q.451What did you discuss with Mr. Dunlop?

23 A. I told you. We discussed the deal. How I was upset in a -- he came at that
24 stage of the deal looking for a success fee while the deal I did, finished on
25 the 28th of September and that was the whole discussion at the meeting.

26 Q.452Why did you want to stay on friendly terms with Mr. Dunlop?

27 A. I didn't particularly. I never reckoned I would see him again. I just wanted
28 to finish a deal on a happy note.

29 Q.453But you had finished the deal, Mr. Mahony, in September?

30 A. Pardon?

1 Q.454You had finished the deal in September?

2 A. Correct. Yeah, but he came -- if you follow it. He comes in, he feels he is
3 entitled to more, I don't feel he is entitled to more and we shook hands on
4 2,000 pounds.

5 Q.455And you pay him more. You pay him more?

6 A. I paid him.

7 Q.456More than you thought he was entitled to. You paid him 2,000 pounds more than
8 you thought he was entitled to?

9 A. Yeah. Yes.

10 Q.457So there are a number of unusual features about this entire arrangement with
11 Mr. Dunlop, Mr. Mahony, that I want to put to you?

12 A. Yes.

13 Q.458If we take the two payments the 10,000 pounds and 2,000 pounds?

14 A. Yes.

15 Q.459They are both arranged in hotels at which both of you are present, is that
16 right?

17 A. Yeah, that's right.

18 Q.460In the first case Mr. Fox is present, but in the second case there is only the
19 two of you?

20 A. Yes.

21 Q.461The agreement in both cases is for a cash payment, one of 10,000 pounds and one
22 of 2,000 pounds?

23 A. Yes.

24 Q.462The 10,000 pounds arises because there is agreement between the two -- between
25 you?

26 A. Yes.

27 Q.463The 2,000 pounds arises because there is no agreement between you but you
28 decide to pay Mr. Dunlop, isn't that right?

29 A. We arrived at an agreement.

30 Q.464You arrived at an agreement?

1 A. Yeah.

2 Q.465Both payments are in cash?

3 A. Yes.

4 Q.466Neither payment is recorded anywhere?

5 A. That's right.

6 Q.467Absolutely?

7 A. Yeah.

8 Q.468I suggest to you, Mr. Mahony, that that suggests very strongly, that neither of
9 these transactions were legitimate transactions?

10 A. They are unusual transactions.

11

12 MR. HOGAN: Again, I object to the manner in which that question has been put,
13 for this reason Sir, that I think that in fairness to the witness, Ms. Dillon
14 must put it to the witness first, what she means by legitimate transaction.

15

16 MS. DILLON: I will put it to you this way Mr. Mahony, if this was an open and
17 transparent transaction it would be surrounded by the normal documents that
18 surround any commercial transaction, invoices, cheque payments, entries in
19 cheque payments books, audit files, all matters such as that sort , isn't that
20 right?

21 A. That is correct.

22 Q.469There is nothing in this case, in the two agreements between yourself and
23 Mr. Dunlop, that carries with it any of the documentation that would surround a
24 legitimate commercial transaction, isn't that right?

25 A. Absolutely, yeah.

26 Q.470This is not recorded anywhere?

27 A. Nowhere.

28 Q.471Isn't that right?

29 A. That's right.

30 Q.472It is an unusual transaction from your point of view because they are the only

1 transactions, as I understood your evidence on Tuesday, in which you ever paid
2 professional fees by way of cash?

3 A. Correct.

4 Q.473Is that right?

5 A. Yes.

6 Q.474The second payment was also in cash?

7 A. Yes.

8 Q.475Right. Cash is untraceable, Mr. Mahony, isn't that right?

9 A. Cash is --

10 Q.476Untraceable. There are no cheques, there are no bank drafts?

11 A. That's right, untraceable.

12 Q.477And in this particular case, you took the cash, not from a bank account but
13 from a safe?

14 A. Yeah.

15 Q.478The money is untraceable?

16 A. That's right.

17 Q.479And I suggest to you, Mr. Mahony, that in dealing with Mr. Dunlop in these two
18 transactions, in the manner in which you did, which was completely different to
19 your normal business practice, that you knew that there was something wrong
20 with this entire transaction?

21 A. I thought I explained the other day, why I paid Mr. Dunlop in cash? Because I
22 was just in the middle of a deal, I was so glad to get him on board, he asked
23 for cash and I agreed it immediately.

24 Q.480Whatever compulsion, Mr. Mahony, might have existed on the 10th of March '93
25 when you agreed to pay him, no such compulsion existed on the 3rd of February
26 1994 when you agreed again, at Mr. Dunlop's request you say, to pay him 2,000
27 pounds in cash, isn't that right?

28 A. That's right.

29 Q.481Okay. Now, this I suggest to you, Mr. Mahony, on any objective analysis of it,
30 is a secret and clandestine transaction?

1 A. Which one.

2 Q.482The two transactions with Mr. Dunlop. This is not how you normally do
3 business, is it?

4 A. I accept that.

5 Q.483Right. And I suggest to you that it is because you must have known that there
6 was something untoward in the entire of your business dealings with Mr. Dunlop?

7 A. Did not, no. I did not.

8 Q.484Do you say Mr. Mahony, that you did not know that Mr. Dunlop was making
9 disbursements or paying Councillors?

10 A. I certainly did not. And it never entered my head or my mind. And to this day
11 I don't know.

12 Q.485Mr. Mahony, when Mr. Larry Butler asked you for a political donation of 250
13 pounds in May of 1993 you wrote a cheque or somebody wrote a cheque on your
14 company account?

15 A. Mm-hmm.

16 Q.486You entered it into the cheque payments book as Larry Butler Fianna Fail
17 fundraiser, isn't that right?

18 A. That's right.

19 Q.487You could have written a cheque to cash, couldn't you, on any of your bank
20 accounts?

21 A. Yeah.

22 Q.488For Mr. Dunlop, couldn't you?

23 A. Oh yeah.

24 Q.489And you could have written a cheque to cash for the 2,000 pounds?

25 A. Yes.

26 Q.490But you didn't do that?

27 A. No.

28 Q.491No. You involved yourself in an untraceable transaction with Mr. Dunlop?

29 A. Yes.

30 Q.492It is, I suggest, a clandestine or hidden transaction that you were involved

1 in, with Mr. Dunlop?

2 A. It would be, yes.

3 Q.493 It is not recorded anywhere as a legitimate transaction?

4 A. No, no.

5

6 MR. HOGAN: Sir, I do maintain my objection to the use of the phrase
7 "legitimate transaction", in fairness to the witness, is she saying it is
8 unlawful? Is she -- says merely because cash was paid, it was somehow contrary
9 to some precept of the criminal law, I think that with respect that has to be
10 clarified?

11

12 CHAIRMAN: Well just explain what you mean by legitimate.

13

14 MS. DILLON: If it had been a legitimate transaction, Mr. Mahony, as we have
15 been through this already, there would be a record of you retaining Mr. Dunlop,
16 there would be an invoice from Mr. Dunlop for his services.

17 A. Mm-hmm.

18 Q.494 There would be a VAT element because Mr. Dunlop's company was VATable isn't
19 that right?

20 A. Mm-hmm.

21 Q.495 There would ultimately have been a VAT return to the Revenue Commissioners, you
22 might have claimed the VAT back.

23

24 MR. HOGAN: Again Sir, I object to this because the obligation to account, as
25 far as VAT is concerned, is on the taxable person, which in this instance is
26 either Mr. Dunlop or his company, and I do think that, with respect, it has to
27 be clarified in arguendo between Ms. Dillon and the bench rather than
28 Ms. Dillon continuing to put the questions, I think I am entitled to know and
29 the witness is entitled to know and have this clarified now before this type of
30 questioning continues.

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MS. DILLON: What I suggest is this, Mr. Mahony says this is the only transaction in which he was involved, which was a cash transaction. Mr. Mahony accepts that this transaction is not surrounded by the documentation that would surround a normal legitimate transaction. There is no invoice from Mr. Dunlop, there is no VAT invoice from Mr. Dunlop. There is no record in the books or accounts of either Mr. Mahony or any of his companies of that payment to Mr. Dunlop. Mr. Mahony himself makes this a singular payment because he says it is the only time that he paid cash and the only reason he suggests to the Tribunal that he paid cash, was because Mr. Dunlop asked for cash.

CHAIRMAN: Yes, well he is -- Mr. Mahony accepts that it wasn't a normal business transaction, as he understood normal business transactions to be. He says that he was asked for cash. Now it can be certainly put to him that, that the reason -- it can be put to him that the reason he paid cash was to keep it hidden, to keep the entire transaction hidden and he agreed that, that's already been put to him. It can be put to him that he paid it for the purposes or he -- that one possible purpose of doing it was to enable unauthorised payments to be made by Mr. Dunlop, that can be put to him and he can give his answer to that, I think Mr. Hogan's point is, that it's being suggested to him that it was some sort of unlawful transaction. Which in itself it wasn't.

MS. DILLON: Very well. I will put that in that fashion.

Did you agree to pay Mr. Dunlop in cash because you knew he was going to pay Councillors?

A. No.

Q.496 So the only reason that you are offering for why you agreed to pay him cash, was that Mr. Dunlop asked for it?

A. That's right.

1 Q.497What reason do you offer to the Tribunal for your failure to keep any
2 documentary record of the transaction?

3 A. I explained to you the other day, that I kept some funds in a safe at home in
4 my office for security reasons. And I took it from that money.

5 Q.498Yes, I understand that Mr. Mahony, but insofar as you say you paid cash to
6 Mr. Dunlop because he asked for it?

7 A. That's right.

8 Q.499There was nothing to prevent you keeping your own record in relation to the
9 payment to Mr. Dunlop, isn't that right?

10 A. Nothing to prevent me, no.

11 Q.500Did you keep any such record?

12 A. No.

13 Q.501Why not?

14 A. Didn't bother.

15 Q.502And when you agreed to pay the 2,000 pound success fee, did you keep any record
16 of that payment?

17 A. No.

18 Q.503On both occasions Mr. Mahony, on which you met Mr. Dunlop, on the 3rd of
19 February and on the 8th of February 1994, you also met Mr. Noel Fox, the same
20 day?

21 A. That's true.

22 Q.504Right. After your meeting with Mr. Dunlop, which I think was 11 o'clock, you
23 met Mr. Fox at 12.45 is that right?

24 A. That's in my diary, yeah.

25 Q.505Yeah. Did you discuss this matter with Mr. Fox?

26 A. Number 1, I am not sure whether I met Mr. Fox or if I met him with somebody, I
27 don't exactly recall what Mr. Fox -- Mr. Fox and I would have been meeting on
28 business, at that, at that time of the day and maybe he would have had somebody
29 with him or I might have, I don't know, and I don't remember what I discussed
30 with Mr. Fox.

1 Q.506 Well, if it was just the two of, you and you had just concluded your agreement
2 with Mr. Dunlop, is it likely that you might have discussed it with Mr. Fox?

3 A. Yeah might, but not necessarily.

4 Q.507 Not necessarily?

5 A. Yeah.

6 Q.508 And is it likely if you met Mr. Fox on the 8th of February, after you had
7 actually made the second payment to Mr. Dunlop, that you might have discussed
8 it with Mr. Fox again?

9 A. Say that to me now --

10 Q.509 You also met Mr. Fox, according to your diary, on the 8th of February 1993, the
11 day on which you paid the 2,000 pounds to Mr. Dunlop?

12 A. That day.

13 Q.510 Yes?

14 A. Yes. He is in my diary to meet him at 12.45, oh no, on the day I paid him?

15 Q.511 He is in the diary for 3 pm?

16 A. No, I -- 8th of February '93.

17 Q.512 Yes, Mr. Mahony?

18 A. Excuse me.

19 Q.513 94, I beg your pardon. 671 please?

20

21 MR. HOGAN: Again it should be clarified to the witness that's Mr. Dunlop's
22 diary.

23 Q.514 Sorry, I meant to put up Mr. Mahony's diary.

24 A. The 8th of February '94?

25 Q.515 Yes?

26 A. I have Mr. Dunlop down and crossed out.

27 Q.516 Yes; and Mr. Dunlop has an entry in his diary which was just on the screen,
28 that says "Denis Mahony collect message".

29 A. At that morning, yeah.

30 Q.517 Yes.

1 A. No, I wouldn't discuss that later on.

2 Q.518 That payment, you wouldn't have discussed it with Mr. Fox?

3 A. No, I wouldn't. Not -- I am not saying I didn't or I wouldn't, but not
4 necessarily, no, I wouldn't think -- I wouldn't think so, definitely not, no.

5 Q.519 In all of your conversations, sorry if you just stick to the two conversations
6 that you had with Mr. Dunlop, in relation to the two transactions; the 3rd of
7 February 1994 and the -- sorry, on the 3rd of February 1994, did you discuss
8 expenses with Mr. Dunlop?

9 A. I wouldn't think so.

10 Q.520 Do you recollect Mr. Dunlop saying he had had a lot of expenses?

11 A. I am sure he did. I don't recollect it, but I am sure he did, yeah. I don't
12 recollect it. I can recollect that he was making his case and I was making my
13 case, so -- and that's what happened.

14 Q.521 But if Mr. Dunlop says that he did discuss expenses with you on the 3rd of
15 February are you disputing that he did?

16 A. I am, yes.

17

18 MR. HOGAN: Again Sir, I object to that. Mr. Dunlop didn't say he discussed
19 expenses. He said he mentioned the word "expenses" he didn't discuss the
20 expenses. He was very clear to say he didn't discuss expenses.

21

22 CHAIRMAN: I think that's correct.

23

24 MS. DILLON: Mr. Dunlop said he said to you he had had a lot of expenses.

25 A. He would do, yeah.

26

27 MR. HOGAN: Again with respect, he didn't say he had "a lot of expenses" he
28 said "he had expenses" if my memory serves me.

29

30 MS. DILLON: Do you recollect the word "expenses" being used at all,

1 Mr. Mahony?

2 A. If he said he had a lot of expenses that would be normal, if he comes looking
3 for money, at the end of a deal, if he is trying to justify his case, but --

4

5 MR. HOGAN: Again Sir, it should be made clear to the witness that is not in
6 fact what Mr. Dunlop said in evidence.

7

8 CHAIRMAN: Ms. Dillon, what did Mr. Dunlop say? Did he use the term "a lot of
9 expenses" or just "expenses"?

10

11 MS. DILLON: I think he used the phrase "fees and expenses" it is being checked
12 on the transcript now. I will get the actual extract.

13

14 CHAIRMAN: Well Mr. Mahony can be asked does he recall Mr. Dunlop mentioned
15 fees and expenses.

16

17 MS. DILLON: Do you recollect that Mr. Mahony?

18 A. Fees and expenses?

19

20 CHAIRMAN: Yes. Fees and expenses? Did Mr. Mr. Dunlop mention that to you
21 when he was looking for his success fee? That he had incurred fees and
22 expenses?

23 A. I don't -- I don't honestly recall now, we were trying to hammer out something
24 between us, and I don't really remember.

25 Q.522 Is it the position, Mr. Mahony, to be fair to yourself, what you recollect of
26 the meeting of the 3rd of February is the overall rather than the detail?

27 A. Yeah.

28 Q.523 Is that right?

29 A. Yeah.

30 Q.524 If I understand you correctly you were annoyed with Mr. Dunlop looking for more

1 money?

2 A. Yeah.

3 Q.525 You felt you had done your end of the bargain. You paid him his 10,000 pound,
4 he had done his job and shouldn't be back here looking for more money?

5 A. That's right.

6 Q.526 Mr. Dunlop made a case and you replied with your case?

7 A. Yeah.

8 Q.527 Now what points did you make to Mr. Dunlop about why you shouldn't pay him
9 anything?

10 A. Well I -- the obvious one was that I had kept my end of the bargain, it
11 finished on 28th of September and here you are now looking for more money, that
12 would be it, I imagine.

13 Q.528 What did Mr. Dunlop say to you in reply to that?

14 A. I don't know. He would be arguing his end of it that -- I don't know. He was
15 looking for it, maybe, which he had done a good job, maybe that was it, and he
16 had done a good job.

17 Q.529 Is it the position you don't recollect what Mr. Dunlop said to you?

18 A. Yes.

19 Q.530 Except that your recollection of it is he was looking for money?

20 A. Yes.

21 Q.531 And he was looking for more than you ultimately agreed to pay?

22 A. Yes.

23 Q.532 Do you recollect him looking for 5,000?

24 A. Well I am just wondering whether it was four and we divided it, I don't know.

25 Q.533 You don't know. But you did agree to pay him the two?

26 A. Yes.

27 Q.534 And did you pay him that then?

28 A. Yes.

29 Q.535 On the 8th of February '94?

30 A. Okay.

1 Q.536Is that right?

2 A. Yeah, that's what he says, isn't it? The 8th, yeah.

3 Q.537But you do agree did you pay him, you are not disputing that you paid

4 Mr. Dunlop the 2,000 pounds?

5 A. No, no, no. I paid him.

6 Q.538Did you discuss the rezoning at all with Mr. Dunlop at the meeting on the 3rd?

7 A. I would doubt that, except that he had done good job, I would say.

8 Q.539After that meeting, Mr. Mahony, I think that you didn't meet Mr. Dunlop again?

9 A. No.

10 Q.540No. And subsequently if I can take you very briefly through the events of what

11 happened with the lands throughout '94, '95 and '96?

12 A. All right.

13 Q.541I think that's it's clear from the documentation that a number of applications

14 were made for burial grounds?

15 A. That's right.

16 Q.542On the lands?

17 A. That's right.

18 Q.543One of which was ultimately successful with Fingal County Council but

19 overturned by An Bord Pleanala?

20 A. Correct.

21 Q.544Do you recollect during that time meeting Mr. GV Wright?

22 A. Yes.

23 Q.545Did you ask for Mr. Wright's help in relation to those applications, the burial

24 grounds on the lands?

25 A. I didn't handle that.

26 Q.546You didn't handle that?

27 A. No.

28 Q.547Did you meet any officials of Dublin County Council, can you recollect in

29 connection with those lands?

30 A. I did, yeah.

1 Q.548Did you meet Mr. Liam Coughlan and Mr. Barry Morris?

2 A. I met Barry Morris, I remember him.

3 Q.549Was that in connection with the burial grounds?

4 A. Yeah, it was.

5 Q.550It was. These lands were owned by your daughter at this stage?

6 A. That's right.

7 Q.551Were those meetings set up by Mr. Wright or did you set them -- who were they
8 set up by?

9 A. My daughter will tell me and I will tell you.

10 Q.552Did you discuss the burial grounds at all with Mr. Wright, can you recollect?

11 A. I did, yes.

12 Q.553And did he give you advices in relation to it, was he advising you about it?

13 A. Yeah he was helping, yes, whatever.

14 Q.554I think ultimately after the lands were -- sorry, after the planning permission
15 was overturned by An Bord Pleanala an application was made in the course of the
16 '98 review of the Development Plan?

17 A. Yes.

18 Q.555That was an application that was made on behalf of your daughter, isn't that
19 right?

20 A. That's right.

21 Q.556But you are aware of the application being made?

22 A. I am.

23 Q.557And that was to remove the density of 12 houses on septic tank?

24 A. Yeah.

25 Q.558Which was ultimately not successful, isn't that right?

26 A. Which was?

27 Q.559The council stuck with the 12 houses, they stayed with?

28 A. No. No. They, the council -- the council changed the zoning, changed.

29 Q.560The density?

30 A. Density.

1 Q.561Yes. The council changed the density, Mr. Mahony, and put a limitation of 12
2 houses, I think?

3 A. They changed it, sorry.

4 Q.562The council changed the density~, isn't that right?

5 A. Yeah.

6 Q.563And then there was an application to remove the density on behalf of your
7 daughter, I think there has been evidence from Mr. McGlynn in relation to this,
8 nothing turns on it?

9 A. I am not familiar with it, I didn't hear his evidence. I am not familiar with
10 it.

11 Q.564I think ultimately the lands were sold, Mr. Mahony, isn't that right?

12 A. That's right.

13 Q.565In the year 2000.

14 A. All right.

15 Q.566And they were sold by public tender?

16 A. That's right.

17 Q.567Through your solicitor Mr. McInerney?

18 A. That's right.

19 Q.568And they were sold ultimately I think to Ballymore Properties Limited?

20 A. That's right.

21 Q.569For 13.5 million?

22 A. That's right.

23 Q.570And the lands, Mr. Mahony, are they presently being developed?

24 A. Sorry?

25 Q.571Do you know are the lands being developed now?

26 A. Yes.

27 Q.572Are they being developed?

28 A. Yes.

29 Q.573Okay. Isn't it the case that notwithstanding the zoning change you got in 1993
30 that these lands were not developed for housing until they were sold to

1 Ballymore Homes?

2 A. They weren't, no.

3 Q.574Isn't that right?

4 A. That's right.

5 Q.575That what happened to the lands after you got the zoning was that applications
6 were made for burial grounds?

7 A. That's right.

8 Q.576But they were never developed?

9 A. No, there was no development.

10 Q.577Right. Why was that Mr. Mahony?

11 A. Because it wasn't financially feasible.

12 Q.578Was that because of the density?

13 A. Yes.

14 Q.579Right. Was there also a problem because there was no pipe sewerage?

15 A. Well that would be, yes.

16 Q.580Yes. But it is the case nonetheless that after you got the zoning in September
17 1993, these lands were never developed until they were sold in 2000?

18 A. That's it, yeah.

19 Q.581Can you recollect, Ms. Foley reminds of something I should have asked you and I
20 didn't, can you recollect why it was that Mr. Fox withdrew?

21 A. There are various versions of it, my own is that he was never really into it
22 and he was quite cold on it, but he didn't want any publicity or any hassle,
23 that's my honest opinion. Now there are a whole lot of other ones, but that's
24 the honest one I think.

25 Q.582That's what you believe?

26 A. That's what I believe.

27 Q.583Is that he didn't want any publicity?

28 A. Yeah.

29 Q.584Sorry, there is one matter Ms. Foley again reminds me, Mr. Mahony that I should
30 have asked you, do you have any recollection of using the words that, I can't

1 give you the actual words that at your meeting with Mr. Dunlop on the 10th of
2 March 1993, remember that meeting, the first meeting with Mr. Dunlop, do you
3 have any recollection of using the word "I know the way the world works" or "I
4 am a man of the world"?

5 A. No recollection.

6 Q.585 Do you think that you did not use those words?

7 A. I know I did not use those words.

8 Q.586 Are they the sort of words you would not normally use?

9 A. I wouldn't use them.

10 Q.587 No. Thank you very much. I don't know what the order is that has been agreed
11 between the parties.

12 Thank you very much Mr. Mahon.

13

14 MR. ALLEN: If I might assist in relation to that?

15

16 CHAIRMAN: Sorry, your microphone.

17

18 MR. ALLEN: If I might assist in relation to that Chairman? I spoke to Mr.
19 Nesbitt, who represents Mr. Fox. He indicated that he has, he is going to be a
20 very short time, on which undertaking to him I have agreed he can go ahead of
21 me, subject obviously to any direction contrary that you and your colleagues
22 might have. I will be approximately half an hour I would have thought, not
23 much more, with Mr. Mahony.

24

25 CHAIRMAN: And I take it Mr. Kennedy and Mr. Montgomery?

26

27 MR. KENNEDY: I have some questions, I won't delay very long, I will demur to
28 Senior Counsel, as is expected.

29

30 CHAIRMAN: All right.

1
2 MR. HOGAN: Can I go penultimately, and then Ms. Dillon?

3
4 CHAIRMAN: All right.

5
6 MR. DENIS MAHONY WAS CROSS EXAMINED AS FOLLOWS BY MR. NESBITT:

7
8 MR. NESBITT: I have just a very simple question, I am standing up so you can
9 see me. I am over your monitor.

10
11 MS. DILLON: If you look behind you to the gentleman standing, he is talking to
12 you.

13 A. Sorry.

14 Q.588MR. NESBITT: I am appearing for Noel Fox, I have just a very simple issue I
15 want to deal with, I think when you first gave evidence --

16 A. I am a little deaf.

17 Q.589Sorry, when you first gave evidence you described your meeting on the 10th of
18 March in the Shelbourne Hotel and the question in the transcript for the
19 information of the Tribunal, is question 564, you described that meeting as
20 being a brief discussion, you think that's an accurate description of it, is
21 that right?

22 A. Pardon?

23 Q.590The discussion on the 10th of March in the Shelbourne Hotel with Mr. Fox?

24 A. Yes.

25 Q.591You describe that in your evidence as a brief discussion, are you happy with
26 that description?

27 A. Yes.

28 Q.592And I think you also said that Mr. Fox took no part in the discussion, you are
29 happy with that?

30 A. That's true.

1 Q.593And I think you have described Mr. Fox at that point in time being lukewarm
2 about the concept of rezoning?

3 A. That's true.

4 Q.594And I think when the meeting eventually ended you say the meeting lasted 20 to
5 30 minutes, you went off to your office I think with Mr. Dunlop to get some
6 maps; do you remember that?

7 A. Yes.

8 Q.595Now the point I want to make to you is this, that Mr. Fox says that although he
9 understood that Mr. Dunlop would be retained and paid a fee, he has no
10 recollection of any discussion of cash being the method in which the fee would
11 be paid. Do you have any reason to doubt Mr. Fox's assertion that he has no
12 recollection of cash?

13 A. No, I don't doubt it at all. The deal for cash was strictly between myself and
14 Mr. Dunlop. Now I am not sure how far away Mr. Fox was or whatever, but he was
15 never consulted on it. It was done by myself and Mr. Dunlop.

16 Q.596And I assume the discussion about a fee was something that didn't take very
17 long, it would have been a brief moment?

18 A. Brief.

19 Q.597Thank you very much.

20

21 CHAIRMAN: Do you wish to go now?

22

23 MR. DENIS MAHONY WAS CROSS EXAMINED AS FOLLOWS BY MR. KENNEDY:

24

25 Q.598MR. KENNEDY: If I might go ahead of Mr. Allen, I will be only a few minutes.

26 Mr. Mahony, Martin Kennedy, I am appearing for Mr. Wright?

27

28 CHAIRMAN: You don't have any objections Mr. Allen? He is looking a bit
29 perplexed, on the basis you will only be a few minutes.

30

1 MR. KENNEDY: Certainly. I will be finished in a few minutes. If Mr. Allen
2 is happy with that.

3

4 MR. ALLEN: Absolutely happy Chairman, of course anything to help My Friend.

5

6 Q.599MR. KENNEDY: Thank you very much.

7 Mr. Mahony, there was never any doubt that Mr. Wright was supportive of this
8 motion, isn't that the position as you understood?

9 A. Never any doubt.

10 Q.600He was always going to be supportive?

11 A. Oh, yes.

12 Q.601He was a local politician who you knew, he was interested in development in his
13 own area and made that absolutely clear to you?

14 A. Yes.

15 Q.602And he was impressed with your plans for the development, such as it was, back
16 in the early '90s?

17 A. Right.

18 Q.603So you always knew he was going to be supportive?

19 A. Yes.

20 Q.604And that he would help you in any way possible?

21 A. Yes.

22 Q.605There is a serious allegation made by Mr. Dunlop that he made a payment to
23 Mr. Wright which Mr. Wright emphatically denies. In all of the meetings you
24 had with Mr. Dunlop when money was discussed and in particular the meeting when
25 the success fee was discussed, did Mr. Dunlop ever indicate to you that he had
26 made a payment to Mr. Wright?

27 A. No.

28 Q.606They are the serious questions, Mr. Mahony. Ms. Dillon was asking you about
29 financial support that you gave to a number of people after the success of the
30 motion, and she was referring in particular to two golf classics and she

1 indicated that you supported a Fine Gael Golf Classic at a cost of 4 hundred
2 pounds and a Fianna Fail Golf Classic at 250 pounds. Now, am I right in
3 thinking she was, I think, implying that it was some benefit to either
4 political party; but am I right in saying that when you enter a golf classic
5 you actually get to play golf, which is an expense, you might be fed if you are
6 lucky, and if you are playing in the Fine Gael classic they charge 4 hundred
7 pounds, you might even get a bottle of wine thrown in. So there is a political
8 expense to the political party running the golf outing, they don't get the
9 money outright, they have expense, isn't that the way it works?

10 A. That's the way it works.

11 Q.607Thank you, Mr. Mahony.

12

13 MR. ALLEN: Chairman, Mr. Montgomery indicated that he will only be a few
14 minutes and of course I wouldn't like to go before him.

15

16 CHAIRMAN: Very good.

17

18 MR. DENIS MAHONY WAS CROSS EXAMINED AS FOLLOWS BY MR. MONTGOMERY:

19

20 Q.608MR. MONTGOMERY: Thank you Mr. Allen. Thank you Chairman. Mr. Mahony, my name
21 is Giles Montgomery, representing the estate of the late Cyril Gallagher -- can
22 you hear me?

23 A. Sorry, I can't hear you, I am a bit deaf.

24 Q.609My name is Giles Montgomery. I represent the estate of Cyril Gallagher, I have
25 one or two short questions to ask you. May I bring you back to the meeting in
26 the Shelbourne Hotel on the 10th of March, you have stated.

27

28 MS. DILLON: I wonder, just for this particular examination in ease of
29 Mr. Mahony, if it would be possible for Mr. Montgomery to move to my seat, it
30 might make things easier to move to the end of this seat, if Mr. Montgomery

1 doesn't mind?

2

3 CHAIRMAN: If Mr. Montgomery draws the mic closer we'll see how that works.

4

5 Q.610MR. MONTGOMERY: Can you hear me now Mr. Mahony, I can go to the witness stand
6 Chairman, that doesn't bother me?

7 A. Sorry -- I can't hear.

8

9 CHAIRMAN: All right. Is there --

10

11 MR. MONTGOMERY: I can go to the witness stand.

12

13 CHAIRMAN: If that helps you can go to the witness stand.

14

15 Q.611MR. MONTGOMERY: We can share the microphone. Can you hear me now?

16 A. I can, yeah.

17 Q.612Can I take you to the meeting in the Shelbourne Hotel on the 10th of March?

18 A. Yes.

19 Q.613Both you and Mr. Fox have indicated the meeting took between 30 and 40 minutes?

20 A. Yeah, 20 to 30 minutes.

21 Q.614Or 20 to 30. Mr. Fox has given evidence that he effectively took no part in
22 that meeting?

23 A. I accept that.

24 Q.615And that it was you?

25 A. Mm-hmm.

26 Q.616Now, can you tell us what you spoke about for say a half an hour, did you lay
27 out a format of planning as to what each of you would do or --

28 A. No, my memory, it was a matter between Mr. Dunlop and myself, he was to pick up
29 a map for me the following day and that's, that kind of finished it.

30 Q.617Without being facetious, that takes about 30 seconds. What did you talk about

1 for 20 to 30 minutes?

2 A. We didn't, nothing really. It was a short meeting, I will put it that way. To
3 the point.

4 Q.618I accept that. But surely you were told by Mr. Dunlop what he proposed to do
5 for the money, for the 10,000 pounds?

6 A. Yeah, he was to take over the file.

7 Q.619And did he tell you in any form or fashion as to what he proposed to do?

8 A. No. Just that he would take over the file, I won't know from then on.

9 Q.620Who told you to lobby certain councillors?

10 A. Yeah. He would be lobbying certain councillors, that would be the file, as I
11 understand it.

12 Q.621Well then, would you explain to us what the file was?

13 A. I don't know. GV Wright had the file and he handed it over to Frank Dunlop to
14 process.

15 Q.622So you were never told about actual lobbying councillors?

16 A. Never told that he was going to lobby councillors.

17 Q.623Yeah --

18 A. Of course he would lobby councillors, as I did.

19 Q.624In your subsequent telephone conversations with him?

20 A. Yes.

21 Q.625Did he tell you whether he had been lobbying councillors?

22 A. Yeah, he would give you a progress report.

23 Q.626Okay, that's what I was getting at?

24 A. Yeah.

25 Q.627Did he tell what you councillors he had approached?

26 A. Not particularly, no.

27 Q.628Did he ever mention any?

28 A. A name, no, not to my knowledge.

29 Q.629And when you were discussing the matter with GV Wright did he ever tell you
30 what councillors you could expect to rely on?

1 A. I don't honestly know, I was terribly busy trying to do them myself, I don't
2 honestly know. It is all part of it, I don't know.

3 Q.630 You see there were allegations made about certain councillors that they
4 accepted money from Mr. Dunlop?

5 A. I understand that.

6 Q.631 But it could equally be said, if they either believed in the project or
7 believed in you, or were prepared to be helpful to their colleagues, they
8 wouldn't need to have been paid off?

9 A. That's right.

10 Q.632 So what I am really asking you is, do you know of anybody who you knew was
11 going to be supportive?

12 A. Who I knew?

13 Q.633 Yeah?

14 A. I mentioned some of them this morning, you heard that, but beyond that no, not
15 really. I would get some kind of a count from Frank Dunlop, you know, we have
16 this or that and the other.

17 Q.634 That's what I am asking you to remember?

18 A. No. I don't.

19 Q.635 You don't remember?

20 A. No, I don't.

21 Q.636 Okay. Thank you Mr. Mahony.

22 A. Thank you.

23

24 CHAIRMAN: Thank you.

25

26 MR. DENIS MAHONY WAS CROSS EXAMINED AS FOLLOWS BY MR. ALLEN:

27

28 Q.637 MR. ALLEN: Mr. Mahony, I am sorry, I know you are -- my name is Colm Allen, I
29 am a Senior Counsel.

30 A. I know.

1 Q.638 Thank you. I am senior counsel and I represent Mr. Frank Dunlop in this
2 matter, I appreciate that you have been in the box for two days at least now
3 and I will endeavour to be as brief as possible, firstly can I be, can you hear
4 me?

5 A. Yes.

6 Q.639 You can. I know you won't hesitate to tell me that if at any stage you can't
7 hear?

8 A. If you speak into it I can hear.

9 Q.640 I must be because you said you can hear me. Thank you.

10

11 Now Mr. Mahony, stripping this matter of this module insofar as you are
12 concerned of a mass of detail, there are I suggest to you, four or five
13 fundamental facts which apply, do you follow me, I am going to indicate to you
14 what those are. The first is that you have land which you want rezoned, do you
15 follow me?

16 A. That's right.

17 Q.641 The second is, and I want, where you disagree with me I want you to make that
18 clear, obviously because the Tribunal needs to know exactly what your position
19 is. The second is that up to a particular point in time you were relying on
20 your own resources and those of Mr. GV Wright, being a senator at the time, to
21 advance your agenda which was the rezoning of the lands, isn't that correct?

22 A. That's correct.

23 Q.642 And that agenda was pursued both by Senator Wright and yourself for a long
24 period of time leading up to within two days of the first vote, isn't that
25 correct?

26 A. Yes. Yes.

27 Q.643 Now something happened, this is the next fact I suggest to you, something --
28 you came to realise something within two to three days of having the necessary
29 resolution placed before the council, isn't that right?

30 A. That's right.

1 Q.644And isn't what you realised was that, not to put a tooth in it, Mr. or Senator
2 Wright made a bit of a hames of it, isn't that correct?

3 A. He was a bit behind time.

4 Q.645Well a bit behind time Mr. Mahony, I suggest to you, is a kindness, is doing
5 him a singular kindness having regard to the fact that you found yourself on a
6 Wednesday, if I remember correctly, the 10th, with no signed resolution in
7 circumstances where that resolution had to be delivered to the council on the
8 12th, isn't that correct?

9 A. That's correct.

10 Q.646So he was more than a little behind time~, isn't that right?

11 A. That's correct.

12 Q.647Now you have said in your statement, in your first narrative statement to the
13 Tribunal that you have dealt with this particular situation and you have said
14 at page, paginated page 3, paragraph -- sorry, page number would be 74, do you
15 have your own statement, Sir? It is on the screen for you there, which ever is
16 easier for you. I want to draw your attention to paragraph 11 of that
17 statement which was made on the, received by the Tribunal on 7th of July 2000.
18 The same day that it was signed by you, do you have that paragraph 11?

19 A. Yes.

20 Q.648"To this end I met Mr. Wright on two occasions in February 1993. My diary
21 entries show that the first meeting took place at 5.30 pm on February 5, 1993
22 and the second at 7 pm on February 15th, 1993. It subsequently became clear to
23 me that Mr. Wright was exceptionally busy (as were all other councillors) as
24 there were a plethora of rezoning applications pending in the light of the
25 Draft Development Plan and" -- and I draw your particular attention to this
26 Mr. Mahony -- "that he was neither able nor willing" -- and I emphasise in
27 particular nor willing, "to invest the necessary time as far as my application
28 was concerned" Do you follow me. I am putting that to you as the third matter
29 of fact insofar as your perception of the affair was concerned. Do you follow
30 that?

1 A. Yes.

2 Q.649 Now you have just been questioned, you were questioned a few moments ago by
3 Mr. Giles Montgomery, solicitor on behalf of the late Mr. Cyril Gallagher,
4 immediately before that you were questioned by Mr. Martin Kennedy solicitor,
5 who represents the interests of now Mr. GV Wright, do you follow that?

6 A. I do.

7 Q.650 And he put it to you that at all times Mr. Wright wholeheartedly supported
8 this, your proposals and your plans for your lands, do you remember that and do
9 you remember agreeing with him?

10 A. Mm-hmm. Yes.

11 Q.651 That's a yes, I take it?

12 A. Yes.

13 Q.652 Well now, if Mr. Kennedy was right in that and you were right to respond to him
14 in the affirmative, why do you say in your statement to the Tribunal which is
15 the principle premise of your evidence in these proceedings, that you discovered
16 and/or decided as of the 10th of March, that this man was neither able nor
17 willing to do the job. Can you explain that to the Tribunal, please?

18 A. Well Mr. Wright suggested to me that he was too busy, and couldn't keep up with
19 it, he had too much on and he suggested to me that I might make contact with
20 Mr. Dunlop.

21 Q.653 So there is no dispute that it was Mr. Wright who put you on to Mr. Dunlop, I
22 take it that's your, that's your position?

23 A. That's right.

24 Q.654 Were you annoyed with Mr. Wright?

25 A. Not really, I was just happy to get on with what I could.

26 Q.655 Let's just pause for a moment now?

27 A. Okay.

28 Q.656 Mr. Mahony, and examine that, not at any great length, here we have a situation
29 which you have also referred to in the statement of the 7th of July to the fact
30 that Mr. Wright was a long standing family friend of yours, isn't that correct?

1 A. Yes.

2 Q.657So this was no -- this was a relationship which transcended that of the mere,
3 and I don't mean mere in any dismissive sense, but it transcended I should say
4 the notion of you having a member of the council lobbying on your behalf, isn't
5 that right?

6 A. Yes.

7 Q.658There was a long, no pun intended, there was a long standing family
8 relationship between you and Senator Wright as he then was, and I suggest
9 Mr. Mahony between you and various other members of the Wright family, isn't
10 that correct?

11 A. That's correct.

12 Q.659Close connections?

13 A. Yes.

14 Q.660Yes. I suggest to you therefore that it would seem passing strange that
15 Mr. Wright would dump you in it, which is how I am putting it, I accept that it
16 is not language which you have used, but would dump you into it, two days
17 before the vital task of getting the resolution in, leaving you with as I
18 understand it on your evidence, simply a recommendation from Mr, Senator Wright
19 as he then was, that you should utilise the services of Mr. Frank Dunlop, do
20 you find anything unusual about that?

21 A. Well I suppose at the time I probably felt it was better to be honest with me
22 and recommend Frank Dunlop.

23 Q.661I see?

24 A. That's --

25 Q.662And can you tell us the terms in which he recommended Mr. Dunlop please?

26 A. No. He said, he told me to contact Frank Dunlop, which I did.

27 Q.663Mr. Mahony, may I suggest to you with the greatest of respect, that you are not
28 exactly the type of person either then or now, who simply takes the nod from
29 somebody who says ring that individual, with no explanation as to why you
30 should ring the individual. And I further suggest to you that Mr. or Senator

1 Wright as he then was, had to have put his recommendation that you contact
2 Mr. Dunlop in context. Do you follow me?

3 A. Go ahead, yes.

4 Q.664You do understand that?

5 A. Yes.

6 Q.665So he, there had to be, to have been a conversation between Mr. Wright, or
7 Senator Wright and you where Senator Wright says "look I have the man who will
8 sort this out for you" or words to that effect, "Frank Dunlop is your man," do
9 you follow me?

10 A. I do.

11 Q.666And the relationship which subsisted between you and Senator Wright was such
12 that you would have relied on his advice?

13 A. Yes.

14 Q.667Either that or plant him, having regard to the position in which he had left
15 you. You had two ways to go with Senator Wright when he tells you that you are
16 up the creek, if you will excuse the lingo Franca, two days before the date,
17 the final date for getting the resolution, you had two days to go, you could
18 have told Senator Wright exactly what you thought of him or you could have
19 taken on board the advice, which on your own evidence he gave to you, which was
20 that "look I am sorry, I am too busy" in your own statement Mr. Mahony let's be
21 clear, he is too busy with a plethora of other rezoning resolutions, you get
22 Frank Dunlop he is your man, do you follow me?

23 A. I do.

24 Q.668Do you agree that that, that a conversation of that nature took place?

25 A. That would be it.

26 Q.669Between yourself and Senator Wright?

27 A. Yes.

28 Q.670You do?

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30 CHAIRMAN: All right Mr. Allen. It's after one o'clock, so we'll rise until

1 about two o'clock.

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3 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

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1 THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

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3 MR. ALLEN: May I proceed Chairman? Thank you Sir. Mr. Mahony, before we
4 broke for lunch, I was taking you through what I suggested to you, what I was
5 suggesting to you, were a number of factual matters, upon which it would appear
6 there cannot be dispute, do you follow?

7 A. Yes.

8 Q.671And we had reached a stage where in our -- I had reached a stage in my
9 examination, where I was questioning you about the circumstances which lead to
10 your taking on board Mr. Dunlop, isn't that correct?

11 A. That's correct.

12 Q.672Now your evidence has been, that this was done on the recommendation of Mr -- I
13 beg your pardon, Senator GV Wright, as he then was?

14 A. That's right.

15 Q.673Now what I wanted to pursue with you very briefly Mr. Mahony, I don't want to
16 keep you any longer than is absolutely necessary, is what Mr. or Senator Wright
17 said to you, by way of recommendation in regard to Mr. Dunlop? I mean just to
18 put in context for you Mr. Mahony, we have a situation where you think
19 everything is on track, and you suddenly realise two days before the date, the
20 final date for the submission of the resolution, on a matter on which you had
21 been working for some considerable time, you realise far from being on track,
22 it is completely off track, one might say de-railed and you need some urgent
23 action. You have told us that you spoke with Senator Wright and you have
24 indicated in your statement, made on the 7th of July 2000, that you had reached
25 the conclusion, at that stage, that he was neither able nor willing to invest
26 the necessary time as far as your application was concerned, isn't that
27 correct?

28 A. Correct.

29 Q.674You, as I understand it, and correct me if I am wrong, it would appear, had a
30 meeting with Senator Wright, is that correct?

1 A. I think that's the position, yes.

2 Q.675Yes. Where presumably you would have indicated that you weren't entirely happy
3 with the situation?

4 A. Yes.

5 Q.676Was that a fair summary?

6 A. I think that's fair.

7 Q.677I mean, I am not trying to trick you or trap you, Mr. Mahony, but it is clear
8 that at that stage you had invested quite an amount of your own time yourself,
9 lobbying politicians, isn't that correct, County Councillors?

10 A. Not at that time.

11 Q.678You hadn't, that came afterwards?

12 A. That came afterwards.

13 Q.679I see. Very good. So your lobbying of councillors then, is it the situation
14 that your lobbying of councillors was post the retainer of Mr. Dunlop?

15 A. It was.

16 Q.680I see?

17 A. With his knowledge.

18 Q.681Yes fine. Was it he who suggested to you that you should lobby councillors?

19 A. No.

20 Q.682Or did you do it of your own --

21 A. By myself.

22 Q.683Of your own volition?

23 A. Yes.

24 Q.684Yes, I see. Well could I ask you this Mr. Mahony, if that was the case, if
25 that was the case and I accept you did it, I am not seeking to contradict that
26 portion of your evidence, if that was the case, why didn't you do it when
27 Senator Wright was looking after your affairs, looking after this particular
28 matter for you? You have told us you see, and I hope I am understanding you
29 correctly, you have told us that you didn't lobby any councillors until after
30 you retained Mr. Dunlop, do you follow me?

1 A. Yes.

2 Q.685 So what I am asking you now Mr. Mahony, I would be grateful for an answer to
3 the Tribunal, it is why did you not lobby any councillors until after you
4 retained Mr. Dunlop?

5 A. I presumed it was being handled by Mr. Wright.

6 Q.686 I see. You see, would it not be more logical that you would have lobbied, that
7 such lobbying as you would do, would have been done in tandem with Senator
8 Wright, in other words, at the same time effectively, as opposed to commencing
9 it when you have retained somebody whom you have told the Tribunal was
10 recommended to you as an expert and was the person you have said, he got the
11 entire brief, isn't that right?

12 A. That's correct.

13 Q.687 And as I understand it, he got the entire brief you say, whatever that was, we
14 will come to that in a minute, he got the entire brief from Senator Wright?

15 A. Yes.

16 Q.688 I understood you to say that?

17 A. Yes.

18 Q.689 I understood to you say that?

19 A. That's correct.

20 Q.690 Did Senator Wright hand over some form of a file or some form of documentation
21 to Mr. Dunlop, is that what you are telling the Tribunal?

22 A. I think the term "file" was used, I think he handed the file to Mr. Dunlop and
23 I am not positive of that but I think that was the technical way it went about
24 it.

25 Q.691 Sure. Fine. But would you have had sight of that file?

26 A. No.

27 Q.692 That was a file therefore which was maintained by Senator Wright?

28 A. Yes.

29 Q.693 On your behalf?

30 A. Yes.

1 Q.694 Opened by Senator Wright?

2 A. I don't know.

3 Q.695 Well now, I don't want to press you too hard Mr. Mahony, but if it wasn't
4 opened by Senator Wright, who else could conceivably have opened it, unless
5 there is somebody you haven't told us about?

6 A. Sorry, I didn't hear you correctly.

7 Q.696 My apologies.

8 A. Yes, he opened the file, as I understand it. There is a term "the file" I
9 gather. I am not good at it, but he found that he couldn't handle the file in
10 time, so he recommended Frank Dunlop and he handed the file to him, that's my
11 reading of it.

12 Q.697 Yes, but we are agreed are we not, that this was done no later than two days
13 before the final date for the submission of the resolution, isn't that correct?

14 A. That is correct.

15 Q.698 So you were in a state of something approaching extremis not as far as your
16 health was concerned but certainly as far as the health of your proposal was
17 concerned, isn't that right?

18 A. Absolutely.

19 Q.699 Now, could I come back again and I don't want to take up any more of your time
20 than is absolutely necessary, Mr. Mahony, could I ask you again to, or invite
21 you to tell the Tribunal what, if anything, Mr. or Senator Wright said in
22 recommending Mr. Dunlop to you?

23 A. I can't recall it beyond the fact that he recommended that Mr. Dunlop was good,
24 could be available for me.

25 Q.700 Had you heard of Mr. Dunlop at that stage?

26 A. Not really, I kind of heard of him as a Press Secretary. He was in the public
27 domain, I presume I heard something about him, his name rang a bell anyway.

28 Q.701 But it did no more than ring a bell?

29 A. No more than rang a bell, I don't think so anyway.

30 Q.702 I just want to be clear, I want you to have the absolute, total opportunity to

1 answer the questions that I am putting to you, so as far as you were concerned
2 it did no more than ring a bell, you were happy to rely on the recommendation
3 of Senator Wright?

4 A. Yes.

5 Q.703Is that correct?

6 A. Yes and Frank Dunlop was a kind of Press Secretary who knew the political
7 scenario, whatever, I am not sure.

8 Q.704Was it Mr. Wright or Senator, that said that to you?

9 A. No, that's a feeling I had about it.

10 Q.705So you say he knew the political scenario?

11 A. What I meant was he was a Government Press Secretary, who would know his way
12 around, maybe the best way to put it to you.

13 Q.706Would know his way around what?

14 A. Around the scene of councillors of --

15 Q.707Of planning?

16 A. Yes.

17 Q.708What would a Government Press Secretary have to do with planning?

18 A. I don't know. He would -- I just say, wait for a moment, please don't carried
19 away, he just -- as far as I was concerned he was a Press Secretary. He was up
20 there in the public domain, he was obviously, he was a planning lobbyist or
21 whatever, I don't know.

22 Q.709But you see Mr. Mahony, I don't wish to be unkind or unfair to you, but it's
23 only now, under some measure of pressure, that you indicated he was some form
24 of planning lobbyist. You have relied up to now in the fact, in response to my
25 questions and other questions put to you by other people, on the fact that he
26 was some sort of Government Press Secretary, I asked you specifically what
27 would a Government Press Secretary have to do with planning in Dublin County
28 Council, the answer to that is, is it not Mr. Mahony, absolutely nothing, so
29 you didn't retain him on the recommendation of Senator Wright because he was a
30 former Press Secretary, isn't that also correct?

1 A. I think when I came to say Press Secretary, you asked me how I knew of him,
2 that's how I knew of him, then Mr. Wright recommended him to me to take the
3 file.

4 Q.710Is that the totality of your evidence. I want you to have the opportunity to
5 tell the Tribunal the totality of it, I don't want to be accused of not having
6 given you the opportunity to say exactly, to tell this Tribunal, the Members of
7 the Tribunal the precise circumstances in which Mr. Dunlop came to be retained
8 by you?

9 A. He was recommended to me by Senator Wright.

10 Q.711I see.

11 A. And that's it.

12 Q.712You acted automatically on Senator Wright's recommendation?

13 A. I did.

14 Q.713I see. So that's another factor, as far as you are concerned. That we have
15 established, isn't that right?

16 A. Pardon?

17 Q.714We have established now, yet another fact. That fact being a relevant fact, I
18 suggest to you, that the retainer of Mr. Dunlop by you was not something which
19 was done on your initiative but which was something which was done on the
20 recommendation of Senator Wright, as he then was?

21 A. Correct.

22 Q.715He having told you two days before the event that he didn't have the time to
23 handle the matter?

24 A. Correct, that's right.

25 Q.716But that I did have somebody who would be able to handle it?

26 A. Correct.

27 Q.717Now you, in response to a question or -- I intend no disrespect to Mr. Martin
28 Kennedy, Mr. Kennedy effectively said to you that Senator Wright had always
29 been in favour of your plans and proposals for the lands, isn't that correct?
30 Do you remember him saying that to you before lunchtime?

1 A. Mr. Kennedy.

2 Q.718Mr. Martin Kennedy?

3 A. Oh sorry Martin, yes.

4 Q.719Senator Wright's legal representation?

5 A. Yes.

6 Q.720What plan or proposal did you have for this land other than a determination to
7 have it rezoned?

8 A. I didn't have any plans. I think -- I had nothing to do with the
9 technicalities of it. I think Mr. Wright would have had a map or a plan or
10 something, which he handed over to Mr. Dunlop, I presume that's what happened,
11 I don't know.

12 Q.721Sorry, I may not be making myself absolutely clear Mr. Mahony, and it may be
13 something which you are not in a position to answer, but I am going to repeat
14 to you what Mr. Kennedy said on behalf of his client, which was, that his
15 client thoroughly approved of your plans and proposals for this land?

16 A. Right.

17 Q.722Prior to it's being rezoned, do you follow, now isn't it the case that there
18 was nothing for Mr, for Senator Wright to approve of because all that was there
19 was a resolution, secured ultimately by Mr. Dunlop, to have the lands rezoned,
20 in other words you hadn't shown your hand. We didn't have a burial ground,
21 isn't that right?

22 A. That's right.

23 Q.723I just want to be clear, it was a simple proposition, I want my land rezoned,
24 isn't that right?

25 A. That's right.

26 Q.724I am not suggesting for a moment that you weren't entitled to go about that in
27 a legitimate fashion for the avoidance of doubt. Now that's another fact,
28 would you agree with me?

29 A. Mm-hmm.

30 Q.725Now the next fact is, I suggest to you, that you met with Mr. Dunlop, isn't

1 that right?

2 A. That's right.

3 Q.726At what stage did, if you know, did Mr. Dunlop receive the file, as you
4 describe it, from Senator Wright?

5 A. I don't know.

6 Q.727Would it have been before your meeting with Mr. Dunlop or after?

7 A. I don't know.

8 Q.728I see. But you are in a position, you have told the Tribunal, that you do know
9 that whenever it was, it was transmitted as between, transferred by Senator
10 Wright to Mr. Dunlop, isn't that correct?

11 A. I presume that's right.

12 Q.729That had to be within a very short space of time because we are talking about
13 Wednesday 10th to the actual submission of the resolution on Friday 12th, isn't
14 that also correct?

15 A. That's correct.

16 Q.730Yes. Now you met with Mr. Dunlop?

17 A. Correct.

18 Q.731And arising out of that meeting with Mr. Dunlop, at the point in time, just so
19 I am clear about this, at the point in time of your first meeting with
20 Mr. Dunlop, albeit that it would appear that you had a feeling that Mr. Noel
21 Fox was cold or going gold on the notion of rezoning, do you follow me, that at
22 the time that, of the first meeting with Mr. Dunlop, it is the case, is it not,
23 that what Mr. Dunlop was being asked to do was to procure the rezoning or to
24 assist in the procurement of the rezoning of both your land and Mr. Fox's
25 lands, isn't that correct?

26 A. That's correct.

27 Q.732Yes. Now and isn't it also the case that it is when the negotiations in
28 relation to fees which took place between you and Mr. Dunlop, do you follow me?

29 A. I do.

30 Q.733Were predicated on the rezoning of two separate lots of land?

1 A. Correct.

2 Q.734Yes. At 5,000 a cut?

3 A. 10,000, yes.

4 Q.735Yeah, but 10,000. Five for one and five for the other?

5 A. Not really. His land was 70 acres to my 30. But it was just, it was just I
6 did the deal with Frank Dunlop for 10,000 for the 90 acres or whatever it was.

7 Q.736Yes, but you did the deal Mr. Mahony, and I understand that, I know, I fully
8 appreciate that. But what I am suggesting to you is and I need an answer in
9 relation to this, is this -- the deal you did financially was not simply a deal
10 for your own lands, but a deal also for Mr. Fox's lands?

11 A. Correct.

12 Q.737Yes and however you divided the sum if you only did a mental exercise, do you
13 follow me?

14 A. I do.

15 Q.738What Mr. Dunlop was being presented with, was a requirement that he rezone both
16 your -- not that he rezone but that he lobby for the rezoning of your lands and
17 Mr. Fox's lands, isn't that correct?

18 A. Correct.

19 Q.739Now, it is also the case is it not, that when Mr. Fox and there is no dispute
20 about this, when Mr. Fox decided that he did not wish to proceed, do you follow
21 me?

22 A. I do.

23 Q.740And again for the avoidance of doubt your evidence this morning, in relation to
24 Mr. Fox, in response to Mr. Nesbitt was that he probably didn't hear any
25 conversation that you had with Mr. Dunlop in relation to cash, do you follow
26 me?

27 A. Mm-hmm.

28 Q.741That's now on the record of the Tribunal. But why did you not at some point,
29 say to Mr. Dunlop "look, it's not, it won't be 10,000 now because you are only
30 doing half the job on your own say so, even less than half the job, that we,

1 that I initially negotiated the price for with you"?

2 A. I think I made that in a statement. At the time, when Mr. Fox pulled out, we
3 were doing quite well, Frank Dunlop was doing the job very well and I didn't
4 feel like asking him for five thousand back in the middle of the whole scene.
5 It's as simple as that. I didn't want to upset what was going well.

6 Q.742Yeah, I can understand that, perhaps Mr. Mahony, but when Mr. Dunlop, on the
7 basis of your evidence given upon oath to this Tribunal, and to your
8 considerable surprise, asked you for more money, why at that point in time did
9 you not remind him that on the basis of your evidence, he had already in effect
10 been paid twice?

11 A. Yeah, I didn't say, I didn't remind him.

12 Q.743Let's be clear then Mr. O'Mahony, did you, are you saying you did?

13 A. That I reminded him.

14 Q.744Yes?

15 A. Of the five thousand.

16 Q.745No, of the 10,000 for half a job, less than half a job on your own version of
17 events, I beg your pardon, but in terms of the of the scale of the two lots of
18 lands?

19 A. No, I said I paid him 10,000 when the other land was withdrawn, I didn't look
20 for the other five thousand for the simple reason, the work was going well and
21 I didn't want to upset anybody.

22 Q.746Fine.

23 A. Now that's it.

24 Q.747Now, let's move on from there for a moment, we will come back to the actual
25 method of payment, let's move on from there for a moment, you said and I noted
26 it this morning, in response to a question from Ms. Dillon, I think it was,
27 that the deal was done, as far as you were concerned, on the 26th of September,
28 do you follow me, in other words that was the end.

29

30 MR. HOGAN: I think, with respect, he didn't say the 26th of September.

1

2 CHAIRMAN: This was the -- what deal are you talking about Mr. Allen?

3

4 MR. ALLEN: In other words that the business arrangement between himself --

5

6 CHAIRMAN: Yes, this was when the zoning had been achieved.

7

8 JUDGE FAHERTY: By the 29th, I think, of September.

9

10 MR. ALLEN: Sorry.

11

12 JUDGE FAHERTY: 29th.

13

14 MR. ALLEN: Forgive me Sir, I was three days out, 29th, sorry, I wasn't
15 deliberately seeking to mislead you. But adding on the three days, what you
16 said was, that as far as you were concerned the transaction between yourself
17 and Mr. Dunlop was at an end as of the 29th of September, do you follow me?

18 A. Yes.

19 Q.748 You had, not only on your version of events, it is the case isn't it, that not
20 only had you honoured your side of the bargain in terms of paying him, but you
21 had more than done so?

22 A. That's right.

23 Q.749 Isn't that right?

24 A. That's correct.

25 Q.750 And that it had, you have told the Tribunal now, that it actually occurred to
26 you that you could you have asked for five thousand back, but that such was the
27 progress which had been made, that you were content to let the 10,000 sit?

28 A. Yes.

29 Q.751 "To let the hare sit" as somebody once remarked in politics, do you follow me?

30 A. Mm-hmm.

1 Q.752 Fine. But as far as you were concerned, I understood your evidence, given to
2 the Tribunal this morning, in response to questions from Ms. Dillon, that as
3 far as you were concerned as a businessman, you drew a line in the sand, a
4 mental line in the sand as of the 29th of September?

5 A. That's correct.

6 Q.753 I don't want to put any words in your mouth, feel free to disagree with me
7 where you don't agree with me. As far as you were concerned that was the end
8 of it. You also went on to say you never expected to see Mr. Dunlop again,
9 unless you came across him, fell over him in the street or something like that,
10 you weren't planning on becoming best buddies?

11 A. We had no arrangement to meet again, no.

12 Q.754 Yes?

13 A. Yes.

14 Q.755 And you didn't expect to be meeting him again, that's what you said?

15 A. Yes.

16 Q.756 Isn't that right?

17 A. That's right.

18 Q.757 So suddenly out of the blue comes Mr. Dunlop and horror of horrors he is
19 looking for money~, isn't that right?

20 A. Yes.

21 Q.758 Looking for more money?

22 A. Yes.

23 Q.759 Now, as far as you were concerned he had already been paid, you had already
24 paid him more than he was entitled to, isn't that right?

25 A. It is correct, yes.

26 Q.760 Yes. But on the basis of the evidence, which you have given this morning, in
27 the discussions which you had with him, you never said to him "Look count
28 yourself lucky Dunlop, not only did you get my five grand, excuse me 5,000, you
29 got another five thousand from me which would have been attributable to Mr. Fox
30 if he proceeded with the transaction which he didn't, so you have done very

1 well out of this, now would you off and don't be annoying me with claims for
2 money" but you didn't do that, sure you didn't?

3 A. No. I don't think it was that kind of a conversation. It went a bit
4 differently you know.

5 Q.761When you say it wasn't that kind of a conversation, I accept that, and I accept
6 your word in relation to that Mr. Mahony, but what I want to you clear is,
7 about is, the evidence that you are giving to this Tribunal, you say it wasn't
8 that kind of a conversation, that leads me to this question, why wasn't it that
9 kind of a conversation? Why didn't you say to him, what was as obvious as the
10 nose on your face or his for that matter, that "look you have been very well
11 paid for this, and what's more, you got it in cash and now you are looking for
12 more? You got mine, you got Fox's" and I intend no disrespect, I should say
13 Mr. Fox, and I appreciate it was you that paid the money, "but you got paid for
14 two lots of land, when all that you had to deal with was the one lot of land,
15 you got paid on the double and now you are looking for a success fee?" Why
16 didn't you say that to him?

17 A. I don't know.

18 Q.762You don't know?

19 A. No.

20 Q.763I see. Well that's your answer and I am not going to press you on that
21 Mr. Mahony, the record of the Tribunal will show that that's your position in
22 relation to it, you don't know why you didn't do that.

23

24 Save to suggest this to you, you have been a successful businessman in the town
25 for many's the long year, isn't that correct

26 A. Yes.

27 Q.764A very successful businessman?

28 A. Successful.

29 Q.765I see. Very good, if you like I withdraw the word very. You have been
30 successful. You are an experienced man of business, isn't that correct?

1 A. Correct.

2 Q.766And you run, you have, as you say in your statement, you have a significant
3 shareholding in a number of significant companies, isn't that correct?

4 A. Correct.

5 Q.767There is the fleet division, there is the new cars presumably, there is the
6 finance aspect, the finance house aspect of it, and presumably there is also
7 the secondhand or used vehicles, if that's more acceptable term, end of it,
8 isn't that correct?

9 A. Correct.

10 Q.768So and you have, you build up over the years a thriving business which
11 flourishes to this day, isn't that correct?

12 A. Correct.

13 Q.769In all of those different divisions?

14 A. Correct.

15 Q.770Am I correct?

16 A. Correct.

17 Q.771And presumably in building up and in maintaining those businesses, at the level
18 at which they currently exist and did exist in the 90s, you had systems and
19 structures in place to cover everything, including accounting for your money
20 and for the money of the businesses, isn't that correct?

21 A. That's correct.

22 Q.772Yes. Now again, I want to try and be as non-adversarial as possible in
23 relation to this Mr. Mahony, it's a matter that has been dealt with by
24 Ms. Dillon, but I have a particular interest in it. Is it your evidence to
25 this Tribunal, that you would ask the Tribunal to accept that in handing 10,000
26 pounds in cash to Mr. Frank Dunlop in the Shelbourne Hotel, which he promptly
27 trousered, presumably, that that was nothing, that there was nothing out of the
28 ordinary in that, that there was sort of, you know, "come day go day, God send
29 Sunday" kind of stuff, just slip into the Shelbourne and meet Frankie, give him
30 10,000, onwards and upwards, to rezone, is that what you are asking the

1 Tribunal to accept?

2 A. My evidence was that I gave Mr. Dunlop 10,000 in a package, now what way it was
3 packaged I don't remember and I don't think Mr. Dunlop remembers.

4 Q.773But does it really matter, Mr. Mahony, how it was packaged, one can assume it
5 was in a large brown envelope, a phrase from this, to which this Tribunal is
6 not a stranger, we know it wasn't in a briefcase because there hasn't been any
7 mention of a briefcase, they are featured here on occasions as well, but it was
8 a significant sum in terms of simple bulk, isn't that correct, 10,000?

9 A. Mm-hmm.

10 Q.774Do you know what the denominations were?

11 A. No.

12 Q.775No. That's fine. I am only asking. But you have not answered the question
13 which I put to you and I invite you now to do so.

14

15 Are you asking the Chairman and his two colleagues to accept, that the handing
16 of you, by you, of 10,000 pounds to a man who was to lobby councillors on your
17 behalf to have lands of yours rezoned, was a normal transaction?

18 A. No.

19 Q.776You are not?

20 A. No.

21 Q.777So we can agree therefore that the converse of normal is abnormal or unusual?

22 A. Unusual, yes. Abnormal.

23 Q.778Well now again, I am sorry to have to press you on this Mr. Mahony, but could
24 you and again if you don't have an answer to it, that's sufficient, as far as I
25 am concerned, I just want to know what your position is. You have told the
26 Tribunal just now that it was unusual, correct?

27 A. Yeah, yes.

28 Q.779In what way would you have seen it as unusual?

29 A. Well I had never done it before.

30 Q.780So is that the only sense in which you mean it was unusual?

1 A. Well that's a good reason.

2 Q.781I see. Is that the totality of your answer to the question?

3 A. Yes.

4 Q.782I see. So the only basis on which you agree that this was unusual, in other
5 words the handing of a sum of 10,000 pounds, ten years ago, to a man in a bar
6 in the Shelbourne Hotel was unusual because you hadn't done it before, is that
7 right?

8 A. It would be unusual in any circumstances, yes.

9 Q.783If people could -- people could draw nasty inferences from it couldn't they.

10

11 MR. HOGAN: Sir, I object to the premise of that question because Mr. Allen's
12 client, Mr. Dunlop, is very clear in cross-examination to me to say that the
13 only basis on which he subtended his allegations against my client, were words
14 which he allegedly, my client allegedly made to Mr. Dunlop, with respect,
15 Mr. Allen is not entitled to press this witness with grounds other than those,
16 what Mr. Dunlop expressedly based his case against my client on.

17

18 CHAIRMAN: As I understand Mr. Dunlop's evidence was that Mr. Mahony, at least
19 Mr. Dunlop believed that Mr. Mahony knew the purpose of the 10,000 pounds
20 because of words that were spoken about being a man, this is the way things
21 were done or words to that effect. That's Mr -- but Mr. Mahony made it clear
22 in his evidence so far, that he never spoke those words and didn't and didn't
23 intend to convey that meaning to Mr. Dunlop if that's, if that's the meaning
24 Mr. Dunlop took. So Mr. Allen I think would be entitled to query that and to
25 ask --

26

27 MR. HOGAN: I fully accept that Sir but I think, with respect, Mr. Allen
28 wouldn't be entitled to suggest that merely because cash was paid that that in
29 itself is evidence of knowledge on the part of my client that there was
30 something sinister or corrupt in that payment and Mr. Dunlop was careful to

1 disavow any such suggestion under cross-examination.

2

3 CHAIRMAN: But Mr. Allen would be entitled to question Mr. Mahony as to what
4 he, Mr. Mahony, must have understood was the reason for the payment of a large
5 sum in cash. He would be entitled to pursue that with Mr. Mahony. And then of
6 course Mr. Mahony can give his response.

7

8 MR. ALLEN: Chairman can I make a point, in addition to your, I respectfully
9 submit Sir, correct when you refer to the words, which Mr. Dunlop imputed to
10 Mr. Mahony, there is an additional matter which seems to me to be germane to
11 the line which I am pursuing now, which is this: Mr -- and it arose out of the
12 question of the asterisk system which was adopted by Mr. Dunlop, Mr. Dunlop in
13 response to questioning, whilst in this module, indicated the matter of the
14 asterisk system, was canvassed and explained the asterisk system in the
15 statements being related to improper payments and payments arising for the
16 purposes of the making of improper payments, that has always been the case.

17

18 CHAIRMAN: Yes well, you are entitled to ask Mr. Mahony about what he
19 understood the true purpose of being paid in cash was.

20

21 MR. ALLEN: Thank you Sir. Now Mr. Mahony to get back to where we were, you
22 have agreed that this payment of 10,000 pounds was unusual, you have said it
23 would be unusual in any circumstances. Now why did you agree to pay 10,000
24 pounds in cash?

25 A. Because -- I have stated in my evidence.

26 Q.784No just think about me now Mr. Mahony?

27 A. I am thinking about you.

28 Q.785I would say you were. Kindly I hope?

29 A. Ask me again, sorry.

30 Q.786I am asking you, why did you agree to pay 10,000 pounds in cash?

1 A. Because that's what I was asked for and in my enthusiasm to get Mr. Dunlop on
2 board, I agreed it there and then.

3 Q.787I see. Now you made a statement to the Tribunal by way of response to a
4 request for detailed narrative statement in connection with payments for
5 professional services to Mr. Frank Dunlop in respect of lands at Drumnigh
6 County Dublin on the date of May 7th 2003, it's page number 84 of the
7 Tribunal's tabulation, do you have that? And it's dated the 6th of June 2003,
8 signed by yourself. It's on the screen there, Mr. Mahony, if that's more
9 helpful for you?

10 A. Okay I have it, yeah.

11 Q.788Now you made that statement, isn't that correct?

12 A. Yes.

13 Q.789And in it you say that you make the statement in addition to statements made to
14 the Tribunal of Inquiry already. You said that you made an additional payment,
15 sorry an initial, initial payment to Mr. Dunlop of 10,000 pound at a meeting
16 between Mr. Dunlop and yourself in the Shelbourne Hotel on 23rd of March 1993,
17 do you see that?

18 A. Yes.

19 Q.790Now, I want you to you go down to the next paragraph and read that to you and
20 ask you a question or two about it "This was a cash payment. The source of
21 this payment was a cash fund I held in safes in my house and my place of
22 business, which I had accumulated over time for, among other reasons, security
23 purposes, given my business profile at that time". Now could I ask you
24 Mr. Mahony, this is how -- this is the fund as I understand it, irrespective of
25 which safe you took it from, from which you extracted 10,000 pounds, brought it
26 to the Shelbourne Hotel, in whatever form you brought it in and handed it to
27 Mr. Dunlop, isn't that correct?

28 A. That's correct.

29 Q.791I am struck by your averment that you maintained this fund for "amongst other
30 reasons security purposes", you see where you say that?

1 A. Yes.

2 Q.792 Could I ask you what conceivable security interest could be represented by you
3 maintaining large amounts of, retaining large amounts of cash at your own
4 residence?

5 A. It was kept there in the event of a break in or a kidnap or any such thing that
6 money would be required, either to hand it over or to, whatever. And that's
7 what it was there for.

8 Q.793 I see. Well that's a sensitive area for yourself and I don't want to?

9 A. It is yeah.

10 Q.794 I don't want to unnecessarily pursue it, did you replace the 10,000?

11 A. It's about the same, yeah.

12 Q.795 We'll pass on from that, yeah. Now I am going to leave the security purposes
13 if I had known the answer to the question I wouldn't have asked you, I don't
14 wish to invade your privacy unnecessarily Mr. Mahony, but you say for among
15 other reasons what were the other reasons?

16 A. I don't know, there are no other reasons off the top of my head, I don't know
17 why that's there.

18 Q.796 A fund for paying people like Mr. Dunlop?

19 A. Pardon?

20 Q.797 Could it have been a fund for paying people like Mr. Dunlop?

21 A. No, no.

22 Q.798 Now, Chairman, could you just bear with me for just a moment I need it take
23 instructions? You did say before the luncheon interval, Mr. Mahony, that there
24 was no paper trail for cash or certainly agreed with that, isn't that correct?

25 A. That's right.

26 Q.799 But it now appears, it doesn't now simply appear, it was certainly the position
27 which you made clear to the Tribunal in your additional statement on the 6th of
28 June 2003, that you had a fund, forget the purposes of the fund, do you follow
29 me, I will appreciate the reasons that you have given which appear to be
30 eminently sensible and sound, but if you had a fund, then presumably you know

1 the source of the fund, do you follow me?

2 A. Sorry.

3 Q.800If you have a fund which you have created for an identified purpose amongst
4 other reasons, which other reasons you cannot now recall, you must know the
5 source of those funds, isn't that correct?

6 A. I do.

7 Q.801Well what was the source of the funds?

8 A. From my own income.

9 Q.802Your own income?

10 A. Income.

11 Q.803Was this reflected in the books and records of your --

12 A. Yes, yes.

13 Q.804It was?

14 A. Yes.

15 Q.805And that's something which is transparent and can be demonstrated to the
16 Tribunal?

17 A. Absolutely.

18 Q.806Should it wish, should it require such clarification?

19 A. Absolutely.

20 Q.807Very good. Now I have to put it to you Mr. Mahony and I don't wish to cause
21 you any additional angst, that you were perfectly clear in your own mind when
22 you paid Mr. Dunlop 10,000 pounds in cash from this fund of which you speak,
23 that amongst other things, he was going to use for the purposes of making
24 improper payments to councillors in order to procure the rezoning of your land?

25 A. Sorry, was that a question, sorry?

26 Q.808Yes. It was a question.

27 A. I didn't hear it, sorry.

28 Q.809Very good. I am putting it to you, or should I ask you, I am simply putting it
29 to you to agree or disagree, that when you handed 10,000 pounds from an
30 identified fund over which you had total control, total and sole control, it

1 would appear, to Mr. Dunlop in the Shelbourne Hotel, a date which is not
2 utterly significant, it was after obviously the 10th of March, that you well
3 knew that those funds were to be used, at least in part, to make payments,
4 payments to councillors, that you understood this clearly?

5 A. Mr. Allen, it never crossed my mind and that is absolutely -- definite --

6 Q.810There is another. Sorry, I don't want to interrupt you.

7 A. Go ahead.

8 Q.811No, if you want to finish.

9 A. No.

10 Q.812Very good, so your position is, that it never crossed your mind?

11 A. No.

12 Q.813And that's what you are asking the Tribunal to believe?

13 A. Correct.

14 Q.814That having regard to all of the surrounding circumstances?

15 A. Correct.

16 Q.815And those surrounding circumstances being, that you are on your knees on

17 Wednesday the 10th of March, you have to get something done by the 12th which
18 you thought was well in hand?

19 A. Correct.

20 Q.816This involves amongst other things the procurement of the names of councillors
21 on a piece of paper at short notice, do you follow me?

22 A. Yes.

23 Q.817At a point in time where you have told us yourself, in your statement of the

24 7th of July 2002, I beg your pardon, 2000, my apologies, that it was explained
25 to you that Senator Wright and other councillors were hugely busy with a
26 plethora of rezoning resolutions, do you follow me?

27 A. Yes.

28 Q.818So these are the circumstances in which you make, what you are willing to
29 accept yourself, was an unusual payment to, what I suggest to you was well
30 known, to a person whom I suggest to you was well known to be a political

1 lobbyist, do you follow me?

2 A. Okay.

3 Q.819That you knew when you gave that money in an untraceable fashion, that part or
4 certainly part of it, portion of that money was going to be used to make
5 improper payments to councillors, and that it follows as night follows day that
6 you knew that?

7 A. I did not know that.

8 Q.820Very good. Now you have been living on the north side Mr. Mahony for how many
9 years, may I ask, approximately?

10 A. 75.

11 Q.821Had you ever heard, and you were a businessman, a very well established and
12 significant businessman, and I am not patronising you and I am not seeking to
13 build you up, but it is the case, it is the fact isn't that right, you knew
14 what was going on out in North County Dublin, isn't that right?

15 A. I would, yes.

16 Q.822Yes. You would very much have your ear to the ground?

17 A. Yes.

18 Q.823Yes. And I am not suggesting there is anything wrong with that, by the way,
19 Mr. Mahony but it is a fact, isn't it?

20 A. Oh yeah.

21 Q.824Yes. And having your ear to the ground as you did, can I ask you this, did you
22 ever hear anyone talk about corruption in the planning system?

23 A. From time to time.

24 Q.825Weren't the dogs in the streets barking about corruption in the planning system
25 at that time?

26 A. Not to my knowledge.

27 Q.826I see?

28 A. I don't think so.

29 Q.827So you were unaware of this?

30 A. Just let me think for a moment.

1 Q.828Certainly?

2 A. This is '93.

3 Q.829Take your time.

4 A. No, not to my knowledge, I didn't know anything about it.

5 Q.830But you have just told us Mr. Mahony that you heard about planning corruption,
6 about corruption in the planning system from time to time and the context in
7 which you answered that question was that I had put to you and you had agreed
8 that as a businessman, as a prominent businessman in the area you were a person
9 who would have your ear to the ground, isn't that right?

10 A. That is correct.

11 Q.831So may I again put it to you that you were aware of the fact that at the very
12 least there were, that rumours of corruption in the planning system were rife?

13 A. No.

14 Q.832You weren't?

15 A. No.

16 Q.833Okay, so would you qualify then or quantify the extent to which your knowledge
17 of rumours, or factual knowledge in relation to corruption in the planning
18 system extended?

19 A. I had no knowledge.

20 Q.834No knowledge at all?

21 A. No knowledge.

22 Q.835But you told us that you had heard about it?

23 A. Well I had no knowledge of it.

24 Q.836Well if you heard about it you must have had some knowledge of it?

25 A. Well you can take it I had no knowledge of it.

26 Q.837Well do you want to change your evidence and say?

27 A. Yes.

28 Q.838Sorry, you do.

29 A. Wait now I am happy to say I had no knowledge of any corruption that was going
30 on, if that is what you asked me.

1 Q.839The first question I asked you under this particular rubric, Mr. Mahony was had
2 you as a prominent businessman, on the north side, trading on the north side of
3 Dublin, heard about corruption in the planning system, your answer to that
4 question was "yes on a number of occasions you had heard it a number of times".
5 You had heard stories about it, do you follow me?

6 A. I follow you.

7 Q.840Now are you standing by that evidence or do you now wish to change that
8 evidence because you have the opportunity to do so?

9 A. Well I had no knowledge of any corruption.

10 Q.841Well what did you hear --

11 A. In the planning business.

12 Q.842What was it that you heard then?

13 A. Hearsay, I don't know.

14 Q.843Hearsay, you don't know, can we translate that into something that is
15 comprehensible, "hearsay I don't know" is not going to get any of us anywhere?

16 A. I had no knowledge of planning corruption, none.

17 Q.844How do you square that with the answer you gave less than five minutes ago,
18 that you, as a businessman, had heard on a number of occasions of corruption in
19 the planning system in North County Dublin?

20 A. Well I would prefer to withdraw that, if you don't mind?

21 Q.845Very good. You see I have no difficulty with this Mr. Mahony, I don't mind you
22 withdrawing it, I want you to put your situation as you are asking the Tribunal
23 to accept it, clearly on the record and I am here, I will help you in every way
24 for you to do that, it is then a matter for the Tribunal to decide what --

25

26 MS. DILLON: I wonder, in fairness to the witness, would it not now be fairer
27 to put a series of questions relating to this matter as to what the witness'
28 understanding of corruption actually is, whether in fact the questions that are
29 being put now relate to allegations of corruption that may have appeared in the
30 public press in 1993 or whether what is being put is actual knowledge on the

1 part of Mr. Mahony of corruption, if that distinction were made in relation to
2 the questions I think it would be fairer to the witness?

3
4 MR. ALLEN: Chairman, with respect Ms. Dillon's contribution, at this stage is
5 a little passe and I say that, with no disrespect, for the very simple reason
6 that this witness has withdrawn his answer, what the record now shows is that
7 he did not, he had not heard of corruption within the planning system. That's
8 the factual --

9
10 CHAIRMAN: Well Ms. Dillon you can raise it when you are --

11
12 MS. DILLON: In re-examination, Yes, sir

13
14 CHAIRMAN: If you feel it appropriate to do so.

15
16 MR. ALLEN: But just so that you and I are clear as to where we stand
17 Mr. Mahony.

18 A. Mm-hmm.

19 Q.846As of now, but irrespective of what may come when Ms. Dillon concludes her
20 remit with you and rounds up the cross-examination or examination, I should
21 say, in her case, the position as of now is, that you have told the Tribunal
22 that you did not know about corruption and you have not heard about corruption
23 in the planning system in North County Dublin?

24 A. Right.

25 Q.847Is that correct?

26 A. Right.

27 Q.848And that's your evidence, your sworn evidence to this Tribunal?

28 A. That's right.

29 Q.849Now I have to suggest to you Mr. Mahony and it gives me no pleasure to do so,
30 that that last answer of yours, apart from the fact that it contradicts the

1 evidence which you gave yourself, beggars belief, that a man of your eminence
2 in the business community would not have heard of, if not known of, the fact
3 that there was, there were at the very least rampant rumours of corruption
4 within the planning system.

5
6 MR. HOGAN: Again Sir, in fairness to the witness, it ought to be clarified by
7 Mr. Allen, there is world of difference between heard of rumours and known of
8 and they both figure in the sentence.

9
10 MR. ALLEN: You see Chairman, Mr. Hogan and again I intend no disrespect is
11 hoist, as it were, on Mr. Mahony's petard because if the situation were that
12 Mr. Mahony had not retracted his answer, then there would be some substance to
13 his submission, but in the light of the retraction of his evidence by Mr.
14 Mahony, there is no basis for his submission at all.

15
16 CHAIRMAN: Well it might be cleared up in this way, Mr. Mahony, were you aware
17 of any rumours about corruption going on in the planning system in North
18 Dublin?

19 A. Can I answer you please? I can't figure out -- 1993, I can't get it in context
20 that's why I am trying to give an honest answer. Is that, would that be around
21 the time of Redmond Burke and all that scene or --

22
23 CHAIRMAN: But this, this was the time when you were getting to know
24 Mr. Dunlop.

25 A. Oh yeah.

26
27 CHAIRMAN: Around that time, were you aware -- if you can't say or if you
28 don't remember, say so.

29 A. I can't say.

30

1 CHAIRMAN: But can you recall hearing of rumours or talk about any corruption
2 going on in the planning system around that time?

3 A. No, not off the top of my mind. No, I can't.

4

5 CHAIRMAN: There was an article written by a Government Minister or a speech
6 given by a Government Minister at the time.

7 A. I don't remember that at all.

8

9 CHAIRMAN: And there was some articles in the newspapers.

10 A. No, I don't remember that at all.

11

12 JUDGE FAHERTY: Mr. Fox told us yesterday, Mr. Mahony, Mr. Fox told us yesterday
13 that he probably did recall or did know that there was some rumours at the
14 time, but he hadn't any great detail.

15 A. I don't remember it. Honestly.

16

17 JUDGE FAHERTY: You don't remember it?

18 A. No, that's --

19

20 CHAIRMAN: All right.

21

22 MR. HOGAN: Chairman before Mr. Allen resumes, that speech by Mr. Smith, I
23 think, is the reference he referred to from recollection to rezoning being a
24 debased currency but that's still far from saying that there was anything
25 improper in the sense of corruption going on.

26

27 CHAIRMAN: Well, Mr. Mahony, do you recall a government Minister, Mr. Smith,
28 referring to the planning process as a debased currency or words to that
29 effect?

30 A. No.

1

2 CHAIRMAN: No.

3

4 MR. ALLEN: Thank you Chairman. Now going back Mr. Mahony, briefly, I hope,
5 to the question about the payment and the payment which was sought by
6 Mr. Dunlop, your evidence is that he asked for 10,000 in cash.

7 A. Yes.

8 Q.850This was in 1993, isn't that correct?

9 A. That's correct.

10 Q.851Would you regard that as a lot of money?

11 A. I didn't -- I thought it was good value for the fee, I thought it was worth the
12 fee.

13 Q.852No, we are not talking about a success fee, we are talking about the fee which
14 he demanded, not demanded but which he sought of you, being 10,000 pounds to do
15 the work, the immediate work being to get the motion in and to proceed from
16 there to try and ensure that the motion, when it ultimately came up, was voted
17 upon and voted upon to your satisfaction, isn't that right?

18 A. That's right.

19 Q.853Now, so what I want to ask you again is, would you regard the sum of 10,000
20 pounds as a lot, a little, medium, you can't say it was good value because you
21 only discovered, you were only in a position to make a judgement, I suggest to
22 you, as to the value of the money when success hit you happily in the face, do
23 you follow me, at the time that you made the payment, success was out there,
24 the possibility of success was out there, you had hope, which was springing
25 eternal~, isn't that right?

26 A. Yes.

27 Q.854And that was the man going to lead you to the promised land, isn't that right?

28 A. That's right.

29 Q.855Be it the burial ground or housing estate, isn't that right?

30 A. Right.

1 Q.856 So I want you to evaluate for the Tribunal, to give to the Tribunal your view
2 of the size of the sum sought by and very willingly paid by you, on the basis
3 of a representation, which was made to you by a third party that Mr. Dunlop was
4 the man to get the job done?

5 A. I thought it was a reasonable fee at the time.

6 Q.857 You thought it was a reasonable fee at the time?

7 A. Yeah.

8 Q.858 And presumably this thought, the thought that it was a reasonable fee, was
9 predicated on the premise that you knew yourself, as an experienced
10 businessman, that if you actually succeeded in having the lands rezoned, no
11 more than having them rezoned, they increased, automatically increased
12 enormously in value?

13 A. No.

14 Q.859 You don't accept that?

15 A. No.

16 Q.860 I see. So was it, is it your understanding then or was it your understanding
17 then, does it remain your understanding that really having lands rezoned
18 doesn't enhance their value?

19 A. Not -- in this case it did not enhance it substantially.

20 Q.861 It didn't?

21 A. No.

22 Q.862 How did you manage to get 13 and a half million for the lands?

23 A. That was a follow on, some six or eight years later, it was the rezoning -- was
24 changed by the planners.

25 Q.863 Yes?

26 A. That's why.

27 Q.864 You say that's what enhanced the value to?

28 A. What put the value up.

29 Q.865 To 13 and a half million?

30 A. Yes.

1 Q.866Are you seriously telling the Tribunal and asking the Tribunal to believe, when
2 you got the land rezoned, they were worth no more than the 100 and -- how much
3 did you pay for the land?

4 A. 190 thousand.

5 Q.867Is that your evidence?

6 A. In eight years.

7 Q.868Yes, is that your evidence?

8 A. I will answer you.

9 Q.869Thank you?

10 A. It went from eight years, to 525 thousand, from 190 thousand, after eight
11 years.

12 Q.870How do you mean it went?

13 A. It was re valued eight years later.

14 Q.871By whom?

15 A. By reputable firm.

16 Q.872Who?

17 A. Harrington Bannon.

18 Q.873Harrington Bannon, I see. When you sold it, when you finished your process, I
19 accept the mechanical word, it was assigned to your daughter when it was
20 ultimately sold, that process had been progressed and continued with and you
21 ended up, or somebody ended up with 13 and a half million?

22 A. Yes.

23 Q.874On an outlay? 1981 of 190,000, that's correct? By any standards I think you
24 would agree, a tidy little profit?

25 A. Correct.

26 Q.875Now I have to put it to you, it's already been put to you by Ms. Dillon, but I
27 must put to you because it is my client's evidence, that at the first meeting,
28 that at the initial meeting that you had with Mr. Dunlop, you specifically said
29 to him that you -- let me just get it right, that you specifically said to
30 Mr. Dunlop that you were, that you knew how the world worked. This was in

1 response to his indicating that he would have expenses?

2 A. I have categorically denied that.

3

4 MR. HOGAN: With respect, Mr. Dunlop never said that he would have expenses at
5 the first meeting.

6

7 CHAIRMAN: Didn't have the?

8

9 MR. ALLEN: When Senator Wright was carrying out the work for you, I take it
10 this was on an unpaid basis.

11 A. Correct.

12 Q.876 Just done out of friendship.

13

14 CHAIRMAN: What was your point again Mr. Hogan, sorry?

15

16 MR. HOGAN: From recollection, I don't believe Mr. Dunlop said in evidence,
17 that at the first meeting, he said his fee was going to be 10,000 pounds. I
18 don't believe he said anything about expenses at the first meeting.

19

20 MS. DILLON: I think the question of expenses arose at the success fee meeting
21 and it was raised by Mr. Dunlop and Mr. Mahony denied today that there was any
22 discussion about expenses, but my recollection is, that the evidence of
23 Mr. Dunlop was, he raised the question of expenses in February of 1994.

24

25 MR. ALLEN: Yes, I accept that Chairman and I withdraw the question as it was
26 put and apologise to you Mr. O'Mahony, can I put matters in a slightly
27 different fashion before we finish up hopefully with the meeting, the success
28 fee meeting.

29

30 Can I put it to you that it was perfectly clear between you and Mr. Dunlop on

1 your side bar, which took place between you and he, to which Mr. Fox does not
2 appear to have been a party, that it was perfectly clear that you understood
3 where he was coming from and he understood where you were coming from, which
4 was that you wanted the land rezoned and that you accepted that, the certainly,
5 the best possible way of achieving that was by making payments to the different
6 councillors

7 A. No, definitely not.

8 Q.877I see. Notwithstanding, which the circumstances again that I have outlined
9 involving your taking on Mr. Dunlop, paying him in the bar, the sum of 10,000
10 pounds and subsequently in a process which I will now turn, claiming another
11 2,000,~, isn't that right? Notwithstanding -- what I am saying are peculiar
12 features, you say no?

13 A. Correct.

14 Q.878I was an innocent abroad?

15 A. Yeah.

16 Q.879I met this lad in a bar he asked me for 10,000, I was delighted to give it to
17 him, it sounded like great value, I had -- my affairs were in a mess, my
18 resolution wasn't necessarily going to get before the Tribunal, here is the man
19 that's going to do it and here -- whose told me he is going to do it, I am
20 happy to give him 10,000 pounds in cash. As far as you are concerned you are
21 sitting here in the box today, telling the Tribunal, that that's all perfectly
22 regular and as far as you were concerned it was all normal, all proper and all
23 above board, that's the totality of your evidence, isn't that correct

24 Mr. Mahony?

25 A. No, I never told the Tribunal that it was all above board.

26 Q.880Oh you say it wasn't?

27 A. I paid cash.

28 Q.881Yes?

29 A. And I have admitted that.

30 Q.882And are you saying that that payment was not above board?

1 A. Pardon.

2 Q.883Are you saying that the payment of cash was not above board?

3 A. I did say it was not above board.

4 Q.884In what way?

5 A. It is not a normal way to do business.

6 Q.885Forget about normal now, you are saying above board has a different connotation

7 to normal. You have now told the Tribunal that this payment was not above

8 board, I would like you to explain to the Tribunal how, as you see it, the

9 payment was not above board?

10 A. Because the payment and the, it was not documented. That's why, it was cash,

11 where it should have been documented and properly done.

12 Q.886By whom?

13 A. By any two of us.

14 Q.887Not by any two of you Mr. Mahony, with respect, by the two of you, in other

15 words what you are telling the Tribunal is that you were party to a payment

16 which on your say so was not above board, it was an illicit payment is that

17 correct, to Mr. Dunlop?

18

19 MR. HOGAN: Again I object.

20

21 CHAIRMAN: I don't think Mr. Mahony intend to convey that, he explained you

22 asked for an explanation as to what not above board means and his answer was

23 that he described it as such because it was not documented and was in cash. He

24 did not say that it was intended for, he believed, illicit purposes.

25

26 MR. ALLEN: No, I didn't say illicit purposes, with respect Chairman, I said

27 if a payment itself on the basis of what the witness is now saying was an

28 illicit payment, I didn't with respect Sir, say in my last question to the

29 witness, that it was a payment for illicit purposes. At stake here, not at

30 stake but at issue here, Sir if I might explain where I am coming from, is the

1 credibility and character of one witness as opposed to the other. This witness
2 has now told this Tribunal that he made, he says a payment which was not above
3 board. I say an illicit payment, I accept fully that he has said repeatedly
4 that he did not make the payment for the specific illicit purposes of, with the
5 knowledge that some or all of the monies would be used for the purposes of
6 suborning councillors, but what I am saying is, that on his own evidence he was
7 party to an illicit transaction per se, simplisitor.

8
9 MR. HOGAN: With respect Chairman, I don't believe he said it, it depends what
10 happened, one means by illicit is the -- Mr. Allen put to the witness the two
11 parties should have documents, in fact, from that point of view there was only
12 one taxable person here that was Frank Dunlop, there was no legal obligation on
13 my client to make any documentary record in respect of this. The obligation
14 solely on the person receiving the money to account for professional services
15 both for that purpose and income tax purposes.

16
17 CHAIRMAN: Well perhaps Mr. Mahony, just to clear it up, might explain again
18 what he understands by his term "not above board".

19 A. Right. Insofar as it was paid by me, by cash and it was not documented, the
20 deal was not documented and I have accepted responsibility for that. I state
21 in my answer to Mr. Allen, I had absolutely no idea whatsoever, never crossed
22 my mind that it would be used for the purpose of paying councillors.

23
24 MR. ALLEN: Moving on from there Mr. Mahony, that's your evidence and that's
25 what's there in the proceedings, I am not going to challenge you on it any
26 further, let's come to the sequence of events leading up to a meeting between
27 you and Mr. Dunlop where the question of what has been referred to as a success
28 fee arises, do you follow me?

29 A. Mm-hmm.

30 Q.888 Now as I understand it you think the figure, Mr. Dunlop as I recall says he

1 sought 5,000 pounds, you indicated at some stage during the course of your
2 evidence this morning that it might have been four thousand pounds but the one
3 thing we can be clear about is because it doesn't happy, there isn't happily a
4 dispute for once on the issue between you and Mr. Dunlop, that is the amount
5 which was paid was 2,000 pounds?

6 A. Correct.

7 Q.889Isn't that right?

8 A. That's right.

9 Q.890Now once again Mr. Mahony, this payment was made in cash?

10 A. Correct.

11 Q.891Do you follow me?

12 A. Yes.

13 Q.892Now why was that?

14 A. I don't honestly know, I cannot say I was asked for it and I cannot say I
15 offered it, but it was paid in cash.

16 Q.893From the same fund?

17 A. I am not sure. I am not sure.

18 Q.894Did you come equipped to this meeting?

19

20 CHAIRMAN: The evidence is that at a subsequent meeting.

21

22 MR. ALLEN: I understand that Chairman, I am asking did he come equipped to
23 the meeting?

24

25 CHAIRMAN: Explain what you mean by "equipped".

26 Q.895Did he come armed with cash he, the fact that he didn't pay him at the first
27 meeting is a matter which -- at the meeting you had with Mr. Dunlop, the first
28 meeting, do you follow me, in relation to the more money, Mr. Dunlop, did you
29 come with cash with you?

30 A. No.

1 Q.896 So was it is your intention therefore to dissuade Mr. Dunlop, in other words
2 when you went to the first meeting, did you go determined not to pay him
3 anything?

4 A. No I -- I went to have a discussion with him on the pros and cons of it. He
5 asked to see me, I went to see him. And we a discussion which we discussed and
6 we agreed to shake hands on 2,000 pounds.

7 Q.897 You see, the payment of the money in cash, the reasons which you have now told
8 us, for reasons you have now told us you cannot explain, didn't that second
9 payment in cash do no more than to copper fasten the secrecy which surrounded
10 your dealings with Mr. Dunlop, wasn't that the effect of it?

11 A. I suppose so, yes.

12 Q.898 Well --

13 A. Yes.

14 Q.899 Yes, definitely, really, isn't that right?

15 A. Yes. It was to close off the deal.

16 Q.900 You say it was to close off the deal, you have also said, Mr. Mahony, with the
17 greatest of respect to you that the deal was closed off in September 29th of
18 1993?

19 A. Yeah.

20 Q.901 So we have not one completion, not one act of completion but two acts of
21 completion, if you follow me. Both of them as you acknowledge yourself in
22 cash, do you follow me?

23 A. Mm-hmm.

24 Q.902 Now, I suggest to you that there is a very obvious reason as to why both
25 payments were made in cash by you, that reason being that you didn't want there
26 to be any trace, any paper trail or any evidence whatsoever of your having made
27 a total payment of 12 thousand pounds to a political lobbyist for the purposes
28 of having your lands rezoned, do you follow me?

29 A. Mm-hmm.

30 Q.903 Isn't that exactly why it was paid in cash, particularly the second tranche

1 which you are willing to acknowledge you do not recollect being demanded as
2 payment in cash by Mr. Dunlop?

3 A. I have explained the first 10,000.

4 Q.904I am not --

5 A. Excuse me. I will come to the second.

6 Q.905Very good.

7 A. The second 2,000, I really can't understand why it was paid in cash.

8 Q.906The second 2,000.

9 A. The second 2,000. It was paid to finalise the proceedings.

10 Q.907But again, there is no point going over it, but you know yourself the
11 proceedings had been finalised, this was a re opening?

12 A. Yes.

13 Q.908This was a re opening of the whole rigmarole, isn't that right?

14 A. Mm-hmm.

15 Q.909And you turn up again to a meeting and you turn up subsequently, and you turn
16 up with cash, and it seems, does it not Mr. Mahony, that the extent, the only
17 extent to which we can agree on this, is that whatever about the intent, the
18 effect of your making both payments in cash was to ensure that it had the
19 effect of ensuring that were it not for events which had transpired since then,
20 nobody, nobody but you and Mr. Dunlop would have known of the fact that you
21 handed him 10,000 pounds in cash on one occasion and a few months later you
22 handed him another 2,000 pounds in cash?

23 A. I have never denied that there.

24 Q.910There would be no record of it and you wouldn't be where you are today. You
25 certainly didn't anticipate being here, did you? Do you understand the
26 question Mr. Mahony?

27 A. No.

28 Q.911What I am suggesting to you is that you deliberately cloaked your dealings with
29 Mr. Dunlop in secrecy and you did so for a very deliberate reason, you didn't
30 want what transpired between yourself and Mr. Dunlop to enter the public

1 domain, you didn't want it to be known that you were paying Mr. Dunlop sums of
2 10,000 and 2,000 pounds and the reason you didn't want that known was.

3
4 A. Because however you characterise it, it was not an above the board payment,
5 and

6 B. because it was a payment made insofar as the 10,000 pounds was concerned,
7 with your knowledge, that some of it would move on to parties other than
8 Mr. Dunlop, and secondly, that you, you are telling the Tribunal, that you were
9 getting some form of closure or completion by paying 2,000 pounds.

10

11 MS. DILLON: I think before Mr. Mahony attempts to answer any question, it
12 might be broken down into such elements that would be readily understood.

13

14 CHAIRMAN: I think if you put one of those things at a time to Mr. Mahony.

15

16 MR. ALLEN: Certainly Chairman. To accept My Friend's invitation to simplify
17 matters, Mr. Mahony,

18

19 1. You paid 12 thousand pounds to Mr. Dunlop in two instalments, correct?

20 A. Correct.

21 Q.912Both of those payments, I hope this is simple enough for everyone, both of
22 those payments were made in cash?

23 A. Correct.

24 Q.913The first was 10,000 pounds handed over in a bar the second was 2,000 pounds?

25 A. Correct.

26 Q.914The effect of making cash payments to Mr. Dunlop in this way was that nobody
27 save you and he, unless either of you chose to confide in third parties, could
28 or would be aware of the transaction, isn't that correct?

29 A. The first 10,000 was paid in cash by me because that's what Mr. Dunlop asked
30 for, I wanted Mr. Dunlop to come aboard immediately and I acceded to him and I

1 paid him three weeks later.

2 Q.915Now just go back to the question and say, because I have been asked to break it
3 down which I have done, we are now at clause four, I have to go, go back to --
4 the effect of the, of the 10,000 pounds was to create a situation in which
5 nobody, save yourself and Mr. Dunlop, knew of the transaction, isn't that
6 correct?

7 A. The reason I paid it --

8 Q.916I didn't ask you the reason you paid, Mr. Mahony?

9 A. Well what did you ask me?

10 Q.917I have asked you to accept that the effect of what you did was to ensure that
11 the money, that the transaction between yourself and Mr. Dunlop remained secret
12 as between yourself and Mr. Dunlop, isn't that correct?

13 A. Yes.

14 Q.918And that the, that equally the payment of 2,000 pounds in cash had a similar
15 effect, in other words that unless you or Mr. Dunlop went and gave a press
16 conference or took an ad out in one of the newspapers, nobody would know about
17 it, save in the somewhat unusual circumstances those payments have come to be
18 scrutinised by this Tribunal, isn't that correct?

19 A. Yes.

20 Q.919Thank you for your patience Mr. Mahony.

21

22 CHAIRMAN: Thank you. Mr. Hogan?

23

24 MR. HOGAN: Mr. Mahony just a number of questions in re-examination. You were
25 asked about the letter from Councillor David Healy.

26 A. Yes.

27 Q.920And I think the Tribunal has now obtained the original of that letter, and I
28 would just like you to take a look at it. Now that letter, I think you said,
29 in evidence, was signed by you?

30 A. Yes.

1 Q.921And it's also on your own personalised notepaper?

2 A. Yes.

3 Q.922Can you say now, having inspected the original, does it suggest to you that
4 this was part of a, what Ms. Dillon described, as a mail merge to all the
5 councillors?

6 A. No, it just looks like one personal letter to me.

7 Q.923It is the case is it not, that Councillor Healy, at the time, had sponsored a
8 motion which was to retain the agricultural and green belt zoning for your
9 lands and those of Mr. Fox, isn't that so?

10 A. I believe so, yes.

11 Q.924Might that be a reason why you sent a letter to Councillor Healy?

12 A. It would be.

13

14 MS. DILLON: I think in fairness, I don't want My Friend to proceed under false
15 premise. The Healy motion was to retain the B & G zoning on effectively the
16 Baldoyle race course lands. I am not aware of any motion by Mr. Healy in
17 relation to the agricultural zoning lands, Mr. Mahony's lands being zoned
18 agricultural only.

19

20 MR. HOGAN: I stand corrected on that. I stand corrected.

21

22 CHAIRMAN: All right.

23

24 MR. HOGAN: All right. Now, you were asked, Mr. Mahony, moving to another
25 matter, about the value of the lands after the rezoning in 1993 and I think
26 it's the case that you bought them in 1981 for 190 thousand pounds

27 A. That's right.

28 Q.925And in December of 1993 you transferred them to your daughter?

29 A. That's right.

30 Q.926And they were valued in November 1993 by Messrs. Harrington Bannon as 525,000,

1 isn't that so?

2 A. That's right.

3 Q.927And that particular valuation took place after the zoning was confirmed?

4 A. That's correct.

5 Q.928And that particular valuation was also accepted by the Revenue Commissioner at
6 the time, for capital gains tax purposes, isn't that so?

7 A. That's correct.

8 Q.929And isn't it the case that the land, that the density of the land was changed
9 in 1998/'99?

10 A. I am not sure of the year, yes. Yes.

11 Q.9301999 I think, to be precise, I know you weren't there for it, Mr. Mahony, but
12 we had evidence from Mr. McGlynn, one of the appropriate planners, that this
13 change came about in 1999 solely at the behest of the County Manager, the
14 County Manager made the recommendation that the density of the lands be
15 changed, isn't that so?

16 A. That's correct.

17 Q.931And that when the lands were sold in 2000 the greater bulk of the value can be
18 attributed to the changes that were brought about in 1999 as opposed to '93?

19 A. That's right.

20 Q.932Now you were also asked, Mr. Mahony, about whether your arrangements with
21 Mr. Dunlop were clandestine or secret, isn't that so?

22 A. That's right.

23 Q.933Now it is the case isn't it, that councillors became aware shortly after you
24 retained Mr. Dunlop that Mr. Dunlop was in fact acting for you, isn't that so?

25 A. Yeah.

26 Q.934Because they were lobbied by Mr. Dunlop, isn't that so?

27 A. Right.

28 Q.935And isn't it a fair inference that they must have known that Mr. Dunlop was
29 acting in a professional manner for a fee?

30 A. Yes.

1 Q.936 Thank you very much, Mr. Mahony.

2

3 CHAIRMAN: Thank you. Ms. Dillon, do you want to ask anything?

4

5 MS. DILLON: No Sir.

6

7 MR. DENIS MAHONY WAS FURTHER CROSS EXAMINED

8 BY MR. KENNEDY AS FOLLOWS:

9

10 Q.937 MR. KENNEDY: Mr. Chairman, may I just briefly query Mr. Mahon on one point
11 that came up in cross-examination of Mr. Allen, in putting a question to
12 Mr. Mahony? In the few questions I did ask him, I made reference to plans
13 being produced by him to Mr. Wright, and I just want to return to that very
14 briefly; page 74 of the brief which is Mr. Mahony's statement, paragraph 11, he
15 acknowledges two meetings with Mr. Wright in February of 1993, the 5th of
16 February and 15th of February; and in Mr. Wright's statement, which I think is
17 corroborating this and consistent with it, page 100 which is part of
18 Mr. Wright's statement, he makes reference to his recollection of meeting
19 Mr. Mahony towards the end of 1992 or very early 1993, and I accept
20 Mr. Mahony's statement where he has the diary entry of February 5th and
21 February 15th '93 where he says he met Mr. Wright. Mr. Wright in his statement
22 says that the second of those meetings which was the 15th of February, this is
23 my question for Mr. Mahony, he says that Mr. Mahony produced some drawings
24 which I think Mr. Allen might accept would be synonymous with plans, my
25 question Mr. Mahony is, did you at the second meeting, this is the month before
26 the motion was to be lodged, did you have prepared some form of drawings by
27 another architect, I think they had been doing some work for your family
28 elsewhere, sort of a proposal, if I mention the name Sean McMullen would that
29 jog your memory?

30 A. Yes. That was, he was a builder yeah.

1 Q.938Did he prepare sort of a brief?

2 A. He did, but -- I don't think it went to council, now I think it was just a
3 sketch that he did.

4 Q.939Would you agree that you might have presented or given this sketch to
5 Mr. Wright?

6 A. I would.

7 Q.940So that's what I seek to clarify, Chairman, that there were plans or drawings
8 and maybe they ended up on the file that Mr. Dunlop was handed, if they had to
9 be produced. Thank you Chairman for allowing that.

10

11 MR. DENIS MAHONY WAS RE EXAMINED AS FOLLOWS BY MS. DILLON:

12

13 Q.941MS. DILLON: I think for Mr. Mahony, arising out of that, Mr. Mahony, you have
14 not produced any drawings to the Tribunal?

15 A. No.

16 Q.942That's right. You haven't indicated to the Tribunal that you did have such
17 drawings, isn't that right?

18 A. No.

19 Q.943Up to this moment in time?

20 A. No.

21 Q.944Are you saying that you handed a set of drawings to Mr. GV Wright?

22 A. I think there were plans there that Sean McMullen may have drawn up, if I have
23 then them I would have given them to GV Wright, if GV Wright says I gave him
24 plans I would accept it.

25 Q.945You also say, you haven't to this moment in time indicated the existence of any
26 such documents?

27 A. No, I didn't know, no.

28 Q.946Just the last thing Mr. Mahony, that letter you have just put in your file, I
29 think you should probably give it back to the Solicitor for the Tribunal.

30 Thank you.

1

2 CHAIRMAN: Mr. Mahony, I just want to ask you a couple of fairly short
3 questions, can you recall when you learned and from whom you learned, that
4 there was, that the system which was leading to rezoning of lands required, or
5 as a normal practice required the lobbying of councillors?

6 A. Sorry Chairman?

7

8 CHAIRMAN: You have given evidence that at around a time of 1993 when you
9 engaged the services of Mr. Dunlop?

10 A. Oh yeah.

11

12 CHAIRMAN: That you decided yourself and proceeded to lobby councillors?

13 A. That's correct.

14

15 CHAIRMAN: Who told you, or where did you learn of the system of lobbying
16 councillors in order to bring about rezoning, was that something you had known
17 for many years?

18 A. No, this would be something on a friendship basis really, I knew them
19 personally, it was a matter of asking him to --

20

21 CHAIRMAN: But did you know enough about the system at the time to know that
22 councillors would, should be lobbied if a rezoning motion was to be successful?
23 I am not suggesting now that anything improper was being done, but the system
24 of going about lobbying councillors, either yourself or through some other
25 third party, can you, do you recall for how long you knew of that system in
26 1993, was it something you had known for many years?

27 A. No, it's the first time I had ever done it, first time it came to me and there
28 were only six involved.

29 CHAIRMAN: But do you recall anyone sat you down and told you this was the way
30 things were done, or was it is somebody --

1 A. No I just, I just went to see them in their homes and one thing and another, I
2 didn't --

3
4 CHAIRMAN: All right. When Mr. Wright told you that he was too busy to do
5 whatever was necessary and advised you to engage the services of Mr. Dunlop,
6 did he tell you, did you ask him or did he tell you what he had done at that
7 stage, what work he had done?

8 A. I don't think so, Your Honour, I think I would have imagined he had some done,
9 I am not sure, honestly.

10
11 CHAIRMAN: But do you know, did you know at the time, even in very rough terms
12 what he had done or how he had gone about it?

13 A. I would have imagined that, the best way to put it is I think he said he wasn't
14 up to date in what he was doing, now I am not sure what it was to be honest
15 with you.

16
17 CHAIRMAN: But you didn't know what he was doing or what he wasn't up to date
18 with?

19 A. No.

20
21 CHAIRMAN: And did he indicate to you, when he was advising you to involve
22 Mr. Dunlop, did he indicate to you for what purpose Mr. Dunlop would be
23 required?

24 A. Yes. To take on, take over his job of lobbying and putting the votes together.

25
26 CHAIRMAN: Was that specifically said to you, that this was what Mr. Dunlop
27 would have to do?

28 A. Yeah, he was the lobbyist, yes.

29
30 CHAIRMAN: So as far as you were concerned it was clear to you that Mr. Dunlop

1 was to act as a lobbyist?

2 A. Yes. He was to take over and run the show, so to speak.

3

4 CHAIRMAN: And do the persuading of councillors.

5 A. Yes.

6

7 CHAIRMAN: All right. Thank you.

8

9 JUDGE FAHERTY: Mr. Mahony, I just have a sort of related question. I
10 understand that you agreed with Mr. Dunlop that you would lobby certain
11 councillors yourself, is that correct?

12 A. Yes.

13

14 JUDGE FAHERTY: And I think those councillors, apart from Mr. Wright you said I
15 didn't have to lobby, Mr. Kennedy, Mrs. Owen, Ms. Terry and Ms. Keane, is that
16 right, are they the councillors you were going to lobby?

17 A. That's right.

18

19 JUDGE FAHERTY: And this was, this lobby would have to be done sometime between
20 March 1993 and April, the end of April 1993?

21 A. Yes.

22

23 JUDGE FAHERTY: And I think you told us that you did talk to, you walked the
24 land with Mr. Kennedy, isn't that correct, on the 27th of March and you spoke
25 to Ms. Keane and Ms. Terry?

26 A. Yes.

27

28 JUDGE FAHERTY: And you spoke to Mrs. Owen, I think?

29 A. Mrs. Owen, yes.

30

1 JUDGE FAHERTY: Now. When you approached those councillors what did you have
2 with you when you talked to them?

3 A. In other words, did I have a map? No.

4
5 JUDGE FAHERTY: Yes, that's what I am asking you. Had you any documentation?

6 A. I am not sure Judge. I think I more or less explained where the land was and
7 what, would they come and have a look at it, I think that was really more of
8 it; Mr. Kennedy, Mrs. Owen, Mr. Wright they would know the land, Sheila Terry
9 wouldn't. I remember meeting them and I am not sure whether I had maps with me
10 or not.

11
12 JUDGE FAHERTY: The reason I am asking is you very fairly told us, Mr. Mahony,
13 you weren't au fait with the technicalities of rezoning and you understand --

14 A. More or less, yeah.

15
16 JUDGE FAHERTY: I can understand that, that wasn't your line of business, and
17 are you telling the Tribunal that you pointing out or telling the councillors
18 where the land was and that you wanted it rezoned would be enough to convince
19 them to vote for it?

20 A. Convince them to?

21
22 JUDGE FAHERTY: To vote for the rezoning?

23 A. Yes. I, yeah --

24
25 JUDGE FAHERTY: And why would you think just simply telling the County
26 Councillors where the land was, would be sufficient?

27 A. Well the local ones would be sufficient because they knew where the land was.
28 Michael Kennedy walked the land with me. Mrs. Owen would know it and so would
29 GV Wright know it. Sheila Terry and Cait Keane, I don't know whether I had any
30 documents with me.

1

2 JUDGE FAHERTY: Now I think Mr. Kennedy, for Mr. Wright, asked you a question.
3 You said Mr. Wright was impressed with your plans, you have now identified
4 possible drawings that somebody might have done for you, is that --

5 A. Yes. Go ahead.

6

7 JUDGE FAHERTY: You have given that. As I understand it, Mr. Mahony, correct me
8 if I am wrong, that throughout this period, the time you were lobbying and
9 lobbying was being done on your behalf, you had no knowledge of the contents of
10 the submission that was put in, in December of 1991.

11 A. No, I hadn't, as far as I know -- no, I hadn't.

12

13 JUDGE FAHERTY: You told us, I think, the first time you saw it was in the year
14 2000, you got it from the Tribunal.

15 A. That's right, yeah.

16

17 JUDGE FAHERTY: So when you were discussing this matter then with Mr. Wright in
18 February of 1993.

19 A. Yes.

20

21 JUDGE FAHERTY: And I think you told us that as far as you were concerned
22 Mr. Wright would have handed his file to Mr. Dunlop?

23 A. Yes.

24

25 JUDGE FAHERTY: If you were going to be lobbying County Councillors did you not
26 think you needed anything from Mr. Wright's file, whatever might be in that, to
27 do your own job of lobbying.

28 A. No.

29

30 JUDGE FAHERTY: But you weren't expecting, as I understand it, Mr. Dunlop to

1 lobby the councillors you were going to lobby?

2 A. No.

3

4 JUDGE FAHERTY: It was a division of labour, as I understand, you had divided up
5 the County Councillors you had agreed with Mr. Dunlop you would lobby.

6 A. I would lobby these, yeah.

7

8 JUDGE FAHERTY: Yes absolutely. But as I understand it, Mr. Mahony, and I don't
9 want to put words into your mouth, but you didn't have any paper, any document
10 outlining your plans or aspirations for the lands, save a map you gave
11 Mr. Dunlop in your office and save now, I think, a plan that was drawn up by an
12 architect or some sort of a drawing, that's all you had when you went out to
13 do, about your business.

14 A. Yes, yeah.

15

16 JUDGE FAHERTY: Is that correct?

17 A. Yes.

18

19 JUDGE FAHERTY: Right. Thanks very much

20 A. Thank you.

21

22 JUDGE KEYS: Mr. Mahony, could I just ask you two questions in all. One -- the
23 first one is simply, did you tell Mr. Fox at any stage that you had, when, that
24 you had paid Mr. Dunlop 10,000 pounds in cash, and if so, when?

25 A. No. I never discussed the -- can I come back for one second. I did the deal
26 with Mr. Dunlop.

27

28 JUDGE KEYS: Yes, on behalf of yourself and Mr. Fox.

29 A. Yes and I paid the money.

30

1 JUDGE KEYS: Yes on the 23rd, I think.

2 A. On the basis that if Mr. Fox came along okay, but I was going anyway. And what
3 happened with Mr. Fox, you know the story, that I didn't ask for the five back
4 or anything, Mr. Fox didn't discuss it with me or say I owe you five or
5 anything like that, there was nothing like that.

6

7 JUDGE KEYS: But hadn't you paid Mr. Dunlop the monies before Mr. Fox had
8 withdrawn from the deal or the application?

9 A. Mm-hmm. I had paid.

10

11 JUDGE KEYS: Isn't that correct you had paid him. And did you not tell Mr. Fox
12 at any stage that you had done that?

13 A. No, I went my own way and I never consulted with Mr. Fox, I paid the 10,000 and
14 that was it.

15

16 JUDGE KEYS: So your evidence is that you never told Mr. Fox or informed Mr. Fox
17 that you had paid 10,000 pounds in cash, or in any other form, to Mr. Dunlop,
18 is that correct?

19 A. That's correct.

20

21 JUDGE KEYS: And he never raised any queries with you as to whether in fact
22 Mr. Dunlop had been discharged, I ask the question on the basis that this was a
23 joint application, in which Mr. Fox was included obviously in it and some work
24 had been done on his part by Mr. Dunlop, which was bringing in, lodging another
25 motion to exclude his lands from the application.

26 A. Hmm.

27

28 JUDGE KEYS: That was never discussed?

29 A. No. No. It hadn't got to that stage.

30

1 JUDGE KEYS: I see.

2 A. You know what I mean.

3

4 JUDGE KEYS: Okay. The second question, you described to Mr. Allen about the
5 payment of 10,000 in cash as not being above board.

6 A. Well --

7

8 JUDGE KEYS: You gave reasons for that. Did alarm bells not go off in your
9 mind, maybe that's extreme to describe alarm bells but did it not sort of dawn
10 on you, well why is he looking for cash?

11 A. It didn't.

12

13 JUDGE KEYS: But this is most unusual, it's a large sum of money, it is awkward
14 for a start to transport it from one place to another, not alone to pay it
15 over, and you said you would never have got involved in a transaction similar
16 to this ever before where cash was paid, but here you were for the first time
17 in your life, an experienced businessman, Mr. Dunlop was asked a man who was
18 going to lobby councillors, because you knew that was the system, was looking
19 for 10,000 pounds cash, never dawned on you to say "well what do you want the
20 cash for, why does he want cash, what's wrong with a cheque, what's wrong with
21 even a bank draft payable to him or even payable to cash, but why cash"?

22 A. Never dawned on me.

23

24 JUDGE KEYS: Never dawned on you in all your experience as a businessman, doing
25 business transactions, knowing, I have no doubt a knowledge of taxation and so
26 forth, never dawned on you?

27 A. Never dawned on me, no. That's absolutely true.

28

29 JUDGE KEYS: I see. Thank you.

30

1 CHAIRMAN: Thank you very much Mr. Mahony.

2 A. Thank you.

3

4 THE WITNESS THEN WITHDREW..

5

6 CHAIRMAN: Half ten tomorrow.

7

8 MS. DILLON: We have two witnesses listed for today, Mrs. Nora Owen and

9 Mr. Sean Barrett, who are both here but we can take those first in the morning

10 and --

11

12 CHAIRMAN: Well are either of them short?

13

14 MS. DILLON: I cannot say that either of them will finish within half an hour,

15 but I do anticipate that we should finish tomorrow, if you were to leave them

16 over, if you were so disposed the four witnesses listed for tomorrow and these

17 two will be finished tomorrow.

18

19 CHAIRMAN: All right, does it suit the two --

20

21 MS. DILLON: That I do not know because I wasn't sure of the attitude of the

22 Tribunal, if you give me one moment --

23

24 CHAIRMAN: I understand it does suit them to come back tomorrow.

25

26 MS. DILLON: I understand that they have agreed to kindly make themselves

27 available in the morning, it is really a matter if you want to start one of

28 them.

29

30 CHAIRMAN: All right. Half ten tomorrow.

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MS. DILLON: May it please.

CHAIRMAN: Thank you.

THE TRIBUNAL THEN ADJOURNED TO THE FOLLOWING MORNING,
FRIDAY THE 7TH NOVEMBER, 2003 AT 10.30 AM.

