

Appendix D

Appendix D



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Tuesday, 7 October 1997.

[illegible]

with Questions to the Minister for Enterprise, Trade and Employment.

Question put and agreed to.

Tribunal of Inquiry into Planning Matters: Motion.

Minister for the Environment and Local Government (Mr. Dempsey): I move:

That Dáil Éireann resolves

A. That it is expedient that a Tribunal be established under the Tribunals of Inquiry (Evidence) Act, 1921, as adapted by or under subsequent enactments and the Tribunals of Inquiry (Evidence) (Amendment) Act, 1979, to inquire urgently into and report to the Clerk of the Dáil and make such findings and recommendations as it sees fit, in relation to the following definite matters of urgent public importance:

1. The identification of the lands stated to be 726 acres in extent, referred to in the letter dated 8th June, 1989 from Mr. Michael Bailey to Mr. James Gogarty (reproduced in the Schedule herewith) and the establishment of the beneficial ownership of the lands at that date and changes in the beneficial ownership of the lands since the 8th June, 1989 prior to their development;

2. The planning history of the lands including:—

(a) their planning status in the Development Plan of the Dublin local authorities current at the 8th June, 1989;

(b) the position with regard to the servicing of the lands for development as at the 8th June, 1989;

(c) changes made or proposed to be made to the 8th June, 1989 planning status of the lands by way of:—

(i) proposals put forward by Dublin local authority officials pursuant to the review of Development Plans or otherwise;

(ii) motions by elected members of Dublin local authorities proposing rezoning;

(iii) applications for planning permission (including any involving a material contravention of the Development Plan);

3. Whether the lands referred to in the letter dated 8th June, 1989 were the subject of the following:—

(a) Re-zoning resolutions;

(b) Resolutions for material contra-

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vention of the relevant Development Plans;

(c) Applications for special tax designation status pursuant to the Finance Acts;

(d) Applications for planning permission;

(e) Changes made or requested to be made with regard to the servicing of the lands for development;

(f) Applications for the granting of building by-law approval in respect of buildings constructed on the lands;

(g) Applications for fire safety certificates;

on or after the 20th day of June 1985.

And

(i) to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

(ii) to ascertain the identity of any members of the Oireachtas and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications;

(iii) to ascertain the identity of all public officials who considered, made recommendations or decisions on any such matters and to report on such considerations, recommendations and/or decisions;

(iv) to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority;

4. (a) The identify of all recipients of payments made to political parties or Members of either House of the Oireachtas or members or officials of a Dublin local authority or other public official by Mr. Gogarty or Mr. Bailey or a connected person or company within the meaning of the Ethics in Public Office Act, 1995, from 20th June 1985 to date, and the circumstances, considerations and motives relative to any such payment;

[Mr. Dempsey.]

(b) whether any of the persons referred to at sub-paragraphs 3(ii) and 3 (iii) above were influenced directly or indirectly by the offer or receipt of any such payments or benefits;

5. In the event that the Tribunal in the course of its inquiries is made aware of any acts associated with the planning process committed on or after the 20th June 1985 which may in its opinion amount to corruption, or which involve attempts to influence by threats or deception or otherwise to compromise the disinterested performance of public duties, it shall report on such acts and should in particular make recommendations as to the effectiveness and improvement of existing legislation governing corruption in the light of its inquiries.

6. And that the Tribunal be requested to make recommendations in relation to such amendments to Planning, Local Government and Ethics in Public Office legislation as the Tribunal considers appropriate having regard to its findings.

'payment' includes money and any benefit in kind and the payment to any person includes a payment to a connected person within the meaning of the Ethics in Public Office Act, 1995.

B. And that the Tribunal be requested to conduct its inquiries in the following manner, to the extent that it may do so consistent with the provisions of the Tribunals of Inquiry (Evidence) Acts, 1921 and 1979: —

(i) To carry out such preliminary investigations in private as it thinks fit using all the powers conferred on it under the Acts, in order to determine whether sufficient evidence exists in relation to any of the matters referred to above to warrant proceeding to a full public inquiry in relation to such matters,

(ii) To inquire fully into all matters referred to above in relation to which such evidence may be found to exist, dealing in the first instance with the acknowledged monetary donation debated in Dáil Éireann on the 10th September 1997 Dáil Debates Columns 616-638 and to report to the Clerk of the Dáil thereupon,

(iii) To seek discovery of all relevant documents, files and papers in the possession, power or procurement of said Mr. Michael Bailey, Mr. James Gogarty and Donnelly, Neary and Donnelly Solicitors,

(iv) In relation to any matters where the Tribunal finds that there is insufficient evidence to warrant proceeding to a fully public inquiry, to report that fact to the Clerk of the Dáil and to report in such a manner as the Tribunal thinks appropriate, on the steps taken by the Tribunal to determine what evidence, if any, existed,

(v) To report on an interim basis not later than one month from the date of establishment of the Tribunal or the tenth day of any oral hearing, whichever shall first occur, to the Clerk of the Dáil on the following matters:

the numbers of parties then represented before the Tribunal;

the progress which has been made in the hearing and the work of the Tribunal;

the likely duration (so far as that may be capable of being estimated at that time) of the Tribunal proceedings;

any other matters which the Tribunal believes should be drawn to the attention of the Clerk of the Dáil at that stage (including any matter relating to the terms of reference);

C. And that the person or persons selected to conduct the Inquiry should be informed that it is the desire of the House that —

(a) the Inquiry be completed in as economical a manner as possible and at the earliest date consistent with a fair examination of the matters referred to it, and, in respect to the matters referred to in paragraphs 1 to 4 above, if possible, not later than the 31st December 1997, and

(b) all costs incurred by reason of the failure of individuals to co-operate fully and expeditiously with the Inquiry should, so far as is consistent with the interests of justice, be borne by those individuals.

D. And that the Clerk of the Dáil shall on receipt of any Report from the Tribunal arrange to have it laid before both Houses of the Oireachtas immediately on its receipt.

AN SCEIDEAL

SCHEDULE

Killnamonan House,
The Ward,
Co. Dublin.
8th June 1989

Dear Mr. Gogarty,

PROPOSALS FOR DISCUSSION

Re: Your lands at Finglas, Ballymun, Donabate, Balgriffin and Portmarnock, Co. Dublin.

I refer to our many discussions regarding your following six parcels of land: —

Lot 1: 100 acres (approx) at North Road, Finglas, including "Barrett's Land".

Lot 2: 12 acres (approx) at Jamestown Road, Finglas.

Lot 3: 100 acres (approx) at Poppintree, Ballymun.

Lot 4: 255 acres (approx) at Donabate (Turvey House and Beaverton House).

Lot 5: 250 acres (approx) at Balgriffin.

Lot 6: 9 acres (approx) at Portmarnock.

I submit the following proposals for your consideration:-

PROPOSAL No. 1 — Purchase Proposal

Lots 1, 2 and 3 Purchase Price £4,000 per acre
10% deposit payable on the signing of the contract

Completion 1 year from date of contract.

Lot 4: Purchase Price IR£1 Million

Deposit 10% on contract

Completion 2 years from date of contract.

Lot 5: Purchase Price IR£750,000.00

Deposit 10% on contract

Completion 3 years from date of contract

Lot 6: Option to be granted for nominal consideration (£100.00)

for a period of 2 years at a purchase price of £30,000.00 per acre.

PROPOSAL No. 2 — Participation Proposal

As an alternative to the outright purchase proposal above I am prepared to deal with Lots 1 — 5 (inclusive) above on the basis that I would be given a 50% share in the ownership of the said lands in exchange for procuring Planning Permission and Building Bye Law Approval. The time span which I would require to be allowed to obtain the Permissions and Approval and my anticipated financial expenditure (apart from my time input) in respect of the different lots would be as follows:-

Lots 1, 2 and 3

A period of 2 years within which to procure a buildable Planning Permission and Building Bye Laws Approval for mixed development including housing, industrial and commercial.

My financial expenditure up to a figure of £150,000.00 (to include Architect's fees, Consulting Engineer's fees, Planning and Bye Law charges etc.).

Lots 4 and 5

Time requirement — 3 years.

Financial Expenditure — up to £150,000.00

In considering the above proposals the following points of information should be borne in mind by all parties:—

1. From the point of view of obtaining Planning Permission the entire lands (lots 1 to 6 inclusive) have the following shortcoming:

NO zoning for development purposes

NO services.

NO proposal in current draft development plans (City and County) for the zoning of the lands or any part thereof for development purposes.

2. We face a very severe uphill battle to arrange for the availability of services and for the ultimate procurement of Planning Permission.
3. The steps to be taken on the way to procuring a buildable Planning Permission and Building Bye Laws Approval are notoriously difficult, time-consuming and expensive. Material Contravention Orders must be obtained and this involves the procurement of a majority vote at 2 full Council Meetings at which 78 Council Members must be present and it also involves satisfactory compliance with extensive requirements and pre-conditions of the Planning Authority and the inevitable dealing with protracted Appeals to an Bord Pleanala.
4. It is essential that the Planning Application should be brought in the name of an active housebuilding company which enjoys good standing and good working relationship with the Planners and the Council Members and in this regard I confirm that in the event of our reaching agreement regarding the within proposals that all Planning Applications would be made by one of my Companies which meets the said requirements.
5. In the case of all of the lands the applications will be highly sensitive and controversial and we can realistically expect strenuous opposition from private, political and planning sectors. One of my active companies will have to take the limelight in such applications and withstand the objections and protests which will inevitably confront it. Apart from the anticipated financial expenditure as outlined above it should be borne in mind that I will personally have to give extensively of my time and efforts over the entire period of the applications including the necessary preliminary negotiations in regard to services and zoning. It must be borne in mind that I will have to abandon other projects which would be open to myself and my companies in order to give proper attention to this project. If I am successful in changing your lands from their present status of agricultural lands with very limited potential even for agricultural use into highly valuable building lands I would have to be rewarded with a minimum 50% stake in the ownership of the lands. Our advisors would have

[Mr. Dempsey.]
to work out the details as to how this can be effected in the most tax-efficient manner.

I look forward to hearing from you in relation to the above proposals. In the case of the first proposal which relates to the outright purchase of the lands (excluding Lot 6) I would not be adverse to a proposal which would involve the vendors retaining a participation stake of up to 20% in the purchasing company if you felt that an ongoing interest in the future development of the lands would be more acceptable to the present owners.

MICHAEL BAILEY.

Mr. Jim Gogarty,
Clontarf,
Dublin 3."

An tAire Comhshaoil agus Rialtais Áitiúil

I join with the Taoiseach and other Members of the House in extending my sympathy to former Deputy Ray Burke and his family on their bereavement. I also express my regret that he felt it necessary to resign from his position as Minister for Foreign Affairs and from this House.

The Government decided at its meeting on Tuesday last to move a motion in both Houses of the Oireachtas establishing a tribunal of inquiry. The decision was taken to meet public concern created by the recent publication of a letter referring to planning permission and its procurement. That letter was the latest in a series of moves which have gone a long way towards destroying public faith in the planning process as a key aspect of our democratic system. The Government believes it is vital to deal finally and conclusively with the public concerns raised.

I am glad to put before the House today a motion incorporating comprehensive terms of reference which are the product of extensive consultation with the Opposition parties and on which a considerable degree of agreement has been achieved. Under these terms the tribunal will examine in detail the planning history of six parcels of land, adding up to 726 acres, dealt with in the letter. Not only will it examine the planning history, it will also examine the servicing and by-law approval involved. In addition, if the tribunal as it goes about its business, becomes aware of other issues suggesting corruption in the planning system even if they are not directly connected to the lands in question, it will have the power and the right to consider those issues. When the tribunal finishes its business, the Government, and I am sure the House, wishes that the doubts around this specific case and the planning system will have been dealt with and cleared up.

I do not propose to argue today the issues which are more properly addressed by the tribunal. However, I want to raise as a longer term issue with all Members of this House the balance between whistle blowing and public confidence in

the democratic institutions, the tension between the fearless pursuit of wrongdoers and the destruction of an individual by the manipulation of public opinion. Democracy cannot function at local or national level if people have no confidence in the workings of democratic institutions.

Trust is the essence of all government, whether local or national. Such trust is based on free elections, open discussion and clear procedures followed by public servants and public representatives of strong ethical standards. This is not a naive or idealistic trust. Just as in the private sector where there is evidence of corruption, there are methods by which that corruption can be exposed and rooted out. Those methods must change with the times. What goes unquestioned in one decade may emerge, at a later date as a serious loophole allowing, even fostering, corruption. When that happens, the system must change utterly and quickly. Where systems fail to serve the public, it is frequently the whistle-blower who reveals the failure. This can be someone who has suffered or someone who has benefited but who is later unhappy at having benefited.

Members will agree that to cry "halt" to corruption, name names, produce evidence and admit to even a small involvement in past corruption requires courage. Let us never underestimate the courage required to blow the whistle on corruption particularly if in the process, a powerful and popular person, party or group is accused. That courage is essential to the maintenance of trust because, ultimately, the specific case can be speedily addressed and answered, wrongdoers subjected to the process of the law and the system strengthened by the removal of flawed individuals from within it. However, that is not what we have witnessed in the past number of weeks and months.

What we have seen in the past few weeks and months, regardless of the side of the House on which we sit, must be recognised by all Deputies as deeply threatening to ourselves, the system we serve and the civil rights of the people we serve. The threat lies not in the accusation but in the method of accusation. What we have seen is an infinitely clever erosion of a reputation based not on upfront accusation and production of evidence but on instalments of venom. We have not watched the relentless rooting out of corruption; we have watched a soap opera, with an unseen scriptwriter doling out the dramatic scenes to different producers. The timing of this has been chillingly exquisite.

What we have witnessed in the recent weeks is the feeding of prejudice against an individual. At no stage has enough evidence been offered to justify that steady feeding of prejudice. However, because of the timing of the instalments and their placement, the exercise has been remarkably effective. It has been so effective because the public mind is a busy and preoccupied one. Someone ensures that what reaches that public mind is a series of soundbites, beginning with a soundbite about a large financial donation. If members of

the public are then asked if they trust the person about whom they heard this sequence of course they will say that they do not.

This proves the effectiveness of not coming straight out with an accusation but dribbling it out in hints and suggestions over a long period of time. I am not sure the nation benefits from learning that lesson. I am not sure we in this House, regardless of the side on which we sit, will benefit from it either. It may not cost us a thought when this planned poisoning is carried out against someone from another party. However, a weapon which proved so deadly in its effectiveness will be used repeatedly. It is a matter of time before any one of us finds himself or herself baffled with rage and frustration, unable to pin down the accuser or the accusations, unable to prove ourselves innocent and filled with terror at the thought that we must do so; that a cornerstone of our democratic system has been removed, leaving us without the protection in which we trusted and in which the citizens of this State trust.

When we hear people saying "sure didn't we always know" what we are hearing is the abandonment of a central principle on which the justice system of this country is predicated. When we hear allegations treated as evidence and insinuations treated as proof, we would do well to be worried because, regardless of whether the person at the centre of the storm is a friend or an opponent, we are hearing the death rattles of trust. When trust dies, no democratic institution has value. When trust dies, none of us has firm ground from which to work because that work is founded on the trust of individual voters who have chosen us to represent them.

The words used in recent days have the ring of an excited bloodsport rather than an examination of standards and ethics. Everyone has seen the words to which I refer in print and the phrase "bringing him down" has been used continually. In the event that my contribution is distorted outside this House, I wish to make it clear that I am in favour of exposing corruption and tightening whatever safeguards will prevent corruption; rejecting attitudes and behaviour which, in any way, damage the trust our people have in their systems and the people who work those systems; seeking out evidence, insisting that a case be answered; and convicting an individual if, in the process of an investigation, that person is proven to have acted unethically, improperly or illegally. In other words, if the process results in 'bringing him down', so be it. However, 'bringing him down' it is not and should not be the first objective for anyone inside or outside this House — it is the end result of a democratic process which strengthens rather than demeans democracy.

The recent accusations have found themselves a welcome which may emerge from a number of motivations. The context for some of them may have been set by disapproval on environmental grounds of some decisions taken by councils and the suspicion that they can only be explained by personal gain. In some cases, that suspicion has

caused ghastly hurt not only to the families of people in this House, but to former colleagues. The aspersions cast on the late Deputy Seán Walsh, which proved to be completely groundless, provide a classic example. The story moves on, there is a shrug about the fact that it proved to be untrue, and neither the accusers nor those who carried the accusations care about the rights of a dead man or the agony of his family.

It is time to put an end to this corrosive cruelty dressed up as principled investigation. The tribunal of inquiry with the proposed terms of reference should be the instrument to do so and, in the process, will protect the integrity of those who serve our political institutions. In the long-term, the solution lies not in a tribunal but in the suggestion mooted by the Taoiseach when in Opposition that a commission be established on a permanent basis to which this kind of issue can be referred at any time. This would be the most effective method of dealing with such matters and the Government is bringing forward this legislation to effect it.

The tribunal will be an historic and pivotal procedure if it can remove the lingering doubts about the planning process. If doing so means that someone stands fully accused and is proven to have taken a bribe, distorted the integrity of the system or been involved in other illegal activities, that will be welcomed by the Government and acted upon immediately. We are all entitled to that. There is no one in this House who has not felt the referred contempt resulting from perceived failures of individuals. It is simply not fair on those of us, whether public representatives or public officials, trying to do a difficult job, if we find that job complicated by malicious, unjustified rumours. We must ensure that when councillors take decisions, they do so for the common good and the good of their constituents, not because they, personally, stand to gain financially. It is because of that imperative that the terms of reference will enable the tribunal to deal with all of the issues emerging from the planning history of the lands referred to in the Bailey letter.

The Government strongly believes that this flexibility, in addition to the capacity vested in the tribunal to deal with any acts which, in its opinion, are corrupt, is vital if the tribunal is to isolate wrongdoers, if any exist, make specific and actionable what has been vague and without consequence and restore vital trust in the systems established to serve the citizen. It is significant and regrettable that, at this point, the word "rezoning" has a pejorative ring to it. The minute one sees a headline with the word "rezoning" in it, the assumption is that the rezoning should not have happened and probably only did so as a result of someone lining their pockets with ill-gotten gains. It is a deeply satisfying theory, but it is quite simply wrong. The fact is that rezoning is part and parcel of the normal process of change. Things change, needs arise, the population grows and new industry is set up to serve the employment needs of that population.

[Mr. Dempsey.]

The uses to which land and buildings were put ten or 15 years ago may now be out of date. It may be absolutely appropriate to review and rezone in order to reflect the reality of change in the economy and social circumstances. It is simple — people need houses. At the moment, the housing supply does not match the demand and the result is price increases which are prohibitive to many.

An adequate supply of suitably zoned and serviced land for development is, and will continue to be, necessary if we are to meet the rapidly expanding housing needs of the population. That is a fact. It is also a fact that there is nothing sinister about either the word 'rezoning' or the reality it expresses, provided that rezoning is done for the proper motives and in a way that is clearly straight and honest. I do not agree with the notion that every decision in development planning where elected councillors have a role must agree at every point with official advice. If that were the case, we would not need councillors to have independent minds, indeed we would not need councillors at all.

We have councillors not just to rubber-stamp official recommendations but to balance the many issues involved in what is always a complex process. That is why the law gives responsibility to people who are fully accountable to the electorate. However, some of those who are responsible to the electorate wear as a badge of honour their opposition to all rezoning, as if it proved their integrity that they were unwilling to respond to the changing needs of the populace. It is time these people were forced to get real and to admit that rigid adherence to the zoning of decades ago is no virtue in the face of today's needs.

Mr. Higgins (Dublin West): What about rezoning at Dublin Airport?

Mr. Dempsey: I am sure the Deputy would like to see reasonably priced houses if his rhetoric is anything to go by.

Mr. Higgins (Dublin West): The Minister should address the amendments.

Mr. Dempsey: Without rezoning, house prices would be even higher than they are, as the previous Government recognised when it decided to commission a study into house prices last May and also decided that the preparation of regional planning guidelines for the greater Dublin area would deal with the need for serviced land for housing development. Incidentally, I note that Dr. Garret FitzGerald wrote recently in his column in *The Irish Times* about the urgent need to rezone more land for housing.

As Members of this House know, local planning authorities must review their development plans at least every five years. This has not happened in County Dublin because the then council failed to meet its statutory obligations. As a result

of this failure, the 1993 Dublin county development plan was adopted ten years after the adoption of the previous plan. The Fingal County Manager's report, which will be presented to the tribunal, points out that it is not surprising land use strategy in north county Dublin would need to be radically re-examined given the major industrial, commercial and residential development taking place in the area. Long delays in updating developing plans will inevitably lead to this sort of pressure especially at times when the economy is booming.

Whatever about the past, steps must be taken speedily to ensure that this kind of delay does not and cannot happen in future. These delays impair good planning. The Government's programme completely updates and consolidates our planning laws and will go a long way to eliminate some of the problems of the past couple of decades. I have started this already by initiating a comprehensive review of planning legislation. I am consulting widely with the general public, all local planning authorities and a wide range of groups affected in one way or another by the planning system and how it operates. I have made it clear that a priority of mine is to increase public participation in the development plan review process. I would like to introduce greater consultation, to make the adoption of development plans as inclusive as a process of that kind can possibly be. I want the public to be consulted earlier in that process. When people are included and information is widely shared, there is less fertile ground for rumour, suspicion and chronic doubt. I aim to revise the present system to minimise that chronic doubt.

This brings me to the reasoning behind the setting up of a separate inquiry, apart from the tribunal under Judge Moriarty, to deal with the current issues. The Moriarty Tribunal follows directly from the earlier tribunal and because it is a consequence and continuation of it, it is bidden to deal with the affairs of people who were found guilty of wrongdoing by that earlier tribunal. The inclusion by name of the former Minister for Foreign Affairs, former Deputy Burke, in that context would inevitably create guilt by association. This would be grossly unfair and would infringe on the basic rights of such an individual. It would also indicate an abandonment of fair-mindedness on the part of Members of this House.

There are other reasons for a separate tribunal. Let us imagine that any one of the clouds of accusations currently in circulation proved worthy of further investigation. If that were the case, the Moriarty Tribunal would not be able to follow the trail. These accusations deserve a dedicated tribunal with a tight focus. In addition, there is one point on which accusers, accused and bystanders agree — that justice be urgent, not postponed or protracted.

The Moriarty Tribunal already has the task of looking into matters of considerable detail and complexity and would be hard put to give the

urgent attention to a wider brief that is so very necessary.

The terms of reference before the House reflect the urgency I am talking about; the belief, shared by us all, that this sorry situation should be cleared up in the shortest possible time. Those terms of reference allow the tribunal to look into the circumstances of the letter sent by Mr. Bailey to Mr. Gogarty in June 1989. They allow the tribunal to investigate the planning history of all the land detailed in the letter and to inquire into all councillors, Oireachtas Members and officials who were directly or indirectly involved in any way in matters related to those lands. They give the tribunal the right to inquire into money paid out and to find out if those moneys had any effect on the planning history of the land involved. The terms of reference also propose the tribunal should investigate applications for planning permission related to these lands since June 1985, the date of the previous local elections. It is also appropriate that the tribunal consider land servicing and ask whether anybody attempted to improperly influence decisions on providing infrastructure.

However, the terms of reference do not stop there. Building by-law approval was required for all new buildings constructed in the Dublin area before June 1992. The procurement of this approval was mentioned in the letter, so the tribunal will investigate whether there was anything untoward in the grant either of by-law approval or of fire safety certificates for the buildings on the land in question. Nor will the tribunal deal only with housing land. It will be required to examine the designation of some of the land in question as an enterprise area. Enterprise areas are vital in creating employment. The tax system acknowledges that and the designation of land can bring substantial tax benefits to the owner. This, too, will come under scrutiny.

The tribunal will have the power to discover all relevant documentation. Under "relevant documentation" I include information which Donnelly, Neary and Donnelly Solicitors say they hold. Clearly, it is essential that such documentation be placed at the disposal of the tribunal and, given the statement by the solicitors that their unnamed clients are motivated by a desire to have a public inquiry into allegations of land rezoning corruption in County Dublin and elsewhere, no doubt they will give the tribunal their fullest co-operation. I express this confidence because, since the firm of solicitors in question is based beyond the jurisdiction of the State, it must be hoped that the tribunal should not be forced into the minefield of legal complexities implicit in the enforcement of powers of discovery in this context. I hope that their clients, who have been described as "concerned environmentalists" and who have a strange desire to remain anonymous, which is unusual for concerned environmentalists, will co-operate fully and facilitate the tribunal by releasing all the

information they have to it directly or through their solicitors, Donnelly, Neary, Donnelly.

If the tribunal points up deficiencies in the operation of the planning Acts, I assure this House that I will have such issues properly and speedily addressed. Recommendations will be built into all future planning. In addition, the programme for Government commits us to introduce provisions parallel to those in the Ethics in Public Office Act, 1995 which will apply to local authority members and officials. Deputies can be in no doubt that this will be a thorough and rigorous investigation covering any possible aspect of the lands in question giving rise to public concern, one with appropriate terms of reference and a tight focus. It is time we forced people who corrode public confidence to put their evidence on the table and support the accusations they make. It is time we cut away the undergrowth of rumours and nudge nudgery, and rebuilt public confidence in the institutions where trust is essential. Rebuilding that trust is not a matter we can delegate to any tribunal. This tribunal should give us some clarity based on which we can begin this task but the task relies on the work of this House. None of us must ever conceal wrongdoing or collude with a colleague whom we know to have broken the law but, equally, none of us must ever, for the thrill of a quick headline, destroy an individual's reputation without real evidence and in the process further erode confidence in the institutions of which we are a central part. Accordingly, I commend this motion and the terms of reference to the House.

Mr. Dukes: I move amendment No. a1:

In paragraph A.3(ii), after "Oireachtas", to insert ", past or present,".

Will the Minister respond to my amendments and other amendments which have been tabled when he replies to the debate later this evening? He has not referred to the concerns underlying those amendments and if he is not responsive at this stage, we will have more trouble with this motion and what it sets out to do.

I share the feelings of a great many Members of the House that there is a remarkable harshness in debating these issues at a time when the former Minister for Foreign Affairs, Deputy Burke, has suffered a very sad family bereavement and on a day when he has taken the action of resigning both from the Government and this House. I should make the point that timing is a matter for the Government and in this case the timing on the Order Paper today was decided by the Government. If the Government had adopted a more open-minded approach at any time in the past week, the matter would have been concluded before today and before Mr. Burke suffered such a sad bereavement. I put that on the record because there were references to crocodile tears on the other side of the House earlier which were unworthy even of anybody on that side of the House.

[Mr. Dukes.]

It has taken a week of argument and 12 drafts of these terms of reference to get a debate on this motion. From its initial position of being unwilling to have any consultation on the issue with the Opposition, the Government has been forced, with great difficulty, to concede important amendments. Its proposal still requires clarification and amendment. That is why I tabled the amendments in my name and they are not the only ones before the House.

The Government's first approach was to propose very broad terms of reference framed in such a way as to cause us to believe that the activities of Mr. Burke in 1989 might fall outside the scope of the tribunal. It was our strong view that this was an obvious ploy to cast the net wide in the hope of finding other unspecified matters which would divert attention from the main issue. Indeed, as Deputy John Bruton pointed out on several occasions during the past week, the Taoiseach reinforced this view when he spoke vaguely of other unspecified allegations which might emerge and even went so far as to put a number on them — he referred to six possible allegations which might emerge. Such was the nature of that as to give us the strong feeling that our suspicion was well founded and that part of the ploy in setting out such wide terms of reference was to divert attention from the main issue.

Therefore, it was with some scepticism — although I am glad to note that the Minister has changed his position quite considerably on this — that I heard the Minister refer this afternoon to the fact that the accusations which have been at the base of all this deserve “a dedicated tribunal with a tight focus”. Nobody on this side of the House objects to broad terms of reference but we insist they must make perfectly clear and put beyond doubt that the specific case of Mr. Burke will be properly investigated.

The Minister's presentation this afternoon represents a coloured retrospect of what actually was attempted because it was not until there had been deep, detailed and acrimonious discussions between the party whips that we got to the point where references were included specifically in these terms of reference which made it clear that specific issue would be addressed as well as all the other issues which the Minister raised. We have achieved that at the suggestion of Deputy John Bruton by providing a specific reference to payments made by the individuals concerned in all of this and to the cash donation of £30,000 made in June 1989 to Mr. Burke, which was debated in this House on 10 September. It took an enormous amount of argument to get to the point where those references were included but I am glad that we have succeeded in frustrating the Government's attempt to muddy the waters. I tabled two other amendments today which are designed to put that beyond doubt.

Questions have arisen in the context of the issues under discussion about the adequacy of legislation on corruption. I have tabled an

amendment one of the effects of which will be to ask the tribunal to make recommendations on amendments to this legislation if it sees fit to do so. The amendment also covers electoral legislation and legislation on freedom of information.

It may well be that the tribunal will not make recommendations regarding these areas of legislation or the other ones referred to in the Government's text. However, to be complete, we should draw its attention to the fact that questions have arisen about the adequacy of legislation on corruption and we should ask it to deal with this if, in the course of its deliberations, it finds that it can usefully add to what is on the Statute Book or can recommend additions to it.

I have also tabled an amendment to deal with the situation where the tribunal, on initial private inquiry, finds that there is insufficient evidence about a given matter to proceed to a full public inquiry. The fear has been expressed in the context of the Moriarty tribunal that this might provide a means by which an individual might avoid answering questions on the grounds that the available information is not sufficiently focused. Should that arise, the amendment makes it clear that the Dáil will be given full information as to why the tribunal might conclude that there is not a *prima facie* case. This would at the least allay any public fear of a cover up and might also provide a basis for defining new approaches to a problem if it turns out that the difficulty arises only from the construction of the terms of the reference of the tribunal.

Amendment No. 41 proposes that in paragraph A.3.(ii) the words “, past or present,” be inserted after the word “Oireachtas”. This arises because the person whom this clause was designed to include has today ceased to be a Member of the Oireachtas.

Amendment No. 1 proposes to add, at the end of paragraph A.3.(ii), the words “, or who received payments from any of the person or companies referred to at (i) above”. The objective is to make it clear again the characteristics of the specific case from which this exercise has flowed. A doubt has been expressed that the drafting of subparagraph (ii), even its reference to Members of the Oireachtas and with the addition of the words “past or present”, might not cover the situation adequately because it is conceivable that were these terms of reference to be put into operation a Member or a past Member of the Oireachtas could say that he or she was neither directly nor indirectly involved in making representations or voting or abstaining from voting. We want to make it clear that there is in this case a specific well identified former Member of the Oireachtas who has questions to answer about this issue. The additional words I propose puts that beyond doubt. I will later explain the reason for moving this amendment in this way. I also propose to repeat the proposed amendments to paragraph A.3.(ii) in paragraph A.4.(a).

In paragraph A.5 I propose an amendment which would add the words “or inducement”

after the words "...which involve attempts to influence by threats or deception...". In the specific case which we wish to address, which does not preclude dealing with any other possible cases, it has not been alleged at any stage that there was any attempt to influence by threat or by deception. It may be, and this is what must be investigated, that there might have been an attempt to influence by inducement.

It has been said to me that the amendment is redundant because the proposed terms of reference refer to the possibility that the tribunal might find something which, in its opinion, might amount to corruption and that the legislation dealing with corruption makes it clear that inducements are what is involved. However, the reference here is not to the legislation dealing with corruption; it is to corruption in the dictionary definition of the term. To be sure, and because it adds to certainty and does not reduce clarity, I propose that the words "or inducement" be added to make it clear that we are looking at all possible forms of interference or improper influence on the processes in question.

In paragraph A.6 I propose that the words "and Ethics in Public Office" be deleted and the words "Ethics in Public Office, Electoral, Freedom of Information and Prevention of Corruption" substituted. I have already referred to the reasons for the inclusion of the words "Prevention of Corruption" substituted. Members of the House are aware that the legislation has been criticised for being out of date and that we need to look again at the formulation of its definitions.

In addition to that legislation and the legislation already referred to in the terms of reference, it is not inconceivable that the tribunal might find that it wanted to make recommendations regarding electoral legislation where new provisions have been recently enacted regarding campaign financing, contributions, etc., and that it might also wish to make a reference to or recommendations regarding legislation on the freedom of information. The Minister stated the laudable ambition of ensuring that the planning process, including the process of reviewing planning and making changes to plans, should be made as transparent as possible to the public. In that context it may be that there would be a gain from having modifications or appropriate extensions made to the scope of the legislation on freedom of information. This is, therefore, an appropriate place to propose such an amendment.

Mr. Dempsey: The Deputy proposes that specific legislation be included in the terms of reference. If specific legislation is mentioned, I am concerned that the tribunal may consider it necessary to examine such legislation. I have no difficulty with the tribunal making specific recommendations regarding legislation, for example, with regard to the Electoral Acts. Would the Deputy consider the wording "any other relevant legislation"? To specify Acts may divert the tribunal down *cul-de-sacs*.

D 481—E

Mr. Dukes: I am pleased with the Minister's remarks. I will consider his suggestion if he will consider my proposals. Perhaps we may have an opportunity to discuss matters between now and when he replies this evening. I have a preference for clarity and specificity but take the point the Minister for the Environment has made, that we do not want the tribunal to be tempted to go off in all directions although the evidence so far is that the most recent tribunal was well able to resist the temptation to venture up side alleys.

The next amendment I propose is to add paragraph B.(iv):

and the Clerk of the Dáil shall thereupon communicate the tribunal's report in full to the Dáil.

This deals with the case where a tribunal finds there is insufficient evidence to warrant proceeding to a full public inquiry when, for understandable reasons, it has conducted an initial inquiry on a private basis. The paragraph in the Government's proposed terms of reference, as it stands, would require the tribunal to report to the Clerk of the Dáil, in such a manner as the tribunal thinks appropriate, on the steps it has taken to determine what evidence, if any, existed. I do not know what happens thereafter but it would be very useful if we could provide that, since the Dáil has gone to the trouble of setting up this tribunal, we should be informed in full of the thinkings and findings of the tribunal even in cases where it feels there is no *prima facie* case.

I make that comment for a number of reasons. First, if it is known that the tribunal has investigated a particular allegation and has concluded there is no reason to proceed to a full public inquiry, the public and this House deserve to know why. Second, once we have received the conclusions of the tribunal, it would be important to be fully informed of what it has investigated, and this amendment would help in that exercise. Third, there may well be cases where, in spite of the care taken here, the manner in which the terms of reference are written simply might not suit. If the tribunal reported that under its terms of reference it had found, on initial inquiry, that it did not deem it justified to carry out a full public inquiry, this House should be able to return to the issue and ascertain whether it was simply a matter to do with the casting of its terms of reference and, so to speak, mend its hand. If on the other hand, the merits of the case did not justify an inquiry, the House would be very happy to know any fears that might have been expressed were fully allayed. That amendment would clarify the work of the tribunal and what we would do with its deliberations once presented to us.

There are a number of reasons I urge the Government to agree with the kind of specificity that I propose adding to these terms of reference by way of the amendments I have tabled. In the debate on 10 September last Deputy Raphael Burke raised as many questions as he answered. If not fully investigated by the tribunal these

[Mr. Dempsey.] issues will continue to cause problems. If they are not specifically identified for the tribunal difficulties of the kind the Minister present, with some justification, complained of in the course of his remarks will arise.

I refer Members to the Official Report of 10 September. As reported at columns 620 and 621 Deputy Ray Burke said he was not involved in any way in making representations in favour of certain actions taken in 1989 then being examined by the House. However, he went on to say that in the period between 1991 and 1993 he found he had an objection to certain things being proposed in Dublin County Council, that at the time he wrote to a prominent Fianna Fáil member of the council and went so far as to lead a delegation to meet the then Minister for the Environment. That may well have been the case and was well-motivated action on his part but nonetheless it creates a problem in accepting, at face value, what he said in the earlier part of his statement. Having said he had had no involvement in these matters because he was not a member of Dublin County Council, he then went on to illustrate how he had been involved at a subsequent date, one contemplated by the terms of reference of this tribunal. That needs to be clarified.

Deputy Ray Burke then went on to speak about the donation of £30,000 he had received — I refer Members to column 618 of the Official Report of 10 September 1997 — and said he had given £10,000 to the Fianna Fáil Party at national level. He did not say that the £10,000 given to the Fianna Fáil Party at national level was part of the £30,000 he had received in that donation. I see the Minister for the Environment, Deputy Noel Dempsey, shaking his head, but I must emphasise that these are legitimate questions. Deputy Ray Burke further went on to say he had given £7,000 to the Fianna Fáil party organisation in his constituency of North Dublin. Again, he did not say whether that £7,000 were part of the £30,000 donation he had been given. He also said in that speech that he had received other donations during the course of the election campaign which he was not going to detail in this House because he felt they were not proper matters for inquiry by the House. I do not think too many people disagreed with that comment, but he did not say whether those sums of £10,000 and £7,000 were part of the £30,000 he had received by way of this very generous donation.

That gives rise to certain questions and to a further series of consequential questions. If those sums came from the £30,000, what happened to the remaining £13,000 of which he did not give an account? If they were not part of the £30,000 donation, what happened to it?

The explanations given by Mr. Burke on that day and his references to his personal financial position and overdraft did not help to clarify what was done with the £30,000 donation he had received. That should be enough to indicate there are sufficient questions to justify accepting

amendments which put beyond any shadow of doubt that this specific case will be closely examined.

I agree with the Minister for the Environment, Deputy Noel Dempsey, when he said he hoped that Messrs. Donnelly, Neary and Donnelly Solicitors, will make available to the tribunal what information they have at their disposal. I very much share that hope; it is most important that they do so. The letter sent by that firm of solicitors to Deputy John Bruton and other Members of the House dated 30 September 1997 contained some rather curious phrases. Speaking of 52 allegations concerning planning and rezoning around the country but particularly in Dublin, they said the following:

Some of these allegations are frivolous and most do not lead me to believe that criminal proceedings would be likely to ensue.

They went on to say:

... some of them seem *prima facie* to give cause for concern. Six of these have been forwarded to the Garda but more warrant proper investigation.

That is the opinion of some person with a typical lawyerly indecipherable signature, writing on behalf of Messrs. Donnelly, Neary and Donnelly. I do not know who that person may be, he or she may well be a very eminent solicitor but it is not his or her business to decide what, in our jurisdiction, amounts to improper or illegal conduct and what does not. It is not the business of that person to decide which allegation is frivolous and which is not. That is the job of the Director of Public Prosecutions. It is not the business of that person to say that some of these allegations *prima facie* give cause for concern and that some do not. That is the business we propose to hand to a tribunal properly established under the legislation of this State. Six of these allegations have been forwarded to the Garda and that is a very public spirited thing for Donnelly, Neary and Donnelly to do. However, it is not their business to decide what is put to the Garda and what is not.

While Donnelly, Neary and Donnelly, and the people they represent, those who came together some time ago to offer a reward of up to £10,000 for information, may have been well-intentioned in doing what they did, they have taken the wrong road in getting results. I say this for several reasons. They have allowed Donnelly, Neary and Donnelly, to take unto themselves the functions we expect the Garda, the Director of Public Prosecutions and the Chief State Solicitor to carry out. Second, they have gathered information and made allegations in a way which leaves the rest of us in the dark as to their substance, the motivation of those who made them and their readiness to provide the information our legal system and the British one require to substantiate a charge brought before a duly constituted court of law. I do not criticise these people for their views and con-

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cerns; it is just that they have chosen a route which is fundamentally flawed. Given that we are going to the trouble of establishing this tribunal, they should make available to the tribunal all their information, regardless of whether or not they think it is frivolous, so it can be handled by a body properly constituted to do so.

The Tánaiste has no political credibility left after her statement today in response to the former Deputy Ray Burke's resignation. I was appalled — I invite those on the other side of the House who spoke of crocodile tears to have a discussion with the Tánaiste, Deputy Harney — by what she said, the manner in which she said it, and her conduct over the past week or so prior to saying it.

The Government has been hugely damaged by what has happened over recent weeks. It has been damaged by the way the Taoiseach handled this affair and by the hesitation and vacillation shown by the Tánaiste in dealing with it. The forced resignation of a Minister after a lengthy period of controversy can only damage a Government. The Taoiseach's judgment is in question because that period of controversy was lengthened by his failure to take the kind of action demanded and needed some time ago. He has been dogged by this business, as was the former Minister for Foreign Affairs, in the United States, Belfast and here. Recently the Taoiseach went to the launch of a worthy project, the Sail Chernobyl campaign. All that achieved publicity on the national airwaves was this affair and not the very worthwhile enterprise undertaken by five fine young people who have shown great courage and dedication. That is only a small example of the damage done to the Government by this affair.

I wondered until last weekend whether the Minister of State at the Department of Foreign Affairs, Deputy O'Donnell, had taken a vow of silence or joined a contemplative order of nuns, because there has not been a word from her. The only thing we heard came last weekend when she suddenly spoke about the passports affair. It seems the Tánaiste knew of this last July, if not earlier, but omitted to tell her party colleague. One third of the members of the Progressive Democrats in Cabinet were not informed of this and similarly for one half of those members who are Ministers of State. That indicates a Government which has serious problems with internal communication and a fatal difficulty in understanding how its actions, or in this case its lack of action, are seen by the public.

Mr. Howlin: This is a difficult debate for all in this House with the backdrop of the family bereavement of a central character. As party Whip of the Labour Party, I contacted the Government Whip yesterday and asked that this debate be deferred until tomorrow so as not to intrude on the private grief of the family today. I regret that that was not done.

In the opening passages of his contribution, the Minister spoke of the essential protection of the

planning system. As a former Minister for the Environment, I also regard that as being of extreme importance and one of the fundamental rocks of our democracy. People should know that under the planning system everyone is treated equally, the merits of any proposal are judged on planning criteria alone, and the laws enacted by this House are the only guidelines followed by statutory bodies, be they locally elected authorities, An Bord Pleanála, or any other. There has been a huge and unfortunate erosion in public confidence in the way the planning system works and this is not a recent development. We have sought over decades to refine, improve and make more transparent the planning system, but there is still a major deficit in public confidence in the working of the system. In my time in office, I sought to have made public the reports of inspectors in the planning system. Some held the view that it would bring the sky down, that people would not be able to write objectively if they knew it would be made public. However, the demand was obvious and it is right we have complete openness concerning the treatment of citizens by any statutory agency.

The reason the planning system has come into such sharp focus is the obvious one mentioned by the Minister, the potential to make enormous profits arising from planning decisions. That is especially true in the hinterland of our capital city, where zoning decisions, planning approvals, or material contraventions can change the value of a portion of land by an enormous factor. For that reason, we must be particularly transparent in how the mechanisms of the State, be they local or national, deal with such applications. All of us have had representations to assist people with projects requiring planning permission and representations from people aggrieved by planning decisions. Aggrieved applicants often reach the conclusion that they were not subject to fair play. Often it is difficult to decide if an aggrieved person has a basis for making an accusation or if they are disgruntled because they did not get the decision they wanted. Anybody who makes a planning application, as is the case with anybody involved in legal proceedings, cannot be sure of the outcome. The only certainty is that there will be winners and losers.

Unfortunately, there are specific issues which have finally forced the Government to recognise the need to establish this tribunal. The issue is not the soundbyte, as described by the Minister, regarding the handing over of a large financial contribution to an individual, but the fact that a political contribution of £30,000 was made to an individual and the allegation that, a number of days prior to this, one of those involved in making the contribution suggested that he could procure planning approval for certain designated lands. Anybody interested in the protection and transparency of the planning system would be alarmed at such a development. It demanded an independent inquiry. This is the genesis of the new tribunal of inquiry.

[Mr. Howlin.]

Initially, those of us in Opposition simply sought a sifting of these facts. We were unaware of the suggestion which subsequently came to light that Mr. Bailey could procure planning permission. During the debate on the Moriarty tribunal we sought to include a sifting of the facts regarding the contribution to the former Minister, Deputy Ray Burke, within its terms of reference. Unfortunately, that was voted down by the Government with the assistance of some Independent Deputies. It was a dreadful mistake for the House, the Government and Mr. Burke. If a decision had been made some weeks ago to include a sifting of the facts within the remit of the Moriarty tribunal, the issues could have been left to it and the truth would have been divined in the proper setting. However, that did not happen and instead more vignettes of information became available until the Taoiseach eventually went on national radio on a Sunday at lunchtime to announce a new tribunal to investigate the issue of planning.

I welcome this tribunal and there is some logic to having a separate tribunal to examine these matters. We had a week of argument concerning the terms of reference now before us. As whip of the parliamentary Labour Party I was directly involved in those negotiations. The Labour Party wanted terms of reference which would work effectively and not result in a situation where the full facts would not be elicited or where the people would not have their trust restored in our ability to do the job we are sent here to do, namely, ensure fair play for every citizen and transparency in local and national government. We genuinely did not want controversy, division or rows either inside or outside this House. By presenting our own draft text we wished to address issues put forward by the Government, including that of fairness. The Government did not want the former Minister, Deputy Burke, mentioned by name. The leader of the Labour Party put forward a form of words that encompassed anybody who received contributions. This was a reasonable and balanced amendment which was accepted by the Government and which ultimately formed the core of the resolution before us as set out in paragraph 4(a) of the present terms of reference.

By and large the terms of reference are now acceptable to us because they will get at the facts. The first draft, bluntly put before us, was not designed to do this and would not have allowed us elicit all the facts. As indicated by Deputy Dukes, it took much negotiation and umpteen drafts before coming up with the present comprehensive, albeit focused, terms of reference.

I wish to refer to other planning issues. While not wishing to refer to specific amendments tabled by other Deputies, there are amendments which will be discussed over the next hour which refer to other potentially contentious planning and zoning decisions. All of us are receiving information about potentially corrupt decision

and suggestions of corruption. Like the Minister and virtually every other Member of the House, I want all these matters fully ventilated and explored. If people have suggestions to make they should present their information. We should then look at that information, as I did as Minister, when suggestions of impropriety were made. I said I would investigate any information or evidence presented to me to the furthest possible extent.

The Order Paper makes suggestions about two issues other than the central thrust or focus of this tribunal. I believe the Minister will not turn a deaf ear when I ask that for once and for all, we should have a full exposure and investigation of anything the people want explained. I wish the Minister to confirm my understanding that paragraph 5 of the terms of reference will achieve this. The section states:

In the event that the Tribunal in the course of its inquiries is made aware of any acts associated with the planning process committed on or after the 20th June 1985 which may in its opinion amount to corruption, or which involve attempts to influence by threats or deception or otherwise to compromise the disinterested performance of public duties, it shall report on such acts and should in particular make recommendations as to the effectiveness and improvement of existing legislation governing corruption in the light of its inquiries.

I want the Minister to confirm that this paragraph will allow those who have evidence or who believe there has been improper conduct in the planning process to submit that evidence to the tribunal to have it evaluated. Deputies will be set at ease if this is done. Without this there will be further allegations.

Whether as a Minister or in Opposition, neither I nor any other Member is in a position to make a value judgment on the issues now arising. It is almost as if one is involved in complicity if one does not demand an inquiry which may damage a person's reputation. It is an invidious and unacceptable situation in which to be. Whatever about the Taoiseach's proposal on a standing ethics committee, there is probably merit for a standing Ombudsman or tribunal to look at any suggestion of impropriety, past or present, and make a judgment. I hope these terms of reference will encompass that and the new tribunal will be able to take submissions from whomsoever it decides on matters suggested for specific amendment. If I get an assurance from the Minister, it would be better than specifying what should be done because we might well exclude aspects of the same issue through which we need to sift. I would like an open facility for somebody who has gathered or garnered evidence to submit it to presumably a learned judge who will determine whether an inquiry is warranted. That is equally an essential part of the terms of reference of the tribunal before us.

The Minister made a number of points the tenor of which I agree with but the specifics are a cause of concern. He spoke of the necessary courage of whistle-blowers and said much of what is happening is not in that category. There is a danger in the view that because a colleague has seen fit to tender his resignation somehow those who sought investigation are culpable. That is a very dangerous philosophy or line to adopt. If there are issues in the public domain, let them be investigated and let reputations stand or fall on the basis of actions and proper conduct, investigation and decision making.

The Minister spoke about corrosive cruelty dressed up as principled investigation. If we had the investigation we suggested three weeks ago, there would not be this corrosive cruelty to which the Minister referred. It is those who voted down that suggestion some weeks ago on whom the odium and blame must fall. He said the tribunal of inquiry and nothing else should be the instrument to address this, and I agree. The tribunal of inquiry must be given its head in the comprehensive way I suggested. The terms of reference we finally have will achieve that. However, these terms of reference and the great support we now see from the Minister and the Government for them were hard won over days of haggling and umpteen drafts before we reached the form of words which will meet the requirements of the situation.

The Minister also made a rather interesting and fulsome defence of the principle of rezoning which I found a little difficult to take. He wants to turn the view that anybody who is jaundiced about rezoning has put themselves on a moral high ground, that they should get real and live in the real world and that we need rezoning for development and progress and to provide houses for the homeless. However, that is not what has caused controversy but rather maverick rezoning. Indeed, it caused so much controversy that my predecessor as Minister, the present Minister's party colleague, changed the procedures to make it more difficult for material contraventions and for section 4 motions relating to zoning to be passed. It has been recognised that there has been more than an acceptable amount of rezoning in the past.

I made it clear I would not support maverick rezonings. My party has taken a strong and principled position on this matter for which I will not apologise. Necessary land should be made available in a structured and planned way. I welcome the Minister's comments on the planning process as a whole because it needs fundamental change. I was bringing that about and I hope the Minister will continue in that vein.

Part of the issue which needs to be addressed is that haphazard way in which plans are developed. For example, there is no statutory requirement to have a comprehensive plan. To put it succinctly, every county has its own development plan but there is no requirement for each plan to dovetail logically together, which is

bizarre. We do not have a national plan but counties with their own plans, some of which may run counter to the adjoining plan. We have made progress in the Dublin area by requiring the new regional authorities to act as agents for bringing together a dovetailed planning process, but we have a long way to go.

There is often a fundamental friction between adjoining local authorities in relation to development and proposals, whether on housing, waste disposal or water supply. Contentious views may be adopted by adjoining local authorities instead of working in partnership. We have long way to go to having a national plan, the subsets of which logically fit together and serve the rational development of our country.

Some of the plans devised recently visit on an isolated village a projected population increase of perhaps 500 or 1,000 per cent over five years. It is an amazing projection. We must provide houses but in a structured logical way. Over the years I have seen many proposals to rezone areas of land which have no services and to which it would be illogical to provide services in advance of providing services for other areas. These matters must be brought together in a logical way and I support the Minister's notion for a public forum to do so. A public and inclusive forum is a good idea from which we need to make hard decisions.

There are always grey areas in planning; there is no right decision. We must make the best decision in the circumstances, although there will be aggrieved people. If we have clearly defined rules and regulations, transparency in national and local administration, clear mechanisms for appeal, and open hearing systems where reports are in the public domain, we will quickly achieve full confidence in planning. Unfortunately, that is not the situation at present.

I refer to the role of the firm of solicitors, Donnelly, Neary and Donnelly, a point picked up on by Deputy Dukes. One of the amendments the Labour Party proposed to the Government, sought to bring within the encompass of the inquiry those making allegations. We suggested a form of words which would bring within the terms of reference allegations made in public, whether directly or indirectly, of corrupt or improper behaviour on the part of any person concerned with the formation, submission, consideration or approval of proposals relating to the planning and development of lands. The Government has adopted that, somewhat, in paragraph B(iii) which requests the tribunal to "seek discovery of all relevant documents, files and papers in the possession, power or procurement of said Mr. Michael Bailey, Mr. James Gogarty and Donnelly, Neary and Donnelly Solicitors."

I re-echo the hope expressed by the two previous speakers — the Minister and Deputy Dukes — that the firm of solicitors, who have said for a number of years that it wants a full tribunal of inquiry into planning matters, will co-operate fully and give whatever information it has to the tribunal. If they have something to say, they

[Mr. Howlin.]

should say it now and not waste this opportunity. It is important that those who have information about alleged corruption and interference come forward with that information at this time when we have a statutory mechanism to deal with it, this judicial inquiry which will be independent and powerful under the terms of reference which this House will approve tonight.

I wish to turn now to the central core of the terms of reference. I am very satisfied that they will, by and large, get to the heart of the issues which have caused controversy — the suggestion by an individual that he could procure planning permission, the circumstances surrounding the contribution of money to former Minister, Deputy Burke, and any other issue which might arise out of those lands.

I hope the Minister will confirm the view I expressed when we were negotiating the terms of reference, that is, that section A.5 of the terms of reference is a catch-all to allow for a full investigation of any other allegation of corruption in the planning process anywhere in the country subsequent to 1985, and that those terms of reference will enable the specific issues which other Deputies will raise, such as Glending or other lands in north Dublin, to be fully ventilated. It is very important to put that matter clearly on the record before we decide how to vote tonight.

I regret it has taken so long for the terms of reference to be finalised and that there was contention about their drafting. It was a difficult process for the Opposition to try to deal with draft after draft with legal opinions coming from the Attorney General's Office on the matter. More than once during that process we thought the Government was engaged in obfuscation rather than in building consensus. I believe the terms of reference now before the House meet, by and large, the requirements of Deputies on this side of the House — subject, of course, to the clarification of the specific points I raised.

Mr. O'Flynn: I wish to share time with Deputy Roche.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Mr. O'Flynn: A Deputy makes only one maiden speech and I am sad to be making mine at a time when a distinguished Member has had to resign his seat and Cabinet post.

I wish to speak clearly on this issue which has concerned me since long before I entered this illustrious House. During my time as a member of Cork Corporation I read and heard about the need for transparency and openness in public life. I agreed with the views expressed and I have heard members of all parties echo similar thoughts in this House since I have been privileged to join it. Unfortunately, recent events appear to show clearly that transparency may be an aspiration but not a reality. There have been

allegations and counter allegations about the abuse of power. There is talk of corruption, tax evasion, cosy cartels and the abuse of the Planning Acts, particularly in relation to the rezoning of land.

A Leas-Cheann Comhairle, can you blame the public for casting a cynical eye on politics and politicians? I cannot. People are regularly given a poor impression of politicians when they read newspapers, listen to the radio or watch television and the utter sensationalism by some members of our media is a major contributory factor. They are largely responsible for the exaggeration and distortion of events and they exercise a major influence on people's attitudes towards politicians. The *modus operandi* of some of the media is to allege that politicians are guilty until proven innocent. This undermines the vast majority of journalists who report the news in a professional manner.

If one were accused of a crime and brought before our courts, all matters relevant to the case would be *sub judice*. If the accused is proven guilty following the hearing, it is then right and proper for the media to make statements regarding the proceedings. The same rules of fair play should apply to politicians against whom allegations are made. The media should await the outcome of the tribunal before making their pronouncements based on the evidence. Some sections of the media should not pre-empt the tribunal by appointing themselves as judge and jury in the absence of all the facts.

Today, it appears one can make allegations without having to prove them. Reputations are lost and the integrity of individuals and bodies is impugned. The public perception of politicians will not change if their images are continually tarnished by attacks which are often unfounded. It is not enough for us to do the right thing; it must be clearly seen to be right and to be done for the right reason.

The buck stops with the Members of this House. Those who voted for me and the other Members of this House did so in the belief that we would represent them honestly and to the best of our abilities. I still believe they were correct in that assumption. The integrity and credibility of Members is basic to the exercise of democracy in this small nation.

The rezoning of land is an extremely sensitive area. It may make some people far wealthier because of the increase in the value of their land. However, it should not be forgotten that the Exchequer takes a healthy slice of the raised capital value of rezoned land through capital gains tax, VAT on building programmes and the PAYE and PRSI contributions of those involved in the construction industry, not to forget stamp duties, etc. These all add up.

We must create a climate of active investment. We must encourage those who have wealth to use it. They might create greater wealth for themselves in so doing but that also benefits the State and those who live here. We must remember that

investment is a risk from which one does not always gain.

In the course of development plans, corporations and councils, as we have already heard tonight, have the power to rezone lands. It is extremely important that they be allowed exercise that power transparently. Our actions must be to the benefit of the public. We must not seek to enrich anybody by the rezoning of their lands to their personal profit.

I regard the suggestion that decisions relating to rezoning should be submitted for ministerial approval as negative. That would further reduce the already limited powers of the elected members of local authorities. They should be free to deal with land within their own functional areas to the benefit of the public they represent.

Problems can arise when section 4 is invoked in regard to zoning applications before local authorities. There is a consultative process during the preparation of a development plan which goes on public display. There is further consultation between citizens, elected public representatives, planning officials and the executive of the local authorities. I believe there should be such a consultative process after the proposal of a section 4. The views of planners, developers and citizens must be taken into account.

A further safeguard in this process would be the submission of such rezoning to an independent consultative body on the lines of An Bord Pleanála. Its recommendations would be made public and referred to the local authority which could then make a decision to ratify or reject the disputed rezoning and justify its stand. The public might agree or disagree with the decision but it would be a position to assess the merits and motives behind rezoning decisions and it could not be said that matters were being dealt with in an underhand manner.

My priority is to re-establish the confidence of the people in those whom they have elected. We must react to the public demand that those in public office set an example of honesty and integrity which are prerequisites to holding office. If there is corruption in high places we must expose it. If we do so we can ensure that no further sensational stories will appear in the media about corruption in politics. We are the servants of the State and the people. Those who voted for us believed in us and we must confirm and counterfasten their faith in us.

I support the establishment of the tribunal and the terms of reference proposed. I abhor the necessity for such an inquiry and I urge Members to ensure that the need for another does not arise.

Mr. Roche: I compliment my colleague on his excellent maiden speech which was short and to the point. He echoed a sentiment that exists on all sides — the urgent need to re-establish confidence in public office and office holders. No party has a monopoly on that feeling; it is a commonly shared objective.

I will focus on the sale and rezoning of lands at Glending, County Wicklow. I have not been involved in this issue in recent times. I have shown a vigorous interest in it since the issue first appeared before Wicklow County Council. Proper procedures were not followed in the sale of those lands, a view I expressed last year and which is now shared by Members whose parties supported the sale and rezoning. Some of the Members opposite were in Government last year when I asked them to examine the issue and, although they could have taken action, they did not do so. However, this is not a time for recrimination. From this tawdry mess we should attempt to put our house in order. There is no point blaming the media for outlining wrongdoing. There have been many reasons over the past 20 years to raise questions with regard to land rezoning.

When public assets are disposed of it should be done in a way which is transparent and above question. The sale of the lands at Glending was not handled in such a manner. A year ago I wrote to a number of Ministers on this matter and some of them were forthcoming and helpful, in particular, Deputy Howlin and Deputy Michael Higgins. Deputy Higgins undertook to examine the files in the Office of Public Works on the matter and he gave me certain assurances that wrongdoing was not an issue there.

It is appropriate that the Committee of Public Accounts, when appointed, should request the Comptroller and Auditor General to do a thorough examination of the files relating to the sale of the lands. Even if no wrongdoing occurred it is the widely held view that the sale was not handled in an appropriate way. I am surprised the Comptroller and Auditor General has not examined the issue already given that it has been a matter of public debate for two years. I have argued consistently that the Committee of Public Accounts should pursue this matter. As soon as that committee is appointed I intend writing to it to request an examination of the files related to the sale. If wrongdoing is discovered it is in our interest that it would be exposed and, if not, the reputations of those involved will be vindicated.

I am one of seven councillors who voted against the rezoning of the Glending lands. Democratic Left was the only political party which was unanimous on the issue because it only had one member on the council, and it voted for the rezoning. Deputy McManus has had a great deal to say of late about the rezoning. I am not a cynic and I believe in Pauline conversions. She was a Minister of State at the Department of the Environment last year and she had the right to examine the relevant files in the Department. Deputy Howlin and Deputy Michael Higgins received my correspondence and responded with courtesy and in detail.

There are questions about the rezoning of the Glending lands which must be answered, mainly by Wicklow County Council. For example, in the original draft development plan for Blessington, published and circulated in 1993, there was a

[Mr. Roche.] commitment to retain Glending as an amenity area. There is a great deal of hypocrisy surrounding this issue. I was not supported in the council chamber at the time by parties which now support a detailed examination of the issue. However, I welcome their latter day conversions. The Fine Gael Party, with the exception of one individual, supported the rezoning. My party colleagues, despite my requests, also supported it. With one exception the Labour Party voted against the rezoning. Councillors Liam Kavanagh, Tom Cullen and I have consistently questioned this matter.

Mr. Howlin: Councillor Cullen as far as the High Court.

Mr. Roche: When we were struggling to find a means of exposing what was happening, Deputy McManus, who was a member of the county council and went on to become a Minister of State at the Department of the Environment, sat on her hands and did not assist Councillor Cullen when he took that personal risk. When the residents of Blessington asked the Deputy to intervene on their behalf she refused to do so. It is smirking hypocrisy of a high order to hear the Deputy question my good faith on the issue. I have nothing to be ashamed of because, from the outset, I maintained that the issue deserved examination. Deputy McManus indicated recently that her colleague, Councillor Kirwan, was not aware of the details of the rezoning. The Blessington Heritage Trust, Councillor Cullen and I tried to make the council aware. I was castigated for speaking at length on the matter at the council meeting. The cynical aspect of the rezoning that took place then is that those councillors who went along with the rezoning of Glending not only rezoned Glending but lands belonging to their cronies. One area has been the subject of a massive housing development, enriching one individual at the cost of the people of Blessington. No wonder people are sick of politics and politicians; to them they spell hypocrisy. I welcome this tribunal as I would welcome anything that would try to clear the name of politics. I will ask the Committee of Public Accounts to examine this issue and hope to have the support of other Members on that issue.

Mr. Gilmore: I congratulate Deputy O'Flynn on his maiden speech. This debate is to set up a new tribunal of inquiry and could have been avoided if, four weeks ago, the Government had accepted the amendment proposed by Democratic Left on the terms of reference of the Moriarty tribunal. When that tribunal was considered, Democratic Left made the modest proposal that the £30,000 payment to former Deputy Burke should be subjected to a preliminary private screening process to establish whether it warranted investigation by the tribunal.

If that proposal had been agreed, the £30,000 payment and the Bailey-Gogarty letter which emerged subsequently would now be under the scrutiny of Judge Moriarty and we would not be setting up a new tribunal. Former Deputy Burke might have been spared the necessity of retiring from politics and politics would have been spared the corrosive effect of a month's talk about political corruption.

That proposal was defeated because the Taoiseach and the Tánaiste led their parties into the lobbies against it, where they were tamely followed by Deputies Blaney, Healy-Rae and Fox, who have suppressed whatever pretensions they may have had to be independent. They voted for a position which is discredited, indefensible and being stood on its head this evening.

More than anyone else, the Taoiseach is responsible for allowing the Burke affair to ferment and become the political crisis it is. Repeating the mantra, "a man is innocent until he is proven guilty", the Taoiseach has sought to brazen out the growing public unease over this affair. His choice of the terms and language of the criminal courts to defend one of his most senior Ministers was extraordinary, and he was the first to do so.

The political arena is not the place to judge anyone's guilt or innocence, as those words are not the currency of politics. Credibility and confidence are the qualities by which public representatives and democratic politics maintain a relationship of trust with the citizens who elect us. The problem at the core of former Deputy Burke's dilemma has been that the public found it quite incredible that somebody the Minister did not know arrived on his doorstep with £30,000 in cash for his personal election expenses and that no favours were expected or returned. The public suspicion was fuelled when it emerged that the two gentlemen in the Minister's parlour had, a few days previously, been in correspondence with each other about a land deal which included the procurement of planning permission and the procurement of a majority vote on Dublin County Council. "Procurement" is an unusual term to use about a planning permission or about the exercise of the democratic function of an elected council.

Instead of addressing the problem upfront, the Taoiseach, by his mishandling of the affair, has brought about a set of circumstances whereby the outcome for his Government is worse than it was four weeks ago. He has lost one of his most senior Ministers and unassessable damage has been done to public confidence in politics. The Taoiseach began by circling the wagons in refusing to allow Judge Moriarty to examine the matter in private. Nobody had called for a separate new tribunal, yet the Taoiseach announced on the radio on the Sunday of the All-Ireland Final that a new tribunal was to be established. He cast further doubt on the integrity of politics by claiming others had received contributions of the same order as former Deputy Burke. Whether the Taoiseach has evidence for this claim will be con-

sidered by the new tribunal and I hope he will give evidence to that tribunal in this regard. Whether this claim was intended to frighten the Opposition or was an admission that the Taoiseach considers personal political contributions of £30,000 as normal has yet to be seen.

The House is now being asked to approve the terms of reference of a new tribunal which will examine the Burke issue, the Bailey-Gogarty letter and other matters relating to possible corruption of the planning process. I welcome the establishment of the tribunal and in particular paragraphs 4 and 5 of the terms of reference.

Paragraph 4 provides for the examination of the political and personal contributions made by Mr. Bailey and Mr. Gogarty and their associated companies since July 20 1985, whether those contributions were made to Members of the Oireachtas, councillors or council officials. It would test the claims of the Taoiseach that others received contributions. It will provide, for the first time, a public snapshot of the financial relationships between a major property developer and politics and planning. It is in the public interest to know if any such payments were made, to whom they were made and what conclusions may be drawn from that.

Paragraph 5 provides for a wider examination of possible corruption of the planning process. My party has called for this before and I have been calling for it since before I entered this House over eight years ago: On a number of occasions I have spoken here of my unease about planning, particularly in County Dublin where I am most familiar with the planning process.

The inquiry we are now establishing should have been set up in the late 1980s or early 1990s at the latest, not least because the new tribunal will inevitably find it more difficult to investigate complicated planning issues of some years ago. I was a member of Dublin County Council from June 1985 until 1993, when that council was wound up. Over that period, I saw frequent abuse of the planning process. I have no evidence of corruption, but I look forward to the investigations which will be conducted by the tribunal and to the report that the tribunal will present in order to establish whether corruption lay at the base of the abuse of planning which occurred in that period.

The worst abuse occurred between 1985 and 1991 when meetings of Dublin County Council were virtually dominated by proposals to materially contravene the County Development Plan and to grant planning permissions by way of section 4 motions. I summarised this abuse in a document which I published in March 1991 entitled: "The Rezoning Majority: A Study of Abuse of Planning in Dublin". In this document I explained that the section 4 provisions of the City and County Management Act, 1955 — the power of elected members of the county council to allow developments which would materially contravene the County Development Plan —

were very democratic provisions intended to serve the public interest.

I further explained that section 4 motions, material contraventions or land rezonings are not automatically bad in themselves. They are very necessary provisions to allow for the ordered growth and development of an area. Many of the material contraventions and land rezonings passed by Dublin County Council were well based. The problem, however, was the frequency of abuse and pattern of the use of these provisions. In the document I published, I summarised that between the local elections of 1985 and early 1991, Dublin County Council passed 41 section 4 motions directing the granting of planning permissions in cases where they might otherwise have been refused. In the same period, the council decided to grant planning permissions to 131 developments which would materially contravene the council's own development plan. Of those 131 material contraventions, 108 were proposed by Fianna Fáil councillors and 87 were seconded by Fianna Fáil councillors. The county manager and the professional planners employed by the council recommended that the motion should not be passed on 91 of the 131 material contraventions which were passed.

The bulk of the rezoning which resulted from the material contravention motions resulted in housing development. There has been some comment recently that this was necessary as house prices were rising and there was a shortage of housing land. House prices were not rising between 1985 and 1991. Anybody who knows anything about the property market will know that, over that period, the housing market was in quite a depressed state and there was no shortage of housing land in County Dublin. Of the land which was zoned for housing, 757 hectares already had planning permission but were not developed, a further 1,450 hectares were serviced but had no planning permission and 313 hectares were neither serviced nor had planning permission. This hardly indicates that there was a shortage of building land.

I estimated that the effect of the rezonings was to add £150 million to the value of the rezoned land. There was clearly big money at stake. Decisions made by the elected members of the council had the potential to add enormous values to land. Members of the council were intensively lobbied by developers and landowners seeking the rezoning of their land. Councillors were also lobbied by local community and environmental organisations which opposed many of the rezonings. Such lobbying is perfectly proper; it would not be proper if it went beyond lobbying. That, of course, is what the tribunal must find out.

Against that background, the use of the term 'procurement' of a majority vote at two council meetings in the Bailey letter is interesting to say the least. I have served more than 12 years as a public representative and I have never before heard the use of the term 'procurement' in the

[Mr. Gilmore.]

context of a planning application. Its use is especially curious in a section of the letter which seeks a reduction in the price of the land in return for, among other things, the procurement of planning permission and by-law approval, the steps to which are described by Mr. Bailey as 'expensive'.

Paragraph 5 of the terms of reference gives the tribunal a very wide remit. It is an important function but it will cause the tribunal some difficulty. First, the tribunal will have to sift through the frivolous cases which will inevitably be put to it. It is conceivable that any crank with a grudge against an elected or appointed public official may use this avenue to vent an allegation. Second, where the tribunal considers that investigation is warranted it will be handicapped by the lapse of time in examining past cases. The tribunal will, I believe, have difficulty in examining abuses of planning which occurred a decade or more ago. I hope this will not unduly handicap the tribunal and that it will be able, at least, to get to the bottom of any corruption which may have occurred.

Most of my remarks have referred to Dublin as that is where my experience lies. However, it is important that the investigation of planning abuse should not be confined to Dublin. Over the years, there have been many disturbing stories about the abuse of section 4 provisions, in particular, outside of Dublin and, more recently, there has been concern regarding rezoning in Kildare and Wicklow.

Deputy Roche has used this debate to rehearse his typically nasty approach to local politics and his constituency colleagues but my party supports the inclusion of Glending in the terms of reference of this tribunal. I must express some surprise that, given the vehemence of Deputy Roche's comments on that subject this evening, he managed not to vote for its inclusion in the terms of reference of the Moriarty tribunal when he had an opportunity to do so in this House four weeks ago.

I agree with previous speakers who said it is important that the information which Donnelly, Neary and Donnelly possess should be put before the tribunal. The clients of that firm of solicitors should instruct it to make that information available to the tribunal.

It is very regrettable that since the general election, politics and debate in this House have been dominated virtually exclusively by suggestions of corruption, political contributions, planning inquiries and so on. Since the general election we have already debated one inquiry and set up two others. It is time this House had an opportunity to proceed to consider the issues which most of the people who voted for us sent us here to address. Those issues relate to the economy, problems in relation to social conditions and immediate day to day concerns. The sooner we are enabled to do that, the sooner the wish widely expressed in this House — that the cloud of suspicion over politics be lifted — will be granted.

Mr. Ardagh: I offer my sympathy to former Deputy Ray Burke and his family on the death of Mr. Seán Burke and on the illness which has beset the family recently. It is a scandal that the witch hunt which has occurred resulted in former Deputy Burke coming to a decision to resign from the position of Minister for Foreign Affairs and from Dáil Éireann at this emotional time.

Deputy Gilmore said we could have avoided this tribunal and former Deputy Burke's resultant resignation if this Government had accepted the amendments in relation to the Moriarty tribunal. This situation could have been avoided if Members had trust in their own colleagues. There was no need for former Deputy Burke to be included in the Moriarty tribunal; that tribunal refers to two persons which the McCracken tribunal found were associated with gross irregularities and wrongdoing. Former Deputy Burke is guilty of nothing. In 1989 he received £30,000 as a political contribution without favours being sought or given. A full explanation was given to the House which, if there was trust among its Members, would have been accepted.

I would like to pay tribute to the former Deputy as a politician. I joined Dublin County Council in 1985 with Deputy Gilmore at the same time as former Deputy Burke was re-elected to it. Former Deputy Burke was chairman of Dublin County Council in 1985 and 1986 and I found him to be solid, steadfast and very serious. He went out and fought for what was right for the people he represented and I believe, as I am sure Deputy Owen does, that the parks in North Dublin — Ardgillan, Newbridge Demesne and Malahide Castle — are a tribute to him.

Former Deputy Burke knows his way around local authority bureaucracy. In his position as Minister for Justice, he showed that he was up to whatever could be meted out by the civil servants in that Department. During his tenure in Dublin County Council former Deputy Burke was able to get funds from reserves for the purposes of carrying out improvements in North Dublin. I was somewhat envious of that as I would like to have seen such improvements come about in west and south Dublin. However, former Deputy Burke was chairman of the council and, as a man of great ability, looked after his constituents very well.

Deputy Gilmore said there was no evidence of corruption in county councils and I concur with that. In the 12 years I have been a member of a county council, I did not know of any councillor who was offered or received an inducement for planning, apart from the £100 which was sent to Deputy Sargent and which was publicly shown at a council meeting. Deputy Gilmore also stated that many planning applications and rezonings were well based and I agree with him.

As a new Member I am appalled by the influence of the media in the matters that relate to this House. It appears the profits generated by the sale of newspapers — and that profit motive has come to the fore in recent years — and this

media influence pervades all happenings in the House. A senior member of an Opposition party for whom I have great respect told me that on the day drug trafficking legislation was being debated, and important developments at Stormont were taking place, the only question reporters wanted to ask him on leaving Leinster House was: where was the blood of Ray Burke? That is an appalling vista.

I read in the papers recently that I voted for the rezoning of one of the items in the tribunal's terms of reference. It concerned rezoning nine acres of land in Portmarnock which was proposed by two Oireachtas Members, Deputy Owen, the Deputy Leader of Fine Gael, and G.V. Wright, a member of the Fianna Fáil Party, and another councillor from that area. Those elected members were councillors from the area in which the land in question was located. They are people for whom I have great respect and I know they represent their constituents well. If a proposal is made by representatives of Fine Gael or Fianna Fáil in respect of an area about which I know little, I accept the arguments put forward by my colleagues. In the same way, if an item comes up concerning an area I represent, and if I believe rezoning or planning permission is necessary in that area, I expect colleagues in my party to support me.

Item No. 4 refers to the identity of all recipients of payments made to political parties, Members of either House of the Oireachtas, members or officials of a Dublin local authority or other public official. I understand that in April of this year a number of friends of mine organised a lunch for which they requested subscriptions of £125. A cheque for £125 was made out to those persons by a person whom I understand is a co-director in a company with Mr. Bailey. Apparently this is not included in the items to be investigated by the tribunal. I do not know the reason for that or whether it is relevant but I would not like to appear to be hiding behind this item simply because it is not covered under the terms "recipients" or "final beneficiaries of any payments".

There is a need for housing. Most of the people who attend my clinic or who phone me in my office are looking for housing. There are flat complexes in my constituency including Fatima Mansions, Dolphin House and Bridgefoot Street flats. There are 50 vacant flats in Fatima Mansions because people do not want to live there. They want to live in good quality housing in a nice environment where they can raise their families with pride and dignity. To enable them do that we must provide housing but there is a shortage of land for housing. In south County Dublin, 2,800 houses were built last year. Currently there are lands residentially zoned for 10,000 houses, that is three and a half years' supply. The development plan is currently being discussed and, as the Minister said recently, there was a ten year gap between development plans in Dublin County Council but I hope there will not be a ten year gap in the South Dublin County Council

area. There is a definite need for more lands to be rezoned in south County Dublin. It is only by rezoning lands for residential use that the people we represent can be housed. I do not have any qualms about exercising my responsibility in rezoning areas of lands that are needed for residential development.

A meeting of South Dublin County Council was held yesterday at which the idea of sustainable development was discussed. For two and a half hours the dedicated councillors of South Dublin County Council discussed this concept so that when we are making decisions on rezoning lands, we will take into account matters such as energy needs, maintenance of green spaces, etc. which are necessary to ensure that whatever development takes place will not endanger resources for future generations. County councillors take their responsibilities seriously, particularly in relation to this matter.

The purpose of the unseemly squabble currently being engaged in, mainly for political purposes, is simply to allow the media have its bite. All of the councillors I know, and I know many of them not only in south Dublin but also in Fingal, Dún Laoghaire-Rathdown, Kildare, Wicklow and Meath, are hard-working people who are dedicated to local service and the constituents they represent. They deal with the minutiae of people's daily lives. If the House will pardon the use of the word, they are the bridge between people and bureaucracy. The amount of time the majority of local authority members spend on council matters is enormous. They do that for the benefit of their constituents, not for their own benefit.

I agree with Deputy Gilmore who said we are not here to discuss political footballs or have unseemly rows. We are here to care for the social and economic needs of the people. Deputies today received a booklet from CORI on basic income. In a year when we have in excess of £500 million to give away, the use of the phrase "pay-back time" is regrettable because we have to discuss where that money goes. The combination of extensive poverty and unemployment has contributed to the growing exclusion experienced by large numbers of people. CORI states that an alternative model for organising the distribution of resources is needed. This alternative system, a basic income, should be discussed and brought into the public domain.

Mrs. Owen: Earlier today when the Taoiseach referred to the resignation of Mr. Burke the Ceann Comhairle ruled that party leaders only could make a short intervention. I obeyed the ruling and did not intervene in the debate. I regret that the Minister of State, Deputy Noel Davern, felt it necessary to try to score political points at this difficult time for the Taoiseach. I wish he had not abused the ruling of the Chair. I join with other Members in expressing my sympathy to Ray Burke, Seán's widow and their families at this extremely difficult time.

[Mrs. Owen.]

The resignation of Mr. Burke as Minister for Foreign Affairs was a matter for him and the Taoiseach, who appoints his Ministers. However, he would not have resigned his Dáil seat if the Taoiseach and the Tánaiste had handled this matter in a better and more efficient way. Following Mr. Burke's statement in the House some weeks ago, the media excoriated Opposition Members for not going in for the kill and claiming all sorts of wrongdoing by Mr. Burke. We were not aware of any wrongdoing and did not allege any but we tried to get answers to questions, which is what the Opposition is supposed to do. If the Taoiseach had taken the wishes of all Opposition parties on board and agreed to have the £30,000 donation further investigated by the Moriarty tribunal a Member would not have been put under pressure to resign from office and this House.

This is a sad day for the constituents of Dublin North who elected Ray Burke to the Dáil in every election since 1973. He served his constituents to the best of his ability. I am sure some people did not like all the decisions he took. I know for certain that some of my constituents in Dublin North did not like some of the decisions I took. However, all Members do the best they can. I lay the blame for what happened today on the Taoiseach's shoulders. He should have handled this matter in a more efficient and speedier way and covered it in the tribunal so that Mr. Burke could get on with his job and face the tribunal as he said he would. Even as more information emerged the Taoiseach ignored the need to have the matter investigated. When the letter exchanged between two people was made public the Taoiseach should have taken hold of the issue and included it in the tribunal where it would be examined. It is regrettable that he did not do this and he must take the blame for Mr. Burke's resignation.

I was Minister for Justice for two and a half years during a very difficult time. It is not proper for a Minister for Justice to trawl through files and dish the dirt on previous Ministers for Justice. As Minister for Justice I was subject to the Official Secrets Act and I took my job extremely seriously. I set about making changes in this sensitive Department and introducing long overdue legislation. I want to make it clear that I did not provide *The Irish Times* with the report by Mr. Dermot Cole into the Mahfouz passports issue: it was requested by my predecessor, Máire Geoghegan-Quinn. I resisted making any public comment on suggestions about what was in it but, as it has now been published, I wish to comment on it. I have no idea how a journalist got a report which was on a file in the Department of Justice. I wish to clarify one or two inaccurate points made in the media. This was an interim, not a final, report. Like my predecessor, I was concerned about some of the issues raised in the report and the loose way in which some of the mechanisms and processes for gaining naturalisation and passports had been handled mainly by

a senior official in the Department. When I examined the report I realised that only £3 million of the £20 million promised investment had been made. I asked my officials to continue looking for the remainder of the money and to come back to me when all of it had been identified or when they reached the stage where they could not identify if all of it had been invested. As reports in the newspapers now show, and as has been confirmed by the Department of Justice, £17 million of the £20 million has been identified.

I was concerned to ascertain from the interim report if there was any evidence of corruption. I want to make it clear that there was no evidence in the report of corruption or wrongdoing by anyone involved. There were certainly breaches of the technical requirements which, according to the report, were carried out in the main by officials in the Department of Justice. I was concerned about the undue haste in issuing the passports. It is important to note that the Mahfouz family had been in dialogue with people for three or four months prior to when it received the passports. However, the passports were issued very quickly at the end of the day and there were some unusual elements in the handing over of them. When I was Minister for Justice I never physically handed over passports to anyone and it was unusual to say the least for Mr. Haughey to hand over the passports to the Mahfouz family at a lunch at which no officials were present.

The role of the Minister for Justice in revoking naturalisation is very carefully defined, it is a legal process. Until such time as I was satisfied on the whereabouts of the £20 million there was no need for me to proceed against the Mahfouz family and revoke their passports. There may well have been a need to revoke them after the completion of the inquiry but there was certainly no case for me to do so at that stage when I would have run the risk of a High Court action which the Department would have lost.

I want to make it clear that this issue was raised in the context of what we now know about the lifestyle of Mr. Haughey. We did not know what the McCracken tribunal identified, that Mr. Haughey had a particular way of financing his lifestyle. We know where £1.3 million of Mr. Haughey's money came from and if the inquiry into where other moneys came from to allow him live his lavish lifestyle leads to the Mahfouz passports issue then so be it. I saw nothing on the file to allege any such corrupt act on the part of the people involved. The efforts of the Government parties to put the blame and full responsibility on Opposition parties for Mr. Burke's resignation today is regrettable and disingenuous. It is the Opposition's job to raise issues and questions about matters of public interest and to try to get answers. All Opposition parties rightly queried the provision of a £30,000 donation to one individual and asked that at least it be examined and put to rest if there was no wrongdoing.

As other speakers said, politics has taken a terrible beating in the past few years, particularly in

the past few weeks. All of us in politics feel that people's perception of us all is that we must be up to something. If somebody else makes money out of decisions we make, that is not a matter of responsibility for councillors or TDs. It is for the legislators to decide if they want to do away with any element of profit in any transaction undertaken by anyone in this State. The allegations made are unfair because councillors do their job.

The Local Government (Planning and Development) Act, 1963 states it is the responsibility of county councils to prepare a development plan with respect to county boroughs, boroughs, urban districts and scheduled towns for the use solely or primarily, as may be indicated in the development plan, of particular areas for particular purposes, whether residential, commercial, industrial, agricultural or otherwise. I was a member of Dublin County Council for 15 years and in latter years of Fingal County Council and was involved in the preparation of two development plans. That was a difficult time. I have a set of minutes of the council meetings for one year during the final period of the 1993 development plan. All living members of the council from 1985 to 1997 will be answerable to the new tribunal for the decisions they made. I have no problem in being answerable to the tribunal. I welcome it because I hope it will clear the air as to how councillors must prepare a development plan in a situation where they will always be open to allegations that by their decisions they have made money for other people. There is no other way of introducing a development plan other than to change zonings. Councillors of all parties on the council of which I was a member at some time voted in their best judgment for some form of zoning, whether for industry, general housing or single housing. I do not know how it can be claimed that some people are always under a shadow because they do that job. There have been Garda inquiries. There was one in 1991, 1992 or 1993 and no wrongdoing was found. I hope the tribunal will put to rest the allegations and the concerns raised.

Councillors, some of whom spoke in the Chamber, were not happy with some decisions. I was not happy with all the decisions made and in hindsight I might not be happy with some I made and if I had my time again I might change them. I made them on the basis of the best information I had without inducement from anybody. We went into those meetings, listened to the arguments and did our best to decide if rezonings were good or bad and voted accordingly. It is important I say that because I am one of the few former Fine Gael councillors who has a chance to speak here.

The demands placed on local councillors will continue. I welcome the Minister, Deputy Dempsey's remarks that he wants to make the planning process more transparent. The planning process as I operated it, and as I know it operated in Dublin County Council, allowed for two public displays of the development plan, one when the first

plan was put on display and another when it was reviewed and more changes were made. The public made thousands of submissions in respect of all elements of that plan. I would be interested to hear how the Minister intends to make the process more transparent. The councils are commencing the process of new development plans and I wish them luck. There will be another series of debates as to whether they should or should not allow for the fact that the population of Dublin is now 1,058,264 compared to 718,000 in 1961. Someone must face the reality of the growing population of Dublin. I do not know how that can be faced other than by providing for it in a development plan.

Ms M. McGennis: I wish to share my time with Deputy Noel Ahern.

An Ceann Comhairle: That is agreed.

Ms M. McGennis: I welcome the tribunal because I have been a member of Dublin County Council since 1985 and in latter years of Fingal County Council. I and many councillors reject the smear that attaches to being a Dublin county councillor. I express my sympathy to Ray Burke and his family on his resignation. I served with him when he was chairman of Dublin County Council. Although it was tempestuous at times and he was tough, he was also fair. He would not have subjected anyone to the type of vilification and smear he had to put up with in the past few weeks and months. One lesson I learned early as a Member of this House is that it seems there is very little humanity in this House. That was something of which I was not aware in the other House or as a member of Dublin County Council.

The Minister stated that rezoning has a bad name, which it has, but it is a statutory obligation of county councillors and county councils to review the development plan every five years. However, Dublin County Council only completed two reviews of the plan from 1972 to 1993, two reviews in 21 years. The chairman of the new tribunal should start his investigation at that point on the hiatus that created in County Dublin and the reason for changes in the development plan that might have seemed spectacular.

No changes were made to the 1993 development plan when I was involved in the 1991 to 1993 review. We did not make any changes to the decisions of the 1983 plan. If those decisions were so controversial and wrong, why were they not overturned?

There is more to the 1983 development plan than simple rezoning. I say that because I live in the Blanchardstown area. The development plan objectives or the spatial settlement strategies, as they were referred to in the documents Deputies Owen and I got during our period on the council when the plan was reviewed, were simple and straightforward. There were three new towns, Lucan-Clondalkin, Tallaght and Blanchardstown, which were to accommodate 100,000 people each.

[Ms M. McGennis.]

That was the settlement strategy for the county from the early 1980s. Any decision which interfered with that settlement strategy was objected to by the manager. Any proposals which the manager felt would be in competition with those three new towns were opposed, quite furiously at times, by the then manager.

It was said by Deputy Rabbitte, and I also said it at a council meeting, that pipes in the ground dictated where people could and should live. I ask the House and the new tribunal if that is good planning. I do not believe it is. As Deputy Owen said, most members of Dublin County Council rejected the suggestion that because a sewerage pipe could accommodate the waste products of 100,000 people in one of the three new towns in County Dublin that was the basis on which people would select where to live. Strangely, the only breach of this strategy was in the 1991-93 plan when the manager introduced the only rezoning proposal I can remember. There may have been others but this plan sticks in my mind. This was a rezoning proposal for, approximately, 500 acres in Carrickmines Valley. It was a managerial proposal and came out of the blue but if it is investigated we might discover if it was connected to the fact that there was a pipe in the vicinity which had been pumping out sea water for a number of years to make sure that it could be used when the time came.

In their wisdom the members of Dublin County Council rejected this proposal and yet no reference was made to the fact that it was a managerial proposal. North County Dublin, which will be the subject of the initial inquiry, was not to grow under any circumstances. That decision was made despite the fact that the ERDO report recommended that the north fringe would accommodate approximately 100,000 people as had been decided for the other three satellite towns. North County Dublin could and would not be allowed to grow and the tribunal will discover that fact in terms of the manager's strategy.

A recent newspaper article referred to 105 section 4 motions passed by Dublin County Council in an eight year period. A colleague has informed me that 27 of those motions concerned individual houses in north County Dublin for the sons and daughters of people already living there. As a result of the development plan restrictions imposed by the manager those people could not live in their home villages and towns. The strategy was that someone living in Rush, Lusk, Skerries, Balbriggan or wherever should move to Blanchardstown, Lucan, Clondalkin or Tallaght. That was the policy of the management of Dublin County Council.

Another point which is overlooked is that in my area of Blanchardstown I de-zoned a considerable amount of land owned by Dublin Corporation which was zoned for housing. We rezoned this land for industrial use. Deputy Higgins supported that although many of those who are most vociferous would say they never supported a

rezoning motion. I have supported such motions and I hope I can stand over all of those decisions. We decided that land zoned for housing in Blanchardstown should be rezoned for industrial use. That decision has resulted in the arrival of IBM and the promise of 3,000 jobs. Had we not decided to overturn managerial decisions these jobs would not exist.

Dublin Corporation was the largest owner of zoned land in County Dublin. I would pose a question to the tribunal chairman. Could there be a connection between the fact that until 1994 the manager of Dublin Corporation was also the manager of Dublin County Council even though he never attended a meeting? There were weekly summits in City Hall at which our managers were given their instructions. Could that manager have exerted any influence on the reports and rezoning proposals which he brought to us?

The Minister said that the tribunal will also look at designation. I wish to defend a decision made by the previous Minister, Deputy Quinn, in relation to Cherry Orchard. This decision has been smeared across the newspapers. This is a most deprived and disadvantaged area and the kind of innuendo attached to that designation is to be regretted. It is time for courage. I reject any suggestion of immunity from prosecution for those who bribed people or received bribes. It is time for those who made a lot of the running on this issue to put up or shut up.

Mr. N. Ahern: The genesis of this issue is the result of the election. The Opposition has never accepted that result. Before the election it believed its own propaganda and it seems determined to undermine the Government by foul means or fair. It is hard to listen to some of the self-righteous nonsense coming from some people who, if one is to believe rumours, have also questions to answer.

It is sad that we are dealing with this motion on the day that former Deputy Burke has resigned. The witch-hunt carried out against him is a disgrace. It is a sad day for politics when people go about trying to undermine and hound a good man out of office for weeks on end. During the past few days when Deputy Burke suffered a family bereavement the behaviour of some people in politics and the media has been very shabby. Only they can look in the mirror and say whether they are proud of their behaviour. There was a time when one was innocent until proven guilty, one received the benefit of the doubt. That time seems to be gone. The ruthless, continuous, headlong pursuit for a head seems to be the philosophy of politics and the media. We are all the sadder for it.

It is significant that the all-party talks have commenced in the North today. Former Deputy Burke can take credit for the part he played over the past few months in reaching this stage. I wonder if there is some jealousy in some quarters about the recent success of the talks? Perhaps we will have to wait for history to supply the answers

as to who orchestrated this recent campaign to undermine the former Minister and why. I do not wish to get involved in conspiracy theories but there might be interesting questions behind this issue.

It is very sad to see the way in which public opinion has been manipulated and people's characters undermined. There has been an ongoing drip of information and one wonders whether that was freely given or whether it was paid for. I am sick and tired of tribunals but sooner or later we will have a tribunal on the media and how it receives and presents its information. I wonder if when people pay 80p or £1 they consider whether they are reading fact or opinion, from where the spin comes, whether that spin is an opinion or genuine or whether someone has received inducements to frame it in that manner?

I am a member of the city council. There are not many rezonings in the city although we have material contraventions. Much of what is occurring is giving rezoning a bad name. I must defend the system of local government. There is nothing wrong with a council or councillor objecting to or voting against the recommendations of officials. Those in local government know that there is a balance between the powers of officials and councils. This is a battle and people must stand up for what they believe in. It is scandalous to suggest that there is something wrong with not taking the advice of officials. Many people have suggested this in recent days. Too often officials do not take the advice of elected members yet no one ever suggests that this is done for an ulterior motive. They do so because they believe it is right. I know that some rezonings might have been difficult to understand but the problem is partly a result of the development plan. The process is so long-winded that no sooner has one review been completed than another is started. I am convinced the tribunal will vindicate the former Minister, Deputy Burke. I hope at the end of the day all of us in politics will portray a proper image and stop telling tales on one another, which does much damage.

Mr. Higgins (Dublin West): The proposed tribunal relates particularly to planning matters. As a member of Dublin County Council in 1991 and 1992, I found myself at the centre of a maelstrom of rezonings, led not primarily by considerations of good planning but in response to demands of landowners, developers and, in some cases, speculators. I was astounded the Minister, Deputy Dempsey, spent a considerable time attacking those who question some rezonings that deserve to be questioned. He attacked people who ask legitimate questions rather than directing his attention to answering the questions raised.

Today we are setting up another tribunal arising from information accidentally brought to public attention, information involving a donation of £30,000 and a letter which refers to the procure-

ment of planning permission. A Fianna Fáil Member said that if there is corruption in high places we must expose it. Ordinary people believe there has been massive corruption involving obscene profits from land speculation, particularly in the Dublin area and perhaps in other areas.

It is an undeniable facet of the ugly face of capitalism that land rezoned from agricultural to residential or industrial rockets in price by up to 30 times the original price. The result is that young people purchasing homes pay for speculation and profiteering. They spend 20 to 30 years of their lives repaying mortgages, a good part of which pays for the site on which their home is built, a site from which a speculator, landowner or developer has made a fortune. Will the main parties of the Establishment who spent most of the day rubbishising the attack on the planning process, and particularly rezonings in Dublin, give their views on those factors? This is not an academic discussion but one that impinges on the lives of tens of thousands of ordinary working and unemployed people.

There is a demand for the truth in this whole controversy, but the Government's terms of reference may set the scene for a possible cover-up of the truth rather than for its revelation. Paragraph 5 of the terms of reference refers to the tribunal investigating acts which, in its opinion, amount to corruption. I hope the Minister will direct attention to the amendments I propose rather than read a prepared script. We should be given concrete answers. Does there have to be direct *prima facie* evidence of corruption before a serious matter of planning can be examined by the tribunal? I refer to amendment No. 4 in my name.

In 1993 two parcels of land comprising 130 acres at Dublin Airport were inexplicably rezoned from agricultural to industrial by a coalition of councillors from the Progressive Democrats, Fianna Fáil and Fine Gael — the information is in the minutes of the meetings concerned. The Department of Transport, Energy and Communications of the day, the Department responsible for Dublin Airport, wrote to the county council stating that the land should not be rezoned. Aer Rianta, the public body charged with the management of national airports and future strategy for the development of airports, told the county council that in about ten years' time this land on the periphery of Dublin Airport would be needed for expansion for a new terminal and related development. Even the Dublin Chamber of Commerce wrote to the county council stating that the land should not be rezoned, yet the rezoning was agreed to.

The effect is that the 130 acres, which might have been bought by Aer Rianta for £5,000 per acre and would cost £650,000 in agricultural zoning, because it was rezoned for industrial purposes could cost £100,000 per acre or, as has been stated by people in the property market, £150,000. Aer Rianta, therefore, could have to

[Mr. Higgins (*Dublin West*).]
pay between £13 million and £19.5 million simply because the land was rezoned. Since Aer Rianta is a public body, that would be a direct attack on the taxpayer, and for what purpose? The effect would be to enrich a tiny handful of individuals.

Why did the councillors agree to the rezoning against all the advice? That matter should be investigated. Can that case be referred to and examined by the tribunal and an investigation conducted into the matter? The Minister should deal with that issue and with the amendments. I called for an investigation into the Glending Wood case, the sale in secrecy for £1.25 million of valuable State lands which could be worth £48 million. Herein lies a scandal of immense proportions which must be investigated. The rezoning of Laraghcon in the slopes of the Liffey Valley near Lucan should be examined. That area should be kept as an amenity for the huge communities between Blanchardstown and Lucan. Land must be set aside for homes and industry in Dublin and elsewhere, but that can be done rationally, without profiteering in housing and industrial land. There should be strict control of building land so that the scandals I believe have occurred, irrespective of whether there was corruption, will never happen again. In the interests of those who have to purchase homes — a basic shelter that everyone requires — the profiteering element should be taken out of building land. To facilitate a proper investigation and discovery of the truth, provision should be made for at least limited immunity for those who have guilty information. This is necessary to ensure that more of the truth comes to light and that a successful investigation into scandals and corruption takes place.

Ms M. McGennis: Those who were paid bribes should not get immunity.

Mr. Sargent: I thank Deputy Higgins for sharing time with me. While I had heard rumours about the Minister, Deputy Burke, resigning from his ministerial position, I was shocked to hear of his resignation from the House. This highlights the vulnerability of politics and politicians. He did a great deal of good work. He spoke out strongly against landmines, something that is close to my heart, and when in Opposition he spoke strongly on the question of neutrality. There is a sense of shock in my constituency tonight.

I agree with Deputy Higgins that Glending Wood should be included in the tribunal. The drip feed of information in the media in recent days, irrespective of whether it is accurate, will continue unless this matter is investigated by a tribunal. I do not agree with Deputy Roche that the matter can be dealt with in a committee. Committees cannot compel witnesses in the same way as a tribunal. We will never get to the bottom of this issue if it is not investigated by a tribunal.

The Minister for the Environment referred to rezoning. I am sure all Members would agree that rezoning has a part to play in proper planning, but it is a question of whether it is done rationally or against the advice of planning officials. I witnessed two types of rezoning during my time as a member of Dublin County Council, when many bizarre proposals were brought before the council. During that time I received money with a request that I consider favourably a rezoning proposal. On 13 February 1993, having asked if any other member of the council had also received such money, I was quickly told to resume my seat as I was causing disorder. I was assaulted in the chamber, the meeting had to be adjourned and, for my own safety I was told, I was led from the chamber by the county manager. For the sake of the planning process and confidence in public life, the nervous attitude among those involved in planning must be tackled.

I hope the tribunal will begin to put to rest at least some of these allegations — to uphold them or to throw them out as unfounded. I have no doubt the allegations will continue to surface and that there will be a cloud over the heads of all councillors because we cannot say who was honest and dishonest unless we have this tribunal. If the matter is to be investigated properly the DPP will have to be asked to ensure immunity for witnesses. Up to now both Fine Gael and Fianna Fáil Ministers for Justice have said the DPP is above politics and cannot be asked to grant immunity to witnesses. That is fair in most cases but issues such as this, which are in the national interest, have to be followed through. This is an issue on which the DPP will have to be guided.

The tribunal will not be the end of this matter unless it is given the latitude to follow any money trails unearthed. As in the Hamilton tribunal, the McCracken tribunal and now in the Ansbacher tribunal, as it is being called, unless there is latitude to follow those money trails the process will be seen to be flawed and ultimately will give rise to further investigation and numerous tribunals.

Mr. Timmins: I thank the Minister, Deputy Molloy, and Deputy Stagg for sharing their time. For the past 45 years Roadstone has been involved in the extraction of sand and gravel at Blessington. The company's lands at Blessington extend to 638 acres. The lands are divided between active extraction areas, lands undergoing reinstatement and lands that have been reinstated to forestry and grasslands use. Of the 638 acres, 147 acres were sold to the company by the Department of Energy in or about 1992. The 147 acres sold to Roadstone by the Department are subdivided as follows: 90 acres is a coniferous commercial plantation and 57 acres is a mature plantation known as Glending Wood and Deerpark Plantations. This area will not be exploited in any way.

Subject to the granting of planning permission the company's intentions for the 147 acres are as follows: the 57 acres known as Glending Wood

and Deerpark Plantations to be retained as they are in full and managed to best forestry standards and 80 acres to be used for sand and gravel extraction. These lands will be fully reinstated to forestry, grass and wetland, ten acres of coniferous plantation to be maintained for additional screening purposes.

In respect of the sale of the lands, in a written reply to Question No. 298 on 15 April 1997, column 1141 of the Official Report, the former Minister for Agriculture, Food and Forestry, Deputy Yates, stated:

Prior to the sale detailed assessments on the property were carried out by the Geological Survey of Ireland and by independent consultants to evaluate a fair market price for the property.

In April 1990 the independent consultants suggested that the Department of Energy might be best advised to invite offers by tender for the sale of the land. However, following an offer for the property by the first company [Roadstone] mentioned by the Deputy, the consultants subsequently advised in October 1990 that it would be most unlikely that any other party would be able to match an offer from that company and strongly recommended that the sale to the company be pursued. The then Minister for Energy accepted that advice and the land was not advertised for public sale.

The Minister was aware that there had been an expression of interest from the second company mentioned by the Deputy. While negotiations on the sale of the property to the first company were in progress, the second company made an offer for the property, but that offer was significantly lower than that of the first company and was not therefore accepted. On the basis of advice available to him, the Minister was satisfied that, if the land were put on the market, it would most likely fail to reach the price on offer from the first company. In accordance with the guidelines on the disposal of Government property where a sale is not conducted by public tender or auction, the approval of the Department of Finance was sought and obtained before the offer by the first company was accepted.

Deputy Yates then went on to say that taking into account the circumstances of the case the Minister at the time was satisfied the State received a fair price for the sale of the property.

In recent times there has been much comment in County Wicklow on Glending and development in the Blessington area. A few vociferous individuals have made many claims. Blessington is a small market town located just 20 miles south of Dublin, and it is undergoing radical change due to the proximity of the capital. I fear that it may become a political football. There has been much information and innuendo on the airwaves and in the media where allegations of planning scandals and rezoning of lands for pals have been made,

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and the credibility and bona fides of certain individuals have been unfoundedly called into question in a most distasteful way. I believe there is nothing to hide with respect of the development of Blessington and Wicklow in general. I welcome the terms of reference of the new tribunal and, in particular, paragraph 5, and I look forward to those individuals who claim there is something wrong with planning coming forward with factual information and ceasing to peddle speculation.

Mr. Stagg: In the limited time available to me I will deal with planning and zoning in county Kildare. Zoners there have gone stark raving mad. Fianna Fáil, Fine Gael and Progressive Democrat councillors have been zoning land at such a rate as to lead to 90,000 additional population in the county over a period of five years. This has been vigorously pursued by the right-wing coalition of councillors, despite the strong opposition of the county planners and the opposition of planners from the Labour Party, Democratic Left and the Green Party. The availability of infrastructure such as roads, water and sewage treatment is of no concern to the zoners. When advised by the planners that these necessary infrastructural facilities were not available, it mattered not one whit. Zone and be damned seemed to be the philosophy. No thought was given to the need for schools and amenities.

As an example of what I am talking about, at one meeting of the Clane Area Committee of Kildare County Council, the councillors, two Fianna Fáil and two Fine Gael, were told the lands they were now proposing to zone for residential development was subject to regular flooding and that the county council would be liable for damage caused by the flooding of houses in future. When it was established by the councillors that individual councillors would not be liable for damage, it was decided unanimously by the Fianna Fáil and Fine Gael councillors to go ahead with the rezoning. That is in the village of Clane where the zoners propose to extend the population by a factor of three in a mere five years. This pattern of massive zoning is being pursued not just in Clane but throughout mid and north Kildare. In Kilcock the same Fianna Fáil and Fine Gael councillors propose to enlarge that village by a factor of five inside five years, and this despite massive public resistance to their proposals. In Kilcock a formal plebiscite was held and, despite the full weight of the Fianna Fáil and Fine Gael political machines in favour of rezoning proposals, they were rejected by the public by a margin of two to one. In the prize-winning village of Johnstown, land in the family ownership of the local councillor was zoned from agricultural to residential use which will increase its population by a factor of seven, destroy its village character and transform it into a commuter town — the value of the land went up from about £100,000 to £1 million overnight.

Mr. Dukes: The Deputy was a bit more circumspect with the public when he spoke about this.

Mr. Stagg: In the town of Newbridge, the councillors zoned a sizeable pocket of land that would be sufficient for indigenous needs for 50 years, but the Fianna Fáil, Fine Gael and Progressive Democrat zoners were not satisfied with this. They also decided to go some miles outside the town to zone land in the ownership of Senator John Dardis, then chairperson of the Progressive Democrats. The 20 acres in question automatically shot up in value from approximately £60,000 to £2 million. If Senator Dardis was not a millionaire before that decision he is now. It should be recorded that Senator Dardis is a member of the planning authority and did not vote on the decision.

This pattern is repeated throughout the county with probably the worse excess is in Maynooth where the full council decided to zone the green belt on either side of Cartan Avenue for residential and commercial purposes despite the strong opposition of the planners, overwhelming opposition by the public and majority opposition by the Celbridge area committee of the council.

These planning outrages in County Kildare are such that the previous Minister, Deputy Howlin, refused to accept the county development plan. This action was unprecedented and I congratulate Deputy Howlin for having the courage to do so. The county councillors in favour of zoning went back to the drawing board. The proposal they have come up with has also been rejected by the Minister, Deputy Dempsey. It is to be hoped that reason will prevail in County Kildare and that Fianna Fáil, Progressive Democrats and Fine Gael county councillors will heed the advice of the professional planners and the opinion of the public and take account of the planning needs of the county.

Why do Fianna Fáil, Progressive Democrats and Fine Gael county councillors who are normally industrious in their attention to the needs of their areas lose all reason when it comes to zoning land for residential development? The reason is plain — money and greed. Land zoned from agricultural to residential use rockets in value from approximately £5,000 per acre to £100,000 per acre. Ten acres yields approximately £1 million.

Fianna Fáil, the Progressive Democrats and Fine Gael are supported with funding by those who make these massive gains and the golden circle continues. Action must be taken —

Mr. Dukes: On a point of order, Sir, will you recall for Deputy Stagg the provisions and measures made by the House in its last formation about statements and the care Members should take not to trespass unduly on the rights and good name of persons outside it? Deputy Stagg has come close to saying things that he has so far failed to say or avoided saying in public.

Mr. Stagg: That is not true, I made these points on the local radio station, CKR.

Mr. Dukes: The Deputy is getting close to slander in his usual appetite for gory detail.

An Leas-Cheann Comhairle: I ask Deputy Stagg to refrain from referring to persons who are not in position to defend themselves.

Mr. Stagg: Action must be taken to outlaw private contributions to political parties and politicians. If the connection between big business and political parties is to be broken this is an imperative.

Mr. Dukes: What about big unions?

Mr. Stagg: Legislation should be introduced to claw back through the taxation system the added value on land arising from rezoning.

Mr. Dukes: Socialist sanctimoniousness, even worse than the Progressive Democrats.

Mr. Stagg: It is obvious I have got under the Deputy's skin, a good measure of success. Legislation should also be introduced to allow interested parties appeal against decisions to zone land for development. The law allows for appeals against the most minor developments from the building of a front porch to the size of a front window. Why is there no appeal against decisions that allow the face of a whole area or a county to be changed?

Minister for the Environment and Local Government (Mr. Dempsey): I thank the Deputies who contributed to the debate. From the contributions which have been made no one disagrees there is a need for a judicial investigation to get to the bottom of the allegations, rumours and innuendoes which have beset the planning system and have scant regard for the good name and reputation of those who serve on public authorities whether as elected members or officers. If people are guilty of impropriety I hope this will be established and they will have to face the consequences of their actions. If, on the other hand, people who have been fingered are innocent it is even more important that their good name is restored, that they are vindicated and that the allegations and innuendoes are refuted. As is clear from the Programme for Government, it is a major ambition of mine during my term as Minister to improve the operation of the planning system. The process has commenced.

Over the next year or so, I hope to bring a number of Bills before the House to reform and consolidate planning law. The public consultation exercise in which I am now engaged will help to achieve this. I urge anyone who has an interest in good and proper planning to feed their ideas into the process so we can have an improved system in place by the middle of next year. The tribunal will help to dispel the fog of cynicism that fre-

quently affects planning, pointing up lessons that can be learned so that the legislation can be strengthened.

Deputies asked me to respond to their amendments. Up to the outbreak of hostilities between the two Kildare Deputies the debate was very civilised. I will make one political point on the contributions of Deputies Dukes and Howlin. They persisted in questioning the bona fides of the Government in drafting the tribunal's terms of reference. The desire and aim of the Government at all times was to have an effective, efficient and focused tribunal. When the draft terms were brought forward the Opposition had difficulty with them. The Opposition Whips involved in the negotiations would agree that while they had disagreements and rows about what they felt needed to be included, all told, there was a desire among all parties to get the most effective terms of reference to prevent this from going all over the place and wasting time.

As a result of the consultations the terms of reference are now better than those first drafted. It would be remiss of me not to pay tribute to the Whips who had responsibility for drafting the terms of reference and coming up with something reasonable.

Deputy Howlin talked about the need for an ombudsman to reassure the public on an ongoing basis about matters of concern. That is precisely the point I made in my contribution. The Taoiseach, when in Opposition, put forward that idea and is following up on it in Government. I agree with Deputy Howlin that it is vital to have this commission in place so that legitimate concerns, allegations and evidence that people have can be brought to a body that is independent of all of us in this House and independent of the "system". They can then put their case which can be independently investigated. That is the aim we have in setting up the permanent ethics commission.

While we all have our own views of different aspects of this controversy, we can agree it is absolutely necessary to have some other way of dealing with matters of this nature rather than across the floor of the House, until such time as allegations are proven or otherwise. I am sure Deputies will support that when the time comes.

As regards Deputy Howlin's contribution, and Deputy Higgins' amendment to section 5 of the tribunal's terms of reference, I am happy to give both Deputies the assurance they sought on paragraph 5.

The Deputy's interjection was correct. Paragraph 5 requires the tribunal to report on any acts associated with the operation of the planning process of which it becomes aware during its inquiries and which it believes might amount to corruption or which involves attempts to compromise the disinterested performance of public duties. Paragraph 5 is designed to be as wide and specific as possible so that the tribunal can investigate any evidence which suggests corruption. If people bring matters to the attention of the tribunal, it will be in order for it to pursue them.

While Deputy Gilmore welcomed paragraph 5, he said it went too far. This shows the difficulty the Whips had in drafting the terms of reference. I spoke to the Attorney General about this matter and it was felt that if we tried to specifically list the different incidents we wanted investigated, one would be left out. If that incident arose during the tribunal, it would be stymied and a new one would have to be established. I assure the Deputies that paragraph 5 addresses their concerns. I give an undertaking that if it does not, we can discuss it again in this House.

Deputy Dukes tabled amendments Nos. 1, 1a, a1, 2, 7 and 8. I am advised that these are not specifically needed. The Deputy said he wanted clear terms of reference and that he had tabled these amendments to remove any doubt. On the basis that they do not alter the agreement already made with the Whips on the terms of reference, I will accept the amendments, with the exception of amendment No. 7, and include them in the terms of reference. I have also received advice on amendment No. 7. The Deputy wanted to insert "Electoral, Freedom of Information and Prevention of Corruption" Acts. I suggest that he accepts my amendment to insert "any other relevant Acts" so the tribunal does not feel it has to investigate all such legislation. The phrase, "any other relevant Acts", would leave the tribunal free to investigate legislation if it so wishes.

Mr. Dukes: I accept that.

Mr. Dempsey: I thank the Deputy. One of the clearest demands from all sides of this House is that Donnelly Neary and Donnelly Solicitors, their clients and all their complainants would put before the tribunal at the outset the facts and evidence they have in their possession. That is the one clear message to emerge from this matter. It will greatly facilitate the tribunal in its deliberations and remove the need for much preliminary work which might otherwise have to be done. With no sense of acrimony I say to those solicitors that they now have what they desired, namely, a judicial inquiry into the planning process in Dublin. I expect they will do their utmost to co-operate with that inquiry and make available to it all the evidence in their possession.

I refer to a comment relating to councillors lining people's pockets by rezoning land, etc. In fairness to councillors, they have a job to do and they sometimes work under enormous pressure. They have a duty to become involved in and take responsibility for the planning process and development plans. It is unfair to characterise them doing their duty as doing it for the sole reason of lining people's pockets. It is the responsibility of this House to ensure that, if people are making money from decisions relating to rezoning, etc., a regime is put in place to deal with such matters and collect suitable taxes from those involved. I have referred this matter to officials in my Department and the review group

[Mr. Dempsey.]
in order that consideration might be given to the provision of services in respect of rezoned land.

I thank Members for their contributions and, assuming the motion is passed, I wish the tribunal well in its work.

An Leas-Cheann Comhairle: For the purpose of clarification, in mentioning paragraph 6 the Minister referred to the word "Acts". I must inform him that the word "legislation" is already included in that paragraph. Therefore, the amendment tabled by Deputy Dukes will now read "In paragraph A.6., to delete "and Ethics in Public Office" and substitute "Ethics in Public Office and any other relevant". As it is now 8.30 p.m., I am required to put the following question in accordance with an Order of the Dáil of this day:

"That amendments Nos. a1, 1, 1a, 2, 7, as amended, and 8 are hereby agreed to; that amendments Nos. 3 to 6, inclusive, are negatived; and the motion, as amended, is hereby agreed to."

I think the question is carried.

Mr. Higgins (Dublin West): Vótáil.

An Ceann Comhairle: On the question, "That amendments Nos. a1, 1, 1a, 2, 7, as amended, and 8 are hereby agreed to; that amendments Nos. 3 to 6, inclusive, are negatived; and the motion, as amended, is hereby agreed to" a division has been challenged. Will Deputies who are claiming a division please rise?

Deputies Gormley, Sargent, Gregory, Joe Higgins and Ó Caoláin rose.

An Ceann Comhairle: As fewer than ten Members have risen in their places, I declare the question carried. In accordance with Standing Order the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Question declared carried.

Adjournment Debate.

Drink Price Increase.

Mr. Rabbitte: The reported increase in the price of the pint was permitted by a decision of the Government. I am displeased that none of the Ministers responsible have presented themselves in the House this evening. The matter will be replied to by the Minister of State at the Department of Health and Children with special responsibility for food safety and older people.

This is an important matter. As recently as 9 July the Minister of State at the Department of Enterprise, Trade and Employment with special

responsibility for labour affairs, consumer rights and international trade, Deputy Tom Kitt, told the House that he had no plans to raise the price fixing order that I imposed last March. However, it is reported in the newspapers that the Minister has done that and has permitted the trade to take an increase of 5p.

In so far as we can establish a reason for this it is that the brewers have increased the price of a pint by 2p and that the remainder is taken by the licensed trade. It is shameful that any Minister with responsibility for consumer affairs would capitulate in this fashion to the powerful lobby of the licensed vintner's trade, which is well represented in Government. There is no justification for it either in terms of fairness to the consumer or its impact on inflation.

In terms of fairness to the consumer, the proportion of the cost of a pint going to the publican has consistently increased in recent years at the expense of the Exchequer. The rainbow Government refrained on three successive budgets from imposing an increase in excise duty on alcoholic drink on the understanding that the trade would show similar restraint. However, the trade took a price increase of 5p and, having failed to persuade those publicans outside Dublin to rescind it, I found it necessary to impose a price fixing order effective from 11 November 1996. That contributed to depressing the CPI by 0.2 per cent.

I seek permission to have circulated a note on the statistics of this from the weekly monitor produced by Davy Stockbrokers which point to the fact that the depression in the CPI in the past year was 0.2 per cent arising from that price fixing order because alcohol forms such a disproportionate share of the basket of items that make up the consumer price index. In submitting to the lobby from the publicans the Minister is prepared to put the present low inflation environment at risk.

Whatever the excuse for permitting the brewers to take an increase, which is not justified in this low inflation environment, there is no excuse for the Minister of State to bow the knee to the publicans in the fashion that he has done so. He told the House on 9 July that he had no plans to raise the price fixing order but as soon as the vintners visited him he rolled over.

It is a particularly inauspicious start for any Minister of State at the Department of Enterprise, Trade and Employment, as his first act in Government, to impose on the ordinary pint drinker an increase of 5 pence in the price of the pint with, apparently, the support of his colleagues in Government.

It is a disgrace and I ask the Government to reconsider it.

Minister of State at the Department of Health and Children (Dr. Moffatt): Following detailed discussion with representatives of the drink industry, and having received undertakings on price restraint, the Minister of State at the Department of Enterprise, Trade and Employment

