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Judgment: approved by the Court for handing down
*(subject to editorial corrections)**

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IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

v.

PATRICK McPARLAND and JOHN McPARLAND

STEPHENS J

Introduction.

[1] This is an application by the prosecution to vary the place of trial from Newry Crown Court in the division of Armagh and South Down to Belfast Crown Court in the division of Belfast.

[2] The application is brought under section 48 of the Judicature (NI) Act 1978. That section is in the following terms:-

> 48.–(1) A Magistrates Court committing a person for trial shall specify the place at which he is to be tried, and in selecting that place shall have regard to
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> (a) the convenience of the defence, the prosecution and the witnesses;
>
> (b) the expediting of the trial;
>
> (c) any direction given by the Lord Chancellor under section 47(2).
>
> (2) Without prejudice to the preceding provisions of this Act about the distribution of Crown Court business, the Crown Court may give directions or further directions altering the place of any

trial on indictment, either by varying the decision of a Magistrates Court under sub-section (1) or a previous direction of the Crown Court.

(3) The defendant or the prosecutor, if dissatisfied with the place of trial as fixed by the Magistrates Court or by the Crown Court may apply to the Crown Court for a direction or further direction varying the place of trial; and the Court shall take the matter into consideration and may grant or refuse the application or give such other direction as the Court thinks fit.

[3] For the purposes of this application the prosecution was represented by Stephen Fowler QC and David Cartmill. The first defendant was represented by Lawrence McCrudden QC, John Kearney and Mark Mulholland. The second defendant was represented by Philip Magee S.C. and Gavan Duffy.

The charges and the allegations in relation to those charges.

[4] The defendants Patrick McParland and John McParland are each charged with eight counts of cheating the revenue.

[5] I set out in summary form the nature of the allegations being made by the prosecution against the defendants. I emphasise that the matters set out in this paragraph are allegations which may or may not be substantiated in evidence at trial.

(a) That the defendants were the subject of an investigation conducted by the Inland Revenue that commenced in February 1992 and concluded in 1993 ("the 1992/93 investigation"). That the investigation had been prompted by receipt of information that the defendants held an off shore account with the Northern Bank Finance Corporation in Dublin, the interest from which they had failed to disclose.

(b) That the 1992/1993 investigation was under the Hansard procedure. That the purpose of Hansard is to induce a person who has committed serious fraud against the Inland Revenue to make a full disclosure of all facts bearing on liability to tax and to pay the amount of duty lost including a penalty without a criminal sanction.

(c) That during the course of the 1992/1993 investigation the defendants did disclose that they had operated further off shore bank accounts in Dublin, Jersey and the Isle of Man none of which had previously been declared to the Inland Revenue. In

addition that the defendants disclosed that, other than transfers between accounts, the capital deposits in those accounts arose from undisclosed profits from the building partnership operated by the defendants based in Newry.

(d) That during the course of the 1992/93 investigation the defendants commissioned a report to be prepared by Russell McConville Associates. That the purpose of the report was to quantify the extent of the profits that had been omitted from the partnership accounts and deposited in the various off shore accounts and to determine the amount of duty lost to the Inland Revenue arising from those omissions and detailing all irregularities.

(e) That the responsibility for the accuracy and completeness of the Russell McConville report rested entirely with the defendants. That the defendants were requested to and did certify the report. That they also completed statements reflecting their total assets and certificates that a full disclosure had been made to the Inland Revenue.

(f) That in March 1993 Russell McConville Associates submitted a report to the Inland Revenue. That the defendants had signed the report and certified that they had examined it.

(g) That the accuracy and completeness of the report was challenged at the time by the Inland Revenue. However that Patrick McParland advanced the explanation that amounts totalling £500,000 out of off shore accounts had been paid as "protection money" to paramilitary forces over a 15 year period. That the inspector suggested that the likely destination of the money was another off shore account or accounts. That this was denied by the defendants.

(h) That a settlement meeting with the defendants took place on 6th October 1993. That in the absence of evidence to the contrary the Inland Revenue accepted the account that the amounts of £500,000 went to paramilitaries. That the settlement figures were agreed.

(i) That on 1st November 1993 revised certificates of full disclosure and signed statements of assets and liabilities were submitted to the Inland Revenue by the defendants.

(j) That this brought to an end the 1992/93 investigation. However nine years later in September 2002 that the defendants

received correspondence from the Bank of Ireland indicating that they had an obligation to report the establishment of two trusts to the United Kingdom Inland Revenue. That prompted by that letter and on 11th October 2002 the defendants wrote to the Inland Revenue disclosing the existence of those two trusts and stating that they had not been disclosed to the Inland Revenue during the 1992/1993 investigation.

(k) That the Inland Revenue commenced a further investigation and discovered that in addition to the two trusts disclosed in the letter dated 11th October 2002 there were in fact two further trusts that had not been disclosed in 1992/1993 investigation. That all four trusts were set up during the course of the 1992/1993 investigation.

(l) That the amount of money in the four trusts concealed from the tax authorities was in excess of £2 million. That the amount of tax and interest lost to the Inland Revenue amounted to £1, 874,157.

The background to the application to vary the place of trial.

[6] It is necessary for me to say something about the background to this application and a number of other applications in this case in order to demonstrate that the defendants are concerned as to the period of time that it has taken for this case to come to trial and also to demonstrate that despite that concern further time has passed since this case was first listed before me on 16 February 2007. On that date I was to hear an application by the defendants to stay the proceedings on the basis that there had been such delay in the prosecution that there had been a breach of the defendant's Article 6 rights and that the proceedings were an abuse of the process of the court. The defendants' skeleton argument in relation to the alleged breach of Article 6 excluded from the calculation of the time since charged a period from February 2006 to September 2006. No explanation was given for that exclusion except to say that the defendants did not seek to claim a breach of Article 6 for that period "for reasons which are known to the prosecution and the defence but which should not, it is respectfully submitted in the light of this concession, trouble the court."

[7] The defendants applied to adjourn the abuse of process application on the basis that consideration was being given to making an application to the court for an advance indication of the sentence that would be imposed in accordance with the principles set out in *Attorney General's Reference (No. 1 of 2005) (Rooney et al.)* [2005] NICA 44. I granted that application the defendants having accepted that any delay that would be caused would be excluded from

any assessment of the passage of time in relation to the application for an abuse of process.

[8] I heard the application for an advance indication of the sentence that would be imposed on 20 March 2007. At that hearing written character statements were made available to me from an impressive array of individuals as follows:-

(1) Seamus Mallon (former MP for Newry and Mourne).
(2) Councillor Danny Kennedy, MLA, deputy leader of the Ulster Unionist Assembly Party and a member of the Northern Ireland Policing Board.
(3) Feargal McCormack, a managing partner of FTM Accountants.
(4) J D F Fisher, proprietor of Phoenix Merchants Limited.
(5) Thomas McCall, Clerk and Chief Executive of Newry and Mourne District Council.
(6) Councillor Michael Carr, Mayor of Newry and Mourne District Council.
(7) David Hanna MBE, President of Newry Chamber of Commerce and Trade.
(8) Gerard Clifford, Auxiliary Bishop of Armagh.
(9) Peter Savage MCC Chairman Cross Border Body.
(10) Conor Murphy, MP, MLA.

[9] I also heard evidence from Seamus Mallon, Counsellor Danny Kennedy MLA, and Fergal McCormack. Each of the witnesses emphasised the significant contribution made by the defendants to the Newry and Mourne economy. That this contribution was made at a time when Newry and its surrounds were in a parlous condition. The defendants employ 800 people in the Newry area and have made and continue to make significant contributions through their building firm and two successful hotels to the economy of the area.

[10] I gave an advance indication of sentence on 20 March 2007. No application was made to me as a result of that indication and the case was then re-listed before me to hear the abuse of process application. Again there was an application for an adjournment by the defence as a result of a further exchange in relation to an advance indication of sentence. The matter was then again adjourned on the same basis that the further passage of time would be disregarded in relation to the abuse of process application.

[11] The matter next came before me on 13 April 2007 in relation to the defendants' abuse of process application. The hearing proceeded but I was again asked by the defendants to adjourn the abuse of process application and again on the same basis as to the passage of time. I acceded to that application.

[12] The defendants then changed their legal representatives and this caused further delay in the listing of the abuse of process application whilst new counsel who had been instructed in the case were provided with an opportunity to read their way into the case.

[13] The abuse of process application was again listed before me on 22 June 2007. Again on that date counsel on behalf of the defendants asked me to return to the question of an advance indication of sentence rather than dealing with the abuse of process application. I did so and gave a further indication. No application was made to me in the light of that indication.

[14] Having adjourned the abuse of process application to facilitate the defendants' desire to obtain advanced indication of sentence a further period of four months had elapsed since the case had first been listed before me. I had been asked by the parties not to list the case for trial before September 2007. There were however a number of applications still outstanding in addition to the abuse of process application, namely this application to alter the venue of trial and also applications in relation to the potential admission of hearsay evidence. Those latter applications related to some 60 separate documents and were scheduled to last a considerable period of time.

[15] In view of the fact that the legal term ended on 29 June 2007 and by agreement with counsel I heard the application to alter the venue of trial prior to concluding the abuse of process application. This was done to facilitate the preparations for trial if, in the event, I refused the abuse of process application. On 29 June 2007 I indicated to the parties that I had decided to accede to the change of venue application and fixed Coleraine as the place of trial. I also indicated that I would give reasons for that decision at a later date.

[16] I indicated that I would hear all outstanding applications during the vacation and I fixed Monday 6 August 2007 as the date upon which the abuse of process application would continue to be heard. I was also asked by senior counsel for the first defendant to adjourn the trial from 10 September 2007 to January 2008 in view of the fact that he was unable to appear in this case by virtue of a prior professional commitment. He made it clear that this request was not to facilitate him but at the request of his client who wished to retain the same senior counsel. This would have led to a further four months delay and on that basis I refused the application.

[17] The hearing of the abuse of process application continued on 6 August 2007. After further submissions had been made to me the parties then indicated that they considered it more appropriate that the abuse of process application should be determined at the conclusion of the prosecution's evidence at trial. One of the issues in relation to the abuse of process

application was whether the passage of time had caused any prejudice to the defendants' defence. In order to assess that issue I had inquired of counsel on behalf of the defendants as to the nature of the defence. They declined to give the court any indication except for stating that it was incumbent on the prosecution to prove the case against the defendants.

[18] In considering the venue application one of the issues which I have taken into account is the requirement to bring the trial on for hearing expeditiously. The application for abuse of process on the basis of delay was still outstanding when I indicated the outcome of the application to alter the venue. It still remains outstanding.

The principles to be applied in relation to an application to vary the place of trial.

[19] Section 48(1) of the Judicature (Northern Ireland) Act 1978 makes it clear that a Magistrates' Court when specifying the place at which a person is to be tried shall have regard to three specific considerations namely:-

(a) the convenience of the defence, the prosecution and the witnesses;

(b) the expediting of the trial; and

(c) any direction given by the Lord Chancellor under Section 47(2).

[20] However when the Crown Court makes an order under Section 48(3) altering the place of trial by varying the decision of a Magistrates' Court it is not limited to the grounds set out in Section 48(1), see the decision of the Court of Appeal in *R v Morgan* [1998] NIJB 52. A Magistrates' Court does not have power to entertain applications relating to venue on the ground that a fair trial could not be obtained in the natural and ordinary place of trial. However the wording of sub-sections (2) and (3), particularly the latter sub-section is much wider. Accordingly in determining this application I am not restricted to the three considerations in sub-section (1) but I have power to take into account considerations relating to the justice of the case as I think fit. Thus if I consider that a fair trial cannot be achieved in the place fixed by the Magistrates' Court, so occasioning possible injustice either to the defence or the prosecution, then I have jurisdiction to vary the place of trial.

[21] A change of venue application was heard in the case of *R v Fegan & Ors*, Unreported. In giving his ex tempore judgment in relation to that application Lord Justice Campbell said:-

> "Now, it is true that originally, and when I speak about originally there may be 300 or 400 years ago

> that juries were actually brought, that they were chosen so that they could return a group verdict which was based on their knowledge of the neighbourhood, and the affairs of the neighbourhood. Now, we have gone totally in the opposite direction and you are entitled under Article 6 to be tried by an independent and impartial tribunal and the whole sense now of being somebody from the neighbourhood who would know all about the case is the exact opposite, there is nothing would be more likely to have you not serve on a jury than to be in a position in which the original jurors were in and that is because, as I say, you have got to be independent and impartial."

[22] Later on in his ruling Lord Justice Campbell gave consideration to the question as to whether it would be appropriate to select from a particular part of the Armagh and South Down area. He stated:-

> "Now, it would be very difficult – not only difficult but it would be quite wrong – for me to direct that jurors should only be taken from the remaining three areas of this district which comprises this Crown Court, and indeed there are authorities to suggest that that is something that should not happen and, as I say, I am required to, under Article 6, to ensure a fair trial which involves an independent and impartial tribunal."

[23] He also continued as follows:-

> "Although the particular matters that the magistrate has to have regard to are limited, it does not mean that I don't have regard to them either. One of them is the convenience of the defence, another of the prosecution, and a third is the witnesses. Another matter is the expediting of the trial."

[24] In determining this application I take into account the convenience of the defence, the prosecution and the witnesses; expediting the trial; and whether a fair trial can take place in the Division of Armagh and South Down.

Submissions and evidence on behalf of the prosecution.

[25] The reasons put forward by the prosecution to vary the place of trial were as follows:-

> "(1) The defendants Patrick and John McParland are well known in the division as joint proprietors of the Carrickdale Hotel, Newry Road, Dundalk; and the Canal Court Hotel, Merchants Quay, Newry which are substantial hotels with respective turnovers for the year 2004 of circa 7 million euro and £7,046,139.00. The number of employees of the Canal Court Hotel alone is in excess of 180 and it caters for functions of an excess of 800 persons for any one event. The defendants also trade as builders, McParland Brothers, 9 Kesh Road, Camlough, Newry. For the year 2002 the turnover of that business was £1,909,798.00 and the number of employees was circa 25.
>
> (2) The defendants, through the Canal Court Hotel, are the main sponsor of Gaelic football in the division and their logo "Canal Court" appears on the jerseys of Down GAA football club.
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> By reason of the reasons stated above it is unlikely that a jury could be empanelled from the County Court Division of Newry and South Down (sic) that did not have some connection either directly or indirectly with the business interests of the defendants.
>
> (3) Convenience of witnesses, many of whom may be travelling from Jersey, England and Isle of Man.
>
> (4) Expedition of the trial – the use of information technology currently available in Belfast Crown Court."

[26] Two witnesses were called by the prosecution on the hearing of the application. The first witness, formerly Chief Superintendent, Robert Hunniford. He had retired from the Police Service of Northern Ireland on 1 June 2007 and he had been the District Commander and in this area for August 2004 to the end of March 2007. He had also given evidence before me in relation to the application for an advance indication of sentence. In that respect his evidence was supportive of the defendants who he recognised were extremely well regarded in the area making valuable contributions to the community. When he was called in relation to the change of venue application his evidence in chief closely followed his statement which was in the following terms:-

> "I am a Chief Superintendent in the Police Service of Northern Ireland currently performing the role

of DCU Commander in Newry and Mourne and based in Ardmore Police Station, Newry, County Down. I refer to the forthcoming trial of *R v John McParland and Patrick McParland* scheduled to take place at Newry Crown Court. Both Defendants are joint owners of the Carrickdale Hotel, Newry Road, Carrickarnon, Dundalk, County Louth, Republic of Ireland. I am informed from my enquiries and my knowledge of this area that the Carrickdale Hotel is a substantial Hotel business drawing its employees and patrons from the greater North Louth/South Armagh/South Down and further afield. The number of employees attached to the Carrickdale Hotel is unknown by me however I am aware as a result of inquiries that in 2004 the turnover of the Carrickdale Hotel was in excess of 7 million euros and staff costs in excess of 2 million euros. This turnover would be consistent with a high number of patrons and employees. Both defendants are also joint proprietors of the Canal Court Hotel, Merchants Quay Newry. The number of employees at the Canal Court, Hotel is in excess of 180 and I am aware that a further 60 bedrooms were completed as a major extension to the hotel in 2006 which does not take cognizance of this number of employees. The vast majority of employees all reside locally. The Canal Court Hotel has established itself as a major centre not only in Newry but across a large area of Northern Ireland and all of the border counties in the Republic of Ireland as a place of entertainment both for evening meals, family get togethers and larger social events with patrons coming from all sections of the community. It has the capacity to cater for numbers in excess of 800 people at any one event. I am also aware that the Canal Court is the main sponsor for the Down GAA Football Team and their logo Canal Court appears on their jerseys. This logo also appears in all County Down GAA programmes a sport, which has a large following. It is my professional opinion that it would be difficult to empanel a Jury from the County Court Division of Armagh and South Down who would not have had some connection either directly or indirectly with the business interests of the

> defendants. I believe that it would present major difficulties (for both the defence and the prosecution) if a trial involving these two defendants were to take place within the County Court Division of Armagh and South Down. Accordingly I believe that application should be made to the trial Judge to re-venue this trial."

[27] In cross-examination he conceded that he had never met either of the defendants and that many people could go to the hotels which they owned and never know anything about either of them. His attention was also drawn to the potential to increase the jury panel to 500 people in an attempt to select a jury who did not know either of the defendants. He also adverted to the strong line taken by the defendants in both hotels with any disorder by customers. Such customers were simply evicted.

[28] The second witness was Robert Smith, a senior investigator with HM Revenue Customs. His evidence follows his statement which was in the following terms:-

> "I am a Senior Investigator with Her Majesty's Revenue and Customs currently attached to the Criminal Investigations Directorate in Manchester. As part of my duties I was asked to review the files for the businesses conducted by Messrs John and Patrick McParland both in Northern Ireland and the Republic of Ireland.
>
> I obtained the business files in relation to the businesses conducted by the McParland brothers in Northern Ireland from the HMRC office in Newry. I examined the contents of those files and identified the business address, turnover, gross profit and the number of employees at each business. These are as follows:-
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> - McParland Brothers, 9 Kesh Road, Sturgan, Camlough, Newry. For the year 2002 the turnover was £1,909.798 and the gross profit £483,285. The number of employees was circa 25.
>
> - McParland Properties Ltd, 9 Kesh Road, Sturgan, Camlough, Newry. Turnover/gross profit/number of employees Nil.

- McParland Properties (Ireland) Ltd, Merchants Quay, Newry. For the year 2004 the turnover was £7,046,139 and the gross profit £4,578,831. The number of employees was circa 180. This business effectively trades as the Canal Court Hotel.

A request was made to the Minister of Justice, Department of Justice, Equality and Law Reform in the Republic of Ireland in accordance with Section 7(5) of the Crime (International Co-operation) Act 2003 and the European Convention on Mutual Assistance in Criminal Matters 1959. In response to that Notice I received business files in relation to the businesses conducted by the McParland brothers in the Republic of Ireland. I examined the contents of those files and identified the business address, turnover and staff costs of each business. These are as follows:-

- The Carrickdale Hotel Ltd, Newry Road, Carrickarnon, Dundald, Co Louth. For the accounts year ended 30 September 2004 the turnover was 7,349,408 euros and the staff costs 2,501,292 euros.

- McParland Bros (Ireland) Ltd, the Carrickdale Hotel Ltd, Newry Road, Carrickarnon, Dundalk, Co Louth. For the accounts year ended 31 January 2003 the turnover was 10,521,321 euros and the staff costs 859,026 euros.

- McParland Investments Ltd, the Carrickdale Hotel Ltd, Newry Road, Carrickarnon, Dundalk, Co Louth. To date this company has not traded and has no employees.

Although no information is held of staff numbers for the Carrickdale Hotel the turnover and staff costs would indicate a high number of patrons and employees."

[29] Mr Fowler submitted that a trial in the Armagh and South Down division would be unfair for the prosecution and the defence. For the prosecution because the defendants were prominent and well-known businessmen held in high regard in the area. For the defence because individuals might serve on the jury who objected in some way to the treatment that they received in the defendants hotels, for instance the manner in which or the reasons for which they had been evicted from the hotels.

[30] Mr Fowler also submitted that there were 1,312 pages of exhibits in this case. That these required to be displayed in a way could be followed by the jury during the course of the trial and that in turn required the trial to be conducted at a venue suitably equipped with computer screens and information technology equipment. Newry Court did not have such equipment. Equipment would be available in Belfast. I directed that inquiries should be made as to what equipment was available in Armagh Court and in Coleraine Court as it was not possible to list this case in Belfast in September 2007 due to other court commitments. Equipment of that nature was also available in Dungannon Courthouse but again that venue was not available due to other court commitments. It transpired that the technology was available in Armagh and Coleraine Courthouses.

[31] Mr Fowler also drew to my attention that a jury case that had recently been transferred from Newry Court in the division of Armagh and South Down to Coleraine Court in the division of Antrim. This was a case involving allegations of child cruelty and the case had taken a period of approximately 6 weeks to be heard between 13 November 2006 and 19 December 2006. It was tried by Mr Justice Girvan (as he then was) sitting with a jury. Mr Fowler called this in aid as a case which demonstrated that with modern transport and with the ability to find accommodation in the area of Coleraine it had been recently demonstrated that it was perfectly feasible and appropriate to conduct a trial in which the defendants and witnesses came from the Newry area.

Submissions on behalf of the defendants.

[32] The defendant submitted that it was possible for a jury to be selected who would be capable of fairly trying this case especially if the jury panel was increased in size to some 300 to 500 persons. That steps could be taken to eliminate or reduce the risk of bias by putting preliminary questions to the jury panel. That in giving consideration to the question as to whether a fair trial could be had in the Division of Armagh and South Down weight should be given to the fact that jurors will for the most part act responsibly and will not be swayed by prejudice. I was referred to the case of *R v* Kidd [1995] Crim LR 406 in which it was said:-

> "Some little time had elapsed between the publication of the articles and the trial taking place. As we have said, the previous convictions were proved in evidence at the hearing. For our part we very much doubt whether, even assuming that the members of the jury had read the articles concerned, they would have paid very great attention to them after some months have elapsed. Much more important than that, it is the experience of each of the members of this court that juries do try cases, as they are directed to do by the trial judge, on the basis of what they hear in court in evidence and not on the basis of what they read in newspapers." (Emphasis added).

[33] It was also submitted that a trial in Belfast or Coleraine would be a considerable inconvenience to the defence and to the defendants. That the defendants would have to travel a considerable distance. That this would place physical pressure on the defendants who would not only have to deal with the pressures of the trial but also would have to continue to play an active role in their businesses. That these factors had to be seen in the context that both of the defendants were aged respectively 61 and 58 and that they had various health problems. I was provided with a number of medical reports in relation to the defendants. I have taken the contents of those medical reports into account.

Conclusion.

[34] In *R v Hugh Morgan & Morgan Fuels and Lubes Limited* [1998] NIJB 52 the place of trial had been varied from the division of Armagh and South Down to Belfast Crown Court on the basis that since the defendant company was the county sponsor of Gaelic football league matches at various levels and Gaelic football is a very popular sport in the division, there was a well-founded apprehension that jurors from the division would be predisposed in favour of the defendants. The prosecution in that case did not seek to argue that Gaelic football supporters as a class would not be capable of judging the case impartially. The ground for the application was rather that because of the sponsorship given by Mr Morgan and his company to their sport many of them might be predisposed in the defendants' favour and that there was a material risk that they would not view the case impartially. The Court of Appeal did not express any opinion on the sufficiency of that reason in giving judgment. That issue arises again in this case in so far as the prosecution rely on the fact that the defendants are the main sponsors of Gaelic football in the division and their logo "Canal Court" appears on the jerseys of Down GAA Football Club. If that was the only factor that arose in this case I would not have altered the venue of trial. I do however take it into account as evidence

of but just one of the ways in which the defendants and/or one of the defendants' businesses are known and held in respect in the division of Armagh and South Down.

[35] In seeking to justify a change in venue from Newry Court to Belfast Court the prosecution relied on the greater convenience of witnesses "many of whom may (emphasis added) be travelling from Jersey, England and Isle of Man". The convenience of witnesses is one of the factors that I take into account but there is plenty of accommodation in the Newry area and also excellent transport facilities. The prosecution have ample resources to meet the cost of transport and accommodation. On the particular facts of this case I would not have altered the venue from Newry on the basis of the convenience of witnesses.

[36] I find as a fact that both of the defendants are extremely prominent businessmen in the Armagh and South Down division. That historically they remained committed financially to that area despite its parlous condition as a result of years of violence and civil unrest. That as a consequence they are held in high esteem across all the social divides as is clearly apparent from the evidence given by Mr Mallon and Councillor Kennedy. I considered that in view of their prominence and their many connections with the community that there is a material risk that potential jurors in the division of Armagh and South Down would not view the case impartially. I consider that there is a substantial risk that potential jurors would be favourably disposed to the defendants. I also consider that in view of the extent of their business interests there is a risk, though a far smaller risk, of jurors being predisposed against the defendants. If that risk of pre disposition against the defendants had been the only risk I would not have altered the venue but I take it into account cumulatively in making the decision to alter the trial venue. I conclude that a fair trial cannot be achieved in the division of Armagh and South Down.

[37] In order to present this case coherently I consider that there is a need for information technology equipment. I also consider that there is a need for expedition. Newry Courthouse does not have information technology equipment and in any event was not available for a trial starting in September 2007. That of itself did not mean that the case had to be transferred out of the division of Armagh and South Down because Armagh Courthouse was available and it does have information technology equipment. However for the reasons set out above I consider that it is appropriate to transfer this case out of the division of Armagh and South Down to achieve a fair trial.

[38] As I have indicated Belfast Crown Court which has information technology equipment is not available for a trial starting in September 2007. Coleraine Courthouse is available and it does have the necessary equipment. That venue will increase the inconvenience to the defence and the defendants'

witnesses. When giving consideration to the issue of the convenience of witnesses I bear in mind the particular facts of this case including the age and health of the defendants and their other personal circumstances. I consider that the defendants will be devoting their time to this trial and will in any event be delegating responsibility for running their businesses. They would in any event have the ability to keep in contact by telephone, email and fax. The businesses are of such a size that those to whom they delegate could themselves travel to Coleraine for meetings. The defendants have the financial ability to pay for accommodation and transport. I also bear in mind that recently a lengthy criminal trial from the Newry area has been conducted in Coleraine without, in the event, any major disruption or inconvenience. The defendants in that case would be financially far less able than the defendants in this case to find accommodation or provide for transport. When considering the convenience of the defendants and the defendants' witnesses I also bear in mind that it is possible, depending on the specific schedule of witnesses and how the case progresses, to give a direction for instance that the court will not sit on Fridays thereby affording the defendants an opportunity of devoting that day either to their businesses or as they feel appropriate. In balancing all the factors in this case I directed that the venue be altered so that the trial should commence in Coleraine Courthouse in the division of Antrim on Monday 10 September 2007.