

And he was trying to get the best terms he could for himself? A. Yes. Q. You for Maybury, he for O'Brien? A. Exactly. Q. He told you he would not sell, unless he had a third cash? A. Exactly. Q. Which was what you understood? A. Yes. Q. And you finally came down to the terms one-third cash? A. Exactly. Q. What did you understand by that? A. A third of the total payment. Q. Cash down on the signing of the agreement? A. I presume so, yes. Q. And, so far as you are concerned, is that all that you had to do with it? A. That is all. Q. Then you signed the receipt, exhibit 3, as you thought, in pursuance of some authority given you by Mr. O'Brien? A. No, I signed it as we do generally; we take a deposit when we sell property. Q. So that that was quite apart from any actual authority given you? A. Yes, I cannot recall any actual amount named as a deposit by Mr. O'Brien. Q. Nothing was said about a deposit, was there? A. Well, it went without saying, if we sold the property we would take a deposit. Q. That is your usual practice? A. Yes. Q. And there was no other mention of any terms or conditions in connection with the agreement than those which you have indicated? A. Exactly."

Then, after the personal interview, what took place was entirely over the telephone:—"Q. You got as far as stating that Mr. O'Brien rose from his desk, and you took that as an intimation that the interview was over, and you left? A. I did. Q. And you stated that, immediately before that, you stated to Mr. O'Brien that the purchaser would consent to the increase in the cash payment? A. No, I did not. Q. What was said? A. Mr. O'Brien said to me, after rising from his desk, that he would call me up in the evening and let me know the best terms he would sell on—the best cash payment. . . . Q. Mr. O'Brien did not call you up? A. Mr. O'Brien did not call me up that evening. On the following morning I called Mr. O'Brien up at his hotel. I was informed that he was not in. I left word for him to call me up when he did come in. He did so, I should say in the neighbourhood of ten or fifteen minutes afterwards. He stated to me that he would sell on the proposed terms of a third down, the balance of his equity, about \$1,000, in December, 1911, and June, 1912, at 7 per cent. interest, and the purchaser assume Mr. Keenan's payments under Mr. Keenan's agreement. I informed Mr. O'Brien over the telephone that, if I could sell on those terms, I would do so without consulting him further. He said that was satisfactory. Mr. Maybury came into the office a few minutes afterwards, and I told him I was able to sell Mr. O'Brien's property at the price of \$225 a foot, under the terms as he stated to me. Mr. May-