

DAY 44

April 3, 1996

WESTRAY MINE

PUBLIC INQUIRY

HEARD BEFORE: The Honourable Justice K. Peter Richard,
Commissioner

PLACE: Stellarton, Nova Scotia

COUNSEL:

Solicitor for the Commission: Ms. Jocelyn Campbell,
associate counsel

Solicitor for the Department of Justice Canada: Ms. Lynn
Gillis

Solicitor for the Department of Justice Nova Scotia: Mr.
R. Endres, Q.C.

**Solicitor for the United Steelworkers of America and the
Nova Scotia Federation of Labour:** Mr. David Roberts

Solicitor for the Westray Families Group: Mr. B. Hebert

Representing the United Mine Workers: Mr. Hugh MacArthur

Representing the Canadian Union of Public Employees: Mr.
Robert Wells

REQUESTS

Provide dates Mr. Burchell visited Washington.

(Requested by Mr. Endres. See page 9780)

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1 April 3, 1996 - 9:31 a.m.

2 COMMISSIONER Good morning.

3 ALL Good morning.

4 COMMISSIONER Before we start, I'd just like to make one
5 comment about our witness of yesterday, Mr. Hunt. He's
6 described twice in the media reports as being an expert,
7 and I don't think that's quite fair to Mr. Hunt because
8 he came here as a representative of the U.S.W. to give
9 his experiences in working with occupational health and
10 safety committees in British Columbia. I don't think
11 anyone would be any more uncomfortable with the tag of
12 "expert" as Mr. Hunt. So I just want to clarify that.
13 He is not an expert, and he came here through the union
14 to give us the benefit of his experience in revising
15 health and safety legislation, and that was the extent of
16 it. That doesn't make his evidence any less significant,
17 mind you.

18 Ms. Campbell?

19 MS. CAMPBELL Thank you. Mr. Commissioner, our witness
20 today is Mr. Robert Burchell.

21 **ROBERT BURCHELL**, sworn, testified as follows:

22 CLERK Please state and spell your name for the
23 record?

24 A. Bob Burchell. B-O-B. B-U-R-C-H-E-L-L.

25 EXAMINATION BY MS. CAMPBELL

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 Q. Mr. Burchell, you reside in Sydney?

2 A. Yes.

3 Q. Nova Scotia?

4 A. Yes.

5 Q. Where are you presently employed?

6 A. With the United Mine Workers of America.

7 Q. What do you do with United Mine Workers of America?

8 A. I'm the International Teller for Canada, and I look
9 after British Columbia, Alberta, Saskatchewan, New
10 Brunswick and Nova Scotia.

11 Q. What does an international teller do?

12 A. Basically, the title is, under our constitution, is
13 to look after elections within the union, but I'm also on
14 assignment by our international president. And my main
15 functions are organizing, political action, regulation
16 reform, and negotiations or whatever I'm needed, in
17 health and safety at times.

18 Q. What do you mean when you say "political action"?

19 A. We have a political action arm, and I'm the staff
20 representative. We look at redrafting regulations, stuff
21 like that.

22 Q. Okay, now you have some particular qualifications
23 with respect to coal mining, correct?

24 A. Yes, I do.

25 Q. Now you attended MSHA Academy in Beckley?

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1 A. Yes.

2 Q. What exactly did you study there?

3 A. My first trip to Beckley was a Level 1 Mine
4 Inspector program, and I successfully completed that.
5 And we go down on a regular basis for one week out of
6 each year taking upgrading and what have you. I've taken
7 mine rescue courses at Beckley, occupational health and
8 safety, dust calibration for underground, surface and
9 testing and sampling, noise testing and sampling for
10 underground and surface, and different things that we
11 would need to know in the mining industry.

12 Q. Now these various things that you're referring to,
13 for instance, dust sampling underground and aboveground
14 and dust calibration underground and aboveground, did you
15 take that at MSHA Academy?

16 A. Yes, I did.

17 Q. And when you say "dust sampling underground," you
18 mean actually testing dust for combustibility, coal dust?

19 A. That and respiratory dust.

20 Q. And respir --

21 A. Yes, both.

22 Q. Right, okay. As a requirement of getting your Level
23 1 Mine Inspector qualifications from MSHA, those were the
24 various things that you had to obtain, correct?

25 A. That's correct.

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1 Q. Now were you ever aware of any of the provincial
2 mine inspectors who studied at MSHA Academy at or near
3 the time you did?

4 A. Yes, the Chief Inspector for the Province, Colin
5 MacDonald, was down there between periods that I was
6 there.

7 Q. And did he take the same course, to the best of your
8 knowledge?

9 A. Well, to my knowledge, that's the programs that they
10 teach there, and that's what he would have taken.

11 Q. Okay. Now when you obtained your Level 1 mine
12 inspector certification from MSHA, did that qualify you
13 to be a mine inspector in Nova Scotia?

14 A. No, it doesn't.

15 q. What was the purpose then in going down and
16 obtaining that qualification?

17 A. Well, I did health and safety for our union, and I
18 travelled with the mine inspectors and, basically, I
19 wanted and my union wanted me to be on a level playing
20 field with them when I did the travel so I knew what we
21 were doing.

22 Q. When, by the way, did you obtain this certification
23 from MSHA Academy?

24 A. 1985.

25 Q. 1985, okay. Now what coal mining experience do you

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1 have, if any?

2 A. I have seven years underground with the Cape Breton
3 Development Corporation.

4 Q. And what did you do? Can you kind of take us
5 briefly through your experience underground, the various
6 positions you held?

7 A. I started out as a general labourer, just my first
8 shift in the mine was with a pan shovel. Then went up to
9 a pumpsman looking after pumping the water in the mines,
10 and then I started repairing the pumps. Then I went to
11 general mechanic throughout the mine. Then the last four
12 years of my work with Devco was a shear mechanic on the
13 wall face.

14 Q. Okay.

15 A. And I did other odd jobs like filling in, brushing,
16 and different things like that.

17 Q. Did you have your coal mining competency papers?

18 A. Yes, I did.

19 Q. And you also had certification to run diesel
20 equipment underground?

21 A. Yes, I'm certified. I was certified at our mine to
22 operate diesel equipment underground.

23 Q. That required a special certification at Devco, did
24 it?

25 A. Yes, you had to be qualified by the mine manager,

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 and basically it was on-the-job training with a qualified
2 operator. And once you felt you were capable of taking
3 over by yourself, operating by yourself, the mine manager
4 or his appointee would come down with you. They would
5 question you, give you an oral, quick oral exam on what
6 the dos and don'ts were, and then they would go for a
7 drive with you. You'd have to take them into a level
8 with a load of material and empty. And if you passed all
9 the requirements, you were given a certification to
10 operate equipment in that mine.

11 Q. What type of diesel equipment are we talking about,
12 Mr. Burchell?

13 A. They were diesel locomotives, underground
14 locomotives.

15 Q. Trains?

16 A. Yeah, smaller version of a train but basically
17 that's what they were.

18 Q. Now you were involved in a drive that took place at
19 Westray Coal, is that correct?

20 A. That's correct.

21 Q. When did the drive at Westray Coal officially start?

22 A. Officially, it started October the 2nd, 1991.

23 Q. Now when we refer to "officially started," we mean
24 as recognized by Labour Relations Canada.

25 A. That's true.

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 Q. Okay. And who would the drive get offic --

2 A. Excuse me, that's the Labour Relations Board of Nova
3 Scotia.

4 Q. Sure, right. How would it officially get started?
5 What did it take?

6 A. Under the provincial regulations, when you start an
7 organizing drive, you have three months from the first
8 card that's signed to apply for certification.

9 Q. So the official start date was when the first card
10 was signed?

11 A. First card was signed.

12 Q. So the first card was signed on October 2, 1991.

13 A. Yes.

14 q. Do you recall who signed the first card?

15 A. Rick Mitchell.

16 Q. Okay. So you indicated that you have three months
17 from that date to apply for certification.

18 A. Yes.

19 Q. So that meant that UMW had to apply for
20 certification by --

21 A. January the 2nd, '92.

22 Q. Okay.

23 A. And if I didn't --

24 Q. Meaning a vote must be held?

25 A. Pardon?

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 Q. The vote doesn't have to be held by that date.

2 A. No, I have to apply by that time or I have to -- if
3 I don't have the required number of cards, then I would
4 have to start signing --

5 Q. Over again.

6 A. Over again.

7 Q. Okay. How did it come to be that Mr. Mitchell
8 signed a card for you on October 2nd, 1991? Was that
9 your first trip to Westray?

10 A. No, I had made previous trips there, and I had met
11 Mr. Mitchell along with some of the other miners, and he
12 was an experienced coal miner. And we had numerous
13 discussions. And I had set a meeting up for October 3rd,
14 and that was when I was going to officially kick off my
15 drive and start signing cards. And Rick wanted to be the
16 first one to sign a card. He asked if he could be the
17 first one to sign a union card. So I granted that
18 request.

19 Q. When did you make your first trip to Westray in an
20 effort to organize?

21 A. Well, in an effort to organize, the start to drive
22 would have been in May, but I had been up there a few
23 times before that just scouting, I guess, to see what was
24 going on when the Canadian Mining Development had it.

25 Q. Was your scouting -- Did your scouting meet with any

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1 success?

2 A. No.

3 Q. No?

4 A. No.

5 Q. And you say it officially started in May. What did
6 you start doing in May of 1991 that officially gave it a
7 start?

8 A. I started going out around the site, trying to get
9 in touch with people that I had been made aware of that
10 were working there. I had different people contact me
11 and tell me that this person was being hired or whatever.
12 So I would try to contact them.

13 Q. And where would you physically be located in an
14 effort to make contact with the miners?

15 A. At the gate of the mine.

16 Q. And you met -- there was no interest in May of
17 anyone speaking to you?

18 A. No.

19 Q. Okay. Did anyone -- Were you there at any other
20 time over the summer?

21 A. Yes, I was back there in June.

22 Q. Yes.

23 A. In June, I brought a former employee of CMD that
24 worked there.

25 Q. Who was that?

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1 A. Winston Watters.

2 Q. Yes.

3 A. I brought him with me for a week to try to get some
4 contacts through him because he had worked there. And
5 some of the employees of CMD were planning on going over
6 to Westray once Westray took over.

7 Q. So you were there -- Did you say that was in June?

8 A. That was in June. Some of the former employees of
9 CMD had gone to Westray, gone over to Westray.

10 Q. Okay, and were you there any other times during the
11 summer?

12 A. I was there again in July. I was there again in
13 August.

14 Q. What type of response were you getting from men who
15 were proceeding into the mine?

16 A. Basically, very little. I was jumping out of the
17 way from the vehicles.

18 Q. I see.

19 A. They were travelling at high speeds going in and out
20 of the mine. They knew who I was.

21 Q. Now did you have any contact with anybody in
22 management at Westray during those months?

23 A. Yes, I did.

24 Q. What was the type of contact you had with them?

25 A. I had a meeting with -- And I may not have the

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1 pronunciation right, but it was Allan Karasiuk, I
2 believe.

3 Q. Close enough.

4 A. We had scheduled a meeting with Gerald Phillips and
5 my safety director at the time and myself. I asked him
6 to schedule a meeting. We wanted to sit down with
7 management at Westray to see if they would be interested
8 in allowing us to go in there and look for voluntary
9 recognition. I asked Paul MacNeil, who was our safety
10 officer at the time for our district if he would make the
11 arrangements because he had already met Mr. Phillips, and
12 he knew him. And Paul made the arrangements and we went
13 up for a meeting.

14 Q. Made arrangements for what? To meet with Mr.
15 Phillips?

16 A. To meet with Mr. Phillips, yes.

17 Q. So you and Mr. MacNeil went to Westray?

18 A. Yes, we did.

19 Q. And did you meet with Mr. Phillips?

20 A. No, when we arrived, the office was an old house
21 that was right at the bottom of the entrance going into
22 the mine, and when we went in, Allan Karasiuk met us and
23 told us that Mr. Phillips was not available, that he had
24 to go out of town and that he would meet with us in place
25 of Mr. Phillips.

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1 Q. How long did your meeting with Mr. Karasiuk last?

2 A. Ten minutes.

3 Q. And what was the company's reply to whether they
4 were prepared to permit voluntary recognition of the
5 union?

6 A. They told us that they wouldn't permit voluntary
7 recognition, but it would be up to the men on whether or
8 not they wanted a union, and they would allow the men to
9 make that decision.

10 Q. What impression did you have whether you would have
11 cooperation from the company --

12 A. I knew leaving --

13 Q. With respect to your drive?

14 A. I knew leaving I was going to get no cooperation, in
15 fact, I would get resistance from the company because I
16 had asked if I could go on the property and meet with the
17 men during their change period when they were changing
18 and that, and he laughed at me and said, "No way."

19 Q. And what else, if anything, did Mr. Karasiuk tell
20 you about whether or not you would be permitted on the
21 property at all at Westray?

22 A. He told me that they owned right to the road. It
23 was their property, and if I was to do anything, I was to
24 do it standing on the highway. That I wasn't allowed on
25 their road.

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1 Q. Was there ever a time when you had contact with the
2 police over the property boundaries of Westray?

3 A. Yes, the police did come out one day, the New
4 Glasgow Police Department. An officer arrived there
5 because I was on the property.

6 Q. Where exactly were you standing at that time, Mr.
7 Burchell?

8 A. At the bottom of the road, right on the dirt section
9 at the end of the driveway.

10 Q. What did the police officer tell you?

11 A. He told me that he was asked for me to stay off
12 their property, and I said, "Well, I don't believe this
13 is their property." You know, this is the side,
14 basically a sidewalk or whatever. And he said, "Well,
15 they claim they own to the road." And I said, "Well, I
16 can't stand on the road." And he kind of laughed, he
17 said, "Just if you see them around," he said, "Walk
18 away."

19 Q. And you at this point were standing on the dirt
20 shoulder of the road?

21 A. Yes.

22 Q. Okay. Now what about other times when you had been,
23 say, in the May/June/July/August time frame when you had
24 been at the site. And when I say "at the site," I guess
25 I mean at the bottom of the road. Did any members of

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1 management ever come down and approach you at that time?

2 A. Yes, Allan Karasiuk used to make it a point to come
3 down when I'd be there and park his vehicle and stand
4 there and talk to me the whole time.

5 Q. The whole time you would be standing there?

6 A. Yeah.

7 Q. And anybody else that you recall associated with
8 Westray who would do similar type things?

9 A. Well, a few times Gerald Phillips stopped and talked
10 to me. A couple of times his wife drove over.

11 Q. And they would stay there like Mr. Karasiuk?

12 A. Yeah.

13 Q. For the whole period you were there?

14 A. Yeah.

15 Q. Was that something you were -- was usual for you to
16 have management do that type of thing?

17 A. Not normally would they stand there and, you know,
18 through that whole period. I mean it was quite obvious
19 what they were doing. I mean, it does happen on occasion,
20 but they went a little overboard there. I mean, when
21 they start sending their wives down to park at the gate.

22 Q. Why did you think they were doing that?

23 A. I think it was a form of intimidation to stop, so
24 that the men wouldn't stop at the gate and talk to me,
25 you know.

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1 Q. Now you said that when you were trying to arrange a
2 meeting with Gerald Phillips, you got Paul MacNeil to
3 make the arrangements because he knew Gerald Phillips.

4 A. He had met Gerald Phillips on a travel that he had
5 done at the mine.

6 Q. At Westray Mine?

7 A. Yes.

8 Q. When did Paul MacNeil do a travel at Westray Mine?

9 A. It would have been in early spring of '91, probably
10 March/April, that area.

11 Q. And who did he do that travel with?

12 A. Albert McLean, the mine inspector.

13 Q. How did Paul MacNeil come to travel the mine in this
14 March/April time frame?

15 A. Well, it's the practice. Albert looks after our --
16 We have a strip operation in Westville, Pioneer Coal.

17 Q. A unionized mine.

18 A. A unionized mine, and we also have an underground --
19 We had an underground mine at that time in Inverness,
20 Evans Mine. And we always travelled together when we did
21 our safety travels with the inspectors.

22 Q. A member of U.M.W. would travel with Mr. --

23 A. Our safety officer always travelled, unless he was
24 out of town on other business, but they always travelled
25 together.

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1 Q. With Mr. McLean?

2 A. With Mr. McLean and one of our safety committee men,
3 and Albert was doing a travel of the Pioneer site and
4 Paul was up doing the travel with him. And then Albert
5 was going over to travel the Westray operation, so Paul
6 asked if he could accompany him. And Albert said,
7 "Sure," and they went underground.

8 Q. After Mr. MacNeil made that first travel with Mr.
9 McLean, did he ever make any more?

10 A. No.

11 Q. Now what sort of headway did you start to make with
12 your union drives, say, in September, 1991?

13 A. In September, I set up a base, I guess you could
14 call it. I decided that it was time to just stay right
15 in New Glasgow. So I set up a base in New Glasgow, went
16 out to the gate again and started passing out my business
17 cards with the number of the hotel and the room I was
18 staying in if anybody wanted to contact me, that they
19 could contact me.

20 Q. Now you -- When you refer to "your base," are you
21 talking about the base which was the Lord Provost Hotel?

22 A. That's where I was at.

23 Q. Okay. So you were handing your cards out?

24 A. Distributing my cards and at one particular day
25 while I was there, three of the workers stopped and

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1 approached me and started talking to me. And one
2 approached me first, Buddy Robinson, pulled in, and he
3 was going on shift. He come over to me and he said,
4 "It's about time you guys got here," and started talking
5 to me about the mine.

6 And a few minutes later, Owen MacNeil and Randy
7 Facette pulled in and they got out of their vehicles, and
8 they come over talking to me. And we had about a 10 or
9 15-minute conversation and decided that, you know, they
10 were going to assist me in trying to get the union in
11 there.

12 Q. What did your 10 or 15-minute conversation with
13 Buddy Robinson, Owen MacNeil, and Randy Facette consist
14 of?

15 A. They basically gave me an overview of the conditions
16 of the mine, the equipment, particularly the fact that
17 they were using farm machinery for transporting men and
18 material in the mine. In fact, they told me that if I
19 went up on top of the trestle when they went back up --
20 when they went up, for me to hang around and go up on the
21 trestle, and they'd see them driving through the yard on
22 a farm tractor and that that --

23 Q. Going underground?

24 A. Was what would be taking them underground.

25 Q. So they wanted you to go and stand on a train

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1 trestle that was not on Westray property and --

2 A. Well, it was on Westray property.

3 Q. Okay.

4 A. Where I stood was on Westray property. In order to
5 get a look at what I wanted to see, I had to go on the
6 property.

7 Q. So did you have to climb up on this train trestle?

8 A. Yes.

9 Q. You did that?

10 A. Yeah.

11 Q. And did you see them going underground on the
12 tractor?

13 A. Yeah, they waved to me.

14 Q. Okay. Was there any discussion with these three
15 gentlemen about whether or not there would be any chance
16 of the union succeeding at Westray?

17 A. I asked them what I thought my chances would be, and
18 Randy Facette didn't think that I'd be too successful.
19 He said that representatives had been in the area from
20 other unions and had talked to some of the guys, and they
21 felt that at that particular time I wouldn't be
22 successful.

23 Q. Did they give any other reasons why they felt that
24 you might be unsuccessful?

25 A. Guys were scared of their jobs. Apparently a lot of

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1 the guys had moved from out west and had signed some kind
2 of an agreement that they had to stay in the employment
3 for a year or they had to pay back relocation loan or
4 whatever. And there was a lot of guys that were nervous.
5 And they said there were a lot of guys there that had
6 never -- that was their first job and, you know.

7 Q. So how did the conversation end with you -- between
8 you, Mr. Robinson, Owen MacNeil, and Randy Facette?

9 A. Well, Gerald Phillips pulled in and kind of slowed
10 down and looked at us and then drove on up the hill. So
11 I advised them that maybe they'd better go up, you know.
12 I didn't want them to get into any trouble, to be
13 cohorting with the union representative. So I suggested
14 that they may want to go up to their job site, and I told
15 them where I was staying. And I asked if they would come
16 and meet me at the end of the shift, and we'd start
17 making some arrangements to get what I call an "in-house
18 committee."

19 Q. So you wanted them to meet you at the Lord Provost?

20 A. Yes.

21 Q. And did all three men meet you at the Lord Provost
22 that night?

23 A. No, Randy Facette and Owen MacNeil met me. Buddy
24 Robinson had stated, I think it was coming on to the end
25 of his shift or his four scheduled shifts, and he was

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1 going to be leaving right after work for Cape Breton. He
2 was originally from Cape Breton, and he was going down
3 for his four days off, but told me that he would be in
4 touch with me, you know, or if I needed him to get ahold
5 of him. But Randy and Owen met with me that night.

6 Q. And we're talking September of 1991?

7 A. Yes.

8 Q. Are we talking early, mid or late?

9 A. I'd say it was mid-late September.

10 Q. Now you met with Owen MacNeil and Randy Facette that
11 evening, and what did your meeting consist of?

12 A. We -- Well, first I tried to get a layout of the
13 operation, how many people worked there, how many worked
14 on the surface versus underground, how many were on
15 eight-hour shift, how many were on 12-hour shift. I
16 asked them if they would kind of write down the names of
17 guys working that they knew of, and if they -- Then I
18 asked who did they think worked there that would be
19 supportive of the union.

20 Q. And did they give you some names?

21 A. Yeah, they gave me some names.

22 Q. Do you recall whose names they gave you?

23 A. Yeah, they told me that -- Let me think now. There
24 was Larry James, Roger Ellis -- My God. Evans, Ken
25 Evans. And there was a couple other guys that were from

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1 out west.

2 Q. Okay.

3 A. Chester Taje, a couple of more that they felt would
4 be interested.

5 Q. Okay. Now were -- Did these gentleman raise any
6 matters of concern that they had with you -- that they
7 had with respect to the mine?

8 A. Yeah, they were concerned at that particular time
9 about the roof control, the basic problem, and the
10 equipment that was being used underground.

11 Q. So those were their two -- the two concerns that you
12 recall?

13 A. At that time, yes.

14 Q. Now what occurred as a result of this meeting that
15 you had with Mr. McNeil and Mr. Facette?

16 A. We decided at that time, at the conclusion of that
17 meeting, that I would have a general meeting open to all
18 employees at Westray, non-managerial employees at
19 Westray.

20 Q. And how did you go about organizing that meeting?

21 A. I did up a one-page leaflet and stood out at the
22 gate. And basically the leaflet was notice to all non-
23 managerial employees of Westray:

24 "A meeting will be held at Lord Provost Hotel on
25 October 3rd at 5 p.m., and another meeting on October 3rd

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1 at 9 p.m. Any persons interested in attending to discuss
2 their rights under the -- to join a union," basically.

3 And I passed it out at the gate.

4 Q. Obviously, the level of interest in your union had
5 changed from the days when you had to jump out of the way
6 of cars.

7 A. Yeah, it was.

8 Q. Was there any discussion with Mr. McNeil and Mr.
9 Facette as to what brought about the change?

10 A. Yeah, I asked him -- I said, "You know, when I was
11 first up here, I used to almost have to jump down into
12 the ditch. Guys would speed by me. And," I said, "how
13 come now, like..." Although a lot of the guys weren't
14 stopping, they were waving to me now anyway, recognizing
15 that I was there.

16 Q. Yes.

17 A. And they told me that there were more guys being
18 hired that had coal mining experience and knew that
19 things weren't right there, and that was probably why
20 they -- I was getting a better response.

21 Q. Okay. Just give me a second here. Okay. So you
22 held your meeting on October the 3rd, did you?

23 A. Yes, I did.

24 Q. And did you keep notes of this meeting that you held
25 on October the 3rd?

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1 A. No, I didn't. I kept -- I scribbled a few notes on
2 my copy of the Coal Mines Regulation Act, but I didn't
3 keep any written notes of the meeting.

4 Q. Was there any particular reason why you didn't keep
5 notes of the meeting?

6 A. I was requested not to.

7 Q. By whom?

8 A. By the guys that were at the meeting.

9 Q. And what reason did they give you for not wanting to
10 keep -- for you not keeping notes?

11 Q. They wanted strict confidentiality. They were
12 nervous of their jobs and of somebody finding out that
13 they were there or what they were telling me. They
14 didn't want it to be know that they had said it. So I
15 basically gave them my word that it would be in the
16 strictest of confidence, and I would not divulge anything
17 that was repeated to me.

18 Q. Okay. Now how many people in total did you see?
19 You had two meetings on October the 3rd. Do you recall
20 how many individuals you saw?

21 A. I think the first meeting, I think there was about
22 12 showed up at 5:00. And the second meeting, I think
23 there was three showed up. There was some of the guys
24 from the first meeting stayed, but I think there was
25 three additional people stayed -- came for the second

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1 meeting.

2 Q. Okay. Did you get some cards signed at that
3 meeting?

4 A. I believe at the first meeting there was 11 people
5 signed cards, or maybe even 12. There was 11 or --
6 almost all of them, I think, signed cards at the first
7 meeting.

8 Q. Let me take you to --

9 A. Maybe 11 signed cards.

10 Q. -- Exhibit 75 that you have in front of you, a black
11 binder.

12 A. Yeah.

13 Q. If you go to Tab 17, page 39.

14 A. Thirty-nine?

15 Q. Page 39, a letter that you wrote to Ron Baker --

16 A. Yeah.

17 Q. -- in Washington?

18 A. Yeah.

19 Q. It would appear that you're reporting on your
20 activities.

21 A. Yeah.

22 Q. And in the second paragraph there you say, "Westray
23 Mine; I have been in New Glasgow for the last several
24 weeks and have made numerous contacts. Had a meeting at
25 5:00 with 12 workers on October 3, 1991. Eleven workers

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1 signed membership cards."

2 A. Yeah.

3 Q. "Had another meeting at 9:00 with three others and
4 two of them signed cards."

5 A. Yeah.

6 Q. And then you say, "Several workers took cards with
7 them to be signed by their co-works -- co-workers who
8 were afraid to attend the meetings." Then you say, "I
9 have two more meetings scheduled for October 9, 1991, and
10 will keep you up to date."

11 A. Yeah.

12 Q. If we go back to page 37 in that exhibit --

13 A. Yeah.

14 Q. -- is that your handwriting?

15 A. Yes.

16 Q. And if we go through that list of names, we will see
17 that on October 3rd and October 2nd, which would be Rick
18 Mitchell --

19 A. Yeah.

20 Q. -- that the following employees signed cards, Randy
21 Facette, Owen McNeil?

22 A. Yeah.

23 Q. Shaun Comish?

24 A. Yeah.

25 Q. Lennie Bonner?

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- 1 A. Yeah.
- 2 Q. Larry James?
- 3 A. Yeah.
- 4 Q. Roger Ellis?
- 5 A. Yeah.
- 6 Q. Andrew Gill?
- 7 A. [No verbal response].
- 8 Q. October the 3rd?
- 9 A. Barry Johnstone.
- 10 Q. Andrew Gill, Rick Chisholm?
- 11 A. Uh-huh.
- 12 Q. Ken Evans, Barry Johnstone and Buddy Robinson.
- 13 A. Yeah.
- 14 Q. And then we have Rick Mitchell who signed on October
- 15 2nd?
- 16 A. Yeah.
- 17 Q. So those are the individuals that you signed up a
- 18 result of your October 3 meetings?
- 19 A. Yes.
- 20 Q. Okay. Now were there -- did the men discuss
- 21 concerns or issues at that meeting?
- 22 A. Well, the meeting started out as a -- more or less a
- 23 definition meeting of our union. I wanted to explain
- 24 what their rights were under the union and what we could
- 25 do to assist them and whatever.

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1 Within a matter of minutes, the meeting turned into
2 a conversation of the problems that were going on at
3 Westray, what was happening there. I think Buddy
4 Robinson stated that in all of his years in coal mining,
5 that's the first mine he ever worked in that he never saw
6 any stone dust applied or even in the mine.

7 Larry James was quite vocal about some problems
8 there, non-permissible equipment underground and
9 different things, and roof conditions. It just went on
10 and on.

11 Q. Do you remember anything else specifically? You've
12 mentioned Buddy Robinson expressing a concern that no
13 stone dusting, Larry Bell [sic] about non-permissible
14 equipment. Do you remember specifically any other issues
15 that were raised during that October 3 meeting?

16 A. There were a lot of issues raised, but basically
17 those were the main issues that were brought up at that
18 meeting.

19 Q. Okay.

20 A. And Albert McLean, there were some comments about
21 Albert and his inspections --

22 Q. Okay.

23 A. -- that he wasn't -- he was doing his inspections
24 with mine management people and overlooking a lot of the
25 stuff.

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1 Q. Okay. Now what did you do at this meeting as these
2 men raised concerns with you?

3 A. Well, first of all, I told them that I was rather
4 surprised that these things were allowed to happen
5 because I knew Albert McLean, the inspector. I had a lot
6 of respect for him. I thought he was a great inspector.
7 In fact, there were a few times when Tom Smales was the
8 inspector at Devco that we were -- our union was looking
9 to have the Province take over inspecting our mines. And
10 we worked very well with Albert in our other unionized
11 operations and that I would certainly talk to him and
12 explain their concerns to him, and ask him if, you know,
13 he would take some actions to address the concerns that
14 were brought up at that meeting.

15 And I also told them at that meeting that they did
16 have rights. Although they weren't unionized, that there
17 were rights under the Coal Mines Regulation Act. And I
18 had my Act with me, and I read the section on coal dust -
19 - or stone dusting to them. There was concerns also
20 brought up at that meeting about welding underground, and
21 I read the section on welding underground to them in the
22 Coal Mines Regulation Act. And at that meeting they had
23 brought up fire when they were welding and stuff like
24 that, like a chance of fire. And I brought up -- I read
25 the section on fire protection in the Act to them.

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1 And I then committed that I would have another
2 meeting and I would bring a representative up from our
3 union who was specifically trained in mine health and
4 safety and worked full time for us in that capacity, and
5 he would bring up copies of the Coal Mines Regulation Act
6 and explain it to them and the Occupational Health and
7 Safety Act and explain that to them.

8 Q. Now you said that you had made some notations on
9 your Coal Mines Regulation Act?

10 A. Yes.

11 Q. And what notations did you make on your Coal Mines
12 Regulation Act?

13 A. Well, there's the book that I brought up that I had
14 at that meeting.

15 Q. I see. And --

16 A. And I wrote "68-1, fire protection; 69-5, stone
17 dust; 87-1, welding underground."

18 Q. Okay.

19 A. And there's other notes on it, but that was what I
20 had written at that particular meeting.

21 Q. Okay. And those -- you wrote down those sections as
22 a result of concerns or issues raised by the men?

23 A. Yes.

24 Q. Okay. Now I want to talk a little bit about your
25 relationship with Albert McLean. Mr. McLean, it seems,

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1 was well known to you?

2 A. Yes.

3 Q. And given what you've said, you had a tremendous
4 respect, it seems, for Mr. McLean, as a mine inspector?

5 A. At that time I certainly did. I thought Albert was
6 one of the best inspectors I had dealt with.

7 Q. Now how -- what type of dealings did you have with
8 Mr. McLean? Did you actually accompany him on some of
9 his inspections at other mines?

10 A. Yeah, from 1986 to 1987, I was the chief safety
11 officer for Nova Scotia and New Brunswick for our union.

12 Q. Yes?

13 A. And in that capacity I was in charge of travelling
14 with the mine inspectors, both federally and
15 provincially.

16 Q. So you travelled with inspectors --

17 A. Yes.

18 Q. -- at Devco and --

19 A. Evans and Westray.

20 Q. Westray?

21 A. Or, I'm sorry, Evans and --

22 Q. Drummond?

23 A. -- Westville.

24 Q. Westville?

25 A. Westville.

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1 Q. Yes.

2 A. And the -- we had another operation in Cape Breton
3 at the time, out by the airport. That was also owned by
4 Pioneer Coal, and we travelled those operations with the
5 inspectors.

6 Q. Okay. Tell me how you found Mr. McLean to be when
7 you travelled with him in other mines while he did
8 inspections?

9 A. When I was the safety officer for our union, and I
10 travelled with Albert, I found Albert not -- to be very
11 efficient in his duties. When we would go underground,
12 he would be -- he would check everything that I had been
13 taught that had to be checked. He would talk to the men.
14 He would sit down with them and discuss concerns if they
15 had any and was well respected. He knew, I think, every
16 man that every site we travelled. He knew each man on a
17 first-name basis, and they all knew him. And he was very
18 efficient in his job and very responsible.

19 Q. Uh-huh. Now what -- you only travelled -- did
20 travels in one mine with Mr. McLean, isn't that correct,
21 one coal mine?

22 A. The Evans Mine was the only underground mine that I
23 travelled with him, yes.

24 Q. Okay. How many times did you travel underground
25 with Mr. McLean in the Evans Coal Mine when he did his

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1 inspections?

2 A. I would say probably a half a dozen to eight
3 different --

4 Q. Okay.

5 A. -- different travels over the period.

6 Q. Now would you actually be participating in the
7 inspection?

8 A. Yes.

9 Q. In other words, would you be taking some tests or
10 gas tests or --

11 A. I would take gas tests and what have you, but Albert
12 -- I didn't have the equipment to take the ventilation
13 readings and the smoke tests for seals and stuff like
14 that. I would just -- I had the equipment, but I didn't
15 bring it with me because Albert always brought his, and
16 he always did those tests. And we would both take gas
17 readings and compare to make sure we were both getting
18 the same readings. And I would be with him when he would
19 check the seals and do other testing.

20 Q. When you say, "check seals," do you mean seals to
21 old workings?

22 A. Yeah. Yeah.

23 Q. Okay. Now are there any specific instances you can
24 remember with respect to stone dusting and Mr. McLean?

25 A. The only -- there had been times where we made a

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1 walk through a section in Evans. Evans was a rather wet
2 mine --

3 Q. Yes?

4 A. -- and there wasn't a big need to stone dust.

5 Q. Yes?

6 A. Basically, the stone dusting was done at the face.
7 It was a -- was non-mechanical mine, and it was shooting
8 and loading of the coal. So mostly the stone dusting was
9 done at the face. And on occasion, if we'd go into a
10 section, and we felt that there wasn't adequate stone
11 dust there, we would stone dust it. Albert would -- you
12 know, it wouldn't be uncommon for us -- Albert and
13 myself, while we were talking to the guys, to tell them -
14 - Albert would say, "You know, we should throw a little
15 more stone dust around here." And we'd get the workers
16 in that section, and Albert and I would assist them and
17 we'd throw stone dust around.

18 Q. Okay. Now who would travel with you and Mr. McLean
19 when you would do your inspections?

20 A. Albert, myself, and if the committee, local
21 committee guy was there, he would travel with us. If
22 not, it would just be Albert and myself.

23 Q. What do you mean, "the local committee guy?"

24 A. Well, we have -- our union has health and safety
25 committee members, and if that committee member was on

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1 shift at that particular time of the travel, he would
2 travel with us. If not, I would do the travel.

3 Q. Now would there be anybody from management who would
4 travel with you and Mr. McLean?

5 A. Not unless we requested them to.

6 Q. Uh-huh. Would they accompany you into the mine
7 though?

8 A. Yeah, we would go down -- usually when we travelled
9 the mine, the men went down at 7:00 on the 7:00 rake. We
10 normally went down on the 8:00 rake. The mine manager,
11 myself, and Albert would get on the rake. We would go
12 down into the mine. We'd get to the last stop. And when
13 we'd get to the last stop, the underground manager would
14 go one way, and Albert and I would go the other way, and
15 we'd tell him we'd meet him back here when it was time to
16 go up.

17 Q. Okay. How long, generally, would you and Mr. McLean
18 be underground doing your inspections, at least on the
19 ones you accompanied him on?

20 A. It varied anywhere from three to four hours we'd be
21 underground.

22 Q. That seems like a fairly long time. How big a mine
23 was the Evans Mine?

24 A. It was a fairly big mine if you considered the
25 abandoned workings and abandoned travelways, and what

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1 have you, in sections, which we did travel.

2 Q. You would check all those?

3 A. Yes. We would travel -- we would check all those,
4 except the parts that were permanently sealed.

5 Q. Yes.

6 A. But there were parts, like, that we had to keep open
7 for ventilation and, what have you, or escape routes or
8 whatever, and we would travel those. But I guess,
9 compared to Westray, it was probably maybe a little
10 bigger area.

11 Q. Including the old workings?

12 A. Including the old workings, yes.

13 Q. Okay. So it was against this backdrop and your --

14 A. And to qualify that, that's never being underground
15 in Westray. I'm basing that assumption by looking at the
16 maps of Westray that I've seen.

17 Q. Right. Because you've never been underground at
18 Westray?

19 A. I've never been underground at Westray.

20 Q. Fair enough. So it was against this experience and
21 impression of Mr. McLean that you were surprised when the
22 men were telling you what was happening at Westray?

23 A. Yes, I -- it really shocked me because, I mean,
24 other than even the travels, I had a lot of experience
25 with Albert in mine rescue and stuff like that, and, you

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1 know, he was very -- very concerned about the health and
2 safety of the people that he represented. And I was
3 surprised at what I was hearing.

4 Q. Okay. Now you held, according to the last -- we
5 looked at the letter that you had sent to Ron Baker. You
6 were to hold a meeting on October the 9th.

7 A. Yes.

8 Q. And did you indeed hold the meeting on October the
9 9th?

10 A. Yes, I did.

11 Q. And did you advertise the meeting?

12 A. Yes, I did.

13 Q. Okay. And where did the meeting take place?

14 A. The Lord Provost.

15 Q. And did you get any new members showing up at this
16 time?

17 A. Yeah, there was -- there was a few new people showed
18 up. Some of the older -- the guy -- older -- some of the
19 guys that were there the week previous were there.

20 Q. Okay. And if we go back again to page 37 in your --
21 in the exhibit, we can look down there and see
22 individuals who signed up --

23 A. Yeah.

24 Q. -- on October the 9th. And Howard Campbell signed?

25 A. Yeah.

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1 Q. Ronald MacDonnell signed. Colin MacInnis signed a
2 card?

3 A. Yeah.

4 Q. Dave Matthews signed a card?

5 A. Yeah.

6 Q. Wayne McLean signed a card?

7 A. Uh-huh --

8 Q. No --

9 A. No.

10 Q. -- that's -- sorry, that's --

11 A. No.

12 Q. -- December.

13 A. No. No.

14 Q. Glen Poirier signed a card --

15 A. Yes.

16 Q. -- October the 9th? And Chester Taje signed on
17 October the 9th?

18 A. Yes.

19 Q. Okay.

20 COMMISSIONER Why would his name be struck out?

21 MS. CAMPBELL Why are certain names struck off that
22 list?

23 A. Okay, Roger Ellis, his name is struck off because I
24 think he went supervisor.

25 Q. Yes.

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- 1 COMMISSIONER Palmer and --
- 2 A. Palmer --
- 3 COMMISSIONER -- Taje?
- 4 A. Palmer, I believe, quit. And --
- 5 MS. CAMPBELL Chester Taje quit?
- 6 A. -- Chester Taje quit.
- 7 COMMISSIONER Oh, I see. Okay.
- 8 MS. CAMPBELL Yeah.
- 9 COMMISSIONER I thought maybe they reneged or something.
- 10 A. No, no. No, no, especially not Chester Taje.
- 11 MS. CAMPBELL And indeed, Mr. Burchell, the documents
- 12 that appear at tab 17, pages 2 through 31, are the cards
- 13 that were actually signed by the various individuals, is
- 14 that so?
- 15 A. Yes.
- 16 Q. Okay.
- 17 A. And there's -- on page 1 there's also -- the card
- 18 isn't there. I had -- for personal reasons, I gave the
- 19 card to someone, but there's recognition that that person
- 20 also signed a card.
- 21 Q. John Halloran had signed a card?
- 22 A. Yes, he did.
- 23 Q. Okay. Now was this the meeting that your brought
- 24 Mr. Paul MacNeil, your safety rep, to?
- 25 A. Yes, at that meeting I brought Paul MacNeil and Ray

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1 Holland, who was our district president at the time.

2 Q. Okay. And what did Mr. MacNeil do at this meeting?

3 A. He had brought copies of the Coal Mines Regulation
4 Act --

5 Q. Yes?

6 A. -- Workers Compensation Act and the Occupational
7 Health and Safety Act to the meeting, explained under
8 each section of the Act --

9 Q. What Act?

10 A. All Acts, each one of them.

11 Q. Uh-huh. Yes.

12 A. He went through each one, explained the protection
13 they had as non-union workers.

14 Q. Yes?

15 A. And basically listened to some of the complaints and
16 would then refer back to the Act on ways that they could
17 get protection under that -- under the Act for that.

18 Q. Okay. Was it only the people at the October 9th
19 meeting that would have gotten this lecture from Mr.
20 MacNeil?

21 A. They were the only ones that would have gotten the
22 lecture.

23 Q. Now was it only the individuals who signed on
24 October 9th that were at the meeting or were there other
25 individuals who may have previously signed?

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1 A. There was other individuals there who had signed
2 previously.

3 Q. Do you recall who else -- like, for instance, was
4 Mr. Facette there?

5 A. Yes, he was.

6 Q. Do you remember if Lennie Bonner was there?

7 A. No, he wasn't. He only attended the first
8 meeting --

9 Q. Okay.

10 A. -- was the only meeting he ever attended.

11 Q. How long did Mr. MacNeil take explaining what -- for
12 instance, let's start with the Occupational Health and
13 Safety Act. How long did he take explaining to men their
14 rights pursuant to that Act?

15 A. Through the whole explanation process, I guess, it
16 took him about an hour because he, you know, he answered
17 some questions and stuff like that.

18 Q. Many of the miners who have testified at this
19 hearing, Mr. Facette being one of them, have stated that
20 they really didn't know what their rights were pursuant
21 to the Occupational Health and Safety Act. Did you hear
22 Mr. Facette's evidence on that point?

23 A. Yeah, I heard it, and I was a little surprised by it
24 because they were, you know, he may not have understood
25 it, but it was made available to him.

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1 Q. He was present when his rights under that Act were
2 explained?

3 A. Yes, plus I gave him a copy of it.

4 Q. Now what about -- Was there any discussion, to the
5 best of your recollection, about the occupational health
6 and safety committee?

7 A. They -- trying to jog my memory. I don't think
8 there was any, as I know it, a functional committee
9 there. The concerns that they weren't doing the travels
10 and what have you, I don't think anybody there really
11 knew who was on the committee, if there was such a
12 committee. Since testimony has been given here, of
13 course, I've heard there was committees and what have
14 you. But, at that time, I was of the impression that
15 there wasn't a functioning committee there.

16 Q. But my question was more related to whether Mr.
17 MacNeil explained to the men that they were permitted to
18 have an Occupational health and safety committee.

19 A. Yes.

20 Q. And sort of what powers and rights members of an
21 occupational health and safety committee would have.

22 A. Yes, in fact, Mr. MacNeil went a little further with
23 it and told them that if a couple of those guys would
24 sign consent forms to have him as their representative,
25 he would take that to the Department of Labour to go

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1 underground as their representative.

2 Q. And travel with --

3 A. And travel the mine with the inspector.

4 Q. And were the men prepared to do that?

5 A. Well, we didn't get any takers on it. No one --

6 Q. They didn't --

7 A. Volunteered to --

8 Q. But your recollection is is that Mr. MacNeil
9 definitely explained that to them?

10 A. Yes, he did.

11 Q. Now was there some indication or did something
12 happen prior to this meeting with respect to someone at
13 Westray attempting to keep tabs, if you will, on what was
14 happening?

15 A. Well, at that meeting, the previous meeting it was
16 brought up about confidentiality, and I was concerned
17 that I wasn't getting the turnouts at the meetings that I
18 had hoped I would get. And they had told me that, you
19 know, they were nervous about being seen or whatever.
20 And I tried to be as up front and open with the guys and
21 as honest as I possibly could. And I had told them that
22 I was approached that afternoon by the --

23 Q. Of October 9th.

24 A. Of October 9th by the owner of the restaurant at the
25 hotel I was staying at.

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1 Q. This is the Lord Provost?

2 A. The Lord Provost. The restaurant was contracted
3 out. The owner of the hotel didn't own the restaurant.
4 That was contracted out to a Bernadette Scott. And
5 Bernadette approached me and told me that she had
6 received a phone call that afternoon from Westray,
7 particularly Bill McCulloch, asking if I was having -- if
8 I was in town, because Bill knew me. And he wanted to
9 know if Bobby Burchell was staying there. And she said,
10 "Yeah, he's here." And he asked her if I [sic] would, as
11 a long-time friend of hers, if she would keep tabs on who
12 was coming in here from Westray to meet with me and
13 report it back to him.

14 Q. So Bill McCulloch was asking Bernadette Scott as a
15 long-time friend of his?

16 A. Yeah.

17 Q. If she would keep tabs on --

18 A. Who I was meeting with from Westray and report back
19 to him.

20 Q. Well, would Bernadette Scott, though, know these men
21 by, you know, to look at them?

22 A. The guys that were working on the drives she would,
23 because the restaurant, that's where we would go. We
24 would go into the restaurant. They didn't have what you
25 would call a meeting room, a large -- like a meeting room

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1 where you could take maybe six or seven people into it.
2 Their meeting room was the size of this room. So if you
3 wanted to have just three or four on the committee that I
4 wanted to meet with and talk to, there was a small room
5 off of the restaurant. And these guys were in there
6 daily. I mean, they come in to meet with me daily. And
7 she got to know them, you know, from coming in there. So
8 she knew several of the people that I was meeting with.
9 She knew them by a first-name basis.

10 Q. Do you know whether Bernadette Scott ever gave Mr.
11 McCulloch any information?

12 A. Well, I can only go by what Bernadette had told me.

13 Q. What did she tell you?

14 A. And she told me that she was very offended that he
15 would make that call and use their friendship for that
16 purpose. And she told him she'd have no part of it. And
17 my understanding, that was the last conversation she had
18 with him on the subject, you know.

19 Q. In your experience as a union organizer, Mr.
20 Burchell, is it common for employers to try and, you
21 know, keep tabs on what's happening with respect to a
22 union?

23 A. Yeah, they try to come to the meetings, some of
24 them.

25 Q. Okay, so that wasn't really --

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1 A. I expected that stuff.

2 Q. It wasn't out of the ordinary?

3 A. No, I expected those things.

4 Q. Did you have any contact with Randy House, Mr.
5 Burchell, while you were attempting to organize?

6 A. Yes, I did.

7 Q. Did he attend any of your meetings?

8 A. He wouldn't attend the meetings.

9 Q. Any particular reason?

10 A. He was fearful of his job. Randy was from
11 Newfoundland, and he was planning on getting married. I
12 spent a lot of time with Randy. He didn't really want to
13 take a chance of getting the union, and we spent a lot of
14 nights together sitting down talking. And eventually I
15 convinced him that, you know, the union was -- In fact, I
16 think how I convinced him was by telling him that if he
17 didn't get a union in there, he wouldn't be around to get
18 married.

19 Q. Did Mr. House eventually sign the union card,
20 correct?

21 A. Yes, he did.

22 Q. Okay, and we see that on page 37.

23 A. Yeah.

24 Q. So it would seem that it was apparent, Mr. Burchell,
25 that men were fearful of being associated with the union,

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1 as far as the company was concerned?

2 A. Yes.

3 Q. And they were afraid they may lose their job if the
4 company knew of their involvement?

5 A. Yes.

6 Q. Were there any suggestions made at your meeting on
7 October 9th as to another means by which possibly you
8 could get the word out to them?

9 A. At that meeting, it was suggested -- I believe Owen
10 suggested that maybe --

11 Q. That's Owen McNeil?

12 A. Owen McNeil, that maybe we may want to look at
13 mailing cards to their homes or distributing -- just
14 passing the cards out at the gate to the guys and letting
15 them sign them at home and mail them back to me. And
16 that way it would be done in the confidence of their
17 home, and no one would know about it. And they wouldn't
18 feel any fear of any reprisal. So I told --

19 Q. So did you do that?

20 A. Yeah, I told them that I'd have to check with the
21 Labour Relations Board first of all to see. I wasn't
22 sure if that was legal, if those cards would be
23 acceptable by the Board. So I contacted the Board, found
24 out it would be acceptable, as long as the two-dollar fee
25 was accompanied with the card. So I had a flier done up,

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1 a leaflet done up explaining what I was doing. And I put
2 a sample copy of the card, I attached a sample copy of
3 the card and the proper procedure on how to fill it out,
4 and put them in self-addressed, stamped envelopes and
5 then went out to the gate to pass the envelopes out to
6 the workers.

7 Q. Now if I could get you to look again in Exhibit 75,
8 tab 17, at page 40. Is this the letter that you prepared
9 and handed out at the gate? And if you look at page 42,
10 there's a sample card.

11 A. Yes, there is.

12 Q. So that is what you prepared and handed out at the
13 gate?

14 A. Yes.

15 Q. And, indeed, is that how you got Mr. Halloran's
16 cheque?

17 A. Yes, it is.

18 Q. When you handed that package out at the gate?

19 A. Yes, it is.

20 Q. Okay. This was done at Owen McNeil's suggestion?

21 A. Yes.

22 Q. How active was Owen McNeil in your union drive, Mr.
23 Burchell?

24 A. He was the most active of all of the employees at
25 Westray. He -- I would say Owen personally signed up 40

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1 percent of the cards that I had.

2 Q. Mr. McNeil did?

3 A. Forty to fifty percent of the cards, Owen personally
4 signed them.

5 Q. Now you were aware that Mr. McNeil became a
6 supervisor at one point in time?

7 A. Yes, he did.

8 Q. Did Mr. McNeil have any discussions with you about
9 that transition?

10 A. Yes, he approached me before he became supervisor
11 and told me that he was going to be going supervisor.
12 Owen had had some personal financial problems, and he
13 told me that he was being worked to death to try to make
14 up for these problems. And he was offered a job as
15 supervisor. His rate of pay would go up from, I think,
16 \$18 to \$23 an hour. And he said, "Look, I've got to take
17 it. I've got to take that job," he said, "And I still
18 want to participate." He said, "I'll do whatever I can
19 and," he said, "maybe I can even help you more as a
20 supervisor by telling the guys the need for a union."
21 And he said, "But you've got to promise me that once you
22 get the union in here, you'll get CUPE to come in and
23 organize us." And I gave him --

24 Q. The supervisors?

25 A. Well, yeah, CUPE union represents supervisors in our

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1 mines at Devco, and I told him that I would make that
2 commitment to him and thanked him for the help he gave me
3 and the help he was going to continuously give me.

4 Q. Okay. Could I get you to look --

5 COMMISSIONER I was wondering when you were going to
6 give Mr. Wells equal time, Mr. Burchell.

7 MS. CAMPBELL Could I get you to look at --

8 MR. BURCHELL He paid me.

9 COMMISSIONER That's on the record.

10 MS. CAMPBELL Page 43.

11 A. Pardon?

12 Q. Page 43 in the same tab.

13 A. Yeah.

14 Q. What is this document, Mr. Burchell?

15 A. The day that I had the meeting with Owen when he
16 explained to me about the -- He was being worked to
17 death. He threw this down on the desk and he said,
18 "Bobby, look," he said, "there is what I've worked." He
19 said, "I've got 96 regular hours in and 37 overtime hours
20 in in a matter of 10 or 12 days."

21 Q. And he was showing you this to demonstrate his
22 financial need?

23 A. Yes.

24 Q. And why he had to take the supervisor's position?

25 A. Yes.

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1 Q. Did Mr. McNeil stick to his word and continue to
2 help you after he became a supervisor?

3 A. Yes, he did. He even, as he was a supervisor, he
4 was still more active in the drive than a lot of the
5 other guys.

6 Q. And is there anything in particular that you can
7 recall that Mr. McNeil continued to do after he became
8 supervisor?

9 A. He -- We were having a problem with the surface
10 employees getting them to sign cards. And I had met with
11 the committee, and I told them that without the surface
12 guys signing up, we weren't going to win the drive
13 because there was just too many of them there. And we
14 weren't going to win without them. And I needed
15 concentration on the surface people.

16 Owen knew several of the people that worked on the
17 surface personally and told me that he would concentrate
18 on them and try to get them to sign up and continue, of
19 course, to talk to other people underground.

20 Q. Okay.

21 A. This was in December and we were getting close to
22 the D-Day.

23 Q. All right. If you look at page 38 in the same
24 exhibit, this is a further listing of individuals who had
25 signed cards.

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1 A. Yes.

2 Q. Did Mr. McNeil have anything to do with getting
3 these cards signed?

4 A. He got them all signed. The Neil MacNeil card was
5 signed in October. Owen had given Neil the card, and
6 Neil signed it but he lived in Cape -- Inverness, I
7 believe, and he had never turned it back in to Owen. So
8 Owen got that card and the other cards signed.

9 Q. And is this the Neil MacNeil that subsequently
10 became a supervisor?

11 A. Yes.

12 Q. Okay. Now the document we see at page 38 was filed
13 in support of your certification, correct?

14 A. Yes.

15 Q. Okay. Now after the October meeting, did you hold
16 any other meetings?

17 A. Yes, I had a couple of meetings in the first couple
18 of weeks of November and a couple more in the first
19 couple of weeks of December.

20 Q. Okay, do you recall when you held your meetings in
21 November?

22 A. Yes.

23 Q. When did you hold the meetings?

24 A. I can't recall the specific dates, but it was within
25 the first two weeks. I think the first one was around

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1 the -- Well, I have my expense vouchers here. I could
2 probably -- if I could look at them, I could probably
3 give the date, but it was in --

4 Q. You had two meetings during the month of November?

5 A. Yes.

6 Q. Okay.

7 A. I think the first one was the first -- around the
8 3rd or 4th of November and then the next one would have
9 been the following week. Because I would hold them one
10 week and then the next week.

11 Q. Maybe at the break you could take a look.

12 A. Yeah.

13 Q. And see when in November.

14 A. Sure.

15 Q. At your meetings in November, were there any new
16 faces that came on the scene?

17 A. No, there was a few. But a lot of the old guys
18 there, but there were a few new faces. I think Robbie
19 Doyle was there. I believe his brother was there and a
20 couple more were there.

21 Q. What impression did you get from Robbie Doyle with
22 respect to his interest in the union?

23 A. Well, at the beginning of the meeting, I thought he
24 was planted by the company because he seemed very pro
25 company. And I just figured that maybe he was there to

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1 disrupt the meeting or whatever because he was very vocal
2 about things the company were doing for them and the pay
3 and the benefits and stuff like that.

4 Q. And did he make any reference to the fact that, you
5 know, the company was giving them topnotch equipment and
6 things of that nature?

7 A. Yeah, he made a comment that the company spared no
8 expense in the equipment that they gave them, safety
9 equipment, and what have you. And I asked him to explain
10 it, and he gave reference to his first-aid kit. And he
11 told me that his first-aid kit was made of steel, and it
12 was one of the best he had ever seen. And he commented
13 to the effect that he had cut his finger at one time, and
14 he went to get a band-aid. And by the time he got the
15 first-aid kit unopened [sic] and when he was doing it, he
16 was referring to the side, like that there, he said, "I
17 just gave up," he said, "That's how good it was."

18 Q. He couldn't get it opened?

19 A. "I couldn't get it opened," he said, "So I just
20 wrapped -- held my hand around my finger for a few
21 minutes." And I looked at him, and I said, "Robbie,
22 describe what you're telling me is your first-aid kit?"
23 And he described this device right here, a self-rescuer.
24 It blew my mind. I mean, that's not something that you
25 tamper with.

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1 I then explained to him what a self-rescuer was, and
2 I said, "Robbie, immediately, tomorrow go to work, take
3 that off your belt, turn it into the employer because if
4 you were tampering with that seal and broke the seal,
5 it's of no use to you any more. Get a new one and make
6 sure that they instruct you in its proper use before you
7 go back underground." I said, "That's ridiculous." And
8 he commented to me, "Well, I didn't know," he said, "It
9 was when I got hired, they passed it to me and said,
10 'Here, this is in case of an emergency.'" So he said, "I
11 assumed it was a first-aid kit."

12 Q. Now if we look at page 37, Robert Stephen Doyle, he
13 eventually signed on December the 10th, 1991.

14 A. Yeah.

15 Q. Did you have any further discussion with Mr. Doyle
16 about this unit that was a self-rescuer later?

17 A. We discussed it a couple of times. You know, I
18 asked him if he had got a new one and whatever. And then
19 his attitude changed. His attitude drastically changed.
20 He came to the next couple of meetings, and I believe at
21 probably the second meeting or whatever after this
22 incident, or the third meeting after this incident, he
23 decided to sign a card. And he asked me if he could have
24 another card to take home. That he had a brother working
25 there and he was going to get his brother to sign, too.

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1 Q. And so Robbie Doyle signed on December 10th, '91 and
2 his brother, James Doyle, signed on December 16th --

3 A. Yeah.

4 Q. 1991, according to this sheet.

5 A. Yeah.

6 Q. Were there any other matters raised in this November
7 meeting about what was going on underground, what some of
8 the concerns of the men were?

9 A. At that meeting, it was also commented that they had
10 brought in a gas-operated piece of equipment. By "gas,"
11 I mean not diesel, regular gas, to pump water out of the
12 mine. And I told them that that was completely -- Of
13 anything that -- That just -- You can't do that in a coal
14 mine. You cannot bring a gas -- a piece of gas-operated
15 equipment underground in a coal mine. I mean, that's --
16 of all the permits Westray claimed to have, that's one
17 I'm sure they would never get.

18 And they were talking about welding underground and
19 jump-starting the tractors underground. Larry James
20 brought up that there was a piece of electrical equipment
21 that he had to go service underground that was a regular
22 household fuse box. And this stuff was blowing my mind.
23 You know, I just couldn't believe that this stuff could
24 happen in a coal mine. I mean, it was just -- It was
25 upsetting me.

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1 So I told the guys at that meeting that I would
2 immediately talk -- I was going to go home the next day
3 and meet with Albert.

4 Q. To Sydney?

5 A. Yes, and meet with Albert, bring these concerns up
6 with him and do whatever could be done to get this
7 problem rectified. At that time, somebody said Albert
8 was at the mine today. And I said, "Well, if he's at the
9 mine, he must be staying over at the Heather," because
10 that's where I would normally see him. I said, "I'm
11 going to go over to the Heather right now and talk to
12 Albert." I was really upset. And Buddy Robinson was
13 there, and Buddy said I was wasting my time.

14 Q. Why did Buddy tell you you were wasting your time?

15 A. He told me that he had been home the previous week
16 or a couple weeks before that, and he said he spent over
17 an hour on the phone with Albert. He said "I went
18 through all these things with Albert, told him all about
19 it." He said, "You're wasting your time. He knows all
20 about it, and he's not doing nothing to change it."

21 So I left anyway, went over to the Heather, and I
22 walked into the restaurant, and when I walked into the
23 restaurant, it was kind of dark there. And over in the
24 far corner, I noticed Albert McLean and Dave MacLean were
25 sitting down having supper.

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1 Q. Now who is Dave MacLean?

2 A. Dave was -- I don't really know what his title was,
3 but wherever you saw Albert, you saw Dave. I think he
4 was probably an inspector in training or something.

5 Q. He wasn't related to Mr. McLean, was he?

6 A. I really don't know.

7 Q. Okay.

8 A. But he was there. He worked for the Department of
9 Labour, and I had worked with Dave in Devco. I knew Dave
10 quite well.

11 Q. So you went over to the Heather and you see the two
12 Mr. McLeans.

13 A. Yeah. I stood at the table. David -- or Dave
14 invited me to sit down and join them. They were having
15 dinner, and he made a comment about the fish and chips
16 was good or whatever. I said, "No, I don't think I want
17 to sit down." I said, "Albert," my language was maybe a
18 little harsher than what I'll use here, but there might
19 have been some profanities there. I was quite loud, and
20 I said, "Albert, I just had a meeting with the guys over
21 there." I said, "What the hell is going on at that mine?
22 Someone is going to get killed over there. They're jump
23 -starting equipment. They're bringing gas-operated
24 equipment underground." I said, "There's no stone dust.
25 They're welding," I said, "And there's fires. When

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1 they're welding, there's fires starting." I said, you
2 know, "There's household electrical switches over there."
3 And Albert looked at me; he was kind of red in the face,
4 and he said -- he said, "I never saw anything like that."

5 And I said, "I just came from a meeting. Larry
6 James is the electrician. He told me about this." I
7 said, "They've got no training in their self-rescuers.
8 They've got..." I said, "Angus MacNeil, they told me at
9 that meeting, is now their supervisor." I said, "He's a
10 hard rock miner. How in the hell can you qualify him to
11 be a supervisor?" And the list went on and on, and
12 Albert got really agitated with me, and he said, "Well,
13 I'm not seeing none of this, and why aren't the guys
14 coming to me with their problems? Why are they coming to
15 you?"

16 I said, "Listen, Albert, I'm telling you now what
17 the problems are. What are you going to do about it?" I
18 said, "The guys are scared to death to tell you because
19 every time you're in the mine, you've got Gerald Phillips
20 or Roger Parry on an arm, and they're scared, they're
21 intimidated." I said, "Now, I'm telling you what the
22 problems are there. What are you going to do about it?"

23 And he made a comment to, "I'm not going to help you
24 in your organizing drive." I said, "This got..." and the
25 language got very -- because Albert knew me for a long

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1 time, and he knew I was sincere. And he knew I was
2 committed to health and safety. I said, "Albert, that's
3 bullshit. You know what's going on there, you've just
4 been told by me. What are you going to do about it?"

5 I said, "Albert, your son is working over there
6 welding." I said, "He's never worked underground before.
7 If he's down there welding and he blows that pit up,
8 you're going to have to live with that on your
9 conscience." And he said, "My son won't be underground
10 welding."

11 And the waitress at the restaurant kind of gave me a
12 few dirty looks because I was quite loud, and I guess I
13 was a little out of line at that -- in that place to be
14 talking that way. My language maybe might not have been
15 the best.

16 Q. What did -- was there any discussion during this
17 time between you and Mr. McLean as to who he did his
18 travels with --

19 A. He --

20 Q. -- and --

21 A. He told me that he took their safety -- he made a
22 comment that he took their safety committee man with them
23 on his travels. And I told him, "Bullshit, you take
24 Roger Parry with you or Gerald Phillips." I said,
25 "Albert, I know what's going on at that mine; I know

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1 what's happening."

2 Q. Did you make any requests of Mr. McLean with respect
3 to his travels underground at Westray?

4 A. Yes, I told him -- I said, "Albert, when we
5 travelled and you travel with us in any of our
6 operations, there's no one there from management. You go
7 and you talk to the guys when management isn't around.
8 We'll -- if management's there, we'd ask them to leave.
9 Why -- how about doing that at Westray? How about taking
10 the guys with you, one of the committee men? How about
11 going over, talking to the guys, and make sure no one
12 from management is there?"

13 Q. And what did Mr. McLean reply?

14 A. He told me that he takes the guys with him. He was
15 very agitated. He was blood red. I was waiting for him
16 to take a stroke. I mean, he was just blood red and
17 very, very agitated with me and seemed pissed off at me.

18 Q. Uh-huh.

19 A. Yeah.

20 Q. How did the Albert McLean you encountered at the
21 Heather Motel that night compare to the Albert McLean you
22 described earlier?

23 A. That day -- that night I lost all respect that I
24 ever had for Albert McLean. I was totally disgusted with
25 him. I couldn't believe it was the same Albert McLean

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1 that I had worked with, and knew and respected. I felt -
2 - I don't know, I guess if you were to run around on your
3 wife, your wife would feel very hurt or whatever. I felt
4 hurt that Albert would betray the trust of those people
5 like that.

6 Q. But why did you think he had, because -- like, what
7 made you feel this strongly or cause you to change your
8 feelings?

9 A. Well, at the time -- I had my own personal opinions
10 once I witnessed that. The Chief Inspector, Collie
11 MacDonald, was retiring. And there was a rumour milling
12 around the Labour Department on who was going to get
13 Collie's job. And I, at that time, honestly thought that
14 Albert was jockeying for that job and didn't want to rock
15 the cart, didn't want to make any of the supervisors mad
16 at him, so he would get that job. That's what I thought.
17 I couldn't think of any other reason why Albert would put
18 the men's lives at risk the way he did.

19 Q. The response that you got from Mr. McLean at the
20 hotel, the Heather Hotel that night, was that the
21 response you expected to get from Mr. McLean?

22 A. No.

23 Q. What did you expect --

24 A. No.

25 Q. -- was going to happen when you went over and met up

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1 with Mr. McLean?

2 A. I figured once I went through the rest of the things
3 that were -- like, I told Albert, "This was just reported
4 to me at a meeting." I just left a meeting. I figured
5 Albert would tell me that he will be immediately
6 travelling the mine again in the morning. I -- in fact,
7 I asked him not to give any prior notification, that he
8 would travel that mine in the morning and take one of the
9 guys down with him, and look for the things that I told
10 him were happening there. That's -- the Albert I knew, I
11 -- I just figured that's what he was going to do.

12 Q. And prior to coming to the -- over and speaking with
13 Mr. McLean, Buddy Robinson had told you that he had
14 spoken for one hour on the telephone with Mr. McLean, and
15 he felt it went nowhere. Did you feel the same way after
16 you finished your discussion with Mr. McLean?

17 A. Yeah, I was devastated by his lack of concern. I
18 mean, he just didn't care.

19 Q. Did you go back to the meeting that you had left?

20 A. Yes, I did.

21 Q. And what did you tell the men when you got back to
22 the meeting?

23 A. I told them what was going on or what went on at the
24 meeting, and I told them that I would go over Albert's
25 head and --

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1 Q. Who did you tell them you would go over Albert's
2 head to?

3 A. I told him I would go to Claude White or the
4 Minister himself.

5 Q. Uh-huh. And what did you do?

6 A. I called -- contacted Claude White, told him the
7 concerns I had for the safety of the men at the mine, and
8 I told him I had lost all confidence in Albert. And he
9 told -- directed me to get in touch with John Smith.

10 Q. Now did you call -- was Mr. White the first
11 individual you called or did you call somebody before you
12 called Mr. White?

13 A. I called -- Hughie Macdonald was the Deputy Minister
14 of Labour at the time, and I knew Hughie personally. And
15 Hughie told me to call Claude and I --

16 Q. What -- just --

17 A. I told him I didn't see any sense in calling Claude,
18 but, you know, I did anyway.

19 Q. Okay. Well, let's back up here a moment. What you
20 recall of the -- did you telephone Mr. Macdonald on the --
21 -- you telephoned him, I take it?

22 A. Yes.

23 Q. And what do you recall of the discussion you had
24 with Hughie Macdonald when you telephoned him?

25 A. I basically told him what was -- that they were

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1 operating unpermissible equipment underground, welding
2 underground. And I basically told him the things that I
3 told Albert, but I was a little more controlled, a little
4 more, I guess --

5 Q. Together?

6 A. -- together, yeah. And told him that I was really
7 concerned, and I felt that somebody should do something
8 about it.

9 Q. Did you mention anything to Mr. Macdonald about
10 Albert McLean?

11 A. Well, I told him that I didn't think Albert was
12 doing his job.

13 Q. And what was Mr. Macdonald's response?

14 A. He told me that my best avenue, to go to Claude
15 White, that Claude was the guy that I should be talking
16 to, not him.

17 Q. And then you phoned Mr. White?

18 A. Yeah.

19 Q. And you've told us what your discussion with Mr.
20 White was. Did you review at all with Mr. White, when
21 you telephoned him, what your concerns were?

22 A. Yes, I did.

23 Q. And do you recall today what you told Mr. White your
24 concerns were?

25 A. I told him that they were qualifying supervisors who

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1 I felt weren't -- didn't meet the requirements of the
2 Coal Mines Regulation Act. I told him they were welding
3 underground without proper procedure in place. I told
4 him that they weren't stone dusting underground, in fact,
5 there was very little stone dust. I told him that they
6 were jump-starting equipment underground, and the
7 equipment they were jump-starting was non-permissible,
8 household electrical. I went through the list. I mean,
9 I'm sure there's things that I'm leaving out that I told
10 him because at the time it was a lot more fresher in my
11 mind than it is right now, but --

12 Q. Now are you certain that you raised all these things
13 with --

14 A. Oh, yes.

15 Q. -- Mr. White?

16 A. Albert -- or Claude was well aware of it, and so was
17 Hughie. Hughie knew too.

18 Q. But what basis do you have to say that Mr. White and
19 Mr. Macdonald were well aware of what you were telling
20 them?

21 A. Because I personally told them.

22 Q. Oh, I see. That's what you're referring to?

23 A. Yes.

24 Q. Okay. So when you spoke to Mr. White, he told you
25 to contact John Smith?

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1 A. Yes.

2 Q. And did -- was he going to do anything, Mr. White?

3 A. Claude, himself?

4 Q. Yes.

5 A. No, he didn't give me that impression.

6 Q. He didn't tell you that he would speak with anybody
7 about --

8 A. He told me he would talk to Albert, but in the
9 meantime get ahold of John Smith.

10 Q. Did he tell you what he was going to talk to Albert
11 McLean about?

12 A. I assumed that he was going to talk to Albert about
13 the concerns that I had brought up and, specifically, the
14 way he travelled.

15 Q. What do you mean --

16 A. Like, the way --

17 Q. "The way he travelled?"

18 A. -- he did his travel. With management, that, you
19 know.

20 Q. But Mr. White didn't tell you that. You -- those
21 were assumptions on your part?

22 A. Well, those were the concerns that I had brought up,
23 and he had told me that he would talk to Albert. So I
24 would naturally assume that if he's going to talk to
25 Albert, it would be about the concerns that I had brought

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1 up to him.

2 Q. Okay. Now you had been told -- or Mr. White
3 suggested that you get in touch with John Smith. And I
4 assume that was with respect to the non-permissible
5 equipment and --

6 A. Yeah.

7 Q. -- things of that nature?

8 A. The electrical stuff, the non-permissible equipment
9 and --

10 Q. Okay.

11 A. -- jump-starting.

12 Q. Did you go and meet or contact John Smith?

13 A. I was -- at that particular time I was leaving. I
14 had been called to the States. And I con -- I was in
15 touch with Paul, who was our safety director --

16 Q. That's Paul MacNeil?

17 A. -- Paul MacNeil, and asked him to get in touch with
18 Smith and either set up a meeting or whatever. And I had
19 to go to Washington, D.C. I went to Washington. I came
20 back around the first of December --

21 Q. Yes.

22 A. -- went back to New Glasgow and that week, around
23 the 10th or whatever, 11th or 12th, I went over and
24 personally saw Smith and them on it.

25 Q. You saw John Smith?

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1 A. Yeah.

2 Q. And what -- was there anybody with you when you went
3 to see John Smith?

4 A. Yes, I had the president of our Lingan local from
5 New Waterford with me and the -- a committee member from
6 our Prince Mine in Sydney Mines with me. And I had the
7 surface chairman from our Lingan Mine with me.

8 Q. What were those gentlemen's names?

9 A. The president of Lingan Mine was John Oswald
10 MacNeil.

11 Q. Uh-huh.

12 A. The committee man from Lingan was Charles Melvin
13 Gillis and the committee man from Prince was Warren --
14 Mansel Warren.

15 Q. Okay. So these three gentlemen and yourself went
16 over to meet with Mr. John Smith?

17 A. Yes.

18 Q. Where did you go?

19 A. We went to the Department of Mines' building here in
20 Stellarton.

21 Q. Okay. And tell us about that visit with Mr. Smith?

22 A. Well, I had held a meeting prior to going over there
23 with the men.

24 Q. Yes.

25 A. And there was an issue brought up at that meeting

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1 that they were in the -- what's known as the Southwest
2 section, and they were mining towards the old abandoned
3 workings at the old Foord seam. And that the Department
4 of Labour had instructed them to bore ahead as they were
5 mining and --

6 Q. This is what the men are telling you?

7 A. This is what the men are telling me.

8 Q. Uh-huh.

9 A. And they said they quit boring ahead three weeks
10 ago, but they were still in there mining. And I said,
11 "Look, I'm going over -- I'm going to go over and meet
12 with -- get a little more information on the mine, the
13 old abandoned workings." And I said, "We'll have another
14 meeting tomorrow night when I get more information on
15 it." And that's what --

16 Q. Gave --

17 A. -- sent me over there to the building.

18 Q. Okay. So tell us about your meeting.

19 A. With?

20 Q. With John Smith.

21 A. When I first got there, I asked to see Mr. Smith and
22 somebody told me he was upstairs busy. I went into the
23 garage section, I guess, of the building and they said he
24 was upstairs busy in a meeting, or talking to somebody,
25 or something. And I don't recall who the gentleman was,

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1 but he took us on a little tour of the building while we
2 were waiting, showed us the operation, their core
3 equipment for drilling and different things. And then
4 eventually we did get upstairs into the room, and I asked
5 that they produce a map of the old workings.

6 Q. Who did you ask that of?

7 A. Mr. Smith.

8 Q. Yes. And --

9 A. And they --

10 Q. And did Mr. Smith --

11 A. They put a map out on the table of the old workings.
12 And then I asked them if they would draw in Westray in
13 respect to that map and they drew Westray in. And asked
14 them --

15 Q. Who did the drawing? Who drew it in, Mr. Smith or
16 somebody else?

17 A. He went down with a fine pencil, I think, and then I
18 marked it in later with a darker pen.

19 Q. Mr. Smith did?

20 A. Yeah.

21 Q. Okay.

22 A. Like, he kind of outlined the entranceway into the
23 mine and where Westray was located.

24 Q. Could I get you to turn to page 57 in tab 17.

25 COMMISSIONER That's still the same exhibit, eh?

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1 Exhibit 75?

2 MS. CAMPBELL Yes, Exhibit 75.

3 A. Yeah.

4 Q. Page 57, Mr. Burchell?

5 A. Yeah.

6 Q. We see some handwriting, "mine entrance, Westray
7 site, mine slope, old mine workings, filled with water."
8 Whose handwriting is that?

9 A. The handwriting is mine.

10 Q. Is yours, okay.

11 A. Yes.

12 Q. And for instance --

13 A. But as I was writing it, Mr. Smith was showing me
14 what I was writing there.

15 Q. Okay. So what was the discussion about the barrier
16 pillar?

17 A. Well, I wanted to know why they weren't boring ahead
18 because, I mean, that's regulations. That if you're
19 working towards old abandoned -- if your drivage is
20 towards old abandoned workings where there's a
21 possibility of high gas build-up or water concentration,
22 that you're to bore ahead. That's in the regs.

23 Q. Yes.

24 A. And --

25 Q. What regs are you talking about?

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1 A. The Nova Scotia -- the Coal Mines Regulation Act.

2 Q. Yes.

3 A. And I was concerned why they were continually
4 advancing there and not boring.

5 Q. Did you raise that with Mr. Smith?

6 A. I raised it with Mr. Smith and he said, "Well," he
7 said, "they're..." I think first he said, "Well, they're
8 not working there any more." I said, "Yes, they are." I
9 said, "I met with the guys last night, and they're still
10 advancing there." And he said, "Well..." I think then
11 he said -- made a comment about "the drill broke." And
12 then finally, in conversation, he said, when we got to
13 the bottom of it, they had dismissed the subcontractor
14 that was doing the work. Westray was going to start
15 doing it themselves, but they had to send away for a
16 diamond drill, and they were waiting for that drill to
17 come in.

18 Q. Is this what Mr. Smith told you?

19 A. Yes.

20 Q. Okay.

21 A. And I said, "Well, why are they still advancing?" I
22 said, "That's fine. If they are sending away for a new
23 drill, that's fine. Why haven't you guys got the place
24 shut down until that drill gets there or have the sub-
25 contractor continue there until they get the equipment to

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1 do it?" And he said, "Well, I was of the understanding
2 that they were shut down and I will check it." And as we
3 were going over the --

4 Q. When he said, "shut down," did he -- do you mean
5 that they were --

6 A. Stopped, that section wasn't working.

7 Q. They weren't advancing?

8 A. Right.

9 Q. Uh-huh.

10 A. He said, "I'll check into that." And I --

11 Q. Okay.

12 A. -- went over a few of the other problems with him
13 and then, as we were looking at the map, I asked him, I
14 said, "Now how much water pressure would you guys -- have
15 you guys estimated is in that old workings?" Because by
16 looking at the map, it looked like they were pretty close
17 to the old workings, and the guys had told me there was
18 indications of water as they were advancing. And he told
19 me how water they suspected was in there. And I said,
20 "Christ, that..."

21 Q. How much did he tell you?

22 A. He said it was up -- they figured that there was
23 about 500 pounds per square inch behind that barrier.

24 Q. And is that where you got the information --

25 A. I wrote it in.

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1 Q. -- that you wrote on there?

2 A. I wrote it in as he said it.

3 Q. "Water pressure approximately 500 psi?"

4 A. Yeah.

5 Q. What --

6 A. I said -- and then I commented to him, I said,
7 "Well, if that water, after having -- in that section
8 right now is coming from them old workings, and they
9 break through there," I said, "there's going to be a lot
10 of dead bodies in that mine with that amount of water
11 pressure coming through."

12 Q. What did Mr. Smith say?

13 A. He said, "Well," he said, "I don't think they're
14 that close, and they know where the barrier is." With
15 that -- there was several maps there. With that, I
16 noticed on one of the maps a qualification on the bottom
17 of the map.

18 Q. Yes.

19 A. And I commented to him, I said, "What does this
20 mean?" And he said, "Well, when that old section was
21 abandoned," he said, "at that time we surveyed once a
22 month." It wasn't a daily -- like, in our mines today,
23 we basically survey daily.

24 Q. Uh-huh.

25 A. He said, "At that time they only surveyed once a

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1 month and we don't know when that mine burnt or whatever,
2 whether the survey study that we had was done a month
3 before they abandoned it or whether it was done the
4 day..."

5 Q. The day --

6 A. "...before it was abandoned." So I said, "Well,
7 you're telling me that there could be 100 to 200 feet
8 difference in that barrier." "Well, I don't think so."
9 I said, "Well, if they stopped -- if they surveyed it a
10 month before they abandoned it and if they had -- even
11 back then their advancement would have at least been a
12 couple of hundred feet," I said, "those guys could break
13 into that any day now, and they'd all be killed."

14 Q. And what was Mr. Smith's reply?

15 A. He agreed with me. And he said that he would
16 immediately have them stop drilling.

17 Q. Now if I could get you to look at the next page
18 which is page 58, this is another map that you obtained
19 on the same day?

20 A. Yeah.

21 Q. Now the warning that you referred to seeing, is that
22 what we see in the bottom towards the right? It says,
23 "Warning, accuracy cannot be guaranteed. Mine workings
24 and information are based on archival material?"

25 A. Yes.

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1 Q. And that's what you referred to a few moments ago?

2 A. Yes.

3 Q. Okay. So you understood that Mr. Smith was going to
4 do some checking, did you?

5 A. Yes, he left me with the impression that he was
6 going to be in touch with the mine the next day.

7 Q. Okay. Do you know if -- did you ever have any
8 further contact with Mr. Smith on it to find out whether
9 he did?

10 A. No. I met with the men that night and explained to
11 them, put the map up, explained it all to them and told
12 them of the dangers that were involved there and told
13 them that they shouldn't continue to mine there. Now I
14 was led -- and I still believe that they didn't do any
15 more advancement in there without drilling ahead. Now --

16 Q. We've had evidence on what advance drilling was done
17 there.

18 A. Yes.

19 Q. If I could just bring you briefly to pages 59 and 60
20 in this tab, Mr. Burchell. And these are excerpts from
21 the diary of Kevin Gillis.

22 A. Okay.

23 Q. And I would like to bring you to December 11th.

24 COMMISSIONER Sixty, you said?

25 MS. CAMPBELL Fifty-nine and sixty.

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1 COMMISSIONER Oh, I'm sorry. Yeah.

2 THE CLERK The last two pages.

3 MS. CAMPBELL In -- the last two pages in tab 17. And
4 I'm at page 60 which is December the 11th.

5 A. Yeah.

6 Q. It says, "Power off this a.m. for about one hour.
7 Had three fellows from the UMW looking for the location
8 of old workings on the Foord seam. They were Robert
9 Burchell, Mansel Warren and Ozzie MacNeil." Is that the
10 time frame you recollect that you would --

11 A. Yeah.

12 Q. -- have went there December the 11th?

13 A. Yeah.

14 Q. Do you recall if you had any contact with Kevin
15 Gillis?

16 A. He may have been the guy that gave us the little
17 tour downstairs and then took us upstairs.

18 Q. I see. But your main discussions, were they with
19 Mr. John --

20 A. Yeah.

21 Q. -- Smith?

22 A. Yeah.

23 MS. CAMPBELL Mr. Commissioner, this would be an
24 appropriate time for a break?

25 COMMISSIONER Yeah, sure. Where is there -- where does

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1 it indicate that these are Kevin Gillis' notes? Is it --

2 MS. CAMPBELL Well, they are --

3 THE CLERK [Inaudible].

4 COMMISSIONER Yeah, I don't see where it shows there.

5 MS. CAMPBELL Well --

6 THE CLERK There's nothing on it to identify them as Kevin
7 Gillis' notes. That's how they were identified to us as.

8 COMMISSIONER Oh, okay.

9 MS. CAMPBELL When they were forwarded to the Inquiry.

10 And you can just see that there is a reference, "DNR, Box
11 C-25." And the first page, 59, was--

12 COMMISSIONER Okay.

13 MS. CAMPBELL -- was --

14 COMMISSIONER Okay. Okay, thank you. We will recess
15 then for 15 minutes. Thank you.

16 INQUIRY RECESSED (TIME: 11:05 a.m.)

17 INQUIRY RESUMED (TIME: 11:23 a.m.)

18 COMMISSIONER Thank you. Ms. Campbell.

19 MS. CAMPBELL I had asked you to check over the break,
20 Mr. Burchell, your expense claims to see if you could
21 determine with any degree of certainty when this
22 discussion between yourself and Mr. McLean took place at
23 the Heather Motel. Were you able to do that?

24 A. Well, the first week of November, I was here from
25 the 3rd to the 8th and the meeting would have probably

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1 been either the night of the 4th or the night of 5th, one
2 of those nights.

3 Q. That's the most you can tell us here today?

4 A. Yes.

5 Q. Okay. I just wanted to step back for a moment. You
6 brought John Oswald MacNeil, Melvin Gillis, and Mansel
7 Warren up to help you "campaign," if I can use that term.

8 A. Yes.

9 Q. And when exactly were they here?

10 A. First two weeks of December.

11 Q. The first two weeks?

12 A. Yeah, I think I brought -- I think we come up -- I
13 think it was around the first two weeks of December.

14 Q. Was there any particular reason why you brought
15 those guys up?

16 A. I was -- We had a meeting and I was informed at the
17 meeting that -- At that particular time, we were having a
18 lot of problems at our Lingan Mine, and it was well
19 publicized that it was going to be shutting down. And,
20 at that meeting, they had told me that Roger Parry was
21 pulling a lot of the guys aside and telling them that
22 they shouldn't support our union drive, that once we get
23 in there, we'd shut Westray down on safety violations so
24 that we could keep the Lingan Mine going. There was some
25 thoughts that maybe Westray was stealing the contract

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1 from Trenton from Devco, and that's why Lingan was
2 closing. And the fact of the matter was Lingan was just
3 worked out, and it was going to be closing whether there
4 was a Westray or not.

5 And they were concerned, Owen and Randy and the rest
6 of them were concerned about the impact that Roger's
7 pulling people aside and that was having -- was going to
8 have because we were getting close to vote day -- or to
9 application day. And so they suggested that I do two
10 things. Number one, that I put a leaflet out to the men
11 explaining the functions of the union and to, I guess,
12 counter what Albert or what Roger was saying to the men.

13 Q. What, with respect to UMW wanting to shut Westray
14 down?

15 A. Wanting to shut Westray down. And the other thing I
16 was requested was if I could bring someone up from Lingan
17 out to the gate and to meet with the men to, I guess,
18 explain the situation at Lingan and the effect of Westray
19 and Lingan, the comparison and whatever. So that's how
20 Mr. MacNeil came up.

21 And there was also -- They were having a lot of roof
22 falls and they were running into some serious problems
23 with horizontal stress and whatever. And I had told -- I
24 had suggested to Owen and Randy and them that I would
25 also bring someone up from our Prince Mine where we had

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1 similar problems at the start-up of the Prince Mine, and
2 he could explain to them how our union and management
3 worked together to overcome those roof problems without
4 having to shut the mine down.

5 Q. Okay.

6 COMMISSIONER Just if I could clarify something, Mr.
7 Burchell. You indicated that you said that Lingan was
8 closing because it had just run out. Am I incorrect that
9 at the time, I thought Lingan had closed because of
10 excessive water and flooding.

11 A. There was water problems. That was the final stage,
12 it flooded. Like there was too much water coming in, but
13 Lingan was supposed to be a 20-year mine. It opened in
14 1969 and it was at the stage -- The only way we could
15 continue with Lingan was retreat on the west side, and we
16 weren't having any success with that.

17 COMMISSIONER But they had set up a degasification plant
18 on the surface at Lingan, hadn't they?

19 A. Yeah.

20 COMMISSIONER To degas the mine and get the product over
21 to the Nova Scotia Power Corp?

22 A. That was -- That had nothing to do with the mining
23 operation. That was a methane extraction system that
24 another company had gone into partnership.

25 COMMISSIONER No, but all I'm saying is that they

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1 wouldn't have done that if they were anticipating that
2 the mine had just about lived its life, I wouldn't think.

3 A. Well, sure, they could still extract methane without
4 the mine operating.

5 COMMISSIONER Well, we'll take that under consideration.

6 A. I mean Nova Scotia Power is now in partnership with
7 a company from the U.S. to tap into the Pictou coalfields
8 for methane. I mean there's still methane being emitted
9 underground, build-ups of methane underground but --

10 COMMISSIONER But they wouldn't get it out of a flooded
11 mine, though, would they?

12 A. Well, no, probably not.

13 COMMISSIONER Yeah.

14 A. But as the union there, we knew Westray was going
15 down -- or Westray -- Lingan was going to be closed. I
16 mean, we had fought and fought to keep it going.

17 COMMISSIONER All I just wanted to get in was the
18 fact --

19 A. But water was a big contributing factor to the
20 closing.

21 COMMISSIONER Okay, that's --

22 A. But I think the plan was it was going to last five
23 more years.

24 COMMISSIONER Thank you.

25 MS. CAMPBELL If I could take you again to Exhibit 75,

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1 tab 17, Mr. Burchell, page 44 and 45. This was a
2 newsletter or notice that you put out?

3 A. Yes.

4 Q. And the first -- It provides: "Dear Brothers and
5 Sisters: Over the past few weeks, employees have had
6 some legitimate questions asked of the union. Also there
7 have been some rumours at your work site about the
8 structure of the United Mine Workers of America. Please
9 allow me to take the opportunity to try to answer some of
10 the most commonly asked questions. The first question
11 provides: The UMW will try to close our mine on safety
12 violations." You addressed that in direct reply to what
13 you were hearing, that Mr. Parry was taking workers aside
14 telling them that UMW just wanted to come in and shut the
15 mine down?

16 A. Yes.

17 Q. You made application on December 27th, 1991?

18 A. Yes, I did.

19 Q. And the vote was held on January 5th and 6th?

20 A. Yes.

21 Q. And we looked at some additional names that you
22 filed on January 2nd earlier on. That was on page 38.

23 A. Yes.

24 Q. Who attended at Westray when the vote was actually
25 taken?

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1 A. There was myself as the scrutineer for the union.
2 Ken Horne, who was the director of the Labour Relations
3 Board who conducted the voting. And Gerald Phillips was
4 the scrutineer for the company.

5 Q. And how did Mr. Phillips conduct himself?

6 A. Everybody that came to vote, he greeted them by
7 first name, "Nice morning. How were your holidays?"
8 typical intimidation that's expected at every vote. I
9 mean, that was --

10 Q. That was anything unusual?

11 A. No.

12 COMMISSIONER That's not a bit of editorializing there,
13 is it, Mr. Burchell?

14 A. No. That's typical. I expected that.

15 MS. CAMPBELL Sure. And what about the men themselves?
16 How were they?

17 A. They were timid coming in. When they saw Gerald
18 there, a lot of the guys, I think, thought that Gerald
19 was going to see how they voted. They were surprised to
20 see Gerald Phillips there. There were comments made to
21 me afterwards on that. But they more or less said hello,
22 and I had instructed the guys not to recognize me when
23 they came to vote.

24 Q. Why did you instruct them not to recognize you?

25 A. From what I had heard, what they had told me about

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1 the operation, I didn't want to highlight anybody as
2 being a union organizer, especially knowing that Gerald
3 was going to be the scrutineer.

4 Q. Did anybody recognize you?

5 A. Yeah, Larry James recognized me. When he came in to
6 vote, Gerald Phillips said, "How are you, Larry?
7 Beautiful morning," and he said, "Yeah. How are you
8 doing, Brother Burchell?" He said, "We'll have a union
9 here in a couple of weeks." And he took his ballot and
10 went and voted.

11 Q. The vote was defeated.

12 A. Yes, it was.

13 Q. You lost by 20 votes.

14 A. Yes.

15 Q. Subsequent to the election taking place, there was
16 some concern in respect to people who had voted who were
17 not -- who should not have voted, is that correct?

18 A. Yes.

19 Q. And those were some people who were in supervisory
20 positions.

21 A. Yes.

22 Q. And you were, through negotiation or whatever, you
23 were able to get some names taken off.

24 A. Yes, I was.

25 Q. And if we look at page 46 and 47 in Exhibit 17 --

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 COMMISSIONER Tab 17?

2 MS. CAMPBELL Yeah, tab 17, Exhibit 75, page 46. Those
3 were some of the individuals who you had removed because
4 they had moved on to a supervisory position, correct?

5 A. Yes.

6 Q. And were there more names in addition to these?

7 A. Yes, there were three more added on afterwards.

8 Q. Okay. Now was there some interaction between you
9 and a representative on behalf of the company with
10 respect to getting names off the list and the process by
11 which -- or the time frame with which you would be barred
12 from trying to unionize at the mine?

13 A. Yes, there was.

14 Q. Who did you have direct contact with?

15 A. A lawyer from -- I believe he was from New Glasgow
16 or Stellarton, MacIntosh.

17 Q. Bruce MacIntosh?

18 A. Yes.

19 Q. What was the nature of your interaction with Bruce
20 MacIntosh at that time?

21 A. Well, the company had filed an intervention
22 disagreeing with the bargaining unit, I guess.

23 Q. Meaning they didn't want those supervisors excluded?

24 A. I assume that's what they -- It's a procedural
25 thing, I guess. They'll try to pick out anything to drag

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1 it on and --

2 Q. The votes could not be counted until this was all
3 resolved?

4 A. The votes could not be counted until this was
5 resolved.

6 Q. Okay.

7 A. So they had approached me with that if I would agree
8 to a one-year bar from coming back to try to organize
9 that they would exclude those six names from the vote.

10 And I met Mr. MacIntosh, he had contacted me and
11 apparently there was an urgency on Westray's part to have
12 the matter resolved because they had prospective buyers
13 who wanted to purchase the company, and they wanted the
14 union issue out of the way so that they could pursue this
15 arrangement to purchase Westray.

16 Q. Did you see -- Did you get the impression from Mr.
17 MacIntosh that the company saw it as a bit of an
18 impediment for the union to be there?

19 A. Yes.

20 Q. When they were trying to sell the mine?

21 A. Yes, they wanted this resolved one way or another as
22 soon as possible. I knew from experience with the Board
23 -- The Board has a very broad range of power, and the
24 normal barring period is three months, sometimes six
25 months, but I don't ever recall anyone being barred for a

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1 year.

2 But I also was well aware of the political
3 conditions around Westray and I felt that if I went to
4 the Board, there might be a good possibility that the
5 Board would rule me -- would bar me for a year. And I
6 was nervous of that because I felt that if -- I felt that
7 it was going to be a real close vote one way or the
8 other. And if it was close to the point of losing, I'd
9 already developed my strategy for the next drive. And I
10 wanted to get back in there as soon as possible.

11 So I told them that I would agree to a six-month bar
12 if they would agree to exclude three more people on top
13 of the six.

14 Q. So nine in total?

15 A. Nine in total. They agreed to that and the six-
16 month bar still allowed me to go in in April and start my
17 drive over again.

18 Q. Three months later.

19 A. Three months later I could start, but I couldn't
20 apply until August.

21 Q. Okay. In the documentation that we see at tab 17,
22 pages 48 through to and including 56, are the documents
23 that relate to the identification of the bargaining unit
24 and a limitation on when you could start another drive.

25 A. Yes.

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1 Q. If I could direct you to the letter that's at page
2 56 in that tab. It's a letter to the Labour Relations
3 Board, and it's from Bruce MacIntosh. And it is copied
4 to yourself and Allan Karasiuk.

5 A. Yes.

6 Q. In this letter, in the first paragraph, Mr.
7 MacIntosh states: "Supplementary to mine of this
8 morning, there is some urgency to determination of the
9 application. As you are aware, prospective purchasers
10 are looking at Westray Coal. If this matter could be
11 determined on Friday or over the weekend, it would be in
12 the best interests of both the company and its
13 employees." And you had perceived a similar urgency from
14 Mr. MacIntosh with respect to the sale of the mine vis-a-
15 vis the union?

16 A. Yes. Mr. MacIntosh had also phoned me and wanted me
17 to meet to try to resolve this before without going to a
18 Board hearing.

19 Q. And did you meet with Mr. MacIntosh?

20 A. Yes, I did.

21 Q. And is that when you hammered out the --

22 A. Yes.

23 Q. The deal?

24 A. Yes.

25 Q. Now what was the atmosphere amongst the men after

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1 they realized that the union was defeated? Were there
2 any meetings subsequent to the results of the vote?

3 A. With my in-house committee, there was.

4 Q. And who was that?

5 A. Randy Facette, Rick Mitchell.

6 Q. Mr. McNeil?

7 A. Owen was there but he was a supervisor, but he was
8 still --

9 Q. He still attended.

10 A. Still attended. And Howard Campbell.

11 Q. Okay, and what were the discussions that you had
12 with the men at that time?

13 A. Well, I explained my strategy for the next drive,
14 and told them that I was definitely going to come back
15 with another -- start another drive. And I explained to
16 them what my strategy would be and what I felt -- why I
17 felt we lost and what we needed to do to correct it the
18 next time around.

19 Q. Why do you feel you lost, Mr. Burchell?

20 A. We couldn't get into the surface. They worked in a
21 totally different environment than the underground guys.
22 I had a majority of underground guys signed up, but I
23 couldn't break into the surface and, you know, with
24 respect to the surface employees, they just weren't
25 working in the same environment as the underground guys.

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1 And I don't think they realized the dangers that the
2 underground people were put under. If it had been just
3 an underground vote, I'm quite confident that we would
4 have won it and the numbers show we would have.

5 Q. Did you see it at all, Mr. Burchell, as a statement
6 that men weren't all the concerned about conditions
7 underground? Indeed, they weren't concerned enough about
8 the conditions to get a union in there to have it fixed
9 up?

10 A. I think the underground people were concerned, and I
11 think the numbers showed it. I think the people on the
12 surface didn't share the same concerns as the underground
13 workers because of the environment they worked in. It
14 was a totally different environment. And they were
15 probably a lot more in contact with Gerald Phillips, and
16 them being on the surface, which would have made things
17 more difficult.

18 Q. What did you do? What efforts, if any, did you make
19 after your union drive failed with respect to Westray?

20 A. I made a commitment to the guys that I -- Over that
21 period, I got to know most of the employees there, or a
22 good majority of the employees on a personal basis. And
23 I felt obligated to continue doing whatever I could to
24 assist them in my capacity.

25 In fact, I told them that, you know, if they thought

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1 that another union would have a better opportunity of
2 getting in there, by all means to do it because they
3 definitely had to have protection there.

4 And I laid out a strategy, I guess, on how I could
5 maybe help them until my drive started again in April --

6 Q. What was that strategy?

7 A. To make the mine safer. I was going to try to make
8 arrangements for Paul MacNeil and myself to get
9 underground at Westray Mine to do a travel.

10 Q. How did you propose to do that?

11 A. Well, at that particular time, they were having a
12 lot of problems with roof control and horizontal stress
13 and what have you. And I had put Randy Facette and them
14 in contact with some people from the Mining Bureau in the
15 U.S. to get information on it and that, and I gave them
16 names and phone numbers of who to contact.

17 And what I had told them that I would do was, at
18 that time, they were looking at revising the Coal Mines
19 Regulation Act and they were also looking at revising the
20 Occupational Health and Safety Act. And because we were
21 the only union in Nova Scotia that represented coal
22 miners, of course, we were asked to play a vital role in
23 it.

24 Q. Who asked your union to play a role in it?

25 A. The Department of Labour had requested that we

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1 participate on this committee. We had extensive
2 experience. I had participated in re-drafting the
3 federal Coal Mines Regulation Act, and so did Paul
4 MacNeil. So we had experience in doing this. I
5 contacted Paul, who was our --

6 Q. Paul MacNeil.

7 A. Safety coordinator and asked him to contact Westray
8 after the vote was over and make an offer to them that we
9 would be willing to go into the mine and do an unbiased
10 safety travel and bring a roof control expert from
11 Devco with us at our expense and make recommendations to
12 the company on ways to improve the roof control at the
13 mine. And it would be strictly confidential and only
14 given to Westray.

15 Q. A safety travel as well? You said make an unbiased
16 safety travel?

17 A. Yes.

18 Q. So you --

19 A. On roof control.

20 Q. Okay.

21 A. Was what we basically told Westray. We were only
22 going in on roof control, and anything that we gave them
23 on the roof control situation would be kept in strictest
24 confidence.

25 Q. Did Mr. MacNeil contact Westray?

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1 A. Yes, he did.

2 Q. Do you know he contacted?

3 A. He contacted -- He tried to get ahold of Gerald
4 Phillips and he ended up contacting Allan Karasiuk.

5 Q. And did he make the offer to Mr. Karasiuk?

6 A. Yes, he did.

7 Q. And what was the reply?

8 A. They told him he would get back to him and then
9 contacted him and told him they weren't interested.

10 Q. Mr. Karasiuk contacted Mr. MacNeil?

11 A. Yes, and told him he wasn't interested.

12 Q. Now what, if anything else, did you do?

13 A. We then --

14 Q. Westray weren't going to let you in?

15 A. Yeah. I then -- we contacted Claude White and
16 basically told Claude that I wanted to get underground in
17 that mine, that I was very concerned about the problems
18 there, the safety problems that were going on in that
19 mine, and I wanted to get under there. And Westray
20 certainly weren't going to allow us to go, and I wanted
21 him to give Albert the green light to take either myself
22 or Paul or both of us on an underground travel.

23 And he basically was very nervous. In our
24 conversation, he alluded to the fact that he didn't want
25 to help me in my organizing drive. And I told him,

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1 "Look, the organizing drive is over. We lost and
2 eventually I will be going back, but I still have serious
3 concerns about the safety of the workers at Westray.
4 And, I said, "And if you have a problem of being
5 associated with any union organizing drive, I will give
6 you a way out."

7 Q. A way what?

8 A. A way out.

9 Q. Yes.

10 A. And he said, "What's the way out?" And I told him
11 that where we are going to revamp the Coal Mines
12 Regulation Act and the Occupational Health and Safety
13 Act, and Paul MacNeil is going to be our representative
14 to sit on that. How can Paul make recommendations on
15 mining in Nova Scotia if he had not had an opportunity to
16 travel all those mines and make himself familiar with
17 them? And this was a good way for Paul to familiarize
18 himself with these mines by doing a travel of those mines
19 with the mine inspector. And that would be a perfectly
20 legitimate reason for the Department of Labour to request
21 that we go in that mine.

22 Q. And what was Mr. White's reply to you?

23 A. He told me he would get back to me on it, and when
24 he did, he told me I would have to go higher than him if
25 I wanted to get in that mine, that he can't do it.

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- 1 Q. Did Mr. White understand the level of concern you
2 had --
- 3 A. Oh, yes, I --
- 4 Q. -- with respect to that mine?
- 5 A. -- specifically told him that I was concerned with
6 the safety conditions of that mine and the lives of the
7 people that worked there.
- 8 Q. And you had talked to Mr. White earlier --
- 9 A. Yes --
- 10 Q. -- prior to the vote --
- 11 A. -- I talked -- yes, I talked to him during the --
- 12 Q. -- about the safety concerns you had?
- 13 A. -- after the meeting with Albert --
- 14 Q. Okay.
- 15 A. -- I spoke with him.
- 16 Q. So he told you that you would have to go higher?
- 17 A. Yes.
- 18 Q. What did he mean when he said you would have to go
19 higher?
- 20 A. I would have to go to the Minister.
- 21 Q. Uh-huh. So what did you do, did you go higher?
- 22 A. Yes, I went to the Minister's office. I --
- 23 Q. And did you --
- 24 A. -- contacted --
- 25 Q. -- contact there?

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1 A. I contacted Hughie Macdonald.

2 Q. This is the same Hughie Macdonald that you had
3 previously --

4 A. Yes.

5 Q. -- spoken to?

6 A. Yes. Hughie was the Deputy Minister --

7 Q. Yes.

8 A. -- and I knew if anybody had access to the
9 Minister's ear, Hughie certainly did.

10 Q. Yeah.

11 A. Hughie was a fellow Cape Bretoner and I knew him. I
12 had numerous meetings over the years with him through
13 different -- When John Laffin was Deputy Minister, John
14 and I were good friends, and Hughie was his Deputy
15 Minister. So I contacted Hughie and made the same
16 request to Hughie and told Hughie right from the get-go
17 that -- why I wanted to get in there.

18 A. Because of --

19 A. I was --

20 Q. -- safety concerns?

21 Q. I was very concerned about the safety of those men.
22 Hughie made the same comments about unions, didn't want -
23 - you know, they really didn't want to get involved. And
24 I explained to him about the --

25 Q. What do you mean, "the same comments about unions?"

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1 A. Well, Hughie didn't want to get involved, have the
2 Department involved in any way where they're assisting a
3 union, trying to organize a place.

4 Q. Yes.

5 A. And I explained the same to him as I did with
6 Claude, that the -- you know, the vote was over, we're
7 out of there. And I want to get in there, and I also
8 explained to him a good way for the Minister to justify
9 allowing us to go in, you know, under these provisions.
10 And he told me he would get back to me.

11 Q. So did you explain the same thing to him about the
12 Coal Mines Regulation Act --

13 A. Yes.

14 Q. -- and Mr. MacNeil's role and that that was -- could
15 be a bit of a ruse to get --

16 A. I told him that it was -- it did not make sense to
17 me that we would sit on this Commission and not have
18 access to all the mines in Nova Scotia. I said, "I'm
19 sure if I called and asked you if I could travel the
20 quarry down in Mulgrave, you'd have no problem in doing
21 it. Why can't we get into Westray?" And he told he
22 would get back to me on it.

23 Q. And did he get back to you on it?

24 A. He got back to me and told me that they -- the
25 Minister did not have the authority to allow us

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1 underground unless Westray gave permission.

2 Q. And so was that the end of it with Mr. Macdonald?

3 A. Yeah.

4 Q. Did you tell him about the conversation you had had
5 with Claude White?

6 A. Yes, I did.

7 Q. And did --

8 A. At first -- he referred me to Claude.

9 Q. Mr. Macdonald did?

10 A. Yes. He said, "You should go to Claude." And I
11 said, "I already went to Claude and that's why I'm here."
12 I had -- he had referred me to Claude at the beginning of
13 the conversation.

14 Q. When would these conversations with Mr. White and
15 Hughie Macdonald have taken place?

16 A. It would have been, I would say, late February --

17 Q. Okay.

18 A. -- around the -- around mid-to-late February.

19 Q. Okay. Now did you go back and report to Mr. Facette
20 and --

21 A. Yes, I did.

22 Q. -- Mr. MacNeil that you were unsuccessful in getting
23 underground?

24 A. Yeah, I set a meeting up with Owen and Randy in
25 Randy's house.

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1 Q. Yes.

2 A. Went up, met with them and explained the problem.
3 And they decided that they had an avenue for me to get
4 underground.

5 Q. Yes. And what was that?

6 A. They were going to take me underground themselves
7 that night on the midnight shift. They were going to
8 sneak me in the mine.

9 Q. They were going to sneak you into the mine?

10 A. Yeah.

11 Q. And did that happen?

12 A. I told them I would get back to them, that I was
13 going to go over to my hotel and think about and I would
14 get back to them. And I went back to the hotel. And I
15 called my boss in Washington, and he advised me not to
16 sneak into the mine, that if anything were to happen
17 while we were underground, that they would certainly -- I
18 would certainly be blamed for it, and it would tarnish
19 our reputation or whatever, and to try to figure out
20 another way of doing it without trespassing on their
21 property.

22 And so we -- I went back and I told Randy and Owen
23 that I didn't think it was a good idea. You know, there
24 was a high probability that we certainly would get
25 caught. I mean, it wasn't like that nobody up there

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1 recognized me.

2 Q. Yes.

3 A. And I was a little nervous because several times
4 during my drive, Roger Parry tried to run me over at the
5 gate. So if he knew I was underground, I mean, I had
6 nowhere to run if he got me down there. So, you know, I
7 just -- I didn't think it was good idea.

8 And I told them that if we did get caught, there was
9 a good chance they were going to be fired, and I couldn't
10 -- definitely couldn't guarantee we'd get their job back.
11 And I didn't want it on my conscience that those two guys
12 were fired with families, you know, because of trying to
13 help me. And I suggested that we look at other options.

14 Q. Now you eventually arranged a travel for some miners
15 from Westray in the Lingan Mine, did you not?

16 A. Yes, I told them at that same meeting, I said, "I'm
17 going to go home tomorrow, see if I can make some
18 arrangements for you to take to your occupational health
19 and safety committee underground at Lingan to show you
20 how we stone dust, to show you what we do there, to show
21 you our stone dust barriers, to give you complete travel
22 of our underground operation to show you how we handle
23 health and safety in our mines. And then you guys, as a
24 committee, can come back and make recommendations to
25 Westray."

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1 And I said, "You know, you guys are going to have to
2 start until such a time as a union gets in there, you're
3 going to have to start taking the bull by the horns
4 yourselves and taking some action."

5 Q. So you were going to bring members of the
6 occupational health and safety committee to Lingan on a
7 tour so they could see how the Lingan Mine was run?

8 A. Exactly.

9 Q. And who came down for the tour?

10 A. I told them to notify me on how many would be coming
11 so -- because I had to, of course, get permission from
12 our employer, Devco, to take them underground. And Randy
13 Facette called me and told me, I believe it was around
14 the beginning of March break, that there would be five
15 people coming on the travel.

16 So I made arrangements with Devco at the Lingan Mine
17 to have proper clothing and safety equipment prepared for
18 five people to do an underground travel. And the night
19 before the travel they arrived at -- in Sydney, and it
20 was Randy Facette and his wife and his son and Ronnie
21 MacDonnell and his wife.

22 Q. Were you surprised by the complement of people that
23 showed up?

24 A. Yeah. I was curious as to why there weren't more
25 people from the mine itself there.

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1 Q. Were you expecting it was going to be five miners?

2 A. Yes. I thought it would be guys from the health and
3 safety committee or at least five guys that worked at
4 Westray.

5 Q. And the purpose for inviting them down was so they
6 could gain some knowledge and take it back and put it to
7 use at Westray?

8 A. Exactly.

9 Q. Okay. Did you stay in touch with the men at -- the
10 workers at Westray right up until the time of the
11 explosion, Mr. Burchell?

12 A. Right up to May the 9th. In fact, at 11:00 in the
13 morning on May 9th, I had my international safety
14 coordinator, based out of Washington, at the site of
15 Westray Mine. He was kicked off the property, but we had
16 him there.

17 Q. May 9th? The explosion was --

18 A. May 9th.

19 Q. After -- this was after the explosion?

20 A. We sent him in there with the -- to assist in the
21 rescue. This guy has extensive training. He coordinated
22 the rescue at the -- at a disaster in the States where
23 the Wilberg disaster. He's been asked by the President
24 of the United States to sit on the Health and Safety
25 Council to be his assistant. I mean, the guy is renown

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1 throughout the United States as an expert. So he was in
2 Sydney at the time putting on some training programs with
3 us.

4 COMMISSIONER Is this Joe Main?

5 A. Joe Main, that's the boy. And we sent him up there
6 because we had a lot of our people that were on site as
7 draegermen. A lot of our draegermen went up there. And
8 I wanted one of our guys there to help coordinate our
9 people. So --

10 MS. CAMPBELL And that was Mr. Main?

11 A. Well, he would have been the best. He was there.
12 He was in town and you couldn't find a better expert.

13 Q. So he went to Westray?

14 A. Went to Westray and they wouldn't allow him on the
15 property. Him or Paul MacNeil, they wouldn't allow
16 either one of them on the property.

17 Q. Was it --

18 COMMISSIONER I can't resist this, Mr. MacNeil -- or,
19 Mr. Burchell, but I invited Mr. Main to come here to the
20 Inquiry also.

21 A. Did you?

22 COMMISSIONER Yeah.

23 A. Is he coming?

24 COMMISSIONER I haven't heard. I haven't heard from
25 him, other -- unless Mr. MacArthur can fill us in on some

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1 further details on that.

2 A. If you want him --

3 COMMISSIONER But that's for another day.

4 A. If you want him, I'll have him here.

5 MS. CAMPBELL In any event, who was it that directed
6 that Mr. Main and Mr. MacNeil couldn't -- weren't
7 permitted on the property?

8 A. When we arrived at the property, the access to the
9 road at the Esso station down here and then up in
10 Stellarton were -- was cut off by the police. And you
11 had to identify yourself, and they identified themselves
12 and, I guess, apparently the police contacted the mine
13 site and told them who they were and they said, "No,
14 they're not to get through."

15 Q. Okay.

16 A. And I come up that evening and the same thing, I
17 wasn't allowed through. I got through, but I wasn't
18 allowed. I went through the entrance at the Esso station
19 and they refused entrance. So then I came up to the
20 Stellarton entrance and drove through, and when the
21 police stopped me and asked who I was, I told them I was
22 reporter with the Canadian Broadcasting Corporation, so
23 they let me through.

24 Q. Okay.

25 COMMISSIONER Does that -- is that supposed to add

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1 considerably to your credibility, Mr. Burchell?

2 A. Well, it got me at -- it got me on the site, and I
3 don't know.

4 MS. CAMPBELL After you had your discussion with Mr.
5 McLean at the Heather Hotel in November --

6 A. Yeah.

7 Q. -- did you do subsequent inspection tours of the
8 Evans Mine with him?

9 A. Yes, I did.

10 Q. And how was your relationship with Mr. McLean after
11 that?

12 A. There was none. I mean, Albert completely avoided
13 me after -- basically after the November meeting. I --
14 any time I would -- their office in Glace Bay is next
15 door to ours, so there was numerous occasions after that
16 that I would meet Albert as he was coming out of his
17 office and I was going out of mine, or vice versa. The
18 parking lot that we shared -- we shared the same parking
19 lot. And I would constantly bring up the problems at
20 Westray whenever I would meet him. More so --

21 Q. When you say "constantly," how --

22 A. Whenever I would --

23 Q. What are we talking?

24 A. Well, whenever --

25 Q. Once or twice or --

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1 A. I would say probably a half a dozen times I met him
2 after that meeting I would --

3 Q. In November?

4 A. Yeah.

5 Q. I met him either at the Heather or in Glace Bay and
6 I would make comments to him about the problems at
7 Westray.

8 Q. Uh-huh. And let's get back to inspections that you
9 would do with Mr. McLean at the Evans Mine after the
10 November conversation. Did you and Mr. McLean continue
11 to do your inspections together?

12 A. Well, I was not the safety officer for our union at
13 that time.

14 Q. Did you continue to --

15 A. Paul MacNeil was.

16 Q. -- accompany Mr. McLean?

17 A. I accompanied him at one underground travel at
18 Westray or at Evans after Westray.

19 Q. And you and Mr. McLean would have conversed, would
20 you?

21 A. Yeah.

22 Q. Well, tell me about it.

23 A. Well, we -- I guess -- we had had a fire at the
24 Inverness Mine, and Paul and Albert and the management at
25 Inverness Mine, they had issued an order to shut the mine

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1 down.

2 Q. When is this? This is --

3 A. This was probably late April, first of May.

4 Q. Okay.

5 A. They issued an order to shut the mine down because
6 there was a fire in one of the old workings of the mine.

7 Q. Uh-huh.

8 A. And our guys, of course, were unemployed and out of
9 the mine, and we had sealed off the section where the
10 fire was.

11 Q. Yes.

12 A. And we were constantly taking readings to see if the
13 fire had gone out and what was going on.

14 Q. Yes.

15 A. And Paul had been back and forth with Albert to the
16 mine, and Paul had called me up on May the 6th and told
17 me that he was in Inverness. They were supposed to do a
18 travel of the mine and take readings of the seal to see
19 if the fire had gone out and if it was safe to reopen the
20 mine.

21 Q. Who was supposed to do the travel with them?

22 A. Albert and Paul.

23 Q. Albert McLean and Paul MacNeil?

24 A. Yes.

25 Q. Yes.

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1 A. And Paul said, "Albert didn't show up." And I
2 called the Department of Labour to find out why he wasn't
3 here, and they told me that he's up in New Glasgow at
4 Westray Mine meeting with the Westray mine officials
5 preparing for the annual mine rescue competitions which
6 Westray were to be hosting that year.

7 Q. And this is on May the 6th?

8 A. May the 6th.

9 Q. Yes.

10 A. He said -- and then Paul asked me, you know, "What
11 should I do?" And I said, "Well, go down and take the
12 readings -- you and Lauchie go down underground, take
13 whatever samples, whatever tests you've got to take,
14 and," I said, "we'll see what they are. And we'll try to
15 get Albert down there, you know, if it looks like the
16 fire is out."

17 So after that -- after the disaster at Westray, of
18 course, Evans was still shut down. And every year we
19 send our -- all of our surface -- or all of our health
20 and safety committee people that work for us in Devco
21 that are our committee members, or union brothers that
22 are union members that are on that committee, we send
23 them once a year to Beckley, West Virginia, to the Mining
24 Academy for training on health and safety.

25 And Paul takes them -- or now it would be Hughie

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1 and, prior to that, me. And Paul had taken our crew down
2 for a week's training at Beckley and I was in charge of
3 what was going on at Evans in Paul's absence.

4 Q. Yes.

5 A. And we went down. The guys were, of course, putting
6 us under pressure. You know, they wanted to get back to
7 work. We were --

8 Q. What time frame are we speaking here?

9 A. This was after the explosion.

10 Q. This is after the explosion --

11 A. Yes.

12 Q. -- at Westray?

13 A. This would probably be around the end of May and
14 thereabouts.

15 Q. Immediately after the explosion at Westray, you had
16 occasion to hear Leroy Legere on the news?

17 A. Yes, a couple of days after the explosion, probably
18 that Monday or Tuesday, it -- the issue of the stone dust
19 order had been brought up in the Legislature that was
20 issued on April 29th, I believe.

21 A. Yes.

22 Q. And I think it was -- it was brought up, I don't
23 know, by the NDP or the Liberals or whoever, by the
24 opposition on why not -- there wasn't a follow-up done on
25 the stone dust order that was issued on the -- April

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1 29th. And the Minister of Labour, Mr. Legere, at the
2 time, got on the 6:00 news on CBC and stated that the
3 reason there wasn't as follow-up was because we had a
4 fire at our Inverness Mine and the inspector had been
5 spending all of his time down there and was tied up with
6 Inverness and couldn't get back to Westray to follow up
7 on the stone dust.

8 Q. Did you watch this on the news?

9 A. I almost choked. I was eating a steak, having
10 supper, and I almost choked when I heard it.

11 Q. Yes.

12 A. Because I was well aware that on -- I wasn't exactly
13 sure of the date, but I was well aware that Albert McLean
14 was in Westray on the ground at Westray a few days prior
15 to the explosion.

16 Q. And this was in connection with preparing for the
17 mine rescue competition?

18 A. Mine rescue competition.

19 Q. Yeah. So did you do anything after you heard this
20 news cast?

21 A. I phoned Paul MacNeil to get verification of the
22 date and I asked Paul if he had seen the 6:00 news, and
23 he said, "Yeah," he said, "can you believe this
24 bullshit?" And I said, "Well, give me the date that
25 Albert was up at Westray, that he didn't show up," I

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1 said, "because I'm going to call Halifax, the NDP and tip
2 them off..."

3 Q. Yes.

4 A. "...to bring this up in the House."

5 Q. Yes.

6 A. I said, "I'm going to get Alexa MacDonough to nail
7 Leroy Legere's ass tomorrow in the Legislature."

8 Q. So did you get the date from Mr. MacNeil?

9 A. It was May 6th. Paul confirmed the date. So I then
10 proceeded to call the NDP caucus office in Halifax, and I
11 believe it was John Holm talked to me.

12 Q. Yes.

13 A. And I filled him in on it, and he said, "Are you
14 absolutely sure of this?" I said, "Positively sure." He
15 said, "Great, I'm going to give this to Alexis; [sic],
16 we'll bring this up tomorrow." So then the next day it
17 was brought up in the House. And Leroy Legere recanted
18 and said that, yes, he had found out that Albert was
19 there on the 6th, but he was up there testing guys for
20 certification --

21 Q. Uh-huh. Okay.

22 A. -- for competency.

23 Q. Now when I -- a question I put to you earlier and I
24 didn't get an answer to was you say you did one further
25 tour underground with Albert at the Evans Mine --

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1 A. Yes.

2 Q. -- after you had your November meeting with him?

3 A. Yes.

4 Q. Tell me what the relationship was between you and
5 Mr. McLean while you were doing that tour?

6 A. Well, previous tours that I had done with Albert, we
7 would meet at the mine site or sometimes even I would
8 drive down in the Department of Mines' vehicle, or vice
9 versa. He'd come down in my vehicle or whatever. I
10 mean, because we drove from Glace Bay, the same office
11 area.

12 Q. Yes.

13 A. And a lot of times we travel -- we even travelled
14 together. And Paul always travelled down to Inverness
15 with Albert or vice versa.

16 Q. Yes.

17 COMMISSIONER Did Albert McLean work out of Glace Bay?

18 A. Yes.

19 MS. CAMPBELL Yes.

20 COMMISSIONER I see, oh. I just didn't realize that
21 because that's all a federal operation down there. It's
22 got nothing to do with the Department of Labour, does it?

23 A. Well, although we're federal, we're tested under --
24 our competency, all of our competencies were the federal
25 Act or done under this Act here.

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1 COMMISSIONER Okay.

2 A. They test us for mine -- all of our mine examiners
3 and that are all tested under this --

4 COMMISSIONER Okay.

5 A. -- these regulations. So at that travel -- like,
6 we'd always had a relationship where, when we'd get
7 there, the wash house where the men changed, the bath
8 house, we'd both go in, get into our mine clothes,
9 chitchat, talk about whatever, go over to the rake, get
10 in the same box, travel down to the mine together, talk
11 on the way down, and then travel, you know, it was always
12 a good relationship where we always chitchatted.

13 This travel, when we landed there, when Albert saw
14 me walk into the -- when he saw Paul wasn't going to be
15 there, that it was me, as soon as he spotted me, he
16 turned red and walked away from me. He went into the
17 mine owner's section to change. He wouldn't come into
18 the regular section with me to change.

19 Q. Did he usually go into the regular section?

20 A. Always. Always come in and changed with me.

21 Q. Yes.

22 A. There's a little trailer set up where you would go
23 and get your self-rescuer or your battery for going
24 underground and stuff like that there. We always walked
25 over there, and I like -- I'm a heavy smoker, so I, you

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1 know, I usually smoked about 10 cigarettes before I got
2 underground because I knew once we started underground, I
3 wasn't going to be able to smoke. We'd be talking and
4 getting ready to go underground, and Albert would look at
5 the reports by the mine examiner and that and go over the
6 reports. And then I would look at them and, you know,
7 we'd prepare to go underground.

8 This particular time, Albert waited until I went in
9 and got my battery and got hooked up, and when I come out
10 and then he went in. We went over to get on the rake to
11 go down; he walked over. He got in one box with the
12 underground manager -- Or I got in the box first with the
13 underground manager and Albert came over, he got in the
14 next box by himself. He wouldn't travel underground with
15 me.

16 We got underground and he, you know, I mean, he just
17 wouldn't recognize me as even being there, basically.

18 Q. There was no interaction between the two of you?

19 A. None whatsoever.

20 Q. That was very different from any of the earlier
21 tours you had done.

22 A. Very, very different. We always talked and
23 discussed and pointed different things out and what have
24 you.

25 Q. What did you chalk up this change in demeanour to?

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1 A. He knew that I knew what went on at Westray, and I'm
2 quite sure that he knew that I knew that he didn't do his
3 job up there, and I think he was ashamed, you know.

4 Q. Now what about subsequent to May 9th? Did you do
5 any inspections with Mr. McLean at the Evans Mine?

6 A. Oh, yes, I travelled with him numerous times when I
7 was the safety coordinator for the district.

8 Q. We're talking about after May 9th?

9 A. No, no, prior. After May 9th? No, this was the
10 only travel I did at the Evans Mine with him.

11 Q. I thought we were talking about a travel before May
12 9th.

13 A. No, the travel that I'm explaining now was after --

14 Q. The explosion?

15 A. The explosion, yes.

16 Q. Okay, what else went on then once --

17 A. Well, once we got down there, we needed to check the
18 seals to see if the fire was out and to see how things
19 were going. So we immediately walked to the area of the
20 fire. There was no conversation or whatever. We got
21 over to the seals, and we took tests to see if the fire
22 was out. And I had the indica -- The test gave us the
23 indication that the fire was out, and the seal was not
24 leaking and it was strong.

25 So I recommended that we bore and shoot a section to

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 see how the seals holds up. Once we bore it and stemmed
2 it, we'd evacuate. We had two of our men, union men,
3 down in the mine with us. One was for to bore and shoot
4 if we needed to do that.

5 Q. So you were going to set off an explosive?

6 A. Yeah. So we were going to bore and shoot, and
7 Albert was reluctant. He didn't want to do it. He said,
8 "No, I don't want to take a chance." He said, "I don't
9 want to have another Westray on my hands." And that was
10 the first conversation he had with me. I had made this
11 recommendation, and he looked at me, and he said, "No, I
12 don't want to do that. I don't want another Westray on
13 my hands."

14 And I looked at Albert and said, "It's a little
15 f'ing late to be gun-shy now, Albert." I said, "All the
16 tests show that, you know, we're following the proper
17 procedure." So then I looked at him, I said, "Look, if
18 you don't want to do it, go on up to the surface. We'll
19 bore it and stem it up," I said, "When I send my two guys
20 out of the pit, you go with them. And, Lauchie, if you
21 don't want to stay..." this was the mine underground
22 manager, Lauchie MacQuarrie, I said, "If you don't want
23 to stay, you go on up, too." I said, "Once you get to
24 the surface, send the rake back down, notify me when it
25 hits the bottom, and I'll fire the shot and then I'll

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 take the tests, or you can come back down and takes the
2 tests and see how the seal held out."

3 So Lauchie looked at me and he said, "No, no," he
4 said, "I'll stay with you." Because the company wanted,
5 you know, they wanted the mine reopened. They wanted the
6 order lifted. He said, "No, I'll stay with you and do
7 it." So we sent the guys in to bore the section and stem
8 it up and get it ready, and once it was all bored,
9 stemmed and set up, we stone dusted the area, got ready
10 to fire the shot, and I sent my two guys out of the pit.

11 And I looked at Albert and I said, "Are you going or
12 staying?" And he said, "I'll stay." So we went and took
13 cover and we fired the shot, waited for the section to
14 clear, then we went to the seal and took our tests to see
15 how the seal held out and the seal was perfect. There
16 wasn't a problem. Everything went great.

17 So we then had the guy -- We went back up to the
18 surface, and we had the guys come back down to clean up
19 the shot and get it ready. And we went over and changed.

20 When we went over and changed, the mine owner was
21 waiting for us in his office because he wanted to know
22 when he could start mining coal again.

23 Q. This is Mr. MacQuarrie?

24 A. Yeah. No, no, this is Mr. Evans.

25 Q. Oh, okay.

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 A. Gary Evans. So we went in and took a shower and got
2 into our street clothes and went over and met with Gary
3 and Lauchie. Albert and I met in the same room. And I
4 looked at Albert and I said, "Albert, can you give us an
5 order to open the mine now and get her ready?" I said,
6 "Everything is clear." He said, "Ah, no, I don't think
7 so." I said, "Albert, Jesus Christ, you wouldn't shut
8 down a mine that was unsafe where people were going to
9 get killed, and now you won't reopen a mine that we just
10 proved was safe." I said, "If you don't want to do it,
11 f-you, I'm going over your head."

12 And then I went and called Claude White. I gave
13 Claude White the readings. Told him what was going on
14 and I said, "Look, if your mine inspectors are going to
15 be gun-shy now and not do their job down here, send
16 someone else in here. But I want that order lifted, and
17 I want it lifted immediately to get these guys back to
18 work."

19 And a couple of days later, the order was lifted and
20 our men were back at work at Evans Mine.

21 That was my last contact with Albert McLean and
22 Hughie Macdonald. And I saw Claude White here at these
23 hearings one day.

24 Q. Just so I'm clear, I understood you to tell me that
25 you did six to eight tours with Mr. McLean at the Evans

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 Mine?

2 A. Yes.

3 Q. When did those tours take place?

4 A. Those were when I was the safety coordinator for a
5 district. That would be '86, '87.

6 Q. Okay, and why was it then you were back doing a tour
7 after May the 9th at the Evans Mine? Was it because of
8 the circumstances of the fire and such?

9 A. No, our safety coordinator was Paul MacNeil.

10 Q. He was away?

11 A. He was gone to Beckley, and the way we work it in
12 our organization, there's only -- At that time, there was
13 only two of us qualified to do the job and that was Paul
14 and myself. And when Paul was away on other business, I
15 stepped in in his place. Paul has been off for several
16 years on disability, and during the initial phase of him
17 being off, I was doing the health and safety. And we
18 trained Brother MacArthur to do it and now Brother
19 MacArthur does it, and when he's unavailable -- Like when
20 he's up here, I look after health and safety.

21 Q. Okay, and Brother MacArthur is Hugh MacArthur?

22 A. The little guy down there, yeah.

23 COMMISSIONER But potent.

24 MR. BURCHELL Little potent guy, yeah.

25 COMMISSIONER I have to ask this question, Mr. Burchell,

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 although it's probably quite irrelevant. Of the five
2 positions that you had for that safety tour at Lingan,
3 how many went down with you?

4 A. They all went down. Oh, from the mine itself? From
5 Westray?

6 COMMISSIONER Yeah.

7 A. There were only two workers from Westray went down.

8 COMMISSIONER So that's all? Just the three of you went
9 down, eh?

10 A. No, their wives and their son came. They came down
11 also.

12 COMMISSIONER That's what I was wondering.

13 A. No, they came down also.

14 COMMISSIONER Made it kind of a social event, did they?

15 A. Well, it wasn't what I wanted it to be.

16 MS. CAMPBELL And the names that are in tab 17 of
17 Exhibit 75 at page 37 and 38, do they represent the
18 totality of individuals who signed cards?

19 A. Yeah.

20 Q. Okay. Would there have been people who would have
21 been attending your meetings, Mr. Burchell, who didn't
22 sign cards?

23 A. Yeah.

24 Q. Like I don't see Clive Bardauskas' name there.

25 Would he have been attending your meetings?

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 A. I don't recall him being at a meeting. A lot of guys
2 had signed cards. This doesn't mean that they were at a
3 meeting.

4 Q. Right, of course.

5 A. You know.

6 Q. Yeah, I hear you. What about Terry Regular; do you
7 ever remember him attending?

8 A. No.

9 MS. CAMPBELL I believe those are all the questions I
10 have for Mr. Burchell, Mr. Commissioner.

11 COMMISSIONER Well, we'll recess until two. Thank you.

12 INQUIRY RECESSED (TIME: 12:20 p.m.)

13 INQUIRY RESUMED (TIME: 2:04 p.m.)

14 COMMISSIONER Thank you. Mr. Roberts?

15 MR. ROBERTS Thank you, Mr. Commissioner.

16 EXAMINATION BY MR. ROBERTS

17 Q. Mr. Burchell, first I want to pick up from a point
18 where Ms. Campbell left you just before the break. The
19 list of names of all those employees who signed cards
20 that's in your exhibit, I think it's at page 37 and 38 of
21 tab 17.

22 A. Yes.

23 Q. Just to be clear, not all of those people who signed
24 cards attended one of the meetings that you had?

25 A. That's correct.

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 Q. In fact, isn't it true that it's likely that the
2 majority of those who signed cards did not attend a
3 meeting?

4 A. That's correct.

5 Q. And that what would be the largest number of people
6 that you ever had at one of your meetings?

7 A. Twenty to twenty-five.

8 Q. So most of those cards then would have been signed
9 by your inside organizers?

10 A. Yes.

11 Q. Now of those men who did go to meetings that you
12 had, and I'm thinking now of your meetings in October and
13 November, I just want to be clear on the safety concerns
14 that they did express to you.

15 A. Yes.

16 Q. There were concerns about roof conditions?

17 A. Yes.

18 Q. What else was voiced as a concern about the health
19 and safety in that mine?

20 A. Equipment that was not permissible. Jump-starting
21 equipment underground. Lack of stone dusting and none at
22 all, basically. Problems with the inspector and the way
23 he did his travels. And the list went on and on and on.

24 Q. And those were the concerns that you took to the
25 Department of Labour?

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 A. Yes, they are.

2 Q. And you took them, I think you said, to Mr. -- The
3 same concerns were relayed to Mr. McLean, to Mr. White,
4 and to Mr. Macdonald?

5 A. Yes, they were.

6 Q. So after those conversations you had -- And just to
7 be clear, when were the conversations with White and
8 Macdonald in relation to your meeting with Albert McLean?

9 A. It would have been the next day or within that
10 period, within a day or two afterwards.

11 Q. So early November then?

12 A. Yeah.

13 Q. What was your impression of the work force, the
14 makeup of the work force at Westray in terms of
15 experienced versus inexperienced coal miners?

16 A. There was very limited experience as far as coal
17 miners. There were a lot of experienced miners, but
18 there's a big difference between a coal miner and a hard
19 rock miner. And there were a lot of hard rock miners
20 there.

21 There were coal miners that had been out of the
22 industry for several years, like as high as 10 years,
23 that had been out of the industry.

24 There were a lot of people hired there that were --
25 did a lot of their work on surface operations that had no

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 previous work experience, let alone, you know, mining
2 experience.

3 Q. In your meeting with Mr. McLean, if I could just
4 come back to that a minute. When you went through again
5 all the concerns and you said several times to Ms.
6 Campbell that you put it to him, "What are you going to
7 do about it?"

8 A. Yeah.

9 Q. Did you get an answer to that question?

10 A. No. Nothing that was -- Basically, his response
11 was, "Well, why aren't they coming to me with their
12 concerns??"

13 Q. And in your meeting with John Smith, was that
14 largely about the old workings or were there this other
15 list of concerns that you had talked to Claude White and
16 Hugh Macdonald about? Were they also topics in your
17 discussions with John Smith?

18 A. They were brought up, but they weren't impressed
19 upon as much as the old workings. Because I was very
20 concerned at that meeting with the old workings, and I
21 guess there was more time spent on that than anything
22 else.

23 Q. I just want to be -- Did I hear you say that he left
24 you with the impression that he was going to stop the
25 advance in the Southwest section until there was more

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 drilling done?

2 A. He left me with the impression that he was going to
3 check into it, and if what I had told him was correct,
4 that he was going to take appropriate action, which would
5 have been no more advancement unless you drilled ahead.

6 Q. You said that in the conversations you had with Mr.
7 Macdonald and Mr. White after the vote when you were
8 trying to get back into the mine, they said to you at
9 that point that they didn't want to be associated or
10 something to that effect with an organizing drive.

11 A. Yes.

12 Q. Was any comment like that made in your first
13 conversations with Mr. White or Mr. Macdonald? Did they
14 express concern at that time about being involved in an
15 organizing drive?

16 A. They -- It may have been brought up. It was brought
17 up by Albert. I can't say for exact if they made that
18 comment prior to that. I think Claude White knew that I
19 was involved there in the organizing drive, but, at that
20 particular point, it wasn't -- It wasn't an issue of me
21 getting in there like before that. The issue was that
22 Albert wasn't doing his job. That was the main issue
23 that I was impressing upon them.

24 Q. Okay. What did you intend to do, if you and Mr.
25 McNeil had been successful in getting into the mine, one

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 or the other of you, after your vote, what was your
2 intention?

3 A. We were going to go public with what was going on at
4 Westray.

5 Q. Why didn't you go public anyway?

6 A. For a couple of reasons. Hindsight, maybe I should
7 have. I think during -- During my organizing drive,
8 there was a lot of media coverage on the problems with
9 roof conditions. I think the opposition in the House
10 were bringing it up on a daily basis. But I had -- In
11 order for me to go public with it, I was going to have to
12 name names of who gave me specific information, and I had
13 already given my word that I would not do that.

14 Q. So you were trying to gather that information from
15 another source then?

16 A. Yes. I wanted to see the information firsthand so I
17 could, when I did go public, I could say, "I saw it," and
18 this is what's going on there. And I felt that I had a
19 little more experience or, I guess, in the mining
20 industry to make those observations on what was proper
21 and what wasn't proper in the mine.

22 Q. You told Ms. Campbell at one stage you told, after
23 the vote, you told the people you had been working with
24 that you would assist them if they wanted in getting
25 another union in there at Westray?

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 A. I don't think I told them I would assist them in
2 getting the other union in. What I told them was that if
3 they felt that there was no way the union I represented
4 was ever going to be successful there, to get the union
5 in there, and I would offer whatever assistance to that
6 union to help clean the situation up.

7 Q. And eventually you did cooperate with the
8 Steelworkers in their organization drive?

9 A. Yes, I did. I offered whatever expertise we could
10 for them if they were successful. And I continued to
11 offer that up to and after the explosion.

12 Q. What would you have done if you had been successful
13 in your vote?

14 A. If we had been successful? Immediately travel the
15 mine with the inspectors and immediately had proper steps
16 as per the Coal Mines Regulation Act followed by the
17 inspector. And if it meant shutting down sections of the
18 mine for unsafe conditions, we would have done that. And
19 if it meant shutting the whole mine down until it was
20 corrected, we would have done that.

21 Q. In your statement that you gave to the RCMP after
22 the explosion, you made reference to a conversation you
23 had with Gerald Phillips in the summer of 1992 on an
24 airplane. Do you recall that?

25 A. Yeah.

MR. BURCHELL, EXAM. BY MR. ROBERTS

1 Q. Describe the circumstances and the conversation.

2 A. I was on a flight from Halifax to Toronto, and
3 Gerald Phillips was on the same flight. And he was
4 sitting a few aisles up ahead of me. And there was an
5 empty seat beside him, and so once the flight took off, I
6 went up and sat beside him and asked him where he was
7 going and where he was working and what he was doing.
8 And he told me he was heading for head office in Toronto.

9 And then he asked me where I was going, and I told
10 him I was heading for the Crow's Nest Pass. That we had
11 some problems with our West Star Mine out there. And
12 then I was going on out to Campbell River. I said we've
13 got -- I was being a bit sarcastic with him, and I said,
14 "We've got an organizing drive going on out there, and I
15 think I'm going to try to get a meeting to look for
16 automatic recognition." And he just looked at me and he
17 said, "Too bad we couldn't turn back the hands of time,"
18 he said, "when you guys were looking for automatic
19 recognition with us," he said. "Things may have turned
20 out different."

21 MR. ROBERTS Thank you, Mr. Burchell.

22 COMMISSIONER Mr. Hebert?

23 EXAMINATION BY MR. HEBERT

24 Q. I'm interested in knowing a bit more about the mine
25 inspection training that you had in the United States.

MR. BURCHELL, EXAM. BY MR. HEBERT

1 How long of a course, your first course that you went on,
2 how long would that be?

3 A. It was a -- The mine inspection course was a six-
4 week course, and it was three weeks at the Academy. You
5 lived right at the Academy. They have residence there.
6 And it was 40 hours a week. Or it was supposed to be 40
7 hours a week, eight hours a day in classroom, but we
8 would do eight hours a day, we'd break for supper, and
9 then we'd go back for a couple more hours in the evening.
10 It used to be a 13-week course, and they shrunk it down
11 to six weeks. But we had to take classes in the evening
12 to accommodate for the weeks that were cut out.

13 Q. Was this course specific to coal mines?

14 A. It was all coal mines. In fact, the people I took
15 the course with were United States MSHA coal mine
16 inspectors.

17 Q. All right. So this course was primarily for
18 government inspectors, would you say?

19 A. Yes, it was. It was the same course that their
20 inspectors took.

21 Q. All right, and obviously the program allowed outside
22 persons in for training, like yourself?

23 A. Yes, there was -- We had an arrangement made with
24 the -- Our union had an arrangement made with the mining
25 academy for seats. We paid for seats in these courses.

MR. BURCHELL, EXAM. BY MR. HEBERT

1 They had full-time teachers and instructors there. In
2 fact, two of the union -- Or one of the union people that
3 took the course with me has since left the union and is
4 now a full-time mine inspector for MSHA.

5 Q. In the United States?

6 A. Yes.

7 Q. Do you have any idea what the cost per seat was to
8 the union?

9 A. I would have no way of knowing.

10 Q. Okay, fair enough. Are you aware of whether any
11 mine inspectors in the Province of Nova Scotia took
12 advantage of that training?

13 A. To my knowledge, the only person that I'm aware of
14 that was at the Academy, and I don't know what degree of
15 training they were given there, but several of the inspec
16 -- or of the instructors had asked me if I knew Collie
17 MacDonald. And I told him, yes, he was from my home
18 town. I knew him well. And they said that he had just
19 left. He was down there on training.

20 Q. Was that back in 1985 when you took the course?

21 A. Yes, it was.

22 Q. Do you know who Collie MacDonald is?

23 A. Yes, I do.

24 Q. And who is he?

25 A. He's the Chief Inspector in Glace Bay. Or was. I

MR. BURCHELL, EXAM. BY MR. HEBERT

1 believe he's retired now.

2 Q. All right, and since 1985, are you aware of any Nova
3 Scotia Government officials attending and taking the
4 course?

5 A. No, I'm not. I wouldn't know. They may have or
6 they may not have.

7 Q. Now was there any training with respect to the
8 degrees of intervention of an inspector?

9 A. Yes.

10 Q. Was there a --

11 A. We were basically trained under United States
12 regulations and I would have to -- I had my own regs with
13 me, and I would have to take notes during the training,
14 so that when I come back, I wouldn't be confused and try
15 to use U.S. regs down here.

16 Q. I'm just trying to get some sense of what kind of
17 topics were covered other than just the regulations
18 themselves. Was there a protocol in when, for example,
19 inspecting a mine? Were there set procedures or
20 checklists that were provided?

21 A. Yeah. We went through the whole -- The program
22 included everything from -- We were instructed and had to
23 write exams and tests on coal dust sampling, analyzing
24 coal dust, calibrating the equipment for it, and you had
25 to write tests on it. And if you passed it, you were

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1 given a certification card to show that you were
2 certified in that field. Impound inspection, prep plant
3 inspection, strip mine inspection, high wall inspection,
4 underground ventilation plans. It was a very intense
5 program, very intense.

6 Q. Did you, in fact, get a certificate with respect to
7 testing of gas?

8 A. Yes.

9 Q. Coal dust as well?

10 A. Yes.

11 Q. Is there a certificate that you get? Do you carry
12 it with you?

13 A. Yes, I do.

14 Q. And do you have those cards with you now?

15 A. Yes, I do.

16 Q. All right, and how many cards would you have in
17 terms of certificates?

18 A. Well, I received a certificate showing my completion
19 of Level 1 training for coal mine inspector. That's just
20 a basic certificate from the Academy to show that I took
21 it and successfully completed it.

22 Q. Right.

23 A. And by "successfully completed it," that I passed
24 it. The other courses were a part of that program, and
25 in order to be a -- to have completed the whole program,

MR. BURCHELL, EXAM. BY MR. HEBERT

1 you must also -- Because the inspector doesn't have to
2 analyze the samples, usually you send them to a lab.
3 This is something over and above what an inspector would
4 do. But if you wanted to qualify, you could write for
5 your competency in that, and I wrote for my competency in
6 impound inspect. I was qualified in that in the third
7 month of '85.

8 Q. And that's to actually analyze?

9 A. That's for testing impounds and that. But this one
10 here is for noise level testing. May of '85, I was
11 qualified for that. And, basically, that's for testing
12 for decibels in the mine and working conditions.

13 And this one here is I'm certified for dust sampling
14 underground and surface in May of '85. My examination
15 was in May of '85.

16 And I'm also certified in dust calibration
17 maintenance, underground and surface, in May of '85.

18 Q. Now since 1985, did you re-attend for any upgrading?

19 A. Yes, I do, I have. In fact, I was down there, I
20 believe it was last year, or the year before last.

21 Q. Are there specific courses for that, for mine
22 inspectors to upgrade, or is it the same course that you
23 take over?

24 A. You go down and take -- I mean, you take upgrading
25 on everything. We've gone down -- We go down, like I

MR. BURCHELL, EXAM. BY MR. HEBERT

1 stated earlier, we send all of our people down there, all
2 of our committee men, for a week out of each year. And
3 we accompany them, and when I feel that I need a little
4 upgrading on stuff, then I'll go down. I don't deal with
5 the health and safety now. Brother MacArthur does. So
6 he's more -- I believe he's going next month back down.
7 But when I go down now, it's when I want to -- When I
8 feel that I need a little more, you know, refresher
9 course, I guess, or whatever.

10 I went down two years ago. They had an upgrade, a
11 refresher course on mine rescue and surface operation and
12 I wanted to take it. So I went down and took that. That
13 was a 40-hour program.

14 Q. I just want to go back to some of the meetings that
15 you had with the men prior -- or during the union drive.
16 And, in particular, the meetings at which the various
17 Occupational Health and Safety Act and Coal Mines
18 Regulation Act were discussed. Do you recall whether
19 there were actual copies made available to the men at
20 that time so that they could follow along with the
21 discussion?

22 A. At that meeting, everyone that was at the meeting
23 was given a copy of both.

24 Q. Okay.

25 A. Occupational Health and Safety Act and Coal Mines

MR. BURCHELL, EXAM. BY MR. HEBERT

1 Regulation Act.

2 Q. I understand just from the list here that of the men
3 who actually signed the union cards, eight eventually
4 lost their lives underground?

5 A. Yes.

6 Q. Was there any thought given at the outset to
7 unionizing only the underground men in a bargaining unit?
8 Would that have been permissible by law, to your
9 knowledge?

10 A. Well, I don't know if it would be permissible. I
11 certainly would have had one heck of a time getting that
12 one past the Board. They would have included the surface
13 workers, I believe, in the bargaining unit.

14 Q. What's your basis for that belief?

15 A. Past practice. I mean, it's one operation. They
16 would be considered eligible to be in the bargaining
17 unit, and the company would have pushed that issue to
18 make sure they were included.

19 Q. And that would have been as a result of the so-
20 called Michelin changes to the regulations?

21 A. No, it has nothing to do with Michelin.

22 Q. All right, fair enough.

23 A. That I'm aware of, anyway. Unless there's something
24 in Michelin that I'm not aware of.

25 Q. Sure. So with respect to this particular aspect of

MR. BURCHELL, EXAM. BY MR. HEBERT

1 the unionization process, do you feel that if you had
2 been able to segregate, if you will, the underground
3 workers, that that might have made a difference?

4 A. Oh, if the vote had just been underground workers,
5 I'd have won the election. No doubt in my mind that I
6 would have won the election. The numbers prove that.

7 Q. And have you thought about that since then? Are
8 there any changes that could be made that might allow
9 that to happen in the future or prevent a union from
10 being defeated where it was really needed in one aspect
11 of a --

12 A. I've thought about Westray on a regular basis on
13 what maybe I could have done or couldn't have done or
14 whatever, and it haunts me.

15 Q. Certainly. But in terms of looking at it now and
16 saying is there any legislation out there? For example,
17 the Trade Union Act, is there any way that you can think
18 of that --

19 A. I wouldn't promote any such legislation. I feel all
20 workers deserve the right to be unionized and have the
21 protection that a union can offer, and I would not pursue
22 any legislation that would discriminate from one employee
23 to another.

24 Q. So you wouldn't be in favour of any changes to the
25 Trade Union Act, for example, which would have allowed

MR. BURCHELL, EXAM. BY MR. HEBERT

1 you to only organize the underground men?

2 A. It's not the responsibility of the Trade Union Act.

3 It's my responsibility to do the drive properly. It's up
4 to me to make sure that I have people there to assist me
5 if needed with expertise in that particular operation.

6 Q. Now with respect to Westray itself, there's been
7 evidence that the surface plant was, in fact, state of
8 the art and there's people that have said, you know, that
9 they were amazed that such, you know, modern and well
10 established plant would have existed, even at this
11 particular stage of the mine development. Do you feel
12 that that created a perception within the workers on the
13 surface that, you know, "This is a great place and
14 there's nothing going on that we should be concerned
15 about"?

16 A. Well, as far as state of the art, from my
17 understanding in conversations with the people that
18 worked there, half of the prep plant that was connected
19 with the underground portion of it was never hooked up.
20 It was never installed. The computerized system, that
21 was never hooked up.

22 As far as the surface operation versus the
23 underground operation, with all due respect to the
24 surface employees, they just worked in a different
25 environment than the underground employees, and they

MR. BURCHELL, EXAM. BY MR. HEBERT

1 didn't see the concern daily and the dangers daily that
2 the underground workers saw. They weren't privy to that.
3 So it didn't concern them. I guess it just didn't
4 concern them as much as it would concern an underground
5 worker.

6 Q. Would you yourself have been nervous going
7 underground at Westray based on what you had heard?

8 A. Based on what I had heard, I would have been scared
9 to death to work underground at Westray.

10 Q. And even going down to inspect it as you wanted to
11 do, would you have been timid about that as well?

12 A. Well, I mean, you know, I would have had to do that
13 if we were successful. I would have. There was too much
14 at stake for me not to.

15 Q. When the Department indicated to you that Mr.
16 MacNeil would not be able to go down underground as part
17 of the committee reviewing the legislation unless Westray
18 gave permission, do you know, did the Department or did
19 anyone approach Westray to see if that could happen?

20 A. I'm not aware if they did or not. But they may have
21 contacted Westray and asked, but not to my knowledge.

22 Q. You're not aware of that?

23 A. I'm not aware if --

24 Q. All right.

25 A. -- they made contact. They alluded to the fact that

MR. BURCHELL, EXAM. BY MR. HEBERT

1 Westray wouldn't give me permission, so I don't know
2 whether they were spokespersons for Westray or Westray
3 relayed that message to them. I wouldn't know.

4 Q. When you travelled with Albert McLean in other
5 mines, did he have a particular process that he followed
6 in terms of inspecting the mines? You mentioned some of
7 it, that you would both show --

8 A. Well --

9 Q. -- up, you would -- he would read some papers at the
10 start and when everyone was ready, you would go down.

11 A. You have to understand, the mines that Albert and I
12 travelled in --

13 Q. Yes.

14 A. -- were UMWA mines, and they're the safest in North
15 America, and his job was quite easy in those mines.

16 Q. All right. So that --

17 COMMISSIONER I won't even charge you for that
18 commercial, Mr. Burchell.

19 MR. HEBERT So are you suggesting that there is no
20 comparison to be drawn between his travels in those mines
21 and at Westray?

22 A. Albert was on a picnic when he travelled our mines.
23 They were -- I mean, it was basically just doing your
24 basic duties, to check the seals. Very seldom did he
25 ever have to write up a complaint on any of our mines --

MR. BURCHELL, EXAM. BY MR. HEBERT

- 1 Q. Okay. But in terms --
- 2 A. -- if he ever did.
- 3 Q. Did he take tests --
- 4 A. Oh, yes.
- 5 Q. -- methane tests, for example?
- 6 A. Yes. Oh, yes.
- 7 Q. All right.
- 8 A. We tested for gas. We'd -- we would check around
- 9 all seals in the airways. He would check for
- 10 ventilation. He would --
- 11 Q. How would he check for ventilation?
- 12 A. He would -- he had equipment there that he would
- 13 test the ventilation with. And we would examine the --
- 14 visually examine the stone dusting in the sections where
- 15 it was required and stuff like that.
- 16 Q. Did he take any stone dust samples that you're aware
- 17 of?
- 18 A. No, he -- that's not part of his function --
- 19 Q. Was there --
- 20 A. -- to take stone samples?
- 21 Q. Sorry, coal dust samples --
- 22 A. No.
- 23 Q. -- did he take coal dust samples?
- 24 A. That's -- no, that's -- that's not a function of the
- 25 inspector to take the samples. If they were to -- if

MR. BURCHELL, EXAM. BY MR. HEBERT

1 they felt -- under the Nova Scotia Coal Mines Regulation
2 Act, if an inspector deemed that there was a problem, he
3 was to instruct the company to take samples, have them
4 analyzed and then report back to him with the results of
5 those.

6 Q. And in the mines that you travelled with Mr. McLean,
7 those samples were being taken on a regular basis, were
8 they?

9 A. In the Evans Mine, it was a wet mine, and you only
10 really needed the stone dust around the working faces.
11 And you didn't need to take samples. I mean, it was
12 white. When you went in there, it was white.

13 Q. With respect to the testing of the substantial seals
14 that you described where a shot was placed in behind, is
15 that some kind of a standard test for these seals?

16 A. Yeah, you have to check all the seals to make sure
17 that -- to make sure that they're secure and they're
18 tight and that there's no bad air getting out and
19 contaminating the fresh air and to make, you know, you
20 check for leakage, whatever. That's a daily routine.
21 That's something that you --

22 Q. And is that -- okay, so you have an abandoned
23 section, and I understand what you describe was a section
24 where there had been some fire?

25 A. Yeah.

MR. BURCHELL, EXAM. BY MR. HEBERT

1 Q. Would that apply to a section that had simply been
2 abandoned --

3 A. Yeah.

4 Q. -- and was --

5 A. We check all seals in the mine, whether it was for
6 an abandoned section or whether it was for -- to curtail
7 the air flow. Sometimes you construct seals to change
8 the direction of the air.

9 Q. Certainly. Would there be two, I guess, types of
10 tests? Number one is an initial test after you've just
11 built the seal, using the shot from behind and then
12 regular tests using methanometers? Or did you put a shot
13 in each time to test it?

14 A. What do you mean by a "shot?"

15 Q. Well, I understood from your -- when you described
16 the testing of the seal at the Evans Mine --

17 A. Right.

18 Q. -- that -- and I'm going back now to when you were
19 recounting about how Mr. --

20 A. You mean an explosive shot?

21 Q. Yes.

22 A. No. That -- at that particular inspection, there
23 had been a mine fire --

24 Q. Okay.

25 A. -- and we had sealed off the section where the mine

MR. BURCHELL, EXAM. BY MR. HEBERT

1 fire was.

2 Q. Right. And when we took the shot, we reinspected
3 the seal because their -- to make sure no gases were --
4 or anything was going to escape or anything could get in
5 there to reignite --

6 Q. All right.

7 A. -- or whatever.

8 Q. I guess that was what I was getting at.

9 A. Yeah.

10 Q. So that was a special test that you did for that
11 seal?

12 A. We -- we checked all seals, but that particular
13 seal --

14 Q. Right.

15 A. -- we were extra careful with that. We wanted to
16 fire a shot --

17 Q. Yes.

18 A. -- to make sure that the movement from the shot did
19 not damage the seal.

20 Q. Okay, you wanted --

21 A. I guess, basically to make sure the seal was well
22 constructed and --

23 Q. And explosion-proof. And, again, I just wanted to
24 clarify it, so that was -- that particular -- although
25 you tested other seals --

MR. BURCHELL, EXAM. BY MR. HEBERT

1 A. Yeah.

2 Q. -- it was just a particular test for that seal --

3 A. Yes.

4 Q. -- because there had been fire?

5 A. Yeah.

6 Q. And to your knowledge, had that type of test been
7 used in other circumstances to test seals or just when
8 there was a fire?

9 A. Well, when we did our travels, we just checked the
10 seals. We never took a shot, checked them, and then took
11 a shot and would check them again.

12 Q. Right.

13 A. It was just --

14 Q. No. But in your experience, and not strictly with
15 Mr. McLean, but --

16 A. Maybe I could qualify that. That seal had been a
17 newly-constructed seal.

18 Q. Yes.

19 A. The other seals in the mine, we were blasting all
20 the time in the mine. So if you went down and took a
21 test on a seal and there was a leakage there, you'd get
22 it fixed. This seal here, when we -- the face was close
23 to that area.

24 Q. Right.

25 A. And we took the shot and went in and rechecked the

MR. BURCHELL, EXAM. BY MR. HEBERT

1 seal as a precautionary measure to make sure there was
2 still no leaks there.

3 Q. Right. You're familiar with where the stoppings
4 were placed in the Southwest 1 section, are you?

5 A. No, I'm not. I was never in the mine.

6 Q. All right. Have you -- from the evidence, are you
7 aware of where they were placed?

8 A. Well, I've looked at the maps and I've seen where
9 they were placed.

10 Q. All right. Would you agree with me that that's
11 fairly close to the working face as well, based on what
12 you understand the --

13 A. Yes.

14 Q. -- the layout to be?

15 A. Yes.

16 Q. And had substantial seals been placed in those
17 roadways, would you have recommended this type of test
18 with using the shot?

19 A. My understanding, there was no explo -- there was no
20 shooting --

21 COMMISSIONER It's not a shotfired mine --

22 A. Westray Mine --

23 COMMISSIONER -- Mr. Hebert.

24 A. Yeah.

25 COMMISSIONER It's --

MR. BURCHELL, EXAM. BY MR. HEBERT

1 MR. HEBERT I understand that.

2 COMMISSIONER -- an entirely different type of mine, and
3 I don't think there's any correlation between the two of
4 them.

5 MR. HEBERT I'm just wondering --

6 A. The reason we did the shot at the Westray -- at the
7 Evans Mine is that's how we mined coal there.

8 Q. I see.

9 A. We didn't use equipment to cut the coal. We bored
10 and shot the coal daily. And then --

11 COMMISSIONER And that's in evidence.

12 MR. HEBERT Oh, I see what you're saying. So the --
13 this was just a regular --

14 A. Westray --

15 Q. -- shot --

16 A. Westray, they cut the coal with --

17 Q. All right.

18 A. -- machinery. In the Evans Mine, we drilled holes,
19 put dynamite in there --

20 Q. Certainly.

21 A. -- and blew out the face.

22 Q. Okay, thanks for that clarification. You made a
23 comment in your testimony that because of the political
24 nature of Westray, you had -- you -- it indicated that
25 you were aware -- you felt there was a political aspect

MR. BURCHELL, EXAM. BY MR. HEBERT

1 to the mine. Can you elaborate on that, why did you have
2 that belief?

3 A. Well, anybody that lived in Nova Scotia that read a
4 newspaper back then would know there was political
5 connotations involved in Westray. I mean, it was brought
6 up in the Legislature on a daily basis. It was -- you
7 know, unless you were illiterate or whatever, you knew
8 there was politics involved.

9 Q. So, basically, your information comes from reading
10 the news -- newspapers --

11 A. Well, it was --

12 Q. -- and the media?

13 A. It was Donald Cameron's riding, Elmer MacKay's
14 riding, and the Minister of Mines' riding and they all
15 wanted it to go. So it wouldn't -- you didn't have to be
16 a rocket scientist to figure out what was going on there.

17 Q. All right.

18 A. They promoted it as the alternative energy source
19 for the Province of Nova Scotia, low sulphur coal to
20 replace high sulphur coal. In fact, the day of Trenton 6
21 opening, Premier Cameron cut the ribbon and stated,
22 "Look, no smoke coming, clean Pictou County coal," being
23 well aware that it was Cape Breton coal they were burning
24 because they had not delivered any coal from Westray to
25 the site as of that time.

MR. BURCHELL, EXAM. BY MR. HEBERT

1 COMMISSIONER Just to be fair, Mr. Burchell, now all of
2 your -- all of your knowledge with respect to this which
3 you've just said --

4 A. Yeah.

5 COMMISSIONER -- is based upon newspaper reports, which
6 you read at the time and which were available --

7 A. I was --

8 COMMISSIONER -- to all of us.

9 A. I went up to the opening.

10 COMMISSIONER Yeah, okay.

11 MR. HEBERT Yeah, just one final question. One of the
12 concerns that was being raised with the men, in terms of
13 a union drive, was if the union gets in, the mine could
14 be shut down. And various, I guess, reasons for that
15 might have been given in terms of jobs elsewhere and this
16 kind of thing.

17 There's been some evidence that this mine may not
18 have been economical from the beginning. And I'm just
19 wonder if you have any sense of -- from what -- based on
20 what you know about -- from the evidence in this Inquiry,
21 whether or not if the safety had been enforced properly,
22 would that mine have continued in fact on an economic
23 basis? Do you have any sense of that at all?

24 A. Just based on my experience in mining and from the
25 contracts that Westray had with Nova Scotia Power, and

MR. BURCHELL, EXAM. BY MR. HEBERT

1 the type of coal that was there, if the mine had of been
2 constructed properly, I guess, and safely, that was a
3 gold mine. There was good profits to be made. I mean,
4 they had a contract that they were going to get paid for
5 coal whether they mined it or not. I mean, who -- how
6 can you lose?

7 Q. All right, thank you. Those are my questions.

8 MR. MACARTHUR Thank you.

9 COMMISSIONER Mr. MacArthur, I'm going to sidestep you
10 this time because this is your --

11 MR. MACARTHUR Well, I was just going to state the fact
12 that I really wasn't going to ask any questions anyway.
13 But I was going to make one short statement. And the
14 fact was that I personally know, and I was around Bobby
15 before and after the Westray explosion, and I know the
16 effect that it had on Bobby and the concerns he had. And
17 he had met a lot of -- made a lot of friends at the
18 Westray Mine, personal friends of his. And I had no
19 intentions of ask -- putting any questions forward to him
20 under them circumstances anyway. Thank you very much.

21 COMMISSIONER Thank you, Mr. MacArthur. Ms. Gillis?

22 MS. GILLIS I have no questions, thank you.

23 COMMISSIONER Mr. Wells?

24 MR. WELLS Thank you.

25 EXAMINATION BY MR. WELLS

MR. BURCHELL, EXAM. BY MR. WELLS

1 Q. Mr. Burchell, you told us this morning about plans
2 the Department of Labour had to rewrite the Coal Mines
3 Regulation Act and the Occupational Health and Safety
4 Act. Are you sure that they were planning a major
5 rewrite of the Occupational Health and Safety Act, or
6 might that have just been some changes that they would
7 have to do in order to accommodate a new coal mines
8 regulation?

9 A. At that particular time, Paul MacNeil was our health
10 and safety officer, and Paul had instructed me that he
11 was approached to sit on a commission to revamp the Coal
12 Mine -- update the Coal Mines Regulation Act and to look
13 at the Occupational Health and Safety Act. Now whether
14 they were going to also revamp this, or whether it was
15 just to, when they were doing the Coal Mines Regulation
16 Act, to see if there was any parts in that that would
17 have to be addressed to comply with that, because it's my
18 understanding the same inspector for both branches looked
19 after it. I really don't know how they were going to go
20 about doing it.

21 Q. All right. Often when they set up these committees
22 to look at legislation, if they want bipartite
23 committees, there is a concern raised with some employers
24 that there should be non-union employees sitting on these
25 groups. Do you feel, knowing what you know of the

MR. BURCHELL, EXAM. BY MR. WELLS

1 Westray employees and the problems they had, that a non-
2 unionized miner from Westray would have been able to
3 offer good information and feel secure in offering that
4 information to such a committee?

5 A. I think a miner from Westray, if he was free to
6 present recommendations based on his knowledge of working
7 at Westray, would be an excellent candidate to help put
8 things in there.

9 Q. But would that miner feel confident that he could
10 operate his knowledge and still have a job at the end of
11 the day?

12 A. Oh, I -- I don't think I could answer that question
13 because it would depend on who the miner was and, you
14 know, what restrictions would be placed on him as being a
15 part of that committee.

16 I know committees that I've sat on revamping the
17 Act, we've had representatives there from different
18 areas, and there was no boss standing over their head to
19 see what the recommendations were. It was a
20 recommendation from the committee as a whole.

21 Q. Do you feel that union representatives are able to
22 represent the needs of the non-unionized workers?

23 A. I think we're restricted to a degree, that we can't
24 repre -- if they -- if we could represent non-unionized
25 workers, we wouldn't need the Labour Relations Board and

MR. BURCHELL, EXAM. BY MR. WELLS

1 we wouldn't need to have votes and campaigns. I mean,
2 we'd just go in and represent them. But I really don't
3 understand where your question is coming from. You know,
4 are we capable of representing them --

5 Q. Well, I -- I'm -- I guess I'm asking the question
6 and I am surprised at your answer. I would have thought
7 that you were -- you, as a union, were working very
8 diligently to try to represent the needs of the
9 unorganized, but --

10 A. With the intent of eventually organizing them.

11 Q. Well --

12 A. I mean.

13 A. -- I mean --

14 Q. Okay.

15 A. I think --

16 Q. I didn't do my homework.

17 A. -- as a union rep, you know that, you know, we help
18 everybody, but we also want to make sure they eventually
19 come under our umbrella. At least, that's --

20 Q. Yeah.

21 A. -- that's --

22 Q. But any time you were aware of an unorganized worker
23 having difficulties and especially in health and safety,
24 would I be right in assuming that you would offer your
25 assistance as much as you could?

MR. BURCHELL, EXAM. BY MR. WELLS

1 A. I represent them on a daily basis, non-unionized
2 workers.

3 Q. That's what I thought.

4 A. With the hope that eventually they will come and
5 join my union.

6 Q. Yes, or some other union. Okay --

7 A. My union.

8 Q. -- moving on --

9 COMMISSIONER He didn't say that, Mr. Wells.

10 MR. WELLS I know he didn't say that. We can't all have
11 those we would like to have organized.

12 Can you tell us and give us some sense of the impact
13 that the rescue efforts had on the employees at Devco,
14 both in your union and from CUPE, the people that came up
15 to take part in it?

16 A. Well, it had a devastating impact on them. I mean,
17 no coal miner wants to ever be put in that position. No
18 coal miner ever wants to have to go in to rescue people
19 who -- or to recover bodies or whatever. I mean, it's --
20 I've -- I keep in close contact with our draegermen, and
21 it's had a -- it's had a very dramatic effect on them. I
22 mean -- but they are also highly trained and skilled
23 people, and they know that that -- some day they're --
24 they hope that it never happens, but some day that may be
25 a reality, and they're trained to respond to it. But it

MR. BURCHELL, EXAM. BY MR. WELLS

1 still has a great emotional impact on them.

2 Q. You mentioned this morning that you were speculating
3 that possibly Albert McLean was hoping to get the Chief
4 Inspector's job. And then shortly after that you were
5 advised -- you're telling us you had been advised to
6 contact Claude White when you were trying to make some --
7 or do something about Albert's enforcement work. What
8 position did Claude White have at that time, do you know?

9 A. My understanding is Albert was the head cheese out
10 of Halifax. I mean, he -- he was the guy that they
11 reported to.

12 Q. Albert or Claude?

13 A. Collie MacDonald reported to and he reported to.

14 Q. This is Claude --

15 A. Pardon?

16 Q. -- not Albert?

17 A. Pardon?

18 Q. You -- I think you just said that you thought Albert
19 was, so you thought --

20 A. Concerning Westray, yes, because that was --

21 Q. Okay.

22 A. Pictou County is a separate division from Cape
23 Breton County, and they were using a Cape Breton
24 inspector up here. There had been a lot of changes in
25 the Labour Department when they went from Department of

MR. BURCHELL, EXAM. BY MR. WELLS

1 Mines and Energy over to Department of Labour. And they
2 pooled all their resources, I guess, and it was, I guess,
3 hard to understand where the line of command was. I know
4 in Glace Bay, Collie MacDonald was the head guy. And, in
5 Halifax, Claude White. And those guys were the guys we
6 dealt with.

7 Q. So you thought he was the -- was the Chief Inspector
8 for this region, is that what you're saying, out of the
9 Halifax office?

10 A. He was over the inspectors. They reported to him in
11 Halifax. That was my understanding of it.

12 Q. Okay.

13 A. And he reported to them. Or, I'm sorry, the
14 inspectors reported to him.

15 Q. When you were trying to find a way to get
16 enforcement in that mine, either before or after your
17 organizational drive, was there ever any consideration
18 given to bringing the matter to the occupational health
19 and safety advisory council?

20 A. No.

21 Q. Okay. Do you feel that, if there were revisions to
22 the Occupational Health and Safety Act to put in place a
23 fast and fair and effective appeal system, that that
24 would be able to assist in such a problem in the future
25 where you weren't getting the enforcement you needed?

MR. BURCHELL, EXAM. BY MR. WELLS

1 A. With all due respect, Mr. Wells, if they wouldn't
2 enforce the Coal Mines Regulation Act, I didn't expect
3 them to enforce any other Act.

4 Q. Well, I'm saying that the Coal Mines Regulation Act
5 is a portion of the Occupational Health and Safety Act,
6 in that it comes under the Occupational Health and Safety
7 Act, and were there modifications made to the
8 Occupational Health and Safety Act now, post-Westray,
9 that would include a fast and fair appeal system, do you
10 feel that that would help in future cases, such as
11 Westray, where you weren't getting the enforcement that
12 you want?

13 A. I don't understand what you're getting at. I mean,
14 it was -- the legislation was there. You know, I --

15 Q. Well, I'm saying that the legislation now does not
16 have an official appeal system that has to be followed
17 when you have a concern. And I'm asking whether you
18 think an appeal system would help?

19 A. Sure it would help; it wouldn't hurt. But I would
20 hope that they would follow the legislation that was
21 there and you wouldn't have to appeal.

22 Q. You and I both. Thank you very much. No further
23 questions.

24 COMMISSIONER Mr. Endres?

25 EXAMINATION BY MR. ENDRES

MR. BURCHELL, EXAM. BY MR. ENDRES

1 Q. There really only are two areas, Mr. Burchell, that
2 I'm interested in. And the one is the area where you
3 talked to us about going on the inspection tour, you
4 wanted Paul MacNeil to go on an inspection tour of
5 Westray.

6 And the other area, of course, is your meeting with
7 Albert McLean at the Heather Hotel. But before -- and
8 this won't take very long at all.

9 Before I do that, perhaps you can put something in
10 perspective for me. I heard you say just a few minutes
11 ago in response to counsel on cross-examination that you
12 would indeed shut down certain mines -- certain parts of
13 the mine or the whole mine for safety reasons. Did I
14 hear you correctly on that?

15 A. Yes, you did.

16 Q. Well, it startled me a bit because earlier this
17 morning we looked at your memorandum or your letter to
18 the employees at Westray at page 44. Do you remember
19 that?

20 A. Yes.

21 Q. Of Exhibit 75, tab 17.

22 A. I know --

23 Q. And, of course, in that you were -- I'm sorry?

24 A. Go ahead. I know the exhibit; I wrote it.

25 Q. You know which one I'm talking about.

MR. BURCHELL, EXAM. BY MR. ENDRES

1 A. I wrote it.

2 Q. And, of course, in that it says that the question
3 was raised whether UMWA will try to close our mine down
4 for safety violations and you had given us your response
5 saying no, that's not what we're going to do.

6 A. That's right.

7 Q. Can you put that in perspective or is there anything
8 more to it?

9 A. Well, if you had been listening to my testimony
10 earlier this morning, I testified that Albert -- or Roger
11 Parry was pulling the men aside and telling them we were
12 going to shut Westray down completely, that was it, so we
13 could keep Lingan open. And I responded to that, that
14 we're not in the business of shutting coal mines down.
15 We're in the business of working with management to try
16 to make it a safe operation.

17 Now if men had to be -- if you had to shut a section
18 down to take men out of there until it was made safe,
19 then that's what we would have done. We have done it in
20 the past at other mines, and if that situation is to
21 arise again, we will do it again. The safety of our men
22 is our top priority.

23 Q. I think you are helping me in that you've added the
24 additional perspective of the Lingan Mine and would you
25 not agree with me that there is nothing in your December

MR. BURCHELL, EXAM. BY MR. ENDRES

1 '91 communication to the Westray employees about the
2 Lingan Mine? It simply says for safety violations --

3 A. Yes.

4 Q. Safety violations. It's not linked in any way.

5 A. No.

6 Q. So you didn't explain to the employees what you were
7 talking about.

8 A. Yes, I did. I held meetings and brought people up
9 from Lingan Mine with me to explain that.

10 Q. And, indeed, what you were responding to, I take it
11 now, is that the employees had put it to you that they
12 feared that they would shut the Westray Mine down in
13 favour of Lingan, is that the way the question came to
14 you?

15 A. The employees didn't fear it. They were being told
16 that by representatives of management at Westray.

17 Q. So if that's the --

18 A. And when Wes -- when management during an organizing
19 drive use any of those tactics, then, of course, we
20 respond to it.

21 Q. You don't find it surprising that there's nothing of
22 that mentioned in your letter to the employees about the
23 Lingan link as opposed to safety concerns, safety
24 violations?

25 A. No, it doesn't surprise me at all. I was at the

MR. BURCHELL, EXAM. BY MR. ENDRES

1 gate putting out fliers. I wasn't writing books. I
2 mean, you know, I had to do a flier. And I had meetings
3 to cover those other issues and one-on-ones with the men
4 and I had an in-house committee who also explained to the
5 guys. I didn't have to put everything that I did in a
6 flier.

7 Q. Just another preliminary point, the Evans Mine was
8 unionized?

9 A. Yes, it was.

10 Q. The Evans Mine was properly managed and run?

11 A. Yes, it was.

12 Q. It was properly inspected?

13 A. Yes, it was.

14 Q. Yet there was a fire?

15 A. Yes.

16 Q. At the Evans Mine.

17 A. Yes.

18 Q. So can I safely assume from that, and if that's not
19 the case, tell me why, that even in the best of mines,
20 there can be accidents. There can be fires, and there
21 can be other things?

22 A. Oh, sure, but the Evans Mines fire was immediately
23 extinguished, contained, and no loss of life was occurred
24 because the inspectors and the union were right on top of
25 it.

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1 Q. No, but the point -- I understand that and I'm glad
2 you point that out.

3 A. The Evans Mine fire could have been devastating if
4 there had not been proper stone dusting and stuff like
5 that done at the mine. We may have had another Westray.
6 But all mine accidents, any occupation, as I'm sure
7 you're aware, in your occupation, you could have tripped
8 coming in here. Accidents can happen anywhere, and it's
9 the job of the workers and their representatives and the
10 government representatives that are there in charge of
11 that operation to see to it that proper procedures are in
12 place to make sure that if an accident does happen, that
13 it's well covered and we're on top of it.

14 Q. All right, that's helpful. Going on to the
15 inspection tour, which is one of the two matters that I
16 really do want to speak to you about.

17 A. Sure.

18 Q. You told us already one way of getting Paul MacNeil
19 into the mine was for two Westray employees to sign him
20 up as their safety rep, so to speak?

21 A. Yes.

22 Q. And that didn't come about, of course?

23 A. No.

24 Q. We know that.

25 A. It didn't.

MR. BURCHELL, EXAM. BY MR. ENDRES

1 Q. And then you tried to go through Hugh Macdonald and
2 Claude White to order Westray to allow Paul MacNeil to go
3 underground.

4 A. After the election, that was the route I took, yes.

5 Q. And they wouldn't do it, of course, we know that.

6 A. No.

7 Q. Now do you know of any, and help me with that, any
8 authority under which the Deputy Minister of Labour or
9 Claude White could have ordered Westray to permit Paul
10 MacNeil to go underground on an inspection tour?

11 A. Yes, I do.

12 Q. All right, tell us what it is.

13 A. The Minister has the power to authorize anything
14 that he sees fit in this Act. So does the inspector.
15 And maybe they could have easily said that we want some
16 assistance in doing our inspection, and that would have
17 covered him.

18 Q. Is there something particular that you have in mind
19 other than the Act? Is there a section or a clause or a
20 paragraph that you want us to know about?

21 A. Well, if the -- The Minister -- I'm sure if I went
22 through this Act, I would find something that would have
23 -- I mean if you want to take a break, I'll go through it
24 and find something for you that I could have got in there
25 under.

MR. BURCHELL, EXAM. BY MR. ENDRES

1 Q. I think we can --

2 A. If the Minister had been cooperative.

3 Q. We can leave that.

4 A. That's no problem.

5 Q. You don't know of any section right now, but you say
6 you could find it --

7 A. Well, under the Occupational Health and Safety Act,
8 there's a section under there, and I believe it's -- Just
9 one second and I'll check it out. Section 29(1):

10 "Where an officer makes an inspection of a workplace
11 pursuant to the powers conferred upon him pursuant to
12 Section 28, the officer shall give a committee member or
13 other person selected by the employees to represent them
14 the opportunity to accompany the officer during his
15 physical inspection of the workplace or any part or parts
16 thereof."

17 If they have the right -- if the Minister has the
18 right to authorize the inspector to allow the worker to
19 designate anyone to go into an operation, I'm sure he has
20 the right to authorize anyone to go in there himself. In
21 fact, he could have sent myself or Paul in there under a
22 Ministerial Order.

23 Q. All right. The section that you read from, Mr.
24 Burchell, 29(1), isn't that the very section that you
25 thought about when you said, "Yes, two of the men could

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1 have signed Paul in"?

2 A. Yes.

3 Q. That's what that is about.

4 A. Yes.

5 Q. But that's not about the Minister or the Deputy
6 Minister or Claude White doing anything of the kind on
7 their own, is it?

8 A. I think you know as well as I do that the Minister
9 has that power and he could have enforced it if he wanted
10 to. The Province of Nova Scotia own all the reserves in
11 this Province, and they have the right to supervise them.
12 And he could have done it. You know that as well as I
13 do.

14 Q. All right. Now let me put something to you, and if
15 you find that startling or incorrect, you tell me so. Am
16 I reading this correctly, that your evidence today as to
17 the sequence of events when it comes to the inspection
18 that you wanted done by Paul MacNeil is different from
19 the sequence of events that you relate to the RCMP when
20 you gave a statement to them way back in 1992?

21 A. What do you mean by "the sequence of events to what
22 I wanted Paul to do"?

23 Q. Actually 1993, I shouldn't be unfair to you. March
24 2nd of -- February 2nd of '93, do you recall giving a
25 statement to the RCMP?

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1 A. Yes, I do.

2 Q. And this was given to Constable Foran?

3 A. Yeah.

4 Q. You signed it?

5 A. Yes.

6 Q. All right, do you have Exhibit 121 in front of you
7 that contains your statement under tab 3?

8 A. Yes.

9 Q. And if you read page three starting --

10 A. Page?

11 Q. Page three of your statement.

12 A. Uh-huh.

13 Q. Starting approximately in the middle, the sentence
14 that starts with, "Paul made the contact with Westray,
15 and they told him they would get back to him but they
16 didn't." If you read from there, not quite to the end of
17 that paragraph, I put it to you, Mr. Burchell, that there
18 is quite a different sequence of events and, indeed,
19 different responses given by the various parties that you
20 said you approached in comparison to your evidence this
21 morning. Do you want to take some time and read it?

22 A. What was the question again?

23 Q. I say I put it to you that there is a difference, a
24 considerable difference in the sequence of events as
25 portrayed in that statement when we compare that to your

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1 evidence this morning, and there's also a considerable
2 difference in the nature of the responses that you told
3 us you got from the various players as opposed to what
4 you told the RCMP.

5 A. I think basically that's the same thing that I
6 testified to this morning. I don't see any difference
7 there unless you have a different way of interpreting it.

8 Q. Well, why don't we take a look at it? No, I don't
9 think it's a question of interpretation.

10 A. I think what you're saying -- I think in this
11 statement here, I stated I contacted Hughie, then Claude
12 and today I said I contacted Claude and then Hughie, and
13 Hughie told me to get ahold of Claude again, and I told
14 him that I had already talked to Claude, you know. When
15 I spoke with the RCMP and gave my statement to the RCMP,
16 we didn't go into complete detail. And I just gave them
17 an overall view of what we -- what attempts we made. I
18 gave you today a better, more detailed description of
19 what I did.

20 Q. I guess what we have today is more elaborate. I
21 think it's more than that, though, Mr. Burchell. More
22 than that you spoke to Hughie first as opposed to Claude.
23 That's one thing, sure. And you're right about that,
24 there is a difference there. But I think there's more to
25 it. One of the things that's more to it is that in that

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1 statement to the RCMP, you gave no indication whatsoever
2 that you talked to Hugh Macdonald or Claude White about
3 safety concerns, that that is why you wanted Paul MacNeil
4 in the mine. I put it to you in your RCMP statement you
5 simply said that you wanted Paul in there because that
6 would allow him to do a better job as a member of that
7 committee that was rewriting the legislation. Quite a
8 difference.

9 A. Well --

10 Q. Because now we're losing this whole idea of your
11 communicating the safety concerns. Do you see that?

12 A. No, I don't see it. When I gave my interview to the
13 RCMP, it was concerning charges that were being filed
14 against Roger Parry and Gerard[sic] Phillips. And I gave
15 them a quick overview of what went on, and we didn't go
16 into detail. I didn't have notes to refer back to on
17 when I was here or there or what took place. And it was
18 a short meeting and my understanding, in fact, I was told
19 at that meeting with the RCMP that this had nothing to do
20 with the Department of Mines' inspectors or Department of
21 Labour inspectors or anything. They were more interested
22 in how the drive went by.

23 You got a detailed description today of what exactly
24 happened. Whether you believe it or not, that's up to
25 you. You know. I don't know what more I can tell you.

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1 Q. No, sure.

2 A. That's the way it happened. And I'm willing to take
3 a lie detector test, if your inspectors are.

4 Q. Sure.

5 A. And we'll see who told the truth.

6 Q. What I'm really interested in is not so much the
7 rhetoric but the precise point. I want to know what we
8 ought to believe. That's why I'm asking these very
9 questions. I want to believe that you're saying, and
10 that's why I'm asking you some questions. So let me take
11 the first specific question.

12 A. Well, let me answer that. You want to know what to
13 believe. I took an oath here this morning when I
14 testified, and everything that I've told you this morning
15 is the truth. I have sworn to it, and I'm not in the
16 habit of swearing to something and then lying. Now,
17 again, if you don't want to believe it, I can't help
18 that. I'm just telling this Inquiry what happened
19 factually in my own words. And that's the way it went
20 down.

21 Q. All right.

22 A. Now you can have all of the reservations you want.
23 I can't help that.

24 Q. Sure. Were you asked to give an oath before you
25 were interviewed by the RCMP?

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1 A. Ahh, I don't believe I was. I can't recall, to be
2 honest with you, if I was or not. I'm really not sure of
3 that.

4 Q. Let's take a look at --

5 A. I don't think I was. I think I was just asked to
6 give them a statement.

7 Q. You signed it, though?

8 A. Yeah, I signed it.

9 Q. Presumably because you were satisfied that what was
10 reported was correct.

11 A. For the purpose that they wanted it, yeah. For what
12 they wanted it for.

13 Q. Let's take some specifics, because it will make it a
14 lot easier.

15 A. Okay.

16 Q. Let's take that sentence that starts with "Paul made
17 the contact with Westray..." Do you have that?

18 A. Pardon?

19 Q. Do you have that in front of you?

20 A. Yes, I do.

21 Q. "Paul made the contact..."

22 A. Yes.

23 Q. Let's just read on for the rest of that sentence.
24 "...and they told him they would get back to him, but
25 they didn't." Now this is just the first sentence, and

MR. BURCHELL, EXAM. BY MR. ENDRES

1 I'm just using that as an example. This morning, Mr.
2 Burchell, you testified that Paul made the contact with
3 Westray about going on a safety travel underground about
4 the roof control, and eventually Karasiuk got back and
5 said, "Not interested."

6 A. Yeah.

7 Q. Well, in your statement to the RCMP, you said they
8 didn't get back to you. Here they came and said, "Not
9 interested."

10 A. Well, again, since -- When I gave my statement to
11 the RCMP, I didn't talk to Paul about it. I knew I was
12 going to testify here today. I've talked to Paul MacNeil
13 and we got -- I made sure I got all my facts straight,
14 all my dates straight as best as I could, so that I would
15 be able to come here and give as best a detailed
16 description of what happened. After talking with Paul,
17 he told me that he contacted or Karasiuk eventually
18 contacted him afterwards and said no, that they weren't
19 interested.

20 Q. In your evidence this morning, you continued
21 immediately to say then you contacted Claude White and
22 expressed concerns over safety "...that we wanted to
23 accompany him on an inspection tour." And if we read on
24 in your RCMP statement where we left off, you said, "Then
25 I made contact with the Deputy Minister of Labour, Hugh

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1 Macdonald. I told him what we wanted to do, and we
2 didn't get no response from Westray." Again, no
3 response. But if you read that properly now, what you
4 told Macdonald, because if you read the next part, we
5 know that, had nothing to do with any safety
6 considerations. Nothing at all.

7 MS. CAMPBELL Excuse me, Mr. Commissioner, I feel I have
8 to interject because Mr. Endres is neglecting the
9 previous portion of Mr. Burchell's statement, and you
10 have to read the whole thing in context. He says:

11 "Early February, I instructed Paul MacNeil, my health and
12 safety officer, to contact Gerald Phillips and to offer
13 an unbiased travel by us underground at Westray, and we
14 would bring someone from Devco who had expertise in roof
15 control and make recommendations on how to improve safety
16 conditions at Westray."

17 COMMISSIONER That's what he said this morning, too.

18 MS. CAMPBELL And then when he refers to Hugh Macdonald,
19 he said, "I told him what we wanted to do." And the way
20 I read that, it would be the same as he instructed Paul
21 MacNeil to do when he contacted Westray.

22 MR. ENDRES Well, look, I put it in context, quite
23 rightly, and the difference that's been missed already
24 is, number one, that when Mr. Burchell is talking about
25 Westray, yes, Paul MacNeil apparently went, that's what

MR. BURCHELL, EXAM. BY MR. ENDRES

1 it says, to talk to Westray about safety concerns. And
2 my simple point is that when Mr. Burchell talks to the
3 RCMP, he doesn't talk about safety. He talks about Paul
4 MacNeil going underground because that would make it
5 easier for him or better for him to do his job as a
6 member of that committee that was re-writing the
7 legislation. And we get that point very categorically if
8 we just read on. Because there's nothing mentioned there
9 about safety whatsoever.

10 You're saying to the RCMP, Mr. Burchell, "I asked
11 him..." And I'll just read on where I left off, "I asked
12 him because of Paul being requested by the Department of
13 Labour to participate in the re-drafting of the Coal
14 Mines Regulation Act." So that's the context.

15 A. And I explained or elaborated on that this morning
16 that that was my way of giving Hughie in the Department
17 of Labour and Claude White in the Department of Labour
18 their way out if they felt it was for any other reason.
19 Hugh Macdonald --

20 COMMISSIONER That's what I understood, frankly, from
21 the evidence.

22 MR. BURCHELL That's right. And Hughie Macdonald and
23 Claude White and Albert McLean were well aware of my
24 concerns at Westray and the safety concerns. They were
25 well aware of it, and they were well aware of it when I

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1 contacted them after the drive was over. I made them
2 perfectly well aware.

3 MR. ENDRES This morning you told us in your evidence,
4 Mr. Burchell, that you gave Claude and Hugh Macdonald a
5 way out, and then you referred to this business about the
6 committee.

7 A. Yeah.

8 Q. There's nothing like that in your RCMP statement, is
9 there? Because if we read on, all that we see in your
10 statement to the RCMP --

11 A. Yeah, I think if you would read that statement and
12 try not to make something out of it that isn't there,
13 you'll see where I told Hughie Macdonald and Claude White
14 that Paul should travel those mines because he was going
15 to be on that committee. I mean --

16 Q. All we have there, Mr. Burchell, it's for anyone to
17 read --

18 A. And, by the way, by the way, sir, this isn't
19 verbatim. I really don't know -- There may have been a
20 lot of things added in this conversation. There was an
21 RCMP officer writing this down longhand who had told me,
22 "I won't be writing everything, but just to get the gist
23 of the conversation of what you're saying." And I went
24 over it, and basically we covered everything that went on
25 through that drive, and I signed it. Now I may have told

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1 the RCMP that this was just a scam for me to get in there
2 to see for myself what was going on. And he may have
3 neglected to write that down.

4 But everyone was aware I wanted to get in that mine
5 to firsthand see the safety violations that were going
6 on, and I was using the Coal Mines Regulation Act as a
7 way to get in there. And I've never denied that.

8 Q. All right. Would you agree with me to this extent
9 that when we read the RCMP statement, for what it is
10 worth then at page three, that there is no indication in
11 that that you alerted Hugh Macdonald or Claude White
12 about your safety concerns? That you really wanted Paul
13 MacNeil down in the mine so that he could do his job
14 better as a member of that committee?

15 A. I agree with that point and if this statement were
16 to be taken under oath and before the RCMP were asking me
17 this at an Inquiry, I certainly would have went into a
18 lot more detail on it so that everyone would be able to
19 understand it, including the lawyers.

20 Q. Is it conceivable then that your message to
21 Macdonald and to Claude White was confused and that is
22 perhaps why they responded as they did?

23 A. No, it's not even remotely possible for them to have
24 been confused on the message I was delivering to them.
25 It was very clear and exact.

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1 COMMISSIONER I presume we will be hearing from Mr.
2 Macdonald and Mr. White on just those very points, Mr.
3 Endres, I would think. I would hope so, anyway.

4 MR. ENDRES They're called to testify. So they'll be
5 challenged on that, I'm quite sure.

6 MR. ENDRES Let me move on to the second point --

7 COMMISSIONER I don't like your term "challenged." They
8 will be invited to give their version of that point.

9 MR. ENDRES Fair enough.

10 COMMISSIONER I don't think we're here to challenge
11 anybody.

12 MR. ENDRES Your meeting with Albert McLean, if you
13 could help me with that a little bit. I think it is fair
14 enough that you've given me as much as you can by way of
15 details so that Mr. McLean can respond to what you're
16 saying. So can you help me a little better as to the
17 date when that meeting took place at the Heather Motel?

18 A. It was around the first of November. It would have
19 been, I don't know, maybe the 4th or 5th, or that area.

20 Q. You don't know precisely?

21 A. I couldn't say exactly.

22 Q. Do you know the time of day?

23 A. Yeah, it was in the evening. It would have been
24 after -- It would have been after five in the evening.

25 Q. What time after five? Ten? Twelve?

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1 A. I didn't look at my watch. I couldn't tell you. It
2 would have been after five. Because I had a meeting at
3 five o'clock with the guys. I met with them at five. So
4 it would have been after -- It was during the meeting.
5 So it would have been after five.

6 COMMISSIONER Do I recall you saying you -- They were at
7 dinner when you spoke with them?

8 A. Yes, they were.

9 COMMISSIONER Yes, okay.

10 MR. ENDRES So they were actually eating when you got
11 there?

12 A. They were actually eating fish and chips because
13 they told me to try it, that it was really good.

14 Q. And the only other person that was present was
15 Donald MacLean?

16 A. No, Dave MacLean.

17 Q. I'm sorry, David MacLean.

18 A. I might want to qualify that. Dave was eating fish
19 and chips. He offered me some. I don't know what Albert
20 was having.

21 COMMISSIONER That's very significant.

22 MR. ENDRES Did you make any notes of that meeting
23 that you had at the Heather Motel?

24 A. No, I didn't.

25 Q. Did you write any memoranda, letters about it?

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1 Anything written down on that at all?

2 A. No. If you heard my testimony earlier this morning,
3 I didn't take many notes through that. I have a very
4 good memory.

5 Q. No, but, look, you mustn't misread me there. I'm
6 just trying to get as many details with your
7 assistance --

8 A. I didn't take any notes.

9 Q. So that they can respond.

10 A. No, I didn't take -- I did not take any notes of
11 that meeting.

12 Q. All right. Tell me the safety concerns that you
13 recall you related to Albert McLean in the presence of
14 David MacLean.

15 A. The same ones that I testified to here this morning.

16 Q. Well, tell me what they are so I know the complete
17 list.

18 A. Jump-starting equipment underground, why he was
19 allowing it. Equipment underground that was not -- that
20 shouldn't be there, tractors and stuff like that.
21 Welding underground without taking proper procedures. No
22 stone dusting. Jump-starting. I had been told that
23 there was gasoline-operated equipment brought
24 underground, I brought that concern up to him. I was
25 told that there was a non-permissible light switch or

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1 fuse box underground. I brought that up to him. I told
2 him that I had been told that Angus MacNeil was now in a
3 supervisory capacity underground, and I didn't feel Angus
4 met the qualifications under the regulations to be in
5 that position, and why did Albert give him the
6 qualifications if he didn't meet them? And I think that
7 basically pretty well covered it all.

8 Q. Were you speaking loud enough so that, in your view,
9 one can assume that David MacLean overheard whatever you
10 said?

11 A. I would suggest that the girl at the front desk out
12 in the lobby heard what I was saying, because I was --
13 the waitress, at one point, walked over and kind of gave
14 me a look to keep it down a bit.

15 Q. All right. So it's safe to assume that David heard
16 it?

17 A. Oh, he heard it.

18 Q. All right. And what was your state of mind when you
19 got there and the time you spent there?

20 A. When I first arrived? It was -- my state of mind
21 was -- I was upset to hear that this -- these things were
22 going on, but I was controlled. As the conversation
23 progressed, I got very upset and became very loud and
24 sometimes my language wasn't anything to be too proud of.
25 There was some profanities used and what have you.

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1 Q. How long was the -- did the meeting last?

2 A. How long did it last? I don't know, maybe 10, 15
3 minutes.

4 Q. Did you leave on good terms or did you storm --

5 A. Not likely.

6 Q. -- out or -- no?

7 A. I stormed out.

8 Q. You stormed away?

9 A. I walked out, yes, very upset.

10 Q. Where were the men that you had been talking to
11 previously at that point?

12 A. At that meeting previous to that?

13 Q. Yeah, there was a meeting previously with men.

14 A. Buddy Robinson, Larry James. I believe Robbie Doyle
15 was there.

16 Q. Okay. And that was at your hotel?

17 A. Yeah.

18 Q. And the men were still there when you returned?

19 A. Some of them were; some of them had left.

20 Q. And one thing that occurs to me is a simple
21 question, why didn't you take one or the other men with
22 you to that meeting?

23 A. If I had of known how Albert was going to respond, I
24 certainly would have. I can assure you of that. Because
25 one of the things he asked me was -- like, he told me

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1 that why weren't they coming to him with his concerns. I
2 knew Albert long enough. I worked with him long enough
3 that I never, in my wildest dreams, expected the meeting
4 to be the way it turned out. I didn't think Albert would
5 behave that way. But, you're right, if I had of known
6 that he was going to act that way, I certainly would have
7 asked one of them to come with me.

8 Q. Do you recall -- or tell me how much you do --
9 whatever you do recall about Mr. McLean's response to you
10 or responses. What did he say to you?

11 A. What did I say?

12 Q. What did he say?

13 A. What did Albert say?

14 Q. Yes.

15 A. First of all, he asked me why they were coming to me
16 with those -- first of all, he said he didn't see any of
17 those. "I don't see any of those problems." And he
18 said, "Why aren't the guys coming to me with them?" And
19 I said, "Albert, I'm coming to you with them and making
20 you aware of it. The reason the guys won't is because
21 you have a mine official on your arm every time you
22 travel." I said, "Now I'm making you aware of those
23 concerns. What you going to do about them?"

24 Q. Anything else that he said to you?

25 A. Basically that was the extent of it. He was very

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1 agitated, red as a beet, knew that he was in the wrong,
2 and I was right and just didn't know how to respond to
3 it, I would suggest.

4 Q. Did David McLean saying anything?

5 A. Not a word. David had a look about him. David
6 looked at me. I knew David well. I worked with him in
7 the pit, and I could tell by looking at David that he
8 knew that I was really upset about what was going on and
9 that it was factual. And he knew there was nothing he
10 could do about it, and he just sat there and kept his
11 mouth shut.

12 Q. So am I saying this correct that Claude -- Albert
13 McLean was upset when you approached him?

14 A. Oh, yeah. Well, he was upset. I don't think he was
15 upset when I immediately approached him, but as the
16 meeting -- as the conversation started, I could see that
17 he was getting very upset and agitated with me.

18 Q. You were yelling at him?

19 A. I would say that would be a fair assumption through
20 the meeting when I saw that I was getting no response
21 from him. Yes, I raised my voice.

22 Q. And this is in a public place?

23 A. Well, the restaurant at the Heather is --

24 Q. Yes.

25 A. -- a public place, yes.

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1 Q. And you were using profanities?

2 A. A few times, yeah.

3 Q. If you were McLean, would you not be upset if
4 somebody approached you that way?

5 A. Yeah, if I were Albert McLean and not doing my job
6 and somebody was letting everybody in the restaurant know
7 that I wasn't doing my job, I'd be upset, yeah.

8 Q. I don't think it helps much to editorialize, Mr.
9 Burchell, but you keep it up anyway.

10 A. I'm trying to give -- I'm trying to explain to you
11 as best I can, because you seem not to understand some of
12 my comments. So I'm making sure you completely
13 understand my actions --

14 Q. Yes.

15 A. -- by giving you the exact things that I think. You
16 asked me what I thought. That's how I think. If you
17 don't want to hear the answers, don't ask the questions.

18 Q. All right. You were in the midst of an organizing
19 drive at that time?

20 A. Pardon?

21 Q. You were in the midst of an organizing drive right
22 around that time?

23 A. Yes, I was.

24 Q. And you were the chief organizer?

25 A. Yes, I was.

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1 Q. And that was well understood by everybody?

2 A. Yes.

3 Q. Including Albert?

4 A. Yes.

5 Q. Is it conceivable that McLean misinterpreted your
6 approach as a union tactic in the course of a fledgling
7 union drive?

8 A. I doubt that very much. Albert McLean has known me
9 for a long time, and Albert knows that I take safety very
10 seriously. And Albert knows that I would -- that if I
11 needed his assistance in the organizing drive, I would
12 have went about it a lot different than the way I
13 approached it. I can assure you of that.

14 Q. And your next meeting or your next discussion, I
15 take it -- it wasn't a meeting, was with Hugh Macdonald,
16 the Deputy Minister of Labour?

17 A. With --

18 Q. Hugh --

19 A. I didn't have a meeting with Hughie.

20 Q. No, I say a discussion with Hugh Macdonald?

21 A. I contacted -- and, again, I may confuse you because
22 I'm -- I may not be exact on who I talked -- I talked to
23 both Hughie and Claude White the next day on that --

24 Q. All right. Do you know --

25 A. -- on what went on.

MR. BURCHELL, EXAM. BY MR. ENDRES

1 Q. -- the date of that? Or was --

2 A. Pardon?

3 Q. Do you know the exact date on which you called --

4 A. It would have been --

5 Q. -- and talked --

6 A. -- the day after the day that I met with Al -- or
7 that I met with Albert. And I had already -- if I knew
8 that date, then I would have been able to give you the
9 date that I met with Albert. I told you what area that
10 was in. And I contacted -- I talked to Claude White, and
11 I told Claude White about my concerns. And I told him
12 about the electrical equipment underground and this,
13 that, and all the other things.

14 And I asked him what they were going to do about it,
15 and Claude White told me that he would talk to Albert
16 and, in the meantime, I should be -- I should get in
17 touch with John Smith.

18 And then I talked -- I also talked with -- that same
19 day with Hugh Macdonald, and I told Hugh Macdonald of the
20 concerns I had. And the reason I called Hugh Macdonald
21 was because Hughie Macdonald and I -- I knew Hughie for
22 quite a few years, and I felt that maybe I could get an
23 ear to the Minister's office through Hughie so that
24 somebody would take some actions before someone was
25 killed at that mine.

MR. BURCHELL, EXAM. BY MR. ENDRES

- 1 Q. You called them both by telephone, I take it?
- 2 A. Yeah.
- 3 Q. Well, is there something wrong with that, yes or no?
- 4 A. Well, yes, I called him by telephone. I don't
- 5 know --
- 6 Q. Sure.
- 7 A. -- how else I would call them --
- 8 Q. Yeah.
- 9 A. -- unless, you know --
- 10 Q. And you were where at the time? Where were you?
- 11 A. I was -- would have been in New Glasgow at the time.
- 12 Q. And where were they? Where did you call them?
- 13 A. I would -- they were in Halifax.
- 14 Q. Both of them?
- 15 A. Yeah.
- 16 Q. And what -- this or that or the other thing you told
- 17 me about safety concerns, what exactly did you tell Hugh
- 18 Macdonald about your safety concerns? Tell me exactly
- 19 what it is?
- 20 A. I told Hughie Macdonald the same things I told
- 21 Albert McLean.
- 22 Q. All right. So we can keep that list running. You
- 23 went through the same --
- 24 A. Yeah, that -- that was a continuous list at Westray.
- 25 Q. You're quite sure you told him exactly the same

MR. BURCHELL, EXAM. BY MR. ENDRES

1 things you told --

2 A. Yeah.

3 Q. -- Albert McLean?

4 A. Yeah.

5 Q. And you told Claude White exactly the same thing --

6 A. Yeah.

7 Q. -- again?

8 A. Yeah. They were all well aware of the concerns I
9 had, the three parties.

10 Q. Now you couldn't follow up, I take it, immediately
11 by way of talking to John Smith because, if I remember
12 correctly, you went on a trip?

13 A. I was leaving for -- I had to go to Washington, D.C.

14 Q. And someone else followed up for you --

15 A. Yes.

16 Q. -- to meet with John or talk to John Smith?

17 A. I had asked Paul MacNeil to make a phone -- to try
18 to get ahold of John Smith and with concerns on what was
19 going on with the electrical, non-permissible stuff at
20 Westray.

21 To be honest with you, I don't know if Paul ever did
22 call him, because when I came back from Washington, I
23 went right back up to Westray and I ended up having my
24 own meetings there.

25 Q. From when to when were you away in Washington? When

MR. BURCHELL, EXAM. BY MR. ENDRES

1 did you leave; when did come back?

2 A. I would have to check my notes.

3 Q. How long were you gone?

4 A. I would have to check my notes.

5 Q. Did you ever follow up with Paul in any way, as to
6 his discussion with John?

7 A. I'm sure Paul and I discussed it. I know he didn't
8 meet with John or he would have told me. But I'm sure we
9 followed up on it because we worked in the same office
10 daily. But --

11 Q. And you met with John Smith after your trip from
12 coming back from Washington?

13 A. Yes.

14 Q. And that had nothing to do with general safety
15 concerns, I take it? That was about the --

16 A. Well, I --

17 Q. -- Allan Mine?

18 A. General safety? Yes, working near the old workings,
19 to me, was a general safety concern, and that was the
20 reason I went over there, yeah.

21 Q. That was a poor way to put it. You were focused on
22 the Allan Mine problem?

23 A. At that particular time I was, yes.

24 Q. With that meeting. And that meeting would have been
25 when?

MR. BURCHELL, EXAM. BY MR. ENDRES

1 A. Around -- between the 10th, 11th, 12th of December
2 because I had the guys from Lingan Mine with me at that
3 time. So it would have been --

4 Q. 10th, 11th or 12th of what, January?

5 A. December.

6 Q. December?

7 A. It would have been around that time.

8 Q. So would that have been before you went to the U.S.
9 or after? It must have been after.

10 A. It was after I came back from the U.S.

11 Q. And can you help me with this? I must say I lost it
12 because I didn't have the exhibit until just very
13 recently. Look at Exhibit 75 at tab 17, page 60, which
14 we've been told is an excerpt from the calendar -- an
15 excerpt from the calendar of Kevin --

16 THE CLERK Gillis.

17 MR. ENDRES -- Gillis.

18 A. Yeah.

19 COMMISSIONER Kevin Gillis. But there's no indication
20 on it that it is Kevin Gillis. I'm accepting it at that
21 for now, unless Mr. Gillis says otherwise. And he will
22 be here next week, I believe, will he not?

23 MS. CAMPBELL That's the plan, Mr. Commissioner.

24 COMMISSIONER Yeah, thank you.

25 MR. ENDRES And is that -- on the December 11, is

MR. BURCHELL, EXAM. BY MR. ENDRES

1 that, would you say, a documentation of that meeting?

2 A. That would probably be around that time, yeah. That
3 looks pretty close to the frame -- time frame.

4 Q. And at that meeting there were yourself?

5 A. Yeah.

6 Q. Mr. Warren?

7 A. Yeah.

8 Q. And MacNeil?

9 A. Yeah.

10 Q. And what happened to the other --

11 A. They --

12 Q. -- gentlemen?

13 A. You will have to ask whoever wrote this what
14 happened to him. He was there. I mean, whether he
15 neglected to write his name in or not, I don't know, but
16 he was there.

17 Q. So how close -- just to help me with that -- how --
18 COMMISSIONER How many were supposed to be there from
19 the union, just the three of you? Just the three of you?

20 A. There was four of us there.

21 COMMISSIONER Oh, I see. So it's the fourth name that
22 was dropped. I see, yeah.

23 A. Yeah. I don't see Charles Gillis' name there, but
24 he was with us.

25 MR. ENDRES And that's the same meeting, I take it,

MR. BURCHELL, EXAM. BY MR. ENDRES

1 that involved John Smith?

2 A. Yeah.

3 Q. There's no mention there of John Smith. I don't see
4 any, do you?

5 A. No.

6 Q. This looks like a meeting that you had with whoever
7 wrote these notes, assuming it's Kevin Gillis.

8 A. This doesn't look like any -- referring to a
9 meeting. It says, "These fellows from the UMW looking
10 for -- had these fellows from the UMW looking for the
11 location of old workings in the Foord seam." And then it
12 names who they were. It doesn't say that I met -- that
13 this person met with them. I was in -- it just says what
14 I was -- that I was in the building doing it. And there
15 were two people in the meeting, so whoever wrote this may
16 have been the other individual.

17 Q. All right. Is it much trouble for you to give me
18 some of those dates, like, a trip to Washington?

19 A. To give you some of those dates?

20 Q. Can you find those and provide them? *

21 A. Yeah, I can find the dates that I was in Washington.
22 If you want to have --

23 COMMISSIONER Could you --

24 A. -- ten-minute break, I can certainly find them.

25 COMMISSIONER Well, could you just put --

MR. BURCHELL, EXAM. BY MR. ENDRES

- 1 MR. ENDRES Anytime.
- 2 COMMISSIONER -- them together and send through to Ms.
- 3 Campbell and she will distribute them?
- 4 A. Sure.
- 5 COMMISSIONER Okay, thank you.
- 6 A. Sure.
- 7 COMMISSIONER Within, you know, within the next few
- 8 days.
- 9 A. Sure.
- 10 COMMISSIONER Yeah.
- 11 A. No problem.
- 12 COMMISSIONER Do you have E-mail down there?
- 13 A. Yeah, we're getting advanced in Cape Breton now,
- 14 boy.
- 15 COMMISSIONER Okay.
- 16 A. We got touchtone phones now.
- 17 COMMISSIONER Ms. Campbell will give --
- 18 MR. ENDRES Okay. And that's all --
- 19 COMMISSIONER -- you our E-mail address. Thank you.
- 20 MR. ENDRES That's all I have before we --
- 21 COMMISSIONER Okay. Thank you, Mr. Endres. Ms.
- 22 Campbell?
- 23 MS. CAMPBELL Just a couple of small points, Mr.
- 24 Commissioner.
- 25

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 A. No. It's an overview of the things that were
2 discussed. We talked for three or four hours at the
3 hotel in Sydney and then the officer said, "I'm going to
4 write down an overview of what you told us and then have
5 you look at it. And if you agree with that's basically
6 what we discussed, would you mind signing it?" And,
7 basically, that was an overview of what we talked over a
8 three or four-hour period.

9 Q. The discussion that you say you had at the Heather
10 Motel with Albert McLean, with Dave MacLean present, do
11 you think that there is -- that Mr. McLean, Albert
12 McLean, could have forgotten that that conversation took
13 place?

14 A. I'm sure he wished it did -- didn't. But I can't
15 see him forgetting it. You know, with all due respect, I
16 would have a hard time understanding why he could not
17 remember that conversation.

18 Q. Now with respect to another comment you made, you
19 testified that had you wanted Mr. McLean's assistance in
20 organizing, you wouldn't --

21 A. Yeah.

22 Q. -- have gone about it in that way.

23 A. That's right.

24 Q. Had you had assistance from Mr. McLean in the past
25 with respect to organization drives prior to that time?

MR. BURCHELL, EXAM. BY MS. CAMPBELL

1 A. We had assistance with him from Westray. We
2 contacted Albert and asked him -- when the -- when we
3 first started to go up there, we asked him to name some
4 of the guys for us that were working with CMD to give me
5 some names of people I could get ahold of.

6 Q. And did he?

7 A. Yeah.

8 Q. And what about at other sites where you had
9 unionized in other mines, had you had any assistance from
10 Mr. McLean?

11 A. No, we were already union there.

12 Q. Okay. That's all I have, Mr. Commissioner.

13 COMMISSIONER Thank you, Ms. Campbell.

14 EXAMINATION BY THE COMMISSIONER

15 Q. Mr. Burchell, you mentioned, I think, in cross-
16 examination by somebody of the mines that you visited
17 with Mr. McLean during your safety visits. Most of those
18 would be surface. There was only one other underground
19 mine, was -- that was Evans, eh?

20 A. Yeah, the travels I had when it was at the Evans
21 Mine and the mine over in Westville here.

22 Q. Pioneer.

23 A. Pioneer.

24 Q. Yeah, but that was a surface mine?

25 A. Yes.

MR. BURCHELL, EXAM. BY COMMISSIONER

1 Q. Yeah.

2 A. Yes.

3 Q. Yeah, okay. I suppose the only other comment I
4 have, I didn't mean to cast any aspersions on Cape Breton
5 when I asked if you had an E-mail number. But the last
6 time I was in your office in Glace Bay, Mr. MacArthur
7 neglected to show me your computer room, so I didn't now
8 what you had or not.

9 A. We keep it under lock and key.

10 Q. Oh, yeah. Okay, fair enough. Thank you very much.

11 A. Thank you.

12 Q. You may step down, sir.

13 A. Thank you.

14 WITNESS WITHDRAWS

15 COMMISSIONER That's our --

16 MS. CAMPBELL That's it for today --

17 COMMISSIONER The extent of our --

18 MS. CAMPBELL -- Mr. Commissioner.

19 COMMISSIONER -- witnesses for today? Well, we will --
20 tomorrow morning at 9:30 then. Thank you.

21 INQUIRY ADJOURNED (TIME: 3:33 p.m.)

REPORTER'S CERTIFICATE

I, Margaret E. Graham, Court Reporter, certify that the foregoing is a true and accurate transcript of the evidence taken by way of recording and reduced to typewritten copy.

Margaret E. Graham

DATED this 3rd day of April, 1996, at Stellarton, Nova Scotia.