

1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 8TH OCTOBER 2003**

2 **At 10.30 A.M:**

3

4 MR. QUINN: Morning, Sir. Mr. Cormac Rabbitt, please.

5

6 **MR. CORMAC RABBITT, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS**

7 **BY MR. QUINN:**

8

9 Q 1 Good morning, Mr. Rabbitt, you have provided a written statement to the
10 Tribunal which has been circulated. You have a copy of that statement.

11 A I do, yes.

12 Q 2 And I propose to read that statement and to ask you a number of questions
13 arising out of it.

14

15 Your statement goes as follows:

16 "I, Cormac Rabbitt, of 8 Hy Brasail Court, Circular Road, Galway make the
17 following statement believing it to be a true account of the facts therein
18 stated. I was employed by Dublin County Council between 1982 and 1998."

19 A Excuse me one second, could I get a copy of that actual one?

20 Q 3 Yeah. You say:

21 "I was employed by Dublin County Council between 1982 and 1998 as a Senior
22 Executive Engineer in the Roads Department. From 1982 until the early
23 1990s I was employed in the 'Roads Panic Control and Forward Planning
24 Section' as a Senior Executive Engineer.

25

26 From sometime in or about 1987/1990 almost three years before the Draft
27 Development Plan in 1990, I recommended that pending due process the line
28 of the Southeastern Motorway [which you refer as the SEM] be moved from
29 that shown in the 1983 Development Plan. This movement of the line of the
30 motorway would have been discussed in an informal way with a number of

1 planners including Neville Davin who was a senior executive planner at the
2 time.

3 There were a number of reasons why the line was moved, namely:

4

5 1: The Shankill/Grey bypass was constructed during the 1980s. It now
6 terminated at St. Michael's hospital on the Bray Road. This termination (a
7 2k dual carriageway extension of the bypass north of its original proposed
8 SEM tie-end) had modified the 1983 Development Plan link of the SEM with
9 the bypass. In essence, the SEM alignment needed updating.

10

11 2: The extension of the dual carriageway by two kilometres referred to at
12 (1) brought up the question of whether it would be feasible to realign the
13 Southern section of the SEM;

14 (a) To terminate at the Wyattville junction on the Bray Road or

15 (b) To route it more directly southwards (move its belly) to connect to
16 the modified Shankill/Bray bypass.

17

18 3: From a detailed investigation of the SEM alignment I resolved that the
19 SEM alignment should be shifted westerly, the reasons for this included:

20 A. Keeping the integrity of the major SEM route,

21 B. The minor road junction for the Wyattville link facilitated northbound
22 traffic heading in a directional way to the SEM. Traffic heading to the
23 south from the N11 -- that's Wyattville Road junction -- was not
24 disadvantaged as it could use the existing Bray Road just south of the
25 Wyattville junction.

26 C. The proposed junction on the SEM linking with the Wyattville road
27 provided a good crossing points sympathetic with the valley ground
28 contours.

29

30 4: The SEM realignment to the Wyattville junction was rejected because the

1 ground contours approaching the junction were very steep for a motorway and
2 also for environmental reasons which included significant impact and works
3 on the existing Bray road just south of the Bray junction.

4

5 In the foregoing context I was critical of the line as outlined in the 1983
6 although technically it could have been built at a significant cost.

7

8 A number of people came to me to look at the maps long after my
9 recommendation was made to realign the SEM. I recall a number of people
10 came to look at maps just prior to the Lehaunstown lands being sold though
11 I did not ask them who they were representing. I believe that an engineer
12 from Monarch or their partners came to see the maps at this time. The line
13 of the motorway (as per map DP90/123) subject to process was planned to be
14 moved before Monarch or their partners or anybody else came looking at the
15 property and before the question of rezoning was mentioned. I do not know
16 exactly when the motorway line was moved.

17

18 I was surprised by the Draft Action Plan circa 1990 because of the number
19 of interchanges on the map. The first time I recall seeing the Draft
20 Development Plan DP 90/123 was at a special meeting of the County Council
21 during the course of the Development Plan process. The map surprised me at
22 the time for the reasons hereinafter set out below. I did not propose the
23 interchanges in the Draft Plan Development DP 90/123. There are two points
24 on this map where I feel there should be interchanges at Lehaunstown and
25 Carrickmines.

26

27 I recall doing a Ballyogan Compulsory Purchase Order in the 1980s in and
28 around the interchange between the Glenamuck Road and the Ballyogan Road
29 for the specific purpose of the development of the Ballyogan Road and its
30 facilities.

1 I recall putting an interchange west of Ballyogan Road/Glenamuck Road at a
2 point on the map DP 90/123 which makes use of the CPO to avoid as much as
3 possible the architectural works at Carrickmines. This interchange was
4 substantially modified by other personnel within the Council.

5
6 It's my belief there should be at least two kilometres between each
7 interchange and anything under this would be considered bad road planning
8 as there would be a difficulty with weaving traffic. I believe that the
9 distance between the interchange at Carrickmines and Cherrywood, south of
10 Wyattville as show in Draft Development Plan 1990 DP90/123 is about one
11 kilometre. I do not know where all the additional interchanges, as appears
12 on this map, came from but I assume they came from planners within the
13 Dublin County Council Planning Department.

14
15 In addition, the additional junctions themselves were not a design feature
16 at the time of the Roads Department as they were not the same junctions as
17 used in the M50 (up to that time) which had used "rotary junctions". The
18 junctions used in map DP 90/123 are a type of "diamond shape" junctions.

19
20 The junctions for the relief road as illustrated in DP 90/123 leading off
21 the Carrickmines and Cherrywood south of Wyattville interchange to the road
22 would conflict one with the other.

23
24 At the time of the Draft Development Plan 1990, Mr. Enda Conway was the
25 senior planner and he worked on the Development Plan with Mr. Davin, who
26 was one of the senior executive planners, Mr. Tom Gibson and Miss Joan
27 Caffrey. The Roads Department worked independently of the Planning
28 Department although it is possible that discussions would have taken place
29 between my superior and the planners at this time.

30

1 Although the Draft Development Plan was a continuous review once that draft
2 plan was published, it would not be changed unless there was some important
3 reason for the change. The SEM motorway line shown on the development
4 plans were indicative only and would be subject to the detailed analysis as
5 the scheme progressed. I cannot recall which meetings I attended in
6 relation to the Draft Development Plan although I accept I was present at a
7 special council meeting in November 1990. I recall being concerned about
8 the number of interchanges and I recall making my concerns in this regard
9 known to Mr. Willie Murray and others at that time. I felt the reason why
10 there were so many interchanges was because they wanted to develop either
11 side of the SEM. I felt that the motorway line was not a natural zoning
12 boundary, a significant development had at that stage taken place west of
13 the SEM and holding the SEM line as the planning zone demarcation was
14 unrealistic. In my opinion, a more natural demarcation would be the
15 Enniskerry Road. Consideration of rezoning was an ongoing process, and
16 particularly in an area like Ballyogan where a new sewer was planned.

17

18 An additional link road is now being built and the interchange is closer to
19 Glenamuck Road than I had proposed.

20

21 It was not my experience that engineers were not influenced by political
22 considerations and I had no political pressure, ever, exerted on me during
23 my time with Dublin County Council.

24

25 Liam Coughlan was the senior executive engineer in Roads Design and he and
26 I analysed different route alternatives for the SEM in the early 1990s. I
27 tried to influence Mr. Coughlan, Mr. Eoin Madden and his superior, Mr.
28 Henry, in relation to the SEM route alignments and interchanges.
29 Mr. Madden was working directly to Mr. Henry who at this time was senior
30 engineer for "Roads Control Section". I felt at this time that I was cut

1 out of the decision-making process and that my recommendations and concerns
2 were not being properly considered." And it's signed Cormac Rabbitt.

3

4 Is that your evidence to the Tribunal in relation to your involvement with
5 the movement of the line of the Southeastern Motorway?

6 A Yes, it is.

7 Q 4 Now, I think as you said in your statement, you were in the Roads Forward
8 Planning Section of the council in the late '80s, early '90s, is that
9 correct?

10 A That's correct.

11 Q 5 And at some stage you were directed or of your own volition decided to move
12 the line of the proposed motorway from that as shown in the 1983
13 Development Plan?

14 A It was part of my brief to monitor and manage the road reservations for the
15 County Council, so I would have been aware of all the reservations and as
16 such with the building of the Bray/Shankill bypass I was continually
17 monitoring.

18 Q 6 When was the Bray/Shankill bypass complete?

19 A In the mid 1980s.

20 Q 7 Are you saying once that bypass was completed that you looked again at the
21 1983 line of the motorway?

22 A That's right, because the development, as a result of the Bray/Shankill
23 bypass being constructed the way it was, it had to tie into the existing
24 road network at Loughlinstown Hospital, St. Michael's Hospital, rather than
25 being a continuous road that was planned from the Southeastern Motorway.
26 And the Bray/Shankill bypass were planned as a single route, but they had,
27 there had to be an interim tie in between the Shankill/Bray bypass and the
28 existing Bray Road.

29 Q 8 Now, we have a map, albeit a planning map, from 1989. If we could have
30 document number 4167, please.

1

2 This is a map on which, which is a precursor to the map DP 90/123 and it
3 sets out proposed zonings in relation to the area in Carrickmines. It
4 should come up on the screen. I just wonder if I could show you the map
5 and ask you can you identify that map as a planning map. Do you see that?

6 A Yes.

7 Q 9 Now, I'm now going to concentrate on an area to the right of the
8 interchange in Carrickmines. I am pointing on the screen, the far screen
9 here, Mr. Rabbitt, just to an area in this general vicinity here. Am I
10 right in thinking that that line here, that that line is intended to
11 represent the line of the motorway?

12

13 CHAIRMAN: Mr. Rabbitt, perhaps you would look at that screen which --

14

15 Q 10 MR. QUINN: Do you see the, can you find that line on your map?

16 A I can see it on this screen here, it's the same map.

17 Q 11 There appears to be two lines. There appears to be one line coming across
18 like that and there appears to be a line going across. Do you see both of
19 those lines?

20 A Yes, I do.

21 Q 12 Can you tell the Tribunal what those lines are intended to represent?

22 A There are a number of lines here on it --

23

24 CHAIRMAN: If you look at this big one here, there's a pointer being used.

25 A Yes.

26

27 Q 13 MR. QUINN: Do you see that line, for example?

28 A The pointer --

29 Q 14 Across the centre of the Carrickmines Valley, do you see that line?

30 A Yes. My eyesight isn't the best. You are looking at the Carrickmines

1 interchange area, is it?

2 Q 15 We will regard this as the Carrickmines interchange area if we might at the
3 moment and it would appear whoever was operating on this map, that the base
4 map had a line coming across like that. Now, do you know anything about
5 that?

6 A Well, the map isn't the Development Plan map, it's -- somebody was looking
7 at possibilities, you know, on it.

8 Q 16 Yes.

9 A I just look at detail here on it --

10 Q 17 It is not a road map but it would appear to be a base map or a base road
11 map used by planners to put in some planning options, isn't that right?

12 A Yes, yes. That's right. Yes.

13 Q 18 Now in 1989, if the planner who put in these options sourced the map which
14 had future road options then they would have sourced a map that you had
15 been working on, isn't that right?

16 A That's right and this map appears, the main line of the motorway --

17 Q 19 This is the line now coming across the valley like this?

18 A Yes, that line cutting across the valley, yes. That would be in line with
19 what I was looking at at the time.

20 Q 20 That was the 1983 line, isn't that right?

21 A That's correct, yes.

22 Q 21 Now, there also appears to have been a line coming across to the Bray Road,
23 is that right?

24 A That's right, yes, and that --

25 Q 22 Is that your line?

26 A It would have been one of the options we were looking at, yes. It would be
27 indicative of the line that we were looking at.

28 Q 23 And why would you be looking at a line which would be linking up with the
29 Bray Road at the Wyattville junction, why would you be doing that in 1989?

30 A To look at all the different options to link in with the existing Bray

1 Road. If we take those three lines, the one to the east, which is the one
2 that links in at the bottom of the Wyattville Road junction, that would
3 link in with the existing dual carriageway at the Wyattville Road junction
4 on it, and it was one of the options, because the Bray/Shankill bypass
5 extended as far as north as St. Michael's hospital, it would have been a
6 matter of taking that forward to the Wyattville Road junction. That's the
7 junction there; the one to the east and then connecting back to
8 Carrickmines. That was one of the options.

9 Q 24 Now, we do know that after the Southern Cross Route was confirmed that
10 there was in fact a study compiled by Mr. Coughlan, isn't that right?

11 A That's correct.

12 Q 25 In relation to the preferred option. And we find that I think at 4914 of
13 the brief. You are familiar with that Southeastern Motorway feasibility
14 study?

15 A I am, yes.

16 Q 26 And a whole series of options were considered at that time, a very detailed
17 programme or report was compiled in relation to each of the options.
18 That's 4914, sorry. You are familiar with that report?

19 A I am quite familiar with it, yes.

20 Q 27 Can I ask you when you decided to look at the line, the 1983 line, for the
21 first time in the late, the '80s, why you didn't compile a similar type
22 study? In other words, why you didn't compile a feasibility study setting
23 out a series of options and giving reasons why each of the individual
24 options ought to be considered?

25 A The -- we had different briefs. My brief was to look at the overall
26 planning and maintain reservations from development.

27 Q 28 That was an ongoing brief, was it a specific --

28 A It wasn't a specific brief. So, when I wanted a line or recommended a line
29 to be reserved or to be in the due process, it would be an indicative line
30 without a lot of detail that would be looked into further at some stage and

1 Mr. Coughlan's report would have been part of the ongoing process, it would
2 be the next step up in the ladder.

3 Q 29 Well, if you take the two lines as we saw them in the map at 4167 that we
4 have been looking at a moment ago, what was the status of those lines as of
5 1989? Are you saying that they were indicative lines or were they firm
6 lines that were going to be relied upon by the council?

7 A No, the -- at that stage the only lines that could be relied on in the
8 council were actually the lines in the Development Plan as such.

9 Q 30 Which was neither of these two lines?

10 A Neither of -- none of those lines.

11 Q 31 The 1983 line plan line would have been the line that was published and
12 available to the public?

13 A That's right, but while that was the case, we would have to, you know, keep
14 a brief and keep a watch of, you know, what the options were and if
15 something came up that interfered with our -- if something that came up
16 that, you know, interfered with one of those options, we would have to
17 examine that and see how it would affect our options and then maybe do a
18 more detailed report if the case arose.

19 Q 32 But what was the status of your various lines? I have produced a map in
20 late 1989 which shows two lines, were there other maps and other lines at
21 different times in the late '80s?

22 A Those, that map at Carrickmines and the Shankill bypass would really
23 represent the options. There was two options there, one is to tie in from
24 Carrickmines to Wyattville Road and the other one was to go a more direct
25 route to the Shankill/Bray bypass, but there would have been a third option
26 as well which was the Development Plan line.

27 Q 33 Yes.

28 A So, that wouldn't be drawn on that because that already existed on another
29 map.

30 Q 34 Now in, sorry in 1992 I think it was at a meeting of the council on the

1 13th May 1992, the manager presented a report in which he said the
2 following, page 1541:
3 "In the area of the Carrickmines Valley between Glenamuck Road and the
4 Shankill bypass the alignment shown lies between the original 1983 line
5 which is unacceptable for technical reasons and the line shown on the 1991
6 draft plan. It is considered to be an improvement in design terms on the
7 1991 line."

8
9 Now, do you say that the 1983 line was unacceptable for technical reasons?

10 A It wouldn't be optimal on it, it would compromise the integrity of the
11 motorway more so than the line that was slightly further west.

12 Q 35 But are you saying that it was unacceptable for technical reasons?

13 A Well, "unacceptable" is a word I wouldn't use there.

14 Q 36 It's a word used by the manager. Can I put it this way, did you brief the
15 manager that the 1993 line was unacceptable for technical reasons?

16 A No, I wouldn't have, no.

17 Q 37 Mr. Madden -- Mr. Coughlan who was involved in the 1992 review has given
18 evidence and he has said in his evidence and in his statement to the
19 Tribunal that there was no technical problem with the 1983 line. Would you
20 agree with Mr. Coughlan's evidence?

21 A It depends how, like -- technical problem could be built, but could be
22 built at a cost and cost greater and it would perform less than a line
23 slightly further west.

24 Q 38 Perhaps if I were to read to you what Mr. Coughlan's statement says in
25 relation to the matter. He says:

26 "The 1983 Development Plan route two in the South Eastern Motorway
27 feasibility study, it says:

28 I was familiar with this route for the SEM but not aware of any plans that
29 the planners may have had to alter this route. In my opinion, there was
30 absolutely no technical problems with this line. It would have been

1 preferable to the route that would have gone across the N11 at Wyattville
2 junction, I do not recall anyone suggesting that this line was the" -- the
3 transcript says suitable but I presume it's "unsuitable for technical
4 reasons. I do remember it was recognised if there was a decision not to
5 develop the western side of the motorway, that a lot of potential
6 Development Plan would be cut off by the 1983 line."

7 Now, would you disagree with that evidence?

8 A I would yes, to a degree. The technical link in, of the interchange, the
9 slip roads, the way the motorway is dove-tailed together would have been
10 much more difficult and that difficulty arose from the Bray/Shankill bypass
11 which had to link in to the existing Bray Road at Loughlinstown.

12 Q 39 Even under the 1983 line, that 1983 line was always going to come into the,
13 at some point, into the Bray bypass, isn't that right?

14 A That's right, yes.

15 Q 40 The actual positioning of the line between Wyattville or sorry, between
16 Carrickmines and Druid's Glen was irrelevant because it was going to hit at
17 some point the Bray bypass, isn't that right?

18 A Well, the lines of the motorway, say the Bray/Shankill Motorway and South
19 Eastern Motorway would have been indicative up to when they actually built
20 the Bray/Shankill bypass. What you are talking about is the last two
21 kilometres of the Bray/Shankill bypass linking into existing road network.

22 Q 41 I am talking about the alignment of the line, in other words the shape of
23 the line as it came across that area of Carrickmines, and I am sure that's
24 what the manager is referring to here, in the area between the Glenamuck
25 and Shankill the alignment shown lies between the original '83 line,
26 "which is unacceptable for technical reasons". So, the alignment, he is
27 suggesting here, is -- the 1983 alignment is unacceptable for technical
28 reasons.

29 A I use a word "slightly less" than "unacceptable". Unacceptable means no
30 way at all, whereas for technical reasons there was the interchange and

1 also the contours of the ground.

2

3 The 1983 draft plan would have been very prominent going over the high
4 ground whereas the line slightly west was fitting in behind the hills and
5 sinking down into the ground so it wouldn't be as visible, and for
6 environmental reasons and so on would dictate as well.

7 Q 42 Neither of the two lines we have seen in the 1989 map were accepted
8 ultimately, isn't that right?

9 A In the map we saw there? The line that was shown, the direct connection
10 across is pretty much the same line.

11 Q 43 You say that that's the mountain route line and the one recommended by
12 Messrs. O'Sullivan ultimately?

13 A There's the -- the road is in two sections, if you like, Carrickmines
14 junction, between Carrickmines and the Bray/Shankill bypass is one section
15 of that route and north of that, between Carrickmines and Sandyford is
16 another section.

17 Q 44 Well, I am not concentrating on the area north of the -- if we put document
18 number 3740, please. This is a map which sets out the various routes. I
19 don't know if you have seen this map, various proposed routes and the
20 currently constructed routes. Do you see that map?

21 A Yes.

22 Q 45 As I understand it, the blue line which is the line to the very uppermost
23 line, that was the 1983 line.

24 A Yes.

25 Q 46 And then the original and the green lines were variously lines that were
26 proposed lines under the Development Plan, isn't that right?

27 A That's right and the green kind of red line is the one I would have
28 recommended.

29 Q 47 Sorry, the green?

30 A The green and red dotted line going through there, that one, yes.

- 1 Q 48 And this is considerably north of the actual constructed line because we
2 see the motorway line at the bottom, isn't that right?
- 3 A That's right.
- 4 Q 49 None of your lines were ultimately accepted?
- 5 A Well, the, my line was an indicative line and that is kind of suggested
6 that we go on a further westerly than the present Development Plan so they
7 are pretty much one and the same.
- 8 Q 50 Do you agree with me that the 1983 line, where it exits to meet up with the
9 bypass is almost identical to the area where the current road under
10 construction exits to meet with the Bray bypass?
- 11 A It is but --
- 12 Q 51 What are the technical difficulties then that you say you identified in the
13 late 1980s which required you to pose an alteration of that route?
- 14 A Well, we had kind of detailed maps available and as it connected in, the
15 slip roads, they were all altered from what they would have been. The
16 Bray -- the Southeastern Motorway is now, was linking directly into it
17 whereas if it went the other way at that time there would have been, the
18 Southeastern Motorway would have been on slip roads.
- 19 Q 52 I am only talking about motorway alignment lines now, I am not talking
20 about the actual detailed technical tie-up of roads in one way or another,
21 but just from the point of the view of the actual lines as we see them,
22 what do you say were the technical difficulties in the alignment as appears
23 there in that blue line?
- 24 A You can't really see it on that map, it's moved slightly to the west where
25 it connects in from what it was originally on the Development Plan.
- 26 Q 53 Now, I think you were shown the map DP 90/123, isn't that right?
- 27 A That's correct, yes.
- 28 Q 54 And I think you were critical of that map, isn't that right? Can I ask you
29 when did you first become aware of the existence of that map?
- 30 A That's, can I have a look at that map?

- 1 Q 55 It's document 205.
- 2 A The first time I saw that map was actually, I was in the council chamber,
3 the back of the council chamber and it was put up on the screen.
- 4 Q 56 Would it be usual for a map as detailed as that from a road point of view
5 to be seen for the first time by you when it was put up on screen in the
6 council chamber?
- 7 A It would have been unusual, I didn't expect it and I was taken aback when I
8 saw it.
- 9 Q 57 It's something you would expect to have seen before you went to a council
10 chamber?
- 11 A I would expect to have seen some permutations or reiterations of it.
- 12 Q 58 None of the road alignments as we see them there came by way of suggestion
13 from you?
- 14 A There's an additional two interchanges there, the ones with the diamond
15 shaped --
- 16 Q 59 I am going to point to them here. Is that one here and one here?
- 17 A Sorry, that's one, yes.
- 18 Q 60 This is the one to the left of Carrickmines and then there is the one to
19 the right of Carrickmines?
- 20 A That's correct, yes.
- 21 Q 61 Were they new to you?
- 22 A They were totally new to me, yes.
- 23 Q 62 Would you be as critical of that map as Mr. Coughlan was in his evidence,
24 from a roads engineering point of view?
- 25 A I would have been, yes.
- 26 Q 63 And your criticisms, I think, as set out in your statement centre on the
27 number of interchanges and the distance between the interchanges?
- 28 A That's right, yes. One thing I would be very weary of are interchanges on
29 to a major road. There's a hierarchy of roads where you connect like a
30 motorway to a next road the size down from it and I had looked previous

1 years at where would the interchanges be on this route.

2 Q 64 You had looked previous years --

3 A Previous years, over the years.

4 Q 65 And you were the person most intimately involved in the Roads Forward
5 Planning Section where interchanges might be on the proposed Southeastern
6 Motorway, is that right?

7 A That's right, it would have been my brief.

8 Q 66 And you were, you would be the person one would expect to be most closely
9 associated with any map or any planning map which might refer to
10 interchange routes?

11 A I would expect to have a knowledge of, you know, what was being proposed or
12 options.

13 Q 67 I think you were also critical of the distance between the interchange at
14 Lehaunstown and Carrickmines.

15 A That's right. As a rule of thumb, you don't want interchanges within two
16 kilometres of each other because the slip roads on/off ramps and so on.

17 Q 68 Is there any reason whatsoever to have an interchange at that point? I am
18 pointing now to an area at Carrickmines, at that point in Carrickmines.

19 A Sorry, could I just see that again?

20 Q 69 Do you see the --

21 A OK, yes. I couldn't see the reason for an interchange there, no. But the,
22 if you notice that plan, the existing Carrickmines road and if you like,
23 instead of the location of the interchange being on the Carrickmines road
24 where it is being built at the moment, you could look at that one as being
25 a replacement for that.

26 Q 70 Yes, but is there any reason to replace and move it there as we see to the
27 right as it's now being constructed?

28 A There could be that reason just as I have outlined there but you would also
29 drop the interchange further back if you were doing that.

30 Q 71 This is --

- 1 A You wouldn't have the two.
- 2 Q 72 I think the Wyattville interchange was intended to take traffic from Dun
3 Laoghaire on to that route?
- 4 A That's correct.
- 5 Q 73 Or was that always the intention?
- 6 A Yes.
- 7 Q 74 Wasn't it always the intention there would be an interchange at that point,
8 in other words at the Wyattville interchange?
- 9 A That's right, the major interchanges on this plan were the one at
10 Wyattville and back at Fosters Avenue and UCD.
- 11 Q 75 In your statement you say that your drafts would have been seen by people
12 and you refer to engineers who may have come to see your drafts from time
13 to time. Were your drafts widely available to members of the public that
14 wanted to see your thinking on interchanges and road alignments in the late
15 '80s or --
- 16 A I would have -- the land was up for auction and before the auction a number
17 of people called in to me at different times over a period of a few days
18 and they would have asked me about the road alignment on it. And what I
19 would have said to them is, look, that the 1983 Development Plan is the
20 basis of the line but that we had looked at moving it slightly further west
21 and there would be general agreement, but that line would have to go
22 through the due process, but that we would, you know, maintain that line if
23 any application came. And we would say basically that, you know, the road
24 network had to be considered in this area and it would be premature until
25 the road alignment is firmed.
- 26 Q 76 Mr. Coughlan in his statement said that he was familiar with the SEM but
27 was not aware of any plans the planners may have had to alter the route?
- 28 A My recollection, Mr. Coughlan's report is a period after the land was up
29 for auction.
- 30 Q 77 His report I think was compiled after the inquiry into the Southern Cross

- 1 Route and sometime in or about 1992?
- 2 A 1992, 1993, yes.
- 3 Q 78 This was a period I think in the late 1980s, early 1990s we are speaking
4 about, who else other than you would have been aware of any decision to
5 interfere with or alter the 1983 line?
- 6 A The Planning Department would have been totally aware of it.
- 7 Q 79 Whose decision was it to alter the 1983 line?
- 8 A The decision -- the development -- the line would have been put into the
9 revised Draft Development Plan.
- 10 Q 80 That was in 1991?
- 11 A 1991, so it would have come forward in that.
- 12 Q 81 Yes, but I think we are talking now about a period pre-1990 if I understand
13 your statement correctly.
- 14 A If you can tie down the date of when that land went for auction.
- 15 Q 82 I think it was in 1989.
- 16 A 1989, so that precedes Mr. Coughlan's involvement.
- 17 Q 83 That's correct, but when he came, one would expect when he came to do his
18 review he would have known there had been a decision in principle some four
19 years previously to move the line of the road.
- 20 A He should have known that, yes. I would have made him aware of it.
- 21 Q 84 Are you saying you did make him aware of it?
- 22 A Very much so.
- 23 Q 85 At the time you had decided to move the line of the road?
- 24 A I made Mr. Coughlan aware of the different options for the routes.
- 25 Q 86 No, that's 1992.
- 26 A This would be 1992.
- 27 Q 87 I am talking about 1989. Who would have been aware in 1989 of a decision
28 that the 1983 line ought to be moved?
- 29 A The Planning Department would have been aware of it, anybody working in
30 that area of the planning would have been fully aware of it.

- 1 Q 88 And who within the engineering department would have been aware of it?
- 2 A My boss, John Ring would have been aware of it.
- 3 Q 89 And did he approve of a decision that the 1983 line ought to be changed?
- 4 A Yes, he did, yes. But the aspect of say 1989 is we were continually
- 5 monitoring and looking at it and that went forward to 1991/1991 as well,
- 6 because even at that stage I would have had other engineers draw up more
- 7 detailed proposals to say, exhaust, that we were getting the best option.
- 8 In other words I would have got them to draw up more detail of, say, the
- 9 Wyattville junction and how it would link in ultimately. I said that might
- 10 not be optimal, we'll go back at it again and see can we improve it.
- 11 Q 90 When I speak about moving the line, I am not actually speaking about the
- 12 detail of links-ins with one road to another. I am merely talking about
- 13 the alignment or the line of the road. And what I would like to know is
- 14 when was the first time after 1993, when was the first time it was decided
- 15 that the 1983 line was unsuitable?
- 16 A Yeah.
- 17 Q 91 Who decided it and when --
- 18 A Sorry, when is the first time the line after the 1983 --
- 19 Q 92 -- was it published?
- 20 A Was unsuitable?
- 21 Q 93 Yes.
- 22 A There would have been a general acceptance from around 1989/1990 onwards
- 23 that was line was unsuitable.
- 24 Q 94 What happened in 1989 or 1990 which suggested that the 1983 line, I am
- 25 talking about the alignment, was unsuitable?
- 26 A We made an assessment of the different options and we drew up a number of
- 27 plans and compared the assessments.
- 28 Q 95 So, are you saying there's in existence a feasibility study or a
- 29 comprehensive studying showing a series of options which would incorporate
- 30 the two options we have seen in the 1989 map, which I had on screen a

1 moment ago, and that that document would have been drawn up in 1989 or
2 1990?

3 A Yeah, but there's in existence a series of maps and sketches and drawings,
4 quite a number of them, of various iterations and combinations which would
5 have outlined the extent and the works that would be involved and these
6 options --

7 Q 96 Were these available to Mr. Coughlan when he came to compile his report in
8 October 1992?

9 A They would have been. Mr. Donal Matthews, as a matter of fact, drew up
10 quite an extensive number of drawings.

11 Q 97 Who was in charge of those drawings, who was in charge of those drawings
12 being compiled?

13 A Donal Matthews would have been working for me when he was making up those
14 drawings.

15 Q 98 Would those drawings have been compiled on your instructions?

16 A Yes, they would have been.

17 Q 99 When did you start to have those drawings made up?

18 A When I started with them. I would have walked the line back in the 1987-88
19 with Niall Hayden who, was the chief technical technician in the council,
20 and we would have walked the line and looked at the alternatives on the
21 ground. We would have sketched out various drawings on maps and we would
22 have considered it as time went forward, there were more formal drawings
23 made right up to, I think, 1991.

24 Q 100 Even after DP 90/123 was published?

25 A Yes.

26 Q 101 So there would have been several drawings in existence when that map was
27 published in October 1990?

28 A There would have been, yes.

29 Q 102 That map doesn't refer to any of the drawings that were in existence by the
30 Roads Department at that time?

1 A Well, it wouldn't be normal to refer to --

2 Q 103 I am not saying, when I say "refer to", doesn't bear any resemblance to any
3 of the various drawings which were in existence at the time for the road
4 network?

5 A That's correct, yes.

6 Q 104 Would that be the case?

7 A Yes, that's correct.

8 Q 105 The first time you saw that, as the person who was responsible for the
9 various maps that you referred to, was when you saw it on the screen at a
10 council meeting in November 1990?

11 A At that meeting, yes, I was at that meeting and --

12 Q 106 And you complained to the planners at that time about the suitability of
13 the road network as appears on that map?

14 A Yes.

15 Q 107 Thank you very much, Mr. Rabbitt.

16

17 CHAIRMAN: Do you wish to ask any questions?

18

19 MR. FINLAY: Just a couple of brief questions.

20

21 **THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. FINLAY:**

22

23 Q 108 Mr. Rabbitt, my name is Ian Finlay, barrister. Just a couple of brief
24 questions if I may. I want to be clear that I have understood your
25 evidence correctly as I heard it. It appeared to me that it was your view
26 that the 1983 line of the motorway, the line of the motorway in the 1983
27 plan presented problems in two respects, firstly to construct it would
28 involve a cost and secondly, that there were a number of technical
29 difficulties in relation to that '83 line; isn't that right?

30 A That's correct, yes.

1 Q 109 And it was for those reasons that you personally recommended that the line
2 should move in a westerly direction, isn't that so?

3 A That's right, yes.

4 Q 110 And as far as you were concerned professionally, there were several sound
5 engineering reasons for the westward move, isn't that correct?

6 A There were very sound engineering reasons, yes.

7 Q 111 And I am not sure whether you mentioned it in your direct evidence, I
8 gathered from your written statement that in arriving at that
9 recommendation for the westward move, at no time did anyone seek to much
10 less exceed in influencing that recommendation. That was your professional
11 recommendation without external influence; is that correct?

12 A That's right, yes.

13 Q 112 And it was a recommendation with which your boss approved, you referred to
14 your boss some moments ago, is that correct?

15 A That's right, Mr. Ring.

16 Q 113 Yes. And your work which ultimately led to the recommendation probably
17 commenced as early as 1987 or 1988 when you, with maybe others, started to
18 walk the line.

19 A That's right. At that period we had revised the northern cross route and
20 that was a fairly major, you know, revision. And we then, you know, after
21 a period after that we looked at the Southeastern Motorway, which was
22 further down the timescale for building.

23 Q 114 Yes. Mr. Rabbitt, if I might just ask you about one other aspect of your
24 statement which wasn't touched on in your examination by counsel for the
25 Tribunal, and it's the issue of zoning, which as you know is an important
26 matter in this Tribunal.

27

28 I was interested to see, Mr. Rabbitt, that you felt, and presumably still
29 feel, that insofar as zoning is concerned, the motorway line was never a
30 natural zoning boundary, is that correct, that was your view?

1 A That's correct, yes, often planners would try to use roads as zoning
2 boundaries and we would say that was a bad practice, you really have to
3 have other reasons as zoning boundaries, because development tends to pour
4 over a road and once it gets established, it goes everywhere. Really we
5 didn't want to be defending, you know -- using a road solely as a zoning
6 boundary, it didn't make sense because it really wasn't a natural area.

7 Q 115 Yes, and in that regard, Mr. Rabbitt, you point out in your statement that
8 at the time there already had been significant development on the western
9 side of the SEM, isn't that correct?

10 A That's right, yes.

11 Q 116 And presumably that is an example of what you just referred to as
12 development pouring over on the other side of a line?

13 A It's exactly that because the Enniskerry Road, you had the mountain steep
14 rise on the other side, I felt would have been more natural source and we
15 looked at the development of Dublin, if you stood in the mountains at the
16 back, saw the whole area of Dublin spread out yet you had this narrow
17 corridor extending around Ballyogan, Leopardstown race course, around that
18 area, it seemed almost an anomaly at the time.

19 Q 117 Yes. And if it was an anomaly at the time, can I take it it would have
20 been even more of an anomaly today?

21 A Circumstances have proved that, particularly when there was a major sewer
22 going up they're principally to serve local authority houses, there would
23 have been sewage available.

24 Q 118 Do I understand from that, Mr. Rabbitt, first of all, it was you, at the
25 time as early as 1990 or thereabouts that the Enniskerry Road would have
26 been a much more natural zoning boundary, and that events indicated that
27 that view is probably correct?

28 A Yes, I would have been looking at the practicalities of maintaining zoned
29 boundaries and maybe having an opinion but it wasn't my place to, you know,
30 make a judgment.

1 Q 119 Finally, Mr. Rabbitt, if I might ask you, the statement which was read this
2 morning dated the 15th September 2003, is that the first statement that you
3 have made to this Tribunal?

4 A Well, that is the essence, that's the statement, that's the -- to this
5 Tribunal?

6 Q 120 Yes, in relation to Carrickmines 1?

7 A Initially when the Tribunal was set up I think everybody was invited in. I
8 was invited in at that stage, but do you count that as a statement, or ...

9 Q 121 And the dating of this statement in September 2003, can you recollect
10 whether it was a statement that you offered to give to the Tribunal or it
11 was requested from the Tribunal, can you recollect?

12 A The statement is the statement as I have, I was invited to a meeting and
13 it's a statement of that meeting.

14 Q 122 I see. Were you aware that the issues which you have dealt with in your
15 evidence today, the line of the Southeastern Motorway and the related
16 issues had been the subject of extensive evidence before the Tribunal last
17 year, was that something which was mentioned to you at the time by the
18 Tribunal?

19 A My initial statement to the Tribunal would have been a number of years ago.

20 Q 123 I see.

21 A I don't think this was an issue at that stage but of course I'm aware of
22 the controversy over the zoning and so on of that area, yes.

23 Q 124 Very good. Thank you very much, Mr. Rabbitt.

24

25 JUDGE FAHERTY: Mr. Rabbitt, just, would interchanges be largely your
26 function, drawing up the line and interchanges/

27 A As Roads Forward Planning, yes, I would be expected to have an interest in
28 those, yes.

29

30 JUDGE FAHERTY: You would be the department that would do it as a matter of

1 course, would it?

2 A We would, in that case, say for interchanges, I had examined the location
3 of interchanges on that route where there would be a number of years
4 previous, with a view to possibly dropping an interchange at Carrickmines,
5 leaving it off the system altogether.

6

7 JUDGE FAHERTY: OK. We heard from Mr. Murray sometime ago and your
8 evidence is that you first saw the DP 90/123 at a special meeting, is that
9 right, on the screen?

10 A That's right, yes.

11

12 JUDGE FAHERTY: Would your superior have seen that at all or anybody else
13 in your department?

14 A As far as I am aware, the, Mr. Ring was my superior and I don't think he
15 was aware of it. John Henry, who had kind of come into the roads planning
16 area, planning control area, there was a slight overlap, I was working to
17 Mr. Ring.

18

19 JUDGE FAHERTY: When you say Mr. Ring didn't appear to be aware of it
20 either, but if somebody in your department had been aware of it, would it
21 be fair to say you would have become aware of it as a matter of course if
22 you were in forward planning?

23 A I would have, yes.

24

25 JUDGE FAHERTY: But you wouldn't, Mr. Murray told us, and I am only going
26 on my own note and I'll be corrected by the transcript, he thought the
27 interchanges on DP 90 were put in by the planners.

28 A Yes.

29

30 JUDGE FAHERTY: Would that be a normal thing for planners to do?

1 A Yeah, planners would draw up various draft action plans for areas and they
2 might look at different combinations, so they would come to us and say, you
3 know, draw in an interchange there or get --

4

5 JUDGE FAHERTY: Yes, but it would be in conjunction with yourselves?

6 A Yes.

7

8 JUDGE FAHERTY: It couldn't have been in the instance of DP 90 in
9 conjunction with yourselves because you never saw DP 90/123.

10 A That's right.

11

12 JUDGE FAHERTY: And this was something that was going out to public
13 display.

14 A What I understood at the meeting of the County Council, it was up for
15 consideration and even at those meetings, they are often amended quite
16 substantially afterwards.

17

18 JUDGE FAHERTY: All right, thanks very much indeed.

19

20 JUDGE KEYS: Mr. Rabbitt, just in relation to the special meeting when
21 this map suddenly appeared. You were taken aback, by surprise, were you,
22 that you hadn't recognised the map before and hadn't seen it?

23 A That's right, yes.

24

25 JUDGE KEYS: Did you make any inquiries there and then where did it come
26 from and who prepared it?

27 A They were my comments.

28

29 JUDGE KEYS: Did you not follow it up?

30 A Not really because, you know, I didn't at that stage, John Henry was coming

1 into the scene and I didn't know if he, you know, had other thoughts on
2 this. As far as I knew, he didn't. And I didn't follow through on it
3 because, you know, I didn't get any specific instruction. I made my points
4 known, but I didn't, I wouldn't be up to me to dig deeper on it.

5
6 JUDGE KEYS: Even out of curiosity, here you were confronted with a map
7 which was never seen before, by subsequent or prior and other people hadn't
8 seen it before whom you would have thought were so involved in the
9 preparation of the alignment would automatically, they didn't see -- they
10 were surprised as well. Did that not start off an inquiry among
11 yourselves, where did this come from, and the reason I say that is because
12 on your own evidence you are saying that there were too many interchanges,
13 they were too close together and from a technical point of view, it just
14 wasn't acceptable by any experts.

15 A I would have to a degree said to people, look, I believe you should drop
16 those, they will never get through any process, there was this flaw and
17 that flaw with them. I would have said in look, due course, I would not
18 see that happening, and tell them you are wasting your time because the
19 department who are the ultimate sanctions of providing money for motorways
20 and building them would never go for something like that. It would be very
21 reticent to put in interchanges in where unnecessary or to put interchanges
22 in where one might be needed in the future, that things would have to be
23 there, there and then, to connect into but they wouldn't make provision for
24 an interchange there if it was the council's intention to provide an
25 interchange at some future date on it, they would just build a road through
26 and not provide an interchange. I didn't see it happening in reality. So
27 what I saw the planners put it up, I said that's not going to happen, it
28 won't really work out, you don't put interchanges like that on a major
29 route. The route isn't for that purpose, it's to get traffic around the
30 city, not to have local traffic on it. I would have seen it failing to

1 follow through in time so I didn't really see, you know, too much need to
2 go digging at it, I just mentioned a few things here and there and let the
3 momentum take care of itself. Build up momentum and take care of itself.

4

5 JUDGE KEYS: Are you saying then that the way the map displayed, all the
6 interchanges and distances from each other was so ridiculous that you
7 thought it wasn't going to go any further, you didn't make inquiries about
8 where it came from or who prepared it or who was pushing it?

9 A Said it was ridiculous, I did.

10

11 JUDGE KEYS: You said it was ridiculous.

12 A And I did push my thought out, but at the time, you know, I was moved up to
13 a different office, Mr. Ring and myself moved up to Parnell House away from
14 O'Connell Street and we would have been taken out of that forum, if you
15 like, to a degree.

16

17 JUDGE KEYS: Does anybody know to this day where this map had come from
18 and who prepared it?

19 A I have no idea who prepared it, but I saw it presented on the day and the
20 people who were at the meeting obviously had a role in preparing the map
21 because it was their map.

22

23 JUDGE KEYS: Is that a meeting where you would expect everybody who would
24 have attended it, would have at least seen whatever maps were going to be
25 put on display, would have been seen them prior to the meeting?

26 A Yes.

27

28 JUDGE KEYS: It was just a question of going through and discussing maps
29 which had already been seen by all, and considered, were now up for
30 discussion, would that be correct?

1 A Yes.

2

3 JUDGE KEYS: And yet despite a map appearing from nowhere, where nobody
4 knows where it came from, nobody made any inquiries on your evidence,
5 produced a ridiculous map which shows interchanges too close to each other
6 and which just is really not on to go down that road.

7 A If you take my thought frame at the time --

8

9 JUDGE KEYS: Yes.

10 A -- the line south of the Carrickmines Road, that's the line that I had on
11 this. It was later moved slightly further west, but the line north of the
12 Carrickmines Road I would have believed the line should go through the race
13 course, as it was much more optimum line for the integrity of the motorway
14 going round the city. I would have said, like, you know, that line is
15 impractical, we should be looking at a line beside the race course, it's
16 shorter, it's sweeter and less environmental damage to the overall area on
17 it.

18

19 So, you know, there would have been a lot going on and these processes are
20 very, very open-ended and planning by its nature is very open-ended.

21

22 JUDGE KEYS: Well, did you express your view of that meeting what you
23 thought of that map when it appeared?

24 A It wouldn't be my place to stand up at a meeting. It was a planning
25 meeting and I wouldn't have been my function --

26

27 JUDGE KEYS: But would you -- well, what's your function there then?
28 Surely where there's a planning meeting as such, I mean if planners are
29 suggesting something, as you said, as ridiculous as this you wouldn't
30 assist them by saying, well, listen, from a technical point of view, this

1 road map isn't really on at all?

2 A Yeah, well, I was keeping a watching brief, if you like, and if I was asked
3 a question, I would have answered it.

4

5 JUDGE KEYS: I see.

6 A I wouldn't volunteer, I was attending the meeting as a technical person.

7

8 JUDGE KEYS: Can I ask you another question, in your statement you
9 suggested you were somewhat taken aback, you were left out of any input
10 into the final decision to the realignment of the SEM.

11 A This was Mr. Coughlan's report and I think circumstances have substantiated
12 my reticence. In the sense that when Liam Coughlan's report came out, he
13 recommended a line, take the line that's shown there north of Carrickmines
14 Road. He recommended a line through there and also a line further south
15 where it's actually built at the moment.

16

17 If you take the line between, take the section between Carrickmines Road
18 and Bray/Shankill bypass, I was just east of Lehaunstown House, because
19 that's the way ground went, it fitted into that ground and I was quite
20 adamant that the interchange and the line should be there and it provided a
21 very sweet alignment for it. And north of there I believed it should go
22 through the race course on it. Now, as it happens, it did, MC O'Sullivan's
23 recommendation came down and fully in favour of the race course line, which
24 wasn't Mr. Coughlan's line, and I felt Mr. Coughlan hadn't included options
25 that I had told him I wanted included in his report.

26

27 JUDGE KEYS: You were disappointed about this?

28 A I was disappointed but in the business, you -- naturally you have
29 disappointments, it's part and parcel of the process. I mean -- Liam
30 Coughlan's opinion is as good as mine, you know.

1

2 JUDGE KEYS: Thank you.

3

4 MR. QUINN: Just arising out of the which Judge Keys asked you, Mr.
5 Rabbitt, can I ask you two things. Firstly, in relation to the map DP
6 90/123, there is a series of areas designated or proposed to be designated
7 for zoning for industrial purposes. Those are the purple areas that we see
8 on the map, isn't that right?

9 A That's right, yes.

10 Q 125 And I think at the time and maybe still it was suggested that industrial
11 zoning ought to take place close to motorway junctions, isn't that right?

12 A That would have been a consideration, yes.

13 Q 126 So from a planning point of view, if one were proposing that these areas
14 coloured purple on the map be zoned for industrial purposes, one could rely
15 on the junction being located close to those areas, is that correct?

16 A Ballyogan Road distributor road was a major road at the time and we had
17 gone to great expense to maintain that line and that line could have
18 gathered together the industrial traffic to feed on a single point.

19 Q 127 Now, but if one were trying to convince councillors they ought to zone
20 lands for industrial purposes and if one identified lands, then one of the
21 grounds that one could advance to convince councillors those lands ought to
22 be zoned industrial is that they are close to a motorway interchange, isn't
23 that correct?

24 A That's correct, yes.

25 Q 128 But, of course, the councillors could never determine the line of the
26 roadway or indeed the positioning of the junction, isn't that correct?

27 A That's correct, yes.

28 Q 129 So even if the councillors had accepted this proposal and zoned industrial
29 the lands, as we see them close to the junction on the right of the
30 Ballyogan Road, it's your evidence, I think, that from a roads point of

1 view or from a technical point of view, there would never be a junction
2 there, certainly never a junction there and one at Wyattville?

3 A That's correct.

4 Q 130 It was always intended there would be a junction at Wyattville?

5 A That's right, because you had the dual carriageway coming down through Dun
6 Laoghaire and it was to link in all that industrial area back there.

7 Q 131 And, of course, the positioning of the junctions and roadway would come
8 long after the lands had been rezoned, isn't that correct?

9 A It would. I mean, as I say, it's an ongoing process.

10 Q 132 Now, you indicated to Judge Keys that you expressed your anxiety about this
11 map at the time and I think you referred to Mr. Murray, was it to
12 Mr. Murray you expressed your anxiety about the map or to others?

13 A Him and others.

14 Q 133 What others, can I ask you?

15 A I would have mentioned it to Enda Conway and Joan Caffrey. Like we'd meet
16 fairly regular, well, you know, coffee or at other meetings and you would
17 have general discussions with people on an ongoing basis.

18 Q 134 Were your concerns the concerns of anybody else within the Roads Department
19 at that time?

20 A Yes, they would have been, yes.

21 Q 135 So would it be fair to say there was, as it were, conflict between the
22 Roads Department and the Planning Department at this time in relation to
23 this map and the junctions as they appeared on the map?

24 A There was conflict, yes, but that's an ongoing, it's natural you should
25 have conflict, well, I wasn't surprised.

26 Q 136 Thank you very much.

27

28 JUDGE FAHERTY: Just one matter I want to clarify there. Are you
29 categorical, Mr. Rabbitt, that the Roads Department wouldn't have given
30 approval for this map to the planners?

1 A That's right.

2

3 JUDGE FAHERTY: Prior to it being shown at the meeting?

4 A That's right, we could never stand over that map.

5

6 JUDGE FAHERTY: There was no question of any approval being given by the
7 Roads Department to this map?

8 A No, we couldn't.

9

10 JUDGE FAHERTY: I see. Thank you.

11

12 CHAIRMAN: Thank you, Mr. Rabbitt, for attending, thank you very much.

13

14 MR. GALLAGHER: Sir, the next witness is Mr. Seamus Ross, perhaps it might
15 be a convenient time to rise for five minutes or so we can get organised.

16

17 CHAIRMAN: Right.

18

19 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMES**

20 **AS FOLLOWS:**

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1 **MR. SEAMUS ROSS, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS**

2 **BY MR. GALLAGHER:**

3

4 Q 137 Mr. Ross.

5

6 MR. GARDINER: Before Mr. Gallagher starts, I should just introduce myself,

7 Paul Gardiner instructed by BCM Hanby Wallace for Mr. Ross.

8

9 CHAIRMAN: I missed that.

10

11 MR. GARDINER: For the record I am appearing instructed by BCM Hanby

12 Wallace.

13

14 MR. GALLAGHER: I don't know if Mr. Gardiner was looking for representation

15 or not?

16

17 CHAIRMAN: Are you seeking?

18

19 MR. GARDINER: No.

20

21 CHAIRMAN: All right.

22

23 Q 138 MR. GALLAGHER: Good afternoon, Mr. Ross. Mr. Ross, you are a company

24 director and I understand you reside at Barberstown House, Clonsilla in

25 County Dublin.

26 A That's correct.

27 Q 139 And you are a director of a number of building companies, in particular

28 director of Menolly Homes Limited, Menolly Properties Limited and

29 associated companies?

30 A That's correct.

1 Q 140 I think at one stage you were a director of Drumlish Homes Limited?

2 A That's right.

3 Q 141 And you were a director in that firm with Mr. Whelan, and perhaps a
4 director of other firms with Mr. Whelan?

5 A That's right.

6 Q 142 And you carried out a substantial house building development in County
7 Dublin over the last 20 years perhaps?

8 A Yes.

9 Q 143 I think it would be fair to describe you as one of the largest, your firm
10 as one of the largest house building firms in County Dublin.

11 A Well in recent years only.

12 Q 144 Yes. You are one of the largest, say the top five or thereabouts?

13 A Yes.

14 Q 145 Now, you are here on foot of a summons issued by the Tribunal, which was
15 issued in the following circumstances. On the 17th September of this year,
16 the Tribunal wrote to you through your solicitors in the following terms:
17 "Your client: Seamus Ross,
18 Dear Miss Waddington,
19 The Tribunal has reason to believe that your client, Mr. Seamus Ross, and
20 companies with which he is associated including Menolly Homes Limited and
21 Menolly Properties Limited had certain dealings in relation to Liam Lawlor
22 in relation to certain lands at County Dublin.

23

24 As part of its ongoing investigations in private, the Tribunal is anxious
25 Mr. Ross be interviewed in private by member or members of the Tribunal's
26 legal team in relation to such matters and in relation to any payments or
27 other dealings he had with Mr. Lawlor and/or members of his family.

28

29 If Mr. Ross is willing to attend for an interview in private with members
30 or members of the Tribunal's legal team, I would appreciate it if you would

1 contact me so the necessary arrangements can be made. I would be obliged
2 if you would revert to me at the earliest convenience, yours sincerely."

3

4 Your solicitors BCM Hanby Wallace replied to that letter on the same day
5 and they said:

6 "Thank you for your letter of the 17th September. Whilst our client is
7 happy to cooperate with the Tribunal and assist it in its work, our client
8 has been legally advised that to voluntarily attend an interview would be
9 inappropriate. In the circumstances therefore, our client must regrettably
10 decline the invitation, yours faithfully, BCM Hanby Wallace."

11

12 And as a result of that decision which you took, and which was taken on
13 foot of legal advice given to you, the Tribunal decided that you would be
14 summoned to give a statement in public and on oath to the Tribunal and
15 that's the reason you are here today; isn't that right?

16 A That's correct.

17 Q 146 The Tribunal wrote to yourselves on the 26th September in the following
18 terms: "Your client: Mr. Seamus Ross, Menolly Homes Limited and other
19 companies in the group.

20 Dear Miss Waddington,

21 I refer to my letter of the 17th inst. inviting Mr. Ross to attend for
22 interview in private with the Tribunal's legal team and to your reply
23 indicating whilst your client is happy to cooperate with the Tribunal and
24 assist it in its work, he has been legally advised that to voluntarily
25 attend an interview would be inappropriate. In the light of your reply and
26 the legal advices given to Mr. Ross, the Tribunal has decided to call him
27 to take his statement on oath and in public commencing the 8th October
28 next. Enclosed therefore please find a witness summons for evidence and
29 production addressed to your client."

30

1 And the summons which accompanied that letter was in the following terms.
2 It's a witness summons, addressed to you at your 7-8 Village Centre, Lucan,
3 County Dublin and it reads as follows:

4 "You are hereby commanded to attend before the above mentioned Tribunal at
5 a public sitting of the Tribunal at the Print Works Building, Lower Castle
6 Yard, Dublin Castle, Dublin 2 on Wednesday, 8th October 2003 at 10.30 am in
7 the forenoon and on such further date and further times as may be directed
8 by the said Tribunal and there and then give evidence on oath to the
9 Tribunal relating to: (a) All monies, if any, paid directly or
10 indirectly by or on behalf of Seamus Ross, Menolly Homes Limited, Menolly
11 Properties Limited or any other company, trust or other entity, with which
12 Mr. Ross is or was involved, to Liam Lawlor Somerton, Lucan County Dublin.
13 (b) All transactions and dealings involving Mr. Ross and/or any of the
14 foregoing entities and Mr. Lawlor or any serving agent, company or other
15 legal entity with which Mr. Lawlor is or was involved."

16

17 That summons was dated the 26th September 2003 and you received that
18 summons and you are here on foot of that summons today to give evidence on
19 oath.

20 A That's right.

21 Q 147 Would you tell the Tribunal something of your background and how long you
22 have been involved in the building industry in Dublin in particular.

23 A How far back do you want me to go?

24 Q 148 Just a brief summary of your background, your training, your experience,
25 your first involvement in the building industry, etc.

26 A Well, I'm a carpenter by trade. I served my time at home in Longford and I
27 moved to Dublin when I was 20 years of age. I subcontracted for a number
28 of years along with Michael Whelan who is my brother-in-law. We were quite
29 successful with our subcontracting business and we started building, I
30 think it was in 1977. We ran both businesses for a number of years and

1 then we gave up the subbing and went building full-time.

2 Q 149 Yes. And you have been building houses in the Dublin area since that time?

3 A Yeah. It's 99 percent residential.

4 Q 150 Yes. When did you first meet Mr. Liam Lawlor?

5 A I met him in '84 after I moved my address from Templeogue to Newcastle,
6 which is beside Lucan and that was my first time to meet him.

7 Q 151 What dealings with him did you have, what was the first dealing you had
8 with him or first involvement you had with him?

9 A Well, when I moved to Newcastle I knew a number of lads in Lucan that were
10 involved, would be part of what would be known as Lawlor's team or cumann,
11 or whatever it was in the area, and there was an election and I was
12 probably interested in what was happening and I met him at that time.

13 Q 152 Do you mean by that that you assisted him in his election campaigns?

14 A Not directly because I hadn't met him at this stage. I had been friendly
15 with the lads that were involved and they asked me for some support and I
16 gave it to them.

17 Q 153 When you say "support," do you mean financial support?

18 A Well, I suppose financial to an extent. At the time it was different than
19 it is now, they used to have caravans outside for electioneering when
20 people would be going in and out of the polling booths and I supplied the
21 caravan, not to him, it was more or less to the lads that were running his
22 election campaign.

23 Q 154 That was a caravan, I take it, that you hired for the purpose?

24 A That's right.

25 Q 155 And you or one of your companies paid for that caravan?

26 A That's right.

27 Q 156 Did you pay any monies to Mr. Lawlor towards his election expenses at that
28 time or at any other time?

29 A I did. I put £500 indirectly into his fund at one stage after being asked
30 for it by one of the people that were in charge of his --

1 Q 157 Do you know when that happened, what year was that?

2 A As far as I know and can recall, it was in 1992.

3 Q 158 You appear to have written to Mr. Whelan on the 30th April of this year
4 confirming that you paid, sorry, 500 pounds to Mr. Liam Lawlor on the 20th
5 November 1992. Is that correct?

6 A That's right, yes.

7 Q 159 And you gave him a cheque number 502414. May I have page 237, please. Do
8 you see that letter on screen, Mr. Ross?

9 A I do, yeah.

10 Q 160 Do you recognise that?

11 A I do, yeah.

12 Q 161 Is that a copy of a letter that you sent to your former partner,
13 Mr. Michael Whelan of Maplewood Developments confirming that after
14 reviewing your records up to the date that Menolly Properties ceased to be
15 a member of the -- sorry, Moritz Holdings Limited on the 8th March 1996,
16 the only payment was on the 20th November 1992 cheque number 502414 for
17 five hundred pounds.

18 A That's right.

19 Q 162 "We have requested a copy of that cheque from AIB in Terenure and will
20 undertake to forward a copy to you as soon as we receive it. If you have
21 any further queries please do not hesitate in contacting me."

22 Is that the five hundred pounds?

23 A Yes.

24 Q 163 Can the Tribunal take it as far as you were concerned, you did not pay any
25 other political contribution to Mr. Liam Lawlor up to the 8th March 1996,
26 which is the date referred to in this letter?

27 A Can you repeat the question?

28 Q 164 There's nothing, no trick about it, it's just a question. You have
29 indicated in your letter to Mr. Whelan that up to the 8th March 1996 when
30 Menolly Properties ceased to be a member of Moritz Holdings Limited, "the

1 only payment to Liam Lawlor was on the 20th November 1992 of five hundred
2 pounds," that's what the letter says.

3 A Yes.

4 Q 165 Can the Tribunal take it that is accurate and true and no other payment was
5 made by you or a company you were associated with to Mr. Lawlor for
6 political purposes up to that date?

7 A That is true.

8 Q 166 Now, would you tell the Tribunal whether a payment was made by you or any
9 other company or which you were associated with on any benefit conferred on
10 Mr. Lawlor subsequent to the 8th March 1996, which is the date mentioned in
11 the letter? Do you follow the question?

12 A Yeah. Well, I think I do. You are asking me was there any later payments.

13 Q 167 Indeed, payments after the 8th March 1986 which Menolly Property ceased to
14 be a member of Moritz Holding Limited?

15 A There was, yes.

16 Q 168 When was that payment made and how much?

17 A It was made in 1996, I was building at the time. Do you want me to explain
18 it?

19 Q 169 You say it was paid in 1996 how much was paid?

20 A It was 20,000.

21 Q 170 Was that paid as a political contribution?

22 A It wasn't, no.

23 Q 171 What was it? Why was it paid?

24 A At the time I bought a site in Lucan which was on the Clondalkin side of
25 Lucan, it was for about 550 houses. I had started working on the site and
26 the site was sold to me as a Lucan address. I had started working on the
27 site when I discovered that the postal boundaries had been changed, they
28 were after building a new sorting office in Clondalkin, and because they
29 had better facilities in Clondalkin they pushed down into the Lucan area
30 and had taken in a part of the land there which was, which included my

1 site. I only realised this when the opposition, there were two other
2 builders in the area and one particular guy was making it very clear that
3 my product wasn't as good as his product. He was saying you have a
4 Clondalkin address, I have a Lucan address. I couldn't believe this so I
5 wrote a number of letters to myself to Lucan, to have them delivered to my
6 site office.

7 Q 172 You wrote to yourself?

8 A Yeah, a number of letters and I thought I'd test it out to see would it
9 happen so, and none of the letters were delivered and I asked the postman
10 one day, I said how come you are not bringing up the mail to my office, he
11 says you may call and collect them and your address is not Lucan, you have
12 to write to Clondalkin, to -- Liam Lawlor was the local man, I don't know
13 whether he was a councillor or TD, he was TD at the time, he may not have
14 been, I don't know.

15 Q 173 Sorry to interrupt you. I want to be absolutely clear on this. You had
16 bought a site for which planning permission was granted for approximately
17 550 houses.

18 A That's right.

19 Q 174 This site was somewhere between Lucan and Clondalkin?

20 A That's right.

21 Q 175 What was it called?

22 A Earlsfort.

23 Q 176 Earlsfort.

24 A Yeah.

25 Q 177 I wonder, I don't know if we have maps of the Development Plan maps of that
26 area. When did you start building in Earlsfort approximately?

27 A It was -- I think it was '95 -- '96, '95.

28 Q 178 You would be able to give us a date from your records?

29 A Yes.

30 Q 179 Were you building as Maplewood Homes on that site?

1 A No, Menolly Homes.

2 Q 180 I beg your pardon. And what other builders were building in the area?

3 A I can't think -- Ballymore had a site and he had sold off some sites to
4 smaller builders who were operating right next door to me and there was
5 another big site, Foxborough was the name of the site. I don't know the
6 lads that were building on it.

7 Q 181 Foxborough was the name of the estate?

8 A Yeah, I am not familiar with the lads and I don't know them personally so I
9 can't even remember the name of their company but it was bigger, bigger in
10 number than mine, they had six or seven hundred sites. So there was a lot
11 of activity just in that area.

12 Q 182 Does it mean that there was a lot of competition between builders to sell
13 houses?

14 A Absolutely.

15 Q 183 Where in relation to the Lucan, the N4 site to it, could you indicate to
16 the Tribunal how you get to the site from, say, the interchange on the M50.

17

18 Sorry, we have now on the screen, we have a copy of the Development Plan
19 map south Dublin. That maps shows at the top, that I think is an extract
20 from the latest south Dublin County Development Plan and it shows the
21 Galway/Drumlish Road at the top and it shows Quarryvale development on the
22 right-hand side, do you see it?

23 A Yeah.

24 Q 184 And then Fonthill Road is just where the cursor is. I can show you here on
25 the screen. We are showing Quarryvale, that's Fonthill Road coming down
26 here. This is the line of the proposed new road to, motorway to Naas etc.
27 and Clondalkin is down at the bottom of the map I think in that general
28 area, is that right?

29 A Yeah.

30 Q 185 Now, can you point out where in that map you were carrying out your

1 development, approximately?

2 A I don't think it's on on this particular map.

3 Q 186 I see.

4 A I don't see it on it. It's more to my right.

5 Q 187 Do you see Balgaddy on the left-hand side, the yellow portion shows
6 Balgaddy with the cursor. There's a new link road from Galway coming down
7 some place through Ballyowen. Do you see that?

8 A I am sorry, I can't pick up the site there.

9 Q 188 Perhaps we'll try the other ordinance survey map. Now, this is an
10 ordinance survey map, we see the green road shows the N4, Quarryvale. You
11 see it coming down just around there. You come down to Ronanstown, down
12 Fonthill to Ronanstown, do you see that?

13 A Yeah.

14 Q 189 And further down is Neilstown, that's on the Fonthill Road. And that leads
15 down over the canal down into Clondalkin. Do you see that?

16 A I do, yes.

17 Q 190 Now, do you see Ballyowen, perhaps -- sorry, it's quite indistinct in the
18 larger screen but Ballyowen is up in that area. Do you see Ballyowen, the
19 cursor is showing Ballyowen.

20 A I do, yes.

21 Q 191 Does that help you in any way?

22 A I can't --

23 Q 192 You see Lucan, there are two parallel roads, if you like, there is three
24 parallel roads, one is Fonthill Road, which comes down to Ronanstown,
25 Neilstown and Clondalkin, 10th lock into Clondalkin. West of that then is
26 a new road which comes down through Ballyowen, down to Balgaddy, isn't that
27 right?

28 A That's right, yes.

29 Q 193 And then west of that again is the Newcastle Road, which comes down into
30 Adamstown.

- 1 A I can't really locate the site there.
- 2 Q 194 All right. Perhaps we can look at that again and maybe that --
- 3 A I have the general area if you want me to point where I think it is, I am
4 not prepared to confirm it until I get a larger map.
- 5 Q 195 Absolutely, yes. It was some place in that general area?
- 6 A It is, yeah. It's right, Balgaddy is the townland where I think the site
7 was located.
- 8 Q 196 Yeah.
- 9 A I think it's exactly where you are pointing.
- 10 Q 197 Just there, around that --
- 11 A I think it's more north of that.
- 12 Q 198 All right. Some place around that general area where the cursor is?
- 13 A Yeah.
- 14 Q 199 I don't want you to identify it in any great detail, so we can get maps
15 that will identify it. In any event, you were building your 550 houses
16 here and as I understand from what you have told the Tribunal you
17 discovered that competitors of yours were claiming that they were in a
18 better location because they were in the Lucan postal district while you
19 were in the Clondalkin postal district.
- 20 A That's right.
- 21 Q 200 Is that correct?
- 22 A That's right.
- 23 Q 201 And you didn't believe this but to check it out, you addressed letters to
24 yourselves at the Balgaddy development?
- 25 A That's right.
- 26 Q 202 And you addressed them to yourself as Seamus Ross or Menolly Homes?
27 Site office.
- 28 Q 203 Site office, Balgaddy, Lucan, County Dublin?
- 29 A That's right, yeah.
- 30 Q 204 And you say that they were not delivered to you?

- 1 A No.
- 2 Q 205 When you made inquiries were told that you should have addressed them to
3 the site office, Balgaddy, Clondalkin, County Dublin?
- 4 A That's right.
- 5 Q 206 Is that correct?
- 6 A Yes.
- 7 Q 207 And who did you make this inquiry from? You mentioned a postmaster or
8 somebody in the post when you inquired why the letters weren't being
9 delivered?
- 10 A I watched out for the postman, he was coming into the estate next door and
11 I followed him one day and I asked him was there any mail down in Lucan for
12 me and when I talked to him for a while, he told me there was a number of
13 letters down there, but it wasn't his postal address and I asked him would
14 he bring them to me and he said he wouldn't, he said if you want them, you
15 have to go down to the post office for them.
- 16 Q 208 Right. Well, was that good news or bad news for you?
- 17 A It was bad news as far as I was concerned.
- 18 Q 209 Why?
- 19 A Well, my opposition -- well, it meant a difference in the house price.
- 20 Q 210 Sorry, I don't quite follow.
- 21 A Well, a Lucan address would be a better address to have.
- 22 Q 211 You mean you would be able to sell your houses for more money if you had a
23 Lucan address than if you had a Clondalkin address?
- 24 A True, yeah.
- 25 Q 212 Had you sold any houses at that stage?
- 26 A No.
- 27 Q 213 Had you fixed the price of any house at that stage?
- 28 A No.
- 29 Q 214 Do you know what the difference in price was between what you were hoping
30 to secure for your houses and what your opposition next door were securing

1 for presumably similar type houses?

2 A Yeah, it would have meant probably in a three bedroomed or four bedroomed
3 house, which I was building at the time, it would have meant a difference
4 of probably up to 5,000.

5 Q 215 Per house?

6 A Yeah.

7 Q 216 I see. And can you remember what houses were making at that time
8 approximately?

9 A I do, yeah. They were making roughly around 50,000. I started off my
10 development at 50,000.

11 Q 217 Right, and were you using the Clondalkin address at that time?

12 A I was using -- no, I never used the Clondalkin address.

13 Q 218 I see, how did that come about? How did it come about that you were not
14 using the Clondalkin address?

15 A I was working on the site one Saturday and Liam Lawlor drove in in his car
16 with a tracksuit on him and when I seen him I says I'll ask him about it
17 because I knew he was familiar with the area. And he showed some surprise
18 to hear that it wasn't Lucan because he was local in the area and it came
19 as a surprise to him anyway. And he says to me, I asked him could he do
20 something for me, was there anything could be done, it was having a serious
21 effect or it would have a serious effect on what I was going to be selling
22 and he says that he would look into it and he would come back to me.

23

24 He didn't stay too long with me on the day, if I can recall rightly. He
25 went off. And I think about three or four days later he came back into the
26 site again. And he says to me, he says I might have good news for you and
27 I said, well, tell me and he says I can have this address put right for you
28 and I says, good and he says to me, well you are going to have to pay me
29 and I said to him, OK, how much are you looking for and if I can recall
30 rightly, and I have thought about this, he either asked me for 30,000 or

1 50,000, I am not prepared to say which. I think it might have been 30.
2 But it could have been 50, it was either one or the other. And I couldn't
3 believe it. I looked at him and I says, Liam, that's very, very high and
4 he says, well, that's what it will cost you.

5
6 He says, look, what's it going to mean in your sales, he says what is it
7 worth per house and I think he says 5,000 per house and I said, Jaysus,
8 Liam, three would be the max, trying to get his price down so he was -- I
9 says to him, look it, I don't have money on me at the moment but I says
10 will you take 20 and he says when will you give it to me and I says well, I
11 as it happens I have money at the house, I was after selling shares and
12 that had matured for me in Ryan Hotels and I had 16 thousand and I had a
13 few pound cash, and I told him. I says, I can get you 20,000 today if it's
14 any good to you. He says that's grand and I rang home, I rang my wife and
15 I told her to put 20,000 together and she did and he thought I was going to
16 go up for it, I was busy at the time and I said, no, Liam, go up and
17 collect it, the wife is at home, she'll give it to you. Later on that
18 evening, he went to the house and collected the money.

19 Q 219 Did he give any receipt or write to acknowledge that money?

20 A Well, actually when he had left, I rang him and I says, look it, I will
21 need a letter confirming the change of address and that was the receipt I
22 got.

23 Q 220 What letter did you get?

24 A A letter was sent, my selling agent was Ross McParland and a letter, I am
25 almost sure the letter went to our agents, now I have looked for that
26 letter and I don't have a copy of it and neither has my agent, but we don't
27 have the actual letter. But we got a letter and anyone that queried the
28 address, we had it in the show house and we showed it to them. So, it was
29 a letter that was seen by quite a number of people and the letter was there
30 but unfortunately we don't have a copy or the actual letter.

- 1 Q 221 Was this a letter from Mr. Lawlor or was it a letter from An Post?
- 2 A An Post.
- 3 Q 222 What did the letter say to the best of your recollection?
- 4 A It wasn't a very long letter, it just confirmed that the site Earlsfort,
5 that the postal address was Lucan, County Dublin.
- 6 Q 223 And to whom was the letter addressed?
- 7 A I can't recall but -- I can't say for definite now. I can have a further
8 discussion with our sales people and see if they can remember who exactly
9 it was addressed to. I think it could have been addressed to Liam Lawlor
10 and, in fact, I think it was.
- 11 Q 224 I see.
- 12 A But I can't confirm that but I can find out from the sales people because
13 they used it in a lot of occasions.
- 14 Q 225 And how long after you paid the money did you receive the letter from An
15 Post saying that your site at Earlsfort was now in the Lucan distribution
16 area, postal area?
- 17 A It was days. I remember looking for it, because we were going to the
18 market and we were going to sell and I asked for it to be produced
19 straightaway and I think it was within days of him receiving the money.
- 20 Q 226 And I understood your evidence to be that Mr. Lawlor had come back to you
21 within days of having first spoken to you and asked you for money.
- 22 A Yes.
- 23 Q 227 And told you that he might have good news for you so all this happened, it
24 would appear then, within a relativity short time, a week or two weeks, is
25 that correct?
- 26 A I'd say so, yeah.
- 27 Q 228 Did you consider there was anything wrong or inappropriate about handing
28 over money in those circumstances?
- 29 A Sorry?
- 30 Q 229 Did you consider there was anything wrong or inappropriate about handing

1 over money in those circumstances?

2 A No.

3 Q 230 What did you think Mr. Lawlor did for the 20 thousand pounds that you gave
4 him?

5 A Sorry?

6 Q 231 What did you think he did in return for the 20 thousand pounds that you
7 gave him?

8 A I thought being a politician or a councillor, if he was councillor at the
9 time, I thought he had the powers to do this type of thing because the
10 address was Lucan and the rates on the site and everything related to the
11 site was Lucan. It was just that there was a new sorting office which
12 probably suited An Post better to deliver from there.

13 Q 232 Did you have any contact with any employee of An Post --

14 A Apart from the postman this morning when I asked him was there any mail for
15 me, I never spoke to anyone.

16 Q 233 Did you make any representations to anybody in An Post to have the boundary
17 changed or the post delivered to your site from Lucan rather than
18 Clondalkin?

19 A No, but I was considering going directly to An Post. I was going to go to
20 the post office in Clondalkin, but it happened just at the time that Liam
21 Lawlor called into the site and when he says he'd look into it and see what
22 he could do, I didn't take it any further.

23 Q 234 So, the Tribunal can take it that you did not have any direct contact with
24 anybody in An Post, except a postman you have referred to, and nobody other
25 than Mr. Lawlor made any representations or was asked to do anything for
26 you in relation to An Post or the deliveries from Clondalkin?

27 A That's true, yeah.

28 Q 235 Did you make any other payment to Mr. Lawlor at any stage subsequent to the
29 date you mentioned in the letter which I opened to you, that's your letter
30 of 30th April 2003?

- 1 A I did.
- 2 Q 236 What other payment did you make and in what circumstances?
- 3 A Well --
- 4 Q 237 Was it a political payment?
- 5 A Sorry?
- 6 Q 238 Was it a political contribution?
- 7 A No.
- 8 Q 239 Well, when did you make it and in what circumstances?
- 9 A It was just -- it was some -- it was in July of 1996. It was around half
10 past five in the evening and Liam Lawlor came down to my office in Lucan
11 and he asked me for money. He said, do you have any cash, and I says, no
12 and I says what do you want it for. He says things are going well for you
13 up there in Earlsfort and I says yeah, the houses were selling well. He
14 says, how much extra are you getting because of that job I done for you and
15 I didn't answer him. I said, what do you want the money for and he says,
16 he wouldn't answer me. He says he wanted to be paid and he says aren't you
17 getting an extra 5,000 a house and I said how much are you looking for and
18 he says I'm looking for 20,000, he could have asked me for 30. And I
19 really don't remember the accuracy of it but anyway, he says to me would
20 you give me 20 and I said, Liam, when is this going to stop. I wasn't
21 happy with the man because at this stage, he was getting on my nerves I
22 have to say. He was coming around more often than I wanted to see him and
23 I knew it was going to be trouble, so I said to him, look it, I'll give you
24 20 but I says I don't have cash and I says -- he says to me, well, if you
25 want an invoice, I'll give you an invoice and I said, give me an invoice
26 and I'll give you 20, but I am not giving you any more. So he came back
27 the following day and he put in an invoice to me for timber from a company
28 called Baltic Timber Products Limited.
- 29 Q 240 Did you say Baltic; B-A-L-T-I-C?
- 30 A Yeah.

- 1 Q 241 Timber Products Limited.
- 2 A Yeah.
- 3 Q 242 Do you have a copy of that invoice?
- 4 A Not with me. But I have it and I'll make it available.
- 5 Q 243 Yes. Continue please.
- 6 A So we gave him a cheque for 20,002.79.
- 7 Q 244 Why was it provided as 20,002.79?
- 8 A I think it was to make it look official, I don't know.
- 9 Q 245 Was the invoice for that sum?
- 10 A The invoice was for that sum.
- 11 Q 246 And who suggested that the invoice should be made out for an odd figure
12 such as 20,002.79?
- 13 A It certainly wasn't me anyway, so I take it it was himself.
- 14 Q 247 Do you know anything about Baltic Timber Products Limited?
- 15 A I didn't know, I think we checked them out and they had an address in
16 Galway, if I can remember rightly.
- 17 Q 248 Had you ever done any business with that company?
- 18 A No.
- 19 Q 249 Did you ever purchase any timber from that company?
- 20 A Never.
- 21 Q 250 Any products of any description?
- 22 A No, I never heard tell of them until that.
- 23 Q 251 Did you ever buy anything or have any dealings with them subsequent to
24 that?
- 25 A No.
- 26 Q 252 Did you consider that this was a legitimate invoice?
- 27 A Certainly I had some doubts about it.
- 28 Q 253 Did Mr. Lawlor do any work or provide any services or provide any
29 consultancy work or anything of that nature in return for the 20,002.79?
- 30 A No, his justification was the fact that he got the boundaries or the postal

1 address changed.

2 Q 254 I see. Who was the cheque made payable to?

3 A For that invoice? To Baltic Timber Products Limited.

4 Q 255 Right, and it was drawn on Menolly Homes account?

5 A It was.

6 Q 256 And have you a copy of that cheque available?

7 A Not now, I don't have it here but I will make it available.

8 Q 257 Was that cheque cashed by Mr. Lawlor? Perhaps I'll rephrase that question.

9 Was the cheque cashed?

10 A I think my accountant checked the cheque out and I don't really know

11 whether I should say this or not but if I can recall rightly, my accountant

12 told me it was cashed or it was lodged in some account in London.

13 Q 258 All right. Will you be able to furnish that information through your

14 solicitor to the Tribunal?

15 A Oh certainly, yes.

16 Q 259 Can the Tribunal take it you personally handed the cheque for the sum of

17 20,002.79 to Mr. Lawlor in or about July of 1996?

18 A Correct.

19 Q 260 Did you have any further dealings with Mr. Lawlor, did he ask you for or

20 did you pay him any other monies?

21 A I had more dealings with him. After Earlsfort, I bought a site in

22 Blanchardstown, Clonee. I bought it off a company called Lurg

23 Developments. And Lurg was at the time owned by Hanby McInerny, who has

24 since died, and his wife. And I bought a site off him, a big site, it was

25 for over a thousand houses. And Lawlor came to me one night and he says he

26 had been talking to Hanby McInerny and that he gave a very good

27 recommendation on my behalf to Hanby McInerny. He was at the time sorting

28 out his problems with Hanby Wallace and Lawlor says how he was advising him

29 on, there was a motorway after -- the Navan motorway was built to his land

30 and he was advising him on how he could sort out and get things in order.

- 1 Q 261 What do you mean sort out and get things in order?
- 2 A Well, his land was split up with the motorway and he was obviously, he knew
3 it wasn't in good health and he was sorting out his problems and Liam was
4 friendly with him and that's how he heard that I was buying the site off
5 Hanby McInerny.
- 6 Q 262 Was he acting as an agent for Mr. McInerny at that stage?
- 7 A It seemed as if that's what he was doing, yes.
- 8 Q 263 When you say "he was sorting matters out", was that in relation to
9 compensation?
- 10 A That's right, how he get paid for the land that the motorway went through,
11 he mentioned that and other things as well.
- 12 Q 264 What was he doing in relation to that? What was Mr. Lawlor doing, or what
13 did he tell you he was doing in relation to the compensation?
- 14 A Well, he just told me that these were the things that he was sorting out
15 with Hanby.
- 16 Q 265 You mean when you say "with Hanby", you mean for Hanby?
- 17 A Yes, well, Hanby was active obviously in what he was doing himself.
- 18 Q 266 Yes.
- 19 A So I'd say more with him nor for him.
- 20 Q 267 But -- I see. What else do you say about that?
- 21 A Nothing really, that was -- he was only letting or making me aware that he
22 had a very strong contact there.
- 23 Q 268 With Hanby?
- 24 A With Hanby McInerny, yes.
- 25 Q 269 Now, you said he came to you in connection with lands that you had
26 purchased from Lurg, is that, would you spell that, please?
- 27 A L-U-R-G.
- 28 Q 270 Lurg. And what did he say when he came to you apart from what you have
29 just told us?
- 30 A Sorry?

1 Q 271 What else did Mr. Lawlor say to you apart from what you have just told us?

2 You say he came to you in connection with or following the purchase of a
3 site for a thousand houses.

4 A Yeah.

5 Q 272 From Lurg Developments?

6 A Yes.

7 Q 273 Now, why did he come to you?

8 A Well, we met accidentally that night that he mentioned all of this to me.

9 It was in Kenny's pub in Lucan. But I think we have to move on, the land
10 that I had bought was rezoned and I applied for planning permission. I got
11 planning permission and I started to build. When I had started to build, I
12 run into a problem with a surface water pipe, there was a third party
13 involved, Lyngrove Developments, and they obviously had a random strip or a
14 piece of ground that my maps couldn't clearly identify.

15

16 I had a right to go through to get into a big culvert and Lurg had issued
17 injunction proceedings against us to prevent us from making the connection
18 and there was a lot of problems with our relationship with Hanby. We were
19 blaming them for giving us wrong maps and not explaining this to us and
20 Lawlor got involved again. And it was following I'd say a meeting that he
21 had with McInerny, he came to me to know what way I was viewing the whole
22 situation, so I told him that we had started doing the surface water pipe,
23 which was a very large pipe.

24

25 There was two 15 hundred pipes, which is, you know, any man would nearly
26 walk down the two pipes and they were to connect to an existing culvert, so
27 we had a lot of -- well actually, we had a lot of work done on it.

28

29 We had started and broke them into the culvert and the injunction
30 proceedings was taken by Lyngrove Developments and all works had to stop,

1 and a lot of legal work came into it and I couldn't sell any of my houses.
2 So I had to get the problem sorted out.

3
4 My solicitor had advised me that the council could carry out this
5 connection, regardless of the injunction proceedings that they had the
6 rights to do so and I advised Lawlor of that. I wanted to know my actual
7 position, what I was going to do about it, because Lurg was trying to
8 remove themselves from the problem and was leaving the knowledge to sort
9 out the problem with Lyngrove.

10
11 So, we eventually -- well, Lawlor got involved then. He came to me and I
12 explained my position to him and he says to me he says, could you possibly
13 let me have a meeting with your solicitor Brian Wallace to explain what he
14 means by the local authority have a right to do it.

15
16 So I organised a meeting with Brian Wallace and he appeared in Brian
17 Wallace's office with myself, no, I was there and he came in afterwards --
18 and Brian explained to him that under the Planning Act, Health Act, the
19 Local Authority could make this connection and he had written to the Local
20 Authority to say that he was going to force them to make the connection.

21
22 So, following on from that, the council informed Lyngrove that they were
23 going to, they were going to use their powers under the Health Act. And we
24 then came to a settlement with -- Lyngrove I think had paid them 30,000,
25 because I didn't want to wait, it was holding up the whole site, it was
26 either 20 or 30 thousand. We went to Lyngrove and we paid them the money
27 and they gave us a wayleave to carry on with the work.

28
29 But he got, Lawlor got involved in that without me instigating it. He came
30 to me I'd say following a meeting with the McInerny people.

1 Q 274 Did he ask or was he paid any monies by you in relation to that?

2 A No, not for that.

3

4 CHAIRMAN: Mr. Gallagher, I think we will rise until, it will have to be

5 ten past two -- ten past two.

6

7 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH**

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THE TRIBUNAL RESUMED AS FOLLOWS AT 2.10 PM:

3

4 Q 275 MR. GALLAGHER: Mr. Ross, before lunch, you were telling the Tribunal in
5 your statement about your dealings with the lands that you purchased from
6 Lurg Developments and the litigation that involved your company and
7 Lyngrove Developments Limited; is that right?

8 A Yes.

9 Q 276 Is Lyngrove Developments, is Mr. Leddy one of the principals in that firm?

10 A Well, he was that time.

11 Q 277 Do I understand that the litigation was brought by Lyngrove to stop you
12 connecting the surface water sewer from your lands into an existing
13 culvert?

14 A That's right.

15 Q 278 And were they claiming that they had a ransom strip or that they had some
16 right to stop you getting into that culvert?

17 A Yes, that he claimed that my ownership didn't go to the mouth of the
18 culvert.

19 Q 279 They had a ransom strip through which you could not pass, is that right?

20 A Yeah.

21 Q 280 Now, you arranged a meeting, as I understand it, with your solicitor and
22 Mr. Lawlor, at Mr. Lawlor's request, where your solicitor explained what
23 the legal powers that the council had to compel Lyngrove to allow the
24 surface water sewer to be connected to the culvert.

25 A That's right, yeah.

26 Q 281 And did Mr. Lawlor indicate to you what, if anything, he proposed to do
27 when he was furnished with that information?

28 A Not on the day but I believe a day or two after that we rang Brian Wallace
29 on his mobile phone and told him that the council were going to act on the
30 strength of the letter that Brian Wallace had written to the council.

- 1 Q 282 I see.
- 2 A That they were going to, that they were going to use their rights --
- 3 Q 283 To ensure that your connection to the culvert to be completed?
- 4 A Yeah.
- 5 Q 284 Did Mr. Lawlor indicate to Mr. Wallace, so far as you know, where he got
6 that information or who -- first of all, it would be in Fingal County
7 Council area, is that right?
- 8 A That's right.
- 9 Q 285 So, presumably Mr. Lawlor had learned this from somebody in Fingal County
10 Council?
- 11 A No, he learned from Brian Wallace that there was an act --
- 12 Q 286 I understand, that there was a procedure that could be used or a power that
13 could be used?
- 14 A Yeah.
- 15 Q 287 But my understanding from what you have just said was that a few days after
16 he had met Mr. Wallace, Mr. Lawlor telephoned Mr. Wallace to say the county
17 council were, in fact, going to use their powers, is that correct?
- 18 A Well, that's what Brian Wallace told me.
- 19 Q 288 I understand. We'll hear from Mr. Wallace in due course. Did Mr. Wallace
20 indicate to you how Mr. Lawlor came to be in possession of this
21 information?
- 22 A What information?
- 23 Q 289 The information that the county council were going to use their powers?
- 24 A No.
- 25 Q 290 I see. Now, in answering I think the final question, one of my questions
26 immediately before lunch, you said that Mr. Lawlor was not paid any money
27 then, I'm phrasing, perhaps, your reply by which I understood he was not
28 paid anything at the time in relation to this particular problem, is that
29 correct?
- 30 A That's true, yeah.

1 Q 291 Was he paid money at any other time or did he ask for money at any other
2 time?

3 A He did, yeah.

4 Q 292 Would you tell the Tribunal about that, about those occasions, please.

5 A On New Year's day 1998, I had a suite at the race meeting in Fairy House
6 and I had a number of friends there and I invited along Liam Lawlor and his
7 wife Hazel. And we had a very, very successful day. We had a horse in, he
8 won the race and there was a good few drinks involved. But that night, or
9 that evening before we left, he asked me had I any money and I couldn't
10 deny the fact because I was after winning some money on the day, but I told
11 him I had a few pound at home so he says would I give it to him, so I said
12 yeah, I'd give it to you. I went home from the races and he called to the
13 house that night and to the best of my belief, I gave him 5,000 that night
14 in cash.

15 Q 293 Was this a gift?

16 A No, it was all related to the constant interferences of him talking about my
17 business, knowing that he was after doing me a good turn, if you want to
18 call it that, in Earlsfort and trying more or less to make it part of that
19 payment.

20 Q 294 Did he mention on this occasion, the 1st January, that he had, in fact,
21 assisted you in relation to Earlsfort?

22 A He mightn't have mentioned it that day, but it would be always made known
23 to you whether it was directly or indirectly that he was the cause of
24 Menolly having a better success and making more money from the sale of our
25 houses in Earlsfort.

26 Q 295 And, in fact, the change of the postal address from Clondalkin to Lucan
27 would seem to have generated an increased turnover of 3.5 million or
28 thereabouts, 500,000 pounds multiplied by five hundred, am I correct?

29 A Well, it mightn't have been exactly 5,000.

30 Q 296 Of that order?

1 A Yeah.

2 Q 297 Would that be fair?

3 A That's fair, yeah.

4 Q 298 Did you have any other dealings, or any other occasions when you were asked
5 for money or gave money to Mr. Lawlor?

6 A I think that night when he left the house I basically made up me mind that
7 I wasn't going to have this carry on and I wasn't happy. In fact I was
8 very unhappy when he left the house that night, but I think it was another
9 date he came back into the office again in Lucan. At this stage I seen him
10 as a plague and I wasn't happy.

11 Q 299 When you say you were unhappy that night when he left the house, is the
12 Tribunal to take it that you were unhappy because you had been asked for
13 and had handed over 5,000 pounds?

14 A Yeah.

15 Q 300 Why did you not refuse to hand over the 5,000 pounds?

16 A Well, there was a certain amount of concern as to why I didn't do it. I
17 had big plans for the company. I had a lot of land bought and I was about
18 to buy a lot of land and I didn't know whether I was better keeping him on
19 side or rejecting him totally. He certainly would leave you in no doubts
20 with the belief that he had certain powers and could use them against you
21 as well as for you.

22 Q 301 Did you, are you saying that you felt that you really had no choice but to
23 give 5,000 pounds?

24 A No, I am not saying that. I'm saying that with the volume of planning
25 permissions and land that I had in the system at the time and my plans, it
26 was at the start of the boom in house building, I felt that -- well, I had
27 to consider what to do, but certainly if the boom for housing hadn't been
28 there, I wouldn't have been so concerned about him, but I had planning
29 applications pending at the time and I was concerned about those.

30 Q 302 What were you concerned about, what concerns did you have if you didn't pay

- 1 any money?
- 2 A Concerns that maybe he might know someone somewhere in some of the local
3 authorities that could possibly work against your application. I see him
4 as a player and I was concerned about him.
- 5 Q 303 Sorry, you see him as a player, is that what you said?
- 6 A A player?
- 7 Q 304 Sorry, I missed the word that you said, you said you see him as -- I see
8 him as a --
- 9 A Well, a threat or a fair (sic) that I had in relation to my applications
10 that were either pending a decision or were planned to go in for decision.
11
- 12 Q 305 When you said that you had, he had certain powers, what do you mean?
- 13 A Well, he had sat on the council for a long number of years and anybody that
14 sits there obviously knows people in powerful positions and it was that
15 that caused me the concern.
- 16 Q 306 I see. Now, what caused you to be angry on the night after you had paid
17 the 5,000 pounds, and who were you angry with?
- 18 A I was angry with Liam Lawlor.
- 19 Q 307 Why were you angry with Liam Lawlor?
- 20 A Because at that stage I felt he was like a plague. He was always around
21 when I didn't -- whether I want him or not, he was always there, he was
22 always in my, you have no doubt, and he was making himself very friendly
23 with me and I wasn't happy with that situation because he had a past and I
24 knew about it.
- 25 Q 308 I got the impression what you were saying earlier, that you made up your
26 mind to -- made a decision on that night after he had left, is that right?
27 Did I misunderstand you?
- 28 A Well, I don't know, but I was making up my mind that I was going to shake
29 him off me and sever my contacts with him.
- 30 Q 309 Well, did you do that? Did you have any further contacts with him?

1 A It only started then. He came back into the office on another occasion in
2 Lucan, he lives in Lucan and my office is Main Street, Lucan, and he came
3 back into my office one evening looking for more money, I am not sure. I
4 have a detail -- I'm missing a piece here but -- yeah, he came back into
5 the office one evening, it was obviously after January of 1998.

6 Q 310 Maybe perhaps if the witness might wish to consult with his solicitor?

7

8 CHAIRMAN: Do you need a few minutes?

9 A It's just a date I was looking for, it was obviously after January 1st.

10

11 MR. GALLAGHER: Perhaps Mr. Gardiner can assist. Mr. Gardiner may be in a
12 position to, I don't know whether he is or not.

13 A I think I'm missing one page of my notes. Just one second now.

14

15 CHAIRMAN: Do you want a few minutes Mr, Mr. Ross?

16

17 MR. GALLAGHER: Perhaps if the witness could get a few moments just to
18 consult with Mr. Gardiner.

19

20 CHAIRMAN: I'll just, we'll rise for a few minutes to give you an
21 opportunity to check your notes.

22 A I don't think it's necessary.

23

24 CHAIRMAN: All right.

25 A If that's OK?

26

27 CHAIRMAN: That's all the better.

28 A Because there was only one more occasion when this happened. He came into
29 my office again and asked me for more money and I told him there was no
30 more money and I more or less ordered him out of the office. It was in the

1 evening as well and he was leaving and I walked down the stairs with him
2 and I closed the door. And he stopped outside the door and we had a few
3 words and I felt a little bit sorry and I says to him, look it, Liam,
4 there's going to be no more money, but if you want to buy a house or
5 something like that and I can give you a bit of discount, I'll do it for
6 you, and he says, right, and he left.

7

8 A month or two later, I am not sure because I haven't the dates, following
9 that, he came back and he asked me would I sell him a house and give him a
10 discount, as I said I would, for a son of his and I says I would. So, he
11 says OK, he would take the house and said you know the site better than I
12 do, it was a big site, he says will you pick a reasonably good house and I
13 did. I picked a house and I gave him the house was -- they were selling in
14 around 90 to 100,000. I sold him the house for 80,000. And some time
15 later he asked me would I deck the house out for him, that means put the
16 carpets, whatever it is, into it, and I put in about five hundred thousand
17 pounds worth of goods into the house, between curtains, carpets and
18 electrical appliances.

19

20 He told me at the time he had authority to act for his son, who was in
21 America, and that ran into problems, because he came to me when the house
22 was finished -- no, I wrote -- no, he came to me when the house was
23 finished and he says could he get the keys of the house, his daughter was
24 living somewhere in Ballsbridge, I think, at the time and wanted to occupy
25 the house. So, the sale hadn't closed on the house but the house was
26 finished. I gave him the keys.

27

28 I gave him the keys to the house, as I felt the girl was stuck, and I would
29 get the sale closed. And she moved into the house and I got, I was very
30 concerned about the closing of the sale, it proved right that I should have

1 the concern, because we had to -- there's a legal record held by Hanby
2 Wallace to the hassle I had. I had to force him to close the sale and it
3 took a long time but it was on the 11th hour he closed the sale after we
4 issued a rescission notice on the house. We were going to put her out of
5 the house and take the house back so he closed it on the last day of the
6 rescission notice.

7 Q 311 Roughly speaking, what length of time had elapsed from the date that you
8 originally agreed to sell the house until the closing of the sale?

9 A I'd say four months. I have all the dates and I have the whole transaction
10 that I am prepared to give to you whenever it suits.

11 Q 312 What do you say was the total value of the property and the contents that
12 you sold for 80 thousand pounds or thereabouts?

13 A He paid me 80,000 and the discount was in around 20,000 and the contents
14 were 5,000.

15

16

17 Q 313 Why did you give him that discount of something of the order of in total of
18 25,000 pounds?

19 A Because I had a concern about Liam Lawlor and his danger to my success in
20 getting applications, or whatever it would be from the panel.

21 Q 314 Did he ever ask you for money apart from those occasions?

22 A No, after that, that certainly broke our friendship until then he issued
23 proceedings against me where he tried to claim a share in my company.

24 Q 315 I'll come to that in a moment. Did he give you an explanation as to why he
25 wanted money on the occasion you described when he came to your office and
26 you said you walked him down the stairs and --

27 A No.

28 Q 316 Did he tell you why he wanted it?

29 A No.

30 Q 317 Did he, on that occasion or any other occasion around that time, make

1 reference to the assistance he had been in relation to the Lucan/Clondalkin
2 postal district issue?

3 A That was always something he mentioned.

4 Q 318 So, can I take it that the answer to the question is yes, that on that
5 occasion or around that occasion, he made reference to the assistance he
6 had been in relation to the Lucan/Clondalkin postal issue.

7 A Absolutely, yes.

8 Q 319 Now, you started to tell the Tribunal about proceedings that you became
9 involved in with Mr. Lawlor. And these were proceedings which eventually
10 ended up in the Supreme Court, isn't that right?

11 A That's right.

12 Q 320 Would you tell the Tribunal how they arose and what they involved, what
13 role Mr. Lawlor played.

14 A It goes back to the time where Lyngrove stopped us from making the
15 connection to the culvert. Lawlor always in his conversation would relate
16 to the advantages of bringing up the larger pipes and it was because we
17 initially made an application on Lurg's lands, we made it for a smaller
18 pipe, we made it for a pipe that was sufficient for our own needs and
19 because at that stage we had no intentions of moving down the field, but as
20 I say, that was at the time there was a serious demand for houses and
21 things were changing every day, every week. He would always say to you,
22 you know, why don't you bring the larger pipes down the field, and the
23 reason why we weren't doing it at the time is because there was an earlier
24 application in for planning permission in a field adjoining our field and
25 they were conditioned to bring the pipes. I felt if they were bringing the
26 pipes, there's no point bringing two lots of pipes so we got a permission,
27 which was very unusual, we got the same condition as the people that were
28 building in the field next door, they were conditioned to bring the pipes
29 and so were we, so --

30 Q 321 Why was that unusual?

1 A Well, if both of us had to bring the pipes up, there wouldn't, there would
2 have been a double supply.

3 Q 322 Were you bringing them through land, are you obliged to bring them through
4 land that you didn't own?

5 A That would be eventually what would have to happen, yes. So, it meant that
6 we would have, the builder that was next door to us, he wasn't moving as
7 fast as we wanted him to move, or he wasn't bringing the pipes up and if he
8 did bring the pipes up, for us to continue buying the land that was
9 adjoining our land, we would have to have an agreement with him to connect
10 into the pipes.

11

12 So, we decided we would bring the pipes up and we'd go in first with the
13 pipes. And we brought the pipes through our land. And at this time
14 Guinness's had more land for sale and in order to get the pipes into
15 Guinness's land it meant we had to bring them through a portion of land
16 which is retained by Hanby McInerny for his son a, man called Peter Dwyer
17 who built under a company called J & P Homes. I am getting lost a little
18 bit here, because I don't really know what you want me to --

19 Q 323 Mr. Lawlor became involved in this, in this transaction and eventually that
20 led to litigation.

21 A That's right.

22 Q 324 He prepared a document which you exhibited in an affidavit, that you swore
23 in a litigation, a briefing note. Isn't that right?

24 A I am not sure.

25 Q 325 Do you remember, perhaps you can have page 249, I'll show you this
26 document, it will be on the screen beside you. This is the minutes of a
27 meeting with Menolly Homes, Village Court, Lucan, County Dublin on
28 Wednesday, 5th March 1997 at 4 pm, re: Guinness Svejdar Trust, and
29 left-hand side, at Svejdar Trust lands and related lands.

30 Do you remember that?

1 A I do, yes.

2 Q 326 You exhibited that document, did you not, in an affidavit that you swore in
3 the High Court proceedings?

4 A That's right.

5 Q 327 Was that document prepared by Mr. Lawlor?

6 A This document I am looking at?

7 Q 328 Yes. Perhaps if I read it to you, it may refresh your memory:

8 "The meeting was convened to adopt a strategy regarding the Guinness
9 Svejdar lands. The meeting in the first instance discussed the services,
10 the most costly effective way of connecting the surface water from the then
11 open culvert up through the Menolly lands, through the McInerny lands to
12 serve the Guinness (Svejdar Trust) lands and other related lands.

13

14 Discussion also took place on the foul drainage connection.

15

16 Road connections, particularly to the Greene brother lands was also
17 discussed.

18

19 When the technical matters had been generally discussed and as Menolly were
20 in receipt of a planning approval with the appropriate conditions
21 necessitating the provision of the larger services, the meeting went on to
22 discuss the commerciality of dealing with the Guinness lands.

23

24 The meeting agreed that the Guinness lands should be purchased. Seamus Ross
25 recommended, and the meeting accepted, that Hanby Wallace, solicitors,
26 under his direction should enter into negotiations with HOK (Derek
27 Mulligan) with a view to concluding an agreement and the securing of a
28 contract for the Guinness lands.

29

30 Seamus Ross outlined to the meeting that Hanby Wallace solicitors had

1 excellent relations with HOK. The meeting agreed this was the best way to
2 proceed to secure the Guinness lands.

3

4 The meeting then discussed the shareholdings in the company that would
5 purchase the Guinness lands and the following shareholders' agreement was
6 signed by the three parties in attendance, Seamus Ross, Peter Dwyer and
7 Liam Lawlor. A written agreement was signed by the three parties,
8 allocating --
9 Seamus Ross 40 percent,
10 Peter Dwyer 40 percent, and
11 Liam Lawlor 20 percent
12 on a carried interest.

13

14 The meeting concluded, giving Seamus Ross full authority to proceed as per
15 the above minute of the meeting."

16

17 Now, wasn't it on foot of that written agreement that was referred to
18 there, that was signed at that meeting that Mr. Lawlor brought proceedings
19 against you for certain declarations?

20 A Yes. Can you go back to the first page of that, there's something at the
21 top of the page, it's marked out.

22 Q 329 I'm sorry, it has been highlighted in some way and it's therefore, they are
23 the minutes of a meeting as I understand it.

24 A Just above that, just above Menolly Homes Limited.

25 Q 330 Just above "Menolly Homes Limited". I believe that that says "minutes of a
26 meeting" but I am not certain.

27 A Yes, that's what confused me, I didn't know.

28 Q 331 I believe that that is -- they are the minutes of a meeting. They are
29 dated the 5th -- refer to a meeting of the 5th March 1997 and in the
30 Statement of Claim taken by Mr. Lawlor against you, Menolly Homes and

1 Menolly Properties, he says:

2 "By way of a joint venture agreement made on or about the 5th day of March
3 1997 between the plaintiff of the first part and the first and/or third
4 named defendant to the second part and Peter Dwyer of the third part, the
5 parties agreed to acquire and develop the lands in question."

6 A Yeah.

7 Q 332 And my understanding was that that document was a document that was relied
8 upon by him as minutes of a meeting. He referred to another document which
9 you had signed and you, in fact, exhibited that document and another one
10 which is to be found at page 238.

11
12 It's a briefing note to Mr. Seamus Ross, chief executive of Menolly Homes,
13 re: Guinness lands and other lands and related underground services
14 regarding the implementation of the signed agreement re: lands at
15 Castaheany, when he goes on, do you remember that document?

16 A I do, yes.

17 Q 333 Do you remember exhibiting that document in the proceedings in the High
18 Court and the Supreme Court?

19 A To be honest I don't, my solicitor would remember it. I take it what you
20 are saying is true.

21 Q 334 Well, can we take it, this is a document that was furnished to you by
22 Mr. Lawlor.

23 A Yes.

24 Q 335 This documents runs through, perhaps we can go through the ten pages.
25 Suggested how the lands that were to be acquired would be divided up
26 between yourself and Mr. O'Dwyer and Mr. Lawlor, isn't that right?

27 A Well I don't accept that.

28 Q 336 This is what the document suggested, isn't that right?

29 A Yes.

30 Q 337 And in this document, Mr. Lawlor was claiming a 20 percent interest in

1 these lands, isn't that right? He didn't claim it at that stage, the night
2 that agreement was reached, towards the end of that meeting he decided that
3 he would try and put some short sort of shape on what we were discussing
4 and he grabbed the letter off my desk, an old Hanby Wallace letter and he
5 set out how he thought we should proceed with the purchase of the Guinness
6 lands. We signed it and after we signed it, it was 50 percent to be owned
7 by J & P Homes and 50 percent to be owned by Menolly Homes. We signed it.

8
9 After we signed, he says, well, what's in it for me, lads, and none of us
10 took much notice of what he was saying and he still had the note in front
11 of him that we were after signing and he says 10 percent, 10 percent, and I
12 says, certainly not, if there is anyone getting involved in this, it will
13 be at whatever monies they put into it.

14 Q 338 Yes. And what happened as a result of that or what happened at that
15 meeting?

16 A Well, the meeting was finished at that stage and there was nothing more as
17 far as we were concerned. The arrangement was that if the land was to be
18 purchased at all, it was going to be purchased between myself and Peter O'
19 Dwyer, who was the guy who had a piece of land next to my land which I had
20 to get access through, and I understood he owned that land, and it turned
21 out when I purchased the land from Guinness, I found out he wasn't the
22 legal owner of the land. He had purchased a licence to build houses for J
23 & P of Lurg.

24 Q 339 The document which is on screen before you, the first page of which is on
25 screen before you is dated 16th August 1999 and it purports to be a
26 briefing note running to ten pages which appears to have been prepared by
27 Mr. Lawlor; is that right?

28 A Which, what?

29 Q 340 The document in front of you, which is on screen.

30 A Yeah.

1 Q 341 It runs to 10 pages and we will go through them for you in a moment but
2 this document was prepared by Mr. Lawlor, is that right?

3 A Yes, I only -- I had very little, I have to tell you now I had very little
4 involvement with this, because as soon as this started I knew there was
5 something here that I didn't want to see. And I came into my house on a
6 Friday evening around six or seven o'clock on the following morning,
7 Saturday morning, contacted Brian Wallace and Brian took it over from
8 there. So, I am not that familiar with this legal stuff that you are going
9 to produce here now or the stuff that Lawlor produced. So I may not be of
10 much addition to you in relation to this because it's dealt solely by BCM
11 Hanby Wallace.

12 Q 342 You swore an affidavit, may I have page -- it may not be on screen, an
13 affidavit in these proceedings in which you exhibited this document, the
14 affidavit was sworn on the 20th October 2000.

15
16 And you referred to the proceedings that had been taken by Mr. Lawlor,
17 Mr. Lawlor brought proceedings in which he sought certain declarations that
18 you and your companies held lands for him and for his benefit, isn't that
19 right?

20 A That's true.

21 Q 343 He effectively claimed 20 percent interest in the lands you were talking
22 about?

23 A Yes.

24 Q 344 Now, I suggest to you that the proceedings were initiated in the High Court
25 and you brought an application to have them struck out as being vexatious
26 and frivolous?

27 A Yes.

28 Q 345 The proceedings were commenced on the 30th March 2000. Would you accept
29 that?

30 A That's right.

1 Q 346 And among the documents that were relied upon in those proceedings were the
2 documents which is on screen before you, which is a ten page document and
3 we can go through it.

4

5 As you will see the first page, Mr. Lawlor says:

6 "Now that house building has commenced on the Guinness lands, it is time to
7 give effect to the signed agreement and the proposals as to how best to
8 operate the agreement.

9

10 It will be probably helpful to recall how the agreement was signed and the
11 strategy to give effect to the Guinness land development and the potential
12 for providing services to the adjacent lands eg Greene brothers, Manor Park
13 Homes and possibly others and obviously the commerciality of charging of
14 connection fees per house numbers to recover and make a profit on the
15 initial capital investment for the increased size services."

16

17 Would it be fair to summarise what was being proposed by Mr. Lawlor in
18 relation to the up sizing of the sewers follows, that it was intended that
19 they would be up sized so as to be able to drain significantly more land
20 than was in your ownership at that time and that you would be able to
21 charge adjoining landowners a connection fee, if you like, per house to
22 that sewer?

23 A

24 Can I just say that this type of stuff here was all fabricated by
25 Mr. Lawlor and what we have here on the screen has absolutely no relevance
26 to what I done at the time. And I am not, I don't think it's fair to ask
27 me to comment on that, because it had -- that's the reason why I handed the
28 whole lot over to my solicitors and he had absolutely nothing got to do --
29 that's all fabricated to try and justify his share in my company.

30 Q 347 Well, so this thing here was dealt with by the Supreme Court and it
determined that the proceedings were, should be struck out as being

1 vexatious and frivolous?

2 A Yes.

3 Q 348 But this particular document you relied upon as a document that was
4 produced by Mr. Lawlor.

5 A Yes.

6 Q 349 He gave it to you at some stage.

7 A He did, yeah, and it's total rubbish.

8 Q 350 It may well be but Mr. Lawlor clearly relied upon this document as
9 representing what he believed to have happened or what he said happened?

10 A I take it that would be the case, yes.

11 Q 351 And in this document, among other things, he was claiming that he was
12 entitled to 20 percent of the lands in question and he was valuing those --
13 he was estimating the amount of land involved as 184 acres, may I have
14 page -- may I have page 244, please. He was suggesting that there were a
15 total of 184 acres of developable land, is that right?

16 A Yeah.

17 Q 352 And he had a number of options that he was suggesting might be followed.
18 He said, if we go back to 241, he talked about the agreement, the agreement
19 meeting at your offices on Wednesday, 4th March an agreement was signed,
20 minutes of the meeting attached.

21

22 And he goes on to say:

23 "The conclusions at the meeting was that it made excellent sense to
24 undertake the up front capital investment to provide the underground
25 services to drain the total catchment. Based on this, it was decided that
26 the following percentage/shareholding interest would relate to the
27 development of the Guinness lands and any other financial benefits accruing
28 from the underground services. The percentage agreements agreed were
29 Seamus Ross 40 percent,
30 Peter Dwyer 40 percent, and

1 Liam Lawlor 20 percent.

2

3 It was further agreed that Seamus Ross would pursue the acquisition of the
4 Guinness lands. The meeting concluded.

5

6 Liam Lawlor's company was allocated a 20 percent shareholding on a carried
7 interest in the Guinness lands, and any commercial benefit accruing as a
8 result of the services in the Guinness lands, subject to all the outgoings
9 being deducted.

10

11 Page 4 is Liam Lawlor's estimated of Menolly Homes Limited building out of
12 the of the McInerny 114 acres."

13 He goes on to suggest the following page, total gross profit of 47,000 per
14 house.

15 A That's right.

16 Q 353 And on the basis that 11 hundred houses would be built on the lands there
17 would be gross profit of 51.7 million pounds, he was suggesting, isn't that
18 right?

19 A That's true, yeah.

20 Q 354 Then he sets out a number of options, an option (b) is to be found -- two
21 options, option (a) and (b), he is suggesting that option (a) proceed with
22 as follows on page 244 that:

23 "Menolly Homes Limited contracts to Demographic & Strategic Consultants to
24 sell 36.8 acres, based on the following estimated figures",
25 and he sets those out and he sets out the contract price and he suggests
26 that "the 36.8 acres would be sold at 170 thousand pounds per acre or 6.25
27 million".

28 That's to be found at page 245.

29

30 Then there was a second option:

1 "Option (b) that Demographic & Strategic would act as consultant to Menolly
2 Homes and based on house sales, Demographic & Strategic Consultants is paid
3 its percentage of the gross profits on 20 percent of the house sales over a
4 period of the building out of the 184 acres."

5 Isn't that right?

6 A That's true, yeah.

7 Q 355 Now, do you say that any of that was agreed to by you at any stage?

8 A No, definitely not.

9 Q 356 In what circumstances were you furnished with this document by Mr. Lawlor?

10 A In what circumstances?

11 Q 357 Yes.

12 A What do you mean?

13 Q 358 I mean at what time or in what circumstances?

14 A If I can remember rightly, and I'm pretty sure it was towards the end of
15 August --

16 Q 359 The document is dated the 16th August 1999.

17 A I think it was delivered to my house the 20th August 1999, and I think we
18 checked that out of a Friday, because it was delivered of a Friday anyway,
19 because I met Brian Wallace on the Saturday morning following that and it
20 was around seven o'clock in the evening.

21 Q 360 Is this something that came out of the blue? Had there been a discussion
22 or agreement between the meeting of the 4th or 5th March 1997 and the
23 production of this document?

24 A No, this is totally out of the blue, it came as a complete shock to me, I
25 couldn't believe what I was reading, I didn't understand it. I couldn't
26 wait till I met Brian Wallace the following day to say, Brian, what is
27 happening here, what is he at, what is this all about.

28 Q 361 You told the Tribunal there was a meeting in your office on either the 4th
29 or 5th March 1997 and that that, at that meeting, a document was initialled
30 on the back of, as I understand it, a letter written by your solicitors

1 Hanby Wallace, do you remember telling the Tribunal that?

2 A Which letter are you --

3 Q 362 You said that there was a document initialled by yourself and Mr.--

4 A Peter Dwyer.

5 Q 363 Peter Dwyer at that meeting of either the 4th or 5th March 1997. Now, did
6 anything happen in relation to those lands between that meeting and the
7 receipt of this document?

8 A A lot happened, yeah.

9 Q 364 I see. Well what, can you summarise what happened, please?

10 A Working from memory here, but it was suggested at that meeting that the
11 land could be bought for eight million.

12 Q 365 Right.

13 A I do have notes down there that would help me. Can I just go down and
14 bring them up? It won't take me a second.

15

16 CHAIRMAN: Do you want a few minutes to look at them?

17 A I don't think there's -- maybe ...

18

19 MR. GALLAGHER: Perhaps if we give, perhaps five or ten minutes.

20

21 CHAIRMAN: We will rise.

22

23 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED**

24 **AS FOLLOWS:**

25

26 Q 366 MR. GALLAGHER: Now, Mr. Ross, you said you had some notes which you
27 thought might be of assistance to you in refreshing your memory I think.

28 A Yes.

29 Q 367 Can you tell the Tribunal, please, what they disclose?

30 A Well, you asked me what happened between the time of our meeting where Liam

1 Lawlor and Peter Dwyer and myself met in my office in Lucan. There was one
2 or two small little things that might be of interest.

3

4 In October of 1997, and also on the 16th December 1998, there was two golf
5 classics where I paid a thousand pounds each for a team. So that was
6 between the date of the meeting and the date I was speaking about, which
7 was the date that Liam Lawlor sent the letter to me at my own home issuing
8 proceedings against the shares of my company.

9 Q 368 What I was interested in reading is whether or not anything had happened in
10 relation to the proposed development of the Guinness lands, etc. between
11 the time the first meeting was held in the beginning of March of 1997, I
12 think, and the 16th August 1999 when a document was produced by Mr. Lawlor.

13 A Very, very little happened.

14 Q 369 So, can the Tribunal take it that this document came to you as a shock?

15 A Absolutely, yes.

16 Q 370 Were you aware that this briefing note was being prepared or had you asked
17 that it be prepared?

18 A Absolutely not, no.

19 Q 371 Does it follow that it came completely out of the blue?

20 A Absolutely out of the blue, yes.

21 Q 372 Had you, in fact, bought the lands in question or any part of them at that
22 time?

23 A I had negotiated with HOK, who were the agents acting for the Guinness
24 people who were selling the land. I had negotiated a purchase price.

25 Q 373 I see. And that was separate and independent of Mr. Lawlor?

26 A He was never involved in that at all.

27 Q 374 And was it after you had negotiated the purchase price that this briefing
28 document came to you and that the proceedings were then issued?

29 A They came in August of 1999 and a price agreed with HOK in May of 1997.

30 Q 375 I see. When did the sale close?

1 A The sale closed in three different tranches. I think the final closing was
2 April, 1999.

3 Q 376 There was a suggestion in the document, may I have page 243, please, that
4 there would be three payments of 2.5 million on the 13th May 1997, 8.5
5 million on the 7th April 1998 and 8.7 million on the 6th April 1999.

6 A That's right.

7 Q 377 Were they, in fact, the payments that were made?

8 A Well, the total is right. I don't know about the phased payments, but the
9 total is right.

10 Q 378 And the phased payments were, the final phased payment was made sometime in
11 or about April of 1999 or around that time?

12 A Yeah.

13 Q 379 Is that right?

14 A Yeah.

15 Q 380 But you say that Mr. Lawlor had no hand, act or part in that agreement,
16 that deal?

17 A No, certainly not.

18 Q 381 Now, there's one other item, may I have page 251, please, in the minutes of
19 the meeting. Perhaps it's not the minutes of a meeting, it's another
20 document which suggests that the, and I quote:

21 "The other outstanding item between Seamus Ross and Liam Lawlor is a
22 consultancy provided regarding the Maplewood Homes purchase of the 60 acres
23 approximately at Ballyowen, Lucan as a result of the provision of
24 appropriate documentation and advice. Seamus Ross secured an agreement
25 with Michael Whelan for the payment of 2.5 million. See:

26 A. Attached report resale of lands to Michael Whelan's company, al guard
27 properties, and

28 B. Newspapers report dated November 15th November 1996 which appeared in
29 Irish Independent property supplement. Seamus Ross was to consult with
30 Simpson Xavier accountants regarding the most tax effective method of

1 paying for the consultancy. No figure was agreed an the matters was left
2 outstanding now to be resolved between Seamus Ross and Liam Lawlor."

3

4 Can you assist the Tribunal in relation to that document?

5 A At the time myself and Mick Whelan had decided to go our own way and the
6 issue of this land, where is it, Ballyowen, came an issue and out of that
7 came a settlement which is correctly stated there. It came to his
8 attention that this was happening. He got some documents from me from a
9 meeting some time earlier to explain how the land was purchased initially
10 or agreed to be purchased initially, and he followed through on that as
11 well where he felt that he should get some payment but he got no payment
12 whatsoever for that.

13 Q 382 Well, what documents or advices were provided?

14 A It was where I was looking to have certain areas of the deal clarified for
15 my own sake and I needed to see minutes from a meeting where the position
16 was made.

17 Q 383 What kind of minutes of what kind of a meeting?

18 A It would have been a council meeting.

19 Q 384 I see. Were you saying that Mr. Lawlor provided you with the minutes of a
20 council meeting?

21 A I asked him if he could get them for me and he got them for me.

22 Q 385 What advice did he give you in relation to those?

23 A None whatever. He got me the minutes of a meeting.

24 Q 386 Were you telling the Tribunal that reading the minutes of the meeting,
25 something was clarified for you and left you better informed than you had
26 been?

27 A Sorry?

28 Q 387 It left you better informed than you had been and satisfied you in relation
29 to something that had been causing you trouble?

30 A Correct. It was a personal matter that was between myself and Michael

1 Whelan.

2 Q 388 And did you say that --

3 A And he actually looked for payment for that as well.

4 Q 389 You haven't told us about that.

5 A It was something I have overlooked. He did look for money for that but I
6 refused to pay him money.

7 Q 390 When did he look for payment of that?

8 A I don't know. It could have been, I am not sure, but I do remember him
9 requesting money for it, and that's what he was trying to say there.

10 Q 391 How much did he request?

11 A I didn't -- at this stage I wasn't interested in how much he was
12 requesting, I had made up my mind that there was no more money for Liam
13 Lawlor.

14 Q 392 And does it follow from that answer that the request was made at a time
15 after you made the arrangement in relation to the house?

16 A The arrangement for the house, what date was that?

17 Q 393 Sorry, bear with me one second, I have it here. The contract for the
18 house, according to some documents that we have obtained, appears to have
19 been in January 1999, the 19th January, there's a memorandum of agreement
20 signed. My understanding, this may or may not be of assistance to you, my
21 understanding is that this --

22 A I think this was before the arrangement on the house.

23 Q 394 I see.

24 A Because I ...

25 Q 395 Can you recall where Mr. Lawlor made the request for money and what
26 explanation did he give to you for seeking money?

27 A He was of the opinion that I had a benefit from the information that
28 resulted from the meeting that he got the minutes for and he felt that
29 because of him getting these minutes for me that he should get paid.

30 Q 396 Is this the consultancy that's referred to in the document on the screen in

1 front of you?

2 A Obviously, yeah.

3 Q 397 And you take the view he should not get paid?

4 A Well, that's the view I did take.

5 Q 398 And do you tell the Tribunal that you did not pay him anything in respect
6 of that?

7 A I paid him absolutely nothing.

8 Q 399 Right. Were there any other payments made to or on behalf of Mr. Lawlor by
9 you or any of the companies with which you are associated with?

10 A Other than the two golf classics.

11 Q 400 And the five hundred pounds that you have told us about earlier?

12 A That's right.

13 Q 401 And the provision of a caravan. Did you provide him with any other
14 services or facilities or help in relation to his electioneering, outgoings
15 or expenses that you can recall?

16 A I suppose you could say indirectly, the lads that were running his election
17 campaign got some timber off one of my sites to put up billboards, or
18 whatever, and I don't recall anything else.

19 Q 402 Did you ever pay Mr. Lawlor a sum of approximately 25,000 by cheque as a
20 political contribution towards election campaigns and the running of his
21 constituency office?

22 A I did not.

23 Q 403 Did any of the companies with which you are associated at any time pay any
24 such sum?

25 A Definitely not.

26 Q 404 You are aware of a letter that was written to you on the 14th August 2001
27 by Mr. Lawlor, may I have page 210 please, do you see that letter from
28 Mr. Lawlor to you dated 14th August 2002?

29

30 It reads as follows:

1 "The High Court, the Honourable Mr. Justice Feergus F. Flood, Sole Member
2 of the Tribunal, Inquiry into Certain Planning Matters and Payments V Liam
3 Lawlor.

4

5 When submitting details, as part of your discovery process, to comply with
6 the Tribunal of Inquiry into Certain Planning Matters and Payments and with
7 the High Court judgments, I have listed in the schedule of political
8 contributions what I have recollect receiving from your company, since
9 entering public life in June 1977 the amount being 25,000 pounds.

10

11 The Tribunal by dated letter 4th May 2001, have requested the specific
12 information (see enclosed copy of the relevant section of the Tribunal's
13 letter under schedule 2, paragraphs A, B, and numbers 1 to 10).

14

15 I would appreciate it if you could study in detail the request for
16 information, identified in the Tribunal's letter, and provide me with
17 answers to the appropriate questions to allow me respond in detail to the
18 Tribunal.

19

20 You will also note from your records that Brian Delahunt Solicitors sent
21 correspondence to your company in December 2000 requesting copies of any
22 documentation copy cheques or any other paperwork relating to my contact
23 with your company back over the years.

24

25 As I am due to complete discovery to the Tribunal by direction of the High
26 Court not later than 5 pm on September 7th, 2001, I would greatly
27 appreciate your cooperation to allow me to comply with discovery under the
28 Rules of the Superior Courts regarding my contact with your company.

29

30 If you have received a similar request from the Tribunal and have responded

1 to them directly I would be most grateful if you could forward to me copies
2 of such documentation as I must comply with the discovery as outlined
3 above.

4

5 On researching your records if you do not have in possession or power of
6 procurement any such documentation could you kindly confirm this to the
7 undersigned. Yours sincerely, Liam Lawlor TD."

8 It was copied to his solicitor. Do you remember receiving that letter?

9 A I do. Can you put it back on the first page again, please.

10 Q 405 Back to page 210, please. Yes. What do you say about the suggestion that
11 he has listed political contributions he received from your company since
12 entering public life in June 1997 and amounts to 25,000 pounds?

13 A I didn't know the man in 1977.

14 Q 406 You didn't know him in 1977. What do you say about having made a political
15 contributions to him at any time in the amount of 25,000 pounds?

16 A I did not.

17 Q 407 Did you make any contribution other than the contributions that you have
18 made, that is as I recall them, five hundred pounds, two contributions for
19 1,000 pounds each to golf classics, the provision of a caravan or caravans
20 in relation to elections and the holding of elections and some timber and
21 bits and pieces for the election of posters?

22 A I am quite certain that what I have told you is exactly what happened and
23 that I have certainly no memory of doing anything else only what I told
24 you. I don't remember that, I didn't know the man at the time. I think in
25 1977 -- I don't -- all we had was a subcontracting business. In 1977 we
26 started to build.

27 Q 408 Well, he is simply identifying June 1977 as the time he has been in public
28 life, he is not suggesting he knew you in June 1977.

29 A He didn't, no, I didn't have that sort of money I'd say at the time myself
30 never mind to give it to him.

1 Q 409 Are you saying that you did not give it to him at any time?

2 A No.

3 Q 410 I don't think I have any further questions at this time, Mr. Ross. I take
4 it that you will make available to the Tribunal the documents that you have
5 referred to and presumably they are available to your solicitor and you do
6 so on foot of the order of the witness summons that was served on you on
7 which you attended here today?

8 A I would be glad to do it.

9 MR. GALLAGHER: Thank you.

10

11 CHAIRMAN: Mr. Ross, we appreciate your attending to give evidence, thank
12 you very much.

13 A Thank you.

14

15 CHAIRMAN: Half ten tomorrow?

16

17 MR. GALLAGHER: Yes.

18

19 **THE TRIBUNAL THEN ADJOURNED UNTIL THURSDAY, 9TH OCTOBER 2003**

20 **AT 10.30 A.M.**

21

22

23

24

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26

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30