

DAY 66

May 28, 1996

**WESTRAY MINE**

**PUBLIC INQUIRY**

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

PLACE: Stellarton, Nova Scotia

COUNSEL:

**Solicitor for the Commission:** Mr. J. Merrick, Q.C.

**Solicitors for the Department of Justice Canada:** Mr.  
John Ashley, Mr. Colin Campbell, Q.C., and Ms. Lynn  
Gillis

**Solicitors for the Department of Justice Nova Scotia:**  
Messrs. R. Endres, Q.C., and J. Traves

**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 Canadian Union of Public Employees:** Mr.  
Robert Wells

**Representing the Town of Stellarton:** Mr. Clarence  
Porter, Mayor

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1 May 28, 1996 - 9:30 a.m.

2 COMMISSIONER Good morning.

3 ALL Good morning.

4 COMMISSIONER Mr. Cameron.

5 MR. CAMERON Good morning, sir.

6 COMMISSIONER Some months ago Mr. Cameron, through  
7 Inquiry counsel, Mr. Merrick, requested that he be  
8 provided with the rather unusual opportunity of making an  
9 opening address. After due consideration and  
10 consultation with Inquiry counsel, I agreed to permit Mr.  
11 Cameron to make an address. And it's not without  
12 precedent in public inquiries, but it is rather unusual.

13 In this case, recognizing the pivotal role which ex-  
14 Premier Cameron had in the development of the Westray  
15 project and also the fact that his involvement has been  
16 subject to considerable public speculation since the  
17 disaster, I felt these were reasons enough to give Mr.  
18 Cameron that sort of latitude.

19 In a letter of April 16th confirming this, I set out  
20 certain stipulations, which I understand Mr. Cameron has  
21 agreed to, in fact, he's fulfilled. The comments will be  
22 a matter of sworn testimony and will be subject to cross-  
23 examination.

24 The comments will not endure any longer than one  
25 hour at the outside.

1           The comments will be relevant to the terms of  
2 reference of the Inquiry and to the extent possible, be  
3 evidentiary in nature.

4           And finally, that if Mr. Cameron intended to  
5 introduce any documentation, that the Inquiry be given  
6 copies of that two weeks in advance. Well, I am informed  
7 by Inquiry counsel that that stipulation has been met.  
8 Is that correct, Mr. Merrick?

9 MR. MERRICK     Yes, we received some documents just this  
10 morning, but I don't think that that's any kind of a  
11 problem.

12 COMMISSIONER    Have they been distributed?

13 MR. MERRICK     No, I'm just looking at them now. We'll  
14 look at them over the break. I don't think that they are  
15 particularly of assistance, but we'll take a look at  
16 them.

17 COMMISSIONER    Okay.

18 MR. CAMERON     I won't be referring to them.

19 COMMISSIONER    Okay, fine, Mr. Cameron. Well, on that  
20 basis then, Ms. Isenor, would you swear the witness  
21 please?

22 **MR. DONALD CAMERON**, sworn, testified as follows:

23 THE CLERK Please state and spell your name for the  
24 record.

25 A.     It's Don Cameron.   C-A-M-E-R-O-N.

MR. CAMERON - OPENING ADDRESS

1 COMMISSIONER Okay, sir.

2 OPENING ADDRESS BY MR. CAMERON

3 MR. CAMERON Thank you, Commissioner, for allowing me  
4 to make this presentation this morning, and, of course,  
5 after which I will answer all questions as long as  
6 necessary for this Inquiry.

7 I did contact legal counsel for the Inquiry, I  
8 believe, last July, I asked to meet with them and asked  
9 if I could make a presentation with the condition that I  
10 would like to make some opening comments. And I hope  
11 that, in fact, it will be useful for the Inquiry because  
12 it will probably speed up the process. Because I know  
13 many of the comments I want to make are issues that you  
14 and others are very concerned about.

15 Just to set the record straight, I have taken  
16 vacation days to prepare myself for this Inquiry and also  
17 vacation days to be here the next two days, or whatever  
18 time it takes, and I have not asked for any  
19 transportation costs to come to the Inquiry.

20 Well, much has been written and said about this  
21 project, so much in my view that the truth has been lost  
22 in the story. Someone once said the following, I think  
23 it's just a perfect fit the kind of condition we find,  
24 and I'll quote this person:

25 "For the great enemy of the truth is very often not

MR. CAMERON - OPENING ADDRESS

1 the lie, deliberate, contrived and dishonest, but the  
2 myth which is persistent, persuasive, and unrealistic.  
3 We subject all facts to a prefabricated set of  
4 interpretations. We enjoy the comfort of opinion without  
5 discomfort of thought."

6 Well, I expect they will be some today who will feel  
7 some discomfort before I finish. Now everyone is  
8 interested in the political aspects of this story, and it  
9 certainly is part of your mandate to look at the politics  
10 of this whole issue. So let's get to that issue.

11 This is a story of a terrible tragedy, and the  
12 reality of that tragedy gave credibility to those who  
13 want to play the rotten game of politics in Nova Scotia.  
14 It's about the shameful conduct of a few politicians who  
15 played the usual game of politics by pitting Cape Breton  
16 against Mainland Nova Scotia. But after the explosion  
17 they did something very unusual, they milked every ounce  
18 of political benefit they could from the death of 26  
19 human beings.

20 I will provide you with an internal Liberal Party  
21 memo that will leave you no doubt about this. And all  
22 this material that I refer to, I presented to Mr. Merrick  
23 last July. And, Mr. Merrick, I don't know if you have  
24 this memo I gave you, but I'm sure it's in your file  
25 somewhere. But I want to quote just one or two lines

MR. CAMERON - OPENING ADDRESS

1 from it.

2 You know there's good people in every political  
3 party and there were people in the Liberal Party that  
4 told me they were disgusted with the way this was being  
5 handled. It wasn't very long after, I got a brown  
6 envelope with a name on it, my name on it, and inside was  
7 a memo and there was a lot of stuff in that memo that  
8 simply wasn't true. But the part about milking political  
9 advantage out of a disaster, I think that maybe you will  
10 admit after you hear this that that statement is not on  
11 the line.

12 This is a memo from Moses Coady to Bernie Boudreau.  
13 "Bernie asked, 'Should we, the Liberal Caucus, be doing  
14 this? Are we doing it right?' The answer, 'Yes, yes,  
15 yes. It's art work.'" Well, I have other words for  
16 anyone that would describe the death of 26 miners and  
17 whether we're doing it right, whether we're exploiting  
18 the situation enough, I have other words that would  
19 describe it a lot better than "art work."

20 And it wasn't very long after that I got a letter of  
21 apology from Moses Coady about the whole issue, and I  
22 provided that to Mr. Merrick too, last July.

23 I will show you too later on how -- because I think  
24 it's important for us to make the comparison because this  
25 whole issue is simply out of control. It's important to

MR. CAMERON - OPENING ADDRESS

1 see how politicians conducted themselves 12 years ago  
2 when we had a methane explosion and death at DEVCO, and  
3 no one can argue that that project didn't have great  
4 political support and still has great political support.  
5 I think the contrast will strike you.

6 It's about also a few civil servants in Ottawa who  
7 conducted themselves like politicians. They delayed the  
8 project for over a year and after the explosion hoped  
9 that people would believe that that's exactly why they  
10 were doing it. That delay resulted in the change of  
11 company plans and led to the development of the Southwest  
12 section where the explosion occurred.

13 This is a much more difficult area to mine, but the  
14 company decided to produce coal to fulfil the contract  
15 with the Nova Scotia Power Corporation and at the same  
16 time continued to develop their tunnels north.

17 Civil servants' arguments on why the mine should be  
18 developed were to be kind distortions of the truth.  
19 Safety was never a concern to them in that report. I  
20 will produce their words which prove what I'm saying is  
21 true.

22 And I don't believe the media can say that I haven't  
23 been involved in this whole issue. Now their bias is no  
24 one's secret, but their influence is totally  
25 underestimated.

MR. CAMERON - OPENING ADDRESS

1           After the 1988 election campaign -- I want to give  
2           you an example of how this works. After the 1988  
3           election campaign, there was a correspondent for Thompson  
4           newspaper that wrote every word -- made a story on every  
5           word that Mr. Boudreau would utter. So every day you'd  
6           have a press release in the paper. And, of course, if  
7           you do that, people think, "Well, there must be something  
8           wrong with this project."

9           You know, it became a joke around the press gallery  
10          in Province House that she was a personal press secretary  
11          for Mr. Boudreau. Other members of the press gallery  
12          would joke about it. They would joke about it to us.

13          Right after the 1980 -- 1993 election, a funny thing  
14          happened. Of all the press people that could have been  
15          hired, this particular correspondent was plucked out that  
16          and given a contract in a position that an interview  
17          process would be normal. So I guess we could call this a  
18          political decision.

19          You know, we had other journalists that were able to  
20          find an old bus in Pine Tree in the woods and somehow  
21          write a story about it and how it was connected with the  
22          project.

23          But when I told a journalist that a few hours before  
24          the mine blew up that Arnie Smith changed the methane  
25          meter on the continuous miner, from written testimony,

MR. CAMERON - OPENING ADDRESS

1 you know, no one could see the importance of telling that  
2 to the public. But yet, it was quite important to try to  
3 link a bus in Pine Tree to this project. I just make  
4 those examples to show that maybe, maybe there was  
5 another motive in some of the writings.

6 The public have been well briefed on the political  
7 side and the political allegations. Some people want you  
8 to believe that this project was all about getting me  
9 elected in 1988. That we put this project together in a  
10 hurry, in a rush. That I had to have a press conference  
11 just prior to the election in 1988. Well, let's look at  
12 some of those allegations.

13 An effort to open a coal mine was started back in  
14 the 1970s in Pictou County to deal with a very serious  
15 pollution problem at the Trenton generating plant. This  
16 pollution was documented for everyone to see, well  
17 documented for everyone to see. The local papers were  
18 filled with articles about the damage from the pollution.  
19 The file I have is over one-inch thick of clippings. A  
20 greenhouse in that area had to be closed down because the  
21 emissions from the sulphur were burning the leaves of the  
22 plants.

23 A report by Department of Environment in 1975, that  
24 I gave to you last summer, Mr. Merrick, that 1975  
25 Department of Environment report said this about the

MR. CAMERON - OPENING ADDRESS

1 pollution:

2 "Results of the study demonstrate there were a few  
3 periods when the concentrations of sulphur dioxide, a  
4 particular matter in the ambient air, exceeded the  
5 maximum acceptable levels established for the national  
6 ambient quality objectives. It also stated the reduction  
7 in air pollution from a thermal plant may be achievable  
8 through better use of quality coals containing less ash  
9 and lower sulphur impurities, and this is being  
10 considered as a Provincial policy."

11 And, indeed, it was. I'm sure that anyone in Pictou  
12 County will tell you that in 1997 [sic] the Regan  
13 Government then had a major announcement in the paper  
14 that they were going to open a major strip mine here in  
15 the Foord seam in Pictou County for this very reason.  
16 They were going to do drilling, additional drilling, in  
17 Springhill and Thorburn and the Debert areas to identify  
18 more low sulphur coal.

19 And the interesting thing about that was DEVCO  
20 wasn't very concerned about this new competition. And  
21 because there wasn't a wash plant available at the time,  
22 that project didn't proceed.

23 In 1980, Department of Environment issued another  
24 report. "Sulphur dioxide levels have increased over the  
25 past year and readings above decibel range of the

MR. CAMERON - OPENING ADDRESS

1 national ambient air quality objectives are occurring at  
2 a significant level." And, again, that's the report I  
3 gave you last July, Mr. Merrick.

4 Well, in 1985 the Power Corporation decided they'd  
5 address the problem. Soon after, a decision was made to  
6 build Trenton 6, a new 150-megawatt plant at Trenton, to  
7 replace the two 20-megawatt plants, the two old ones.  
8 And the two -- Trenton 3, 4 and Trenton 1 and 2, which  
9 were only 10 megawatts each. And they didn't have any  
10 pollution controls on them at all.

11 Now this would leave the Corporation with Trenton 5  
12 which had pollution control on for ash, but nothing, no  
13 control over sulphur emissions. The new 150-megawatt  
14 unit would have equipment to -- for the fly ash but,  
15 again, it would have no controls for sulphur emissions.  
16 So you can see that the fly ash problem would be solved  
17 but the sulphur emissions would essentially double with  
18 Trenton 6. Double in an area where you already had a  
19 documented problem with sulphur dioxide. Now just think  
20 about that: double, in an area where you already had an  
21 established problem with sulphur dioxide.

22 The choice was very simple. You could install  
23 scrubbers or you could burn low sulphur coal. If you  
24 want to install a scrubber, it will cost at least \$125  
25 million, I've been told, and at least \$16 million more a

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1 year to operate that scrubbing plant.

2 So no one at this time anywhere would be considering  
3 building a new plant, like Trenton 6, without taking some  
4 precautions, without taking -- installing scrubbers or  
5 without burning low sulphur coal.

6 The planning going in New Brunswick at that time  
7 clearly showed this; they were going to install  
8 scrubbers, and clearly, our own planning to build Point  
9 Aconi. The Point Aconi was built, again, to take care of  
10 the sulphur emissions that everyone knew was a problem.  
11 So no one would build a new power plant at that time  
12 without doing something to reduce sulphur emissions.

13 But for some strange reason, some people felt that  
14 in Pictou County, where we had a documented pollution  
15 problem, we could build Trenton 6 and burn high sulphur  
16 coal without any problem at all.

17 Now between 1980 and 1985-'86, Suncor spent six to  
18 seven million dollars identifying this low sulphur coal.  
19 And in 1986, I believe, Suncor received a letter of  
20 intent from the Nova Scotia Power Corporation to purchase  
21 coal from this proposed mine. In 1986.

22 I might add, there was no opposition from DEVCO  
23 about that or any other Nova Scotia politician.

24 Because of crude oil prices, and Suncor was in the  
25 heavy oil sands project, they decided to look for a

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1 partner or sell the project.

2 And in 1987 Placer enters an option agreement with  
3 Suncor to purchase this project. They met with the Nova  
4 Scotia Power Corporation, I was told, and confirmed a  
5 letter of intent to purchase coal.

6 Still no opposition from DEVCO and still no  
7 opposition from any Nova Scotia politician.

8 The project was recommended to the Board but turned  
9 down. Instead, the Board decided to amalgamate with  
10 Dome, a much larger undertaking.

11 In 1987 Suncor entered an agreement with Curragh and  
12 on December 2nd, 1987, Suncor and Curragh Resources  
13 signed a letter outlining this agreement.

14 And, Mr. Merrick, I provided you a letter from  
15 Suncor saying how this process took place. I know  
16 there's a lot of people concerned about how this process  
17 actually took place, so I provided you a letter last  
18 summer, a letter from Suncor, outlining how they actually  
19 chose Curragh in this project.

20 Now I know there's been a lot of allegations that  
21 somehow there was political interference how Curragh was  
22 actually chosen for this project. It certainly doesn't  
23 indicate that in the letter. But I just wanted to remind  
24 you I did provide you with that letter.

25 MR. MERRICK I don't want to interrupt you, Mr.

MR. CAMERON - OPENING ADDRESS

1 Cameron, but if you want to look at Exhibit 141, tab 3,  
2 page 4, can you identify if that's the letter you're  
3 referring to?

4 A. Sure.

5 Q. It's a black-ring binder.

6 A. This one here?

7 THE CLERK Tab 3, page 4?

8 MR. MERRICK Tab 3, page 4.

9 A. No, it's not the letter at all, Mr. Merrick.

10 Q. What's the date on your letter?

11 A. It's May 30th, 1989, and the Select House of the --  
12 Standing House of Economic Development, we had this  
13 allegation that somehow proper procedure wasn't followed  
14 to have Curragh selected as the buyer. And Suncor wrote  
15 a three-page letter outlining how Safton, S-A-F-T-O-N --

16 Q. Yes.

17 A. -- how that sale took -- actually took place. So --

18 Q. All right, we have --

19 A. -- if you need another copy, I'll be happy --

20 Q. No, we have the May 30th, '89, letter in the data  
21 bank. It's just not marked as an exhibit.

22 A. I see. Well, just let me go back to the other  
23 letter that was signed between Suncor and Curragh  
24 Resources on December 2nd, 1987. They signed the letter  
25 agreeing to make this sale.

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1           Now the date December 2nd, 1987, is the one I want  
2           you to remember because remember, I was not Minister of  
3           Economic Development until April 22nd, 1988. So all of  
4           this, the purchase of the project, all the background,  
5           took place prior to me even being Minister, and, quite  
6           frankly, I really didn't have very much to do with it,  
7           because I really wasn't in all that good terms with my  
8           Party during that period of time. So I really didn't  
9           know what was going on unless someone locally would clue  
10          me in. So I wasn't involved at all until April 22nd,  
11          1988.

12          In fact, when I was asked by the Premier to join  
13          Cabinet at that time, I was standing outside the door of  
14          the Legislature with notes in my hand to give a speech in  
15          reply to the Speech from the Throne. And in those notes  
16          I was about to tell my colleagues that, in fact, I would  
17          be not running for re-election in that '88 election that  
18          everyone knew was coming. And I reflected on the last 15  
19          years with some sadness, but especially because I was not  
20          able to change the political system more.

21          So you can see those people that continue to say  
22          that this project was conceived and built and carried out  
23          in 1988 just to get me elected, you have to have quite an  
24          imagination when you look at the facts.

25          How would I know when Suncor signed that letter with

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1 Curragh in December, '87, that it would have anything to  
2 do with me when I simply was finished with public life at  
3 that point in time?

4 And, of course, we've heard many times about this  
5 famous press conference that I had that I needed before  
6 the 1988 election campaign. Well, the fact is that I  
7 cancelled the press conference. It was the Heather  
8 Motel. I walked to the front of the room and I cancelled  
9 the press conference. I think that's inconsistent with  
10 anyone that would believe he needed a press conference to  
11 get himself re-elected again. But the lie has been said,  
12 and even when I pointed out to the press that I cancelled  
13 the press conference, it's been repeated over and over  
14 and over and over and over again.

15 I believe the force to have that press conference  
16 that way came from the company to fulfil some requirement  
17 of the Security Exchange or the Stock Exchange  
18 Commission; I'm not sure. But I wasn't happy to have the  
19 press conference, and that's why I cancelled it.

20 That night the company had a press release in  
21 Toronto, which, again, I guess, would support the concept  
22 that they, for some reason, wanted this announced in the  
23 public.

24 But, again, it's a little bit of information that  
25 will show you that those people that makes those kind of

MR. CAMERON - OPENING ADDRESS

1 comments are apparently doing it for other reasons.

2 And I provided you, Mr. Merrick, with a note from  
3 Wilkie Taylor, one of the correspondents at that press  
4 conference, and he says there was no press conference.  
5 There was no indication in my story, nor, indeed, in the  
6 notes that there was a press conference. So, clearly,  
7 there was no press conference. But we've heard it,  
8 hadn't we?

9 Now the opposition started to this project all of a  
10 sudden in 1987. Before that, it was no secret, the  
11 drilling -- it was in the news, there was no opposition  
12 to this by DEVCO or anyone else. But in late 1987, the  
13 opposition started to this project.

14 And officials at the Federal Department invited  
15 management of DEVCO to a meeting in Halifax in December  
16 '87. And they told them the whole details of the whole  
17 project. I think it was kind of rather unprofessional,  
18 really, to speak about details of another project to  
19 someone else, but they did it.

20 Results, the results of that was DEVCO produced a  
21 confidential paper that was delivered to the Provincial  
22 and Federal Governments in March '88. And I know that  
23 you have that, too, Mr. Merrick.

24 It was about 13 pages long, and I think there was  
25 about seven lines about concerns for safety. But the

MR. CAMERON - OPENING ADDRESS

1 whole paper was concerned about DEVCO and the great  
2 disaster that this mine was going to cause on DEVCO.

3 And then, of course, it's a very good time to get  
4 involved in this because everyone knew that we were in  
5 the middle of an election campaign in '88, and so it  
6 became an election issue. And, again, I hear all these  
7 allegations that this was just an election issue that we  
8 used and didn't care about anything else. And,  
9 especially me, that it was just an election issue to get  
10 myself elected. And I think you've heard that over and  
11 over again and people referring to that.

12 I think it's important for us to look, really, who  
13 used this in the 1988 election campaign. Well, in Cape  
14 Breton, the Liberals used it to their advantage, and they  
15 said things like, "Mine proposal stupid." They said,  
16 "Area Liberal candidates found in opposition to proposed  
17 mine." "`Mine idea insane,' says Liberals." You know,  
18 the papers were full of that.

19 Now if you look to those articles, it wasn't that it  
20 was stupid because they didn't think it was safe. It was  
21 stupid because they wanted to protect DEVCO. And that's  
22 not strange to think that you're trying to protect jobs  
23 in your own riding. So that's not shocking. But the  
24 strange thing was, when you come across the causeway and  
25 you got to Pictou County, then the very same party had

MR. CAMERON - OPENING ADDRESS

1 this to say, "Coal mine development supported by Central  
2 Nova Grits." And "The resolution called for the Federal  
3 Minister of Regional and Industrial Expansion to improve  
4 funding for Westray immediately so the work can begin in  
5 Pictou County this summer." "Liberals against false  
6 promises, not development." "I and the Nova Scotia  
7 Liberals support a coal mine in Pictou County."  
8 "Pressure must be maintained," the Liberal candidate, the  
9 Liberal member for Pictou East and a friend of mine, and  
10 still is, "If the county residents want to see a proposed  
11 coal mine established in Pictou, they must maintain  
12 pressure on the Federal and Provincial Governments or  
13 risk the loss of development." "Local Grits issued  
14 Premier ultimatum, but the Liberals, unwilling to wait  
15 any longer for the mining project to commence, have  
16 issued the Premier an ultimatum, issue an election writ  
17 on Saturday the 6th and announce the mine start or a  
18 petition would be circulated through Pictou County."

19 And even in the Legislature, every Member of the  
20 House voted to support the opening of that mine, every  
21 Member of the House did.

22 You know, we had Pictou politicians Ottawa bound,  
23 all the mayors and the wardens. They demanded that a  
24 meeting be arranged by Mr. MacKay, I believe, so that  
25 they could go to Ottawa and stress the importance of this

MR. CAMERON - OPENING ADDRESS

1 project on the Ottawa government.

2 And Liberal MLAs defend Westray Coal. Mr. Brown and  
3 Mr. Lorraine came over, and they said they had nothing  
4 but praise for the project on the work that was being  
5 carried out there. And even after the election, the new  
6 Member from Pictou East, Mr. Fraser, "If we adhere to our  
7 own environmental policies of sulphur dioxide reduction,  
8 then that means installing expensive scrubbers at Trenton  
9 Generating Plant. The other option is local coal."

10 Now we've heard this for at least four or five  
11 years, and I'm sure that people would say, "Well, that  
12 mine was started because Don Cameron wanted that for an  
13 election issue. He wanted to use that in an election  
14 campaign." I just ask you what reasonable person would  
15 look at this, what I read, and say it was Don Cameron  
16 that wanted it for the election campaign, especially when  
17 I cancelled the press conference a few days prior to the  
18 campaign? This is how the politics worked in this  
19 situation.

20 I would like to -- Mr. Merrick, is that Federal  
21 order part of the evidence now?

22 MR. MERRICK Yes, it is. It's Exhibit 143 -- 141, tab  
23 3, page 95. This is the -- not order, sorry, Memorandum  
24 to Cabinet?

25 A. Yes. Yes.

MR. CAMERON - OPENING ADDRESS

1 Q. Dated November 10th, 1988? We put it in --

2 A. I think so. Yeah.

3 MR. MERRICK -- for you.

4 A. I did want to turn to the Federal position because  
5 they had a major effect on this coal mine, a major, major  
6 effect on this coal mine. And I've read a little bit of  
7 Mr. Rogers' comments and how he opposed this mine. I'm  
8 struck by a couple of letters that was sent, and I know I  
9 got these from the Commission. One was from Premier  
10 Buchanan to Harry Rogers saying, "Thank you for your  
11 letter of January 9th. Without your determination and  
12 strong support, the Westray project would not have  
13 proceeded. It will be a stimulus to all the country --  
14 all the county."

15 And there's another note from Bill Redrupp saying,  
16 "Harry says that he is very optimistic about the way  
17 things are going and certainly feels good about it. And,  
18 much to my surprise, he continues to reinforce his  
19 position in the last two weeks that he is highly  
20 supportive of our position." It's not exactly what Mr.  
21 Rogers said during his testimony here, but maybe there's  
22 some confusion.

23 But I think it would be useful to turn to the  
24 Federal order.

25 MR. HEBERT Mr. Commissioner, if the witness is going

MR. CAMERON - OPENING ADDRESS

1 to refer to documents, perhaps he could give us a date  
2 and who they're from and --

3 A. Sure.

4 MR. HEBERT -- it would greatly assist in cross-  
5 examination.

6 A. I got this -- this is the letter of February the  
7 2nd, 1990. It's from the Premier in Halifax to Mr.  
8 Rogers, and I got it through -- the information was given  
9 me through the Inquiry, so you must have it.

10 COMMISSIONER Mr. Merrick, do we have a number --

11 MR. MERRICK Just -- I'm sure it's in our data bank.  
12 I'm not sure if it's been marked as an exhibit yet.

13 THE CLERK Just a second and I will --

14 COMMISSIONER Well we can -- we can check that out.  
15 Carry on then --

16 A. And --

17 COMMISSIONER -- Mr. Cameron.

18 A. -- just so -- if you want to write down the other  
19 one, it was -- there's numbers at the top. It must be  
20 your numbers at the top here.

21 MR. ROBERTS Just read them to us.

22 A. "139.16."

23 MR. MERRICK Yeah.

24 A. And it says, "055."

25 MR. MERRICK That's the exhibit book and page.

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1 COMMISSIONER Okay.

2 A. And that is from Bill Redrupp to file, and it's the  
3 third paragraph down.

4 COMMISSIONER Thank you.

5 A. But I'd like to turn to the Federal position and  
6 really look at the major effect it had on the total  
7 project.

8 Well, in my 20 years of public life, dealing with  
9 public officials, I never, ever dealt with a -- and I  
10 want to emphasize only two or three, I've never really  
11 dealt with people like that. They were so  
12 unprofessional. And I just want to go through some of  
13 the things that they were telling their Cabinet Ministers  
14 and then you can decide. Maybe I have a bias, so you can  
15 decide.

16 The first issue they wanted to deal was the  
17 displacement of DEVCO coal from local markets. Now at  
18 this time DEVCO was shipping 300,000 tonnes of coal to  
19 Trenton, 300,000 tonnes of coal to Trenton. And they  
20 would lose that when the Pictou project came on stream.

21 But, at the same time, the Province was building  
22 Point Aconi. And that project would buy 500,000 tonnes  
23 of coal from DEVCO. So, yes, they would lose 300,000  
24 tonnes, but they would get another sale of 500,000 tonnes  
25 to Point Aconi. Well, the math I have, that's an

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1 increase of 200,000 tonnes a year.

2 Federal Cabinet were never told this. The Federal  
3 Cabinet were told that displacement of DEVCO coal from  
4 local markets would have a cost in 1988 dollars, a  
5 negative financial impact of \$290 million. That's what  
6 they were told. And even, even if they would shut the  
7 Lingan Mine down because this mine was going to come  
8 here, that they could shut that down, they still would  
9 lose, I think, \$150 million in profit that they were  
10 very, very concerned about.

11 Well, this was simply false, of course. That they  
12 assumed that every ounce of coal going to the new plant,  
13 Trenton 6, would be from DEVCO. And we know already this  
14 morning and from your evidence that you had before that  
15 in fact a letter of intent was signed back in 1986 to buy  
16 low sulphur coal for that new Trenton plant. And that  
17 letter of intent was again put to Placer in '87 and again  
18 to Curragh.

19 So, clearly, there was no intent to buy coal from  
20 DEVCO. And in their own confidential document that you  
21 have that they wrote to the Federal and Provincial  
22 Governments in 1988, in that, if you go down, I think,  
23 it's to the second page or so, they say that they  
24 acknowledge that there is no requirement for the Power  
25 Corporation to buy DEVCO coal for Trenton 5 or Trenton 6

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1 after 1989. They acknowledge that.

2 So to go to your Federal Cabinet and tell them that  
3 you're going to lose \$290 million in cash and that \$150  
4 million will be required from the Federal Government to  
5 make up part of this shortfall, when in fact they were  
6 going to gain 200,000 tonnes extra at Point Aconi is a  
7 lie. And you shouldn't deal that way with anyone; you  
8 should be truthful.

9 They also told the Federal Government that they  
10 would have to shut down Lingan and they had 1300 job  
11 losses. Now what politician wants to see job loss? Did  
12 you ever meet a politician anymore that wanted to see a  
13 job loss, 1300 of them, in an area with high  
14 unemployment?

15 Well, was that true? They didn't tell the Federal  
16 Government that every tonne of coal they were bringing  
17 off Lingan was costing more than they could sell it  
18 anywhere. And that was the problem. They didn't tell  
19 the Federal Government that it wasn't developed properly.  
20 They allowed the mine not to be developed properly. And,  
21 of course, Pictou project is not going and we know that  
22 Lingan Mine is closed down. So it simply had nothing to  
23 do with this project. They didn't tell the truth again.  
24 But that's what they put to the Federal Cabinet.

25 They said that Sydney to Truro rail line would close

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1 down too, "It will be gone." And then they said, "But we  
2 should force the Provincial Government to pay \$100 to  
3 \$300 million, and if they would agree to pay \$100 to \$300  
4 million, then we wouldn't be concerned." But we know  
5 what's going on in the rail lines in Canada. Short lines  
6 are shut down right across the country. They're  
7 preparing CN to be sold, privatized, and it had nothing  
8 to do with the Westray coal project. But, again, to put  
9 these -- this information, one-to-three hundred million  
10 dollar demand to be made in the province.

11 You know, could you really call that a professional  
12 way to deal with an issue? To take an issue and make  
13 those kind of comments and then blame it on a coal mine  
14 in Pictou County?

15 And, in fact, these people, if they didn't force Mr.  
16 Comeau and Mr. Buchanan to sign a letter saying, and, Mr.  
17 Merrick, you have a copy of this letter, saying that, "No  
18 coal from Pictou County would ever cross the causeway."  
19 "No coal from Pictou County would ever cross the  
20 causeway."

21 If they didn't do that, the sensible thing would be  
22 to have had coal blended because the Cape Breton coal is  
23 low in ash. The Pictou County coal is high in ash. And  
24 there should have been some Cape Breton coal come to  
25 Trenton 5 plant and blended with the Pictou coal. And

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1 the same thing should have happened at Point Tupper where  
2 they have a very serious pollution problem. And that's  
3 what should have happened and, in fact, that would have  
4 increased the usage of that mine.

5 And, instead, they forced this internal trade  
6 barrier within our province so that couldn't happen, that  
7 not one pound of coal could go across the causeway.  
8 Again, it wasn't very farsighted on their part because,  
9 by blending coal, you could save millions of dollars for  
10 the use of electricity, and you could have helped the  
11 environment in both places.

12 They told the Federal Government that this mine was  
13 going to make so much money it didn't need federal  
14 assistance at all. At the same time, they were telling  
15 our officials in Nova Scotia that this was a very  
16 marginal project.

17 And then they said, "Well, we will go out and we  
18 will get an outside consultant to agree with it." So  
19 they went out and got Clarkson Gordon, and they said,  
20 "Clarkson Gordon agrees with our figures." But the  
21 company said, "Well, we will go out and get an outside  
22 consultant," and they got Price Waterhouse. But the  
23 Cabinet was never told about the other consultant.

24 They told the Cabinet that we need a signed deal, we  
25 needed some commitment for Devco with the Power

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1 Corporation. And they really forgot to tell the  
2 government that we had already a 33-year deal, a contract  
3 that went to year 2010. But they kept saying, "We need  
4 this ten-year deal." What they wanted to do was lock in  
5 the artificially high prices for another ten years so  
6 that every business and every person in Nova Scotia could  
7 be at a disadvantage vis-a-vis other provinces.

8 These are the kinds of things that a few of these  
9 people put in the document to the Federal Cabinet to try  
10 to make a decision.

11 They said that we were going to start a trade war.  
12 If there was one pound of this coal shipped from Pictou  
13 County outside the province, it would start a trade war.  
14 We'd have trouble with the GATT. We'd have trouble with  
15 the Free Trade. And they just simply forgot the fact  
16 that DEVCO is subsidized on every issue, and yet they  
17 ship out more than two million tonnes a year, and we  
18 didn't start a trade war with that. But somehow this  
19 little mine was going to start a trade war.

20 They said that there's no benefit could be  
21 quantified for the reduction of sulphur. Just think  
22 about this: they told the Federal Cabinet, "No benefit  
23 could be quantified for the reduction in sulphur." By  
24 burning Pictou County coal, we would reduce the sulphur  
25 emissions by 30,000 tonnes a year in an area that we know

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1 was a real pollution problem. Thirty thousand tonnes a  
2 year. And they told the Federal Cabinet they couldn't  
3 quantify it.

4 They said, "We're on a system-wide basis, and if we  
5 spread, in theory, this pollution over every inch of the  
6 province, we're going to be all right. We going to meet  
7 the system-wide basis," and completely ignored, and they  
8 were told there was a local pollution problem at Trenton,  
9 completely ignored it.

10 If I'm not right about this, then why is the current  
11 government allowing the strip mine to be operating and  
12 that low sulphur coal going to that plant today? And why  
13 is the Nova Scotia Power Corporation now combined with a  
14 private company to look for methane in the Pictou County  
15 area to burn at the Trenton plant? They know they have a  
16 sulphur problem there. They know they can't burn all  
17 high-sulphur coal in those plants and meet the  
18 requirement. And they are looking for other ways just as  
19 they did then. But, yet, no credit could be given.

20 And this government, at that time, called themselves  
21 "green." They were an environmental government, and they  
22 had officials saying, "We are going to force you to use  
23 this coal and put another 30,000 tonnes a year of SO<sub>2</sub>  
24 into the air.

25 And just compare that the Point Aconi plant where we

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1 spent \$500 million building the plant. It will take 16-  
2 \$20 million more a year to operate that plant, and we  
3 will reduce sulphur emissions there by about 28,000  
4 tonnes a year less. And look at the expenditure. And,  
5 by the way, I support the Point Aconi plant. I always  
6 did, and I always will because that's what will give  
7 DEVCO a future, not the political leadership they've had  
8 in the past.

9 Well, the whole paper, really, was all about DEVCO.  
10 It was supposed to be a request for support for another  
11 company, but the whole paper -- and it's that thick, it  
12 was all about DEVCO. There was no mention of safety in  
13 it. I think people should understand that. You read it.  
14 There was no mention about safety. There was no concern  
15 about the difficulties that a mine might experience.  
16 They said that this company is a reputable company and it  
17 could overcome easily any of the technical difficulties.  
18 There was nothing about safety.

19 Well, what effect did this delay have on the  
20 project? I think that's important. Well, it held it up  
21 for 14 months. When you look at those tunnels, they were  
22 stopped and for 14 months they were not proceeded with.  
23 The company had a contract to sell coal in mid-1991 to  
24 the Power Corporation.

25 Because of that 14-month delay, they changed their

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1 plans. They changed the direction of the tunnels, and  
2 they went into the Southwest section, a section that they  
3 didn't plan to go in. In fact, I remember when the mine  
4 started, looking at the original plan. I remember Mr.  
5 Phillips telling me, "We may never mine that. It's on  
6 our plan to mine, but we may never mine it. There may be  
7 better coal somewhere else. But we may pick that on the  
8 very last on the way out."

9 So it's very clear that if we didn't have the  
10 Southwest section, that 26 people would be alive today.  
11 So I would say the fact it was delayed, the fact that it  
12 caused the company to change its plans, the fact that  
13 they went into the Southwest section, the fact that  
14 that's where the explosion was, that most people would be  
15 alive today if this process was allowed to proceed on a  
16 normal basis, and all those misconceptions and lies  
17 weren't put to the Federal Government.

18 Now, I ran across something in the material that I  
19 was given by the Inquiry just this morning. There was a  
20 real fuss about the financing of this mine by the Federal  
21 Government. In May, May 22nd, 1988, up to 27 million  
22 would be earmarked for the Western Diversification Fund  
23 to help Ontario Hydro afford western Canada's coal. They  
24 were saying that there was never any other support  
25 anywhere for a coal mine. And here, in the very same

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1 time when they're arguing about this, there was no  
2 problem, no fuss at all. They spend \$27 million and the  
3 province adds another \$16 million, so that western coal  
4 can be burnt in Ontario. And these people were saying,  
5 "It's against all our rules to help coal mines or coal."

6 Let's get to the Provincial loan. I know a lot of  
7 people are interested in that, our part in this. Well, I  
8 didn't expect we would have to have a Provincial loan. I  
9 expected what we would do in the province was to give a  
10 coal contract and provide the leases, et cetera, et  
11 cetera, for the mine. And the financing they were going  
12 to get through the federal authorities. So the \$12  
13 million loan was something that came sometime after they  
14 started a negotiation with the Federal Government.

15 We agreed to provide a \$12 million loan on \$130  
16 million project, which is not unusual. What is unusual  
17 is we charged them 11.75 percent interest. That is very  
18 unusual. We asked them to pay back all the money before  
19 they took any profits out of the company. And after they  
20 got the full production, they had to pay the loan back in  
21 four years, some pretty stiff guidelines to it.

22 I asked Mr. Merrick and I asked the Justice lawyers  
23 for some time now, would they please ask the Department  
24 of Development to get other projects done at that time.  
25 Everyone has said that this was a "sweetheart deal."

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1 Well, I think it would stick out like a sore thumb if it  
2 was. And all I wanted was ten or fifteen or five other  
3 projects at the same time, in the same period of time so  
4 we would know they were done under the same conditions,  
5 to look at how the Provincial Government operated with  
6 companies. What would be normal to do for companies at  
7 that period of time?

8 Well, for some reason, I just can't get that  
9 information. It's funny, I would think, Commissioner,  
10 you'd like to know what kind of deals were made at the  
11 same period of time, so you could satisfy yourself if  
12 this really was a special deal. This stuck out. Because  
13 the ones that I can think of like Michelin Tire that I  
14 was involved in, we gave them a 43.5 million loan with no  
15 interest for 15 years.

16 Louisiana Pacific, I think, was costing us something  
17 like \$750,000 a year.

18 Amherst Aerospace, we made a terrible deal there.  
19 We were pressured to keep the plant going and we made a  
20 terrible deal. And I got involved and personally called  
21 Ken Rowe up and now there's a new plant there. But I  
22 know that it was a -- if you want to look at a good deal,  
23 clearly, these would be good deals.

24 This one here, 11.75 percent interest, I can't think  
25 of one other deal that I made that we charged a company

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1 11.75 percent interest. I really can't. And I thought  
2 it would be useful if we could have that information. So  
3 I would think it's not what you'd call "a sweetheart  
4 deal."

5 Now there's another interesting thing that would  
6 support what I'm saying that this wasn't really such a  
7 special deal. Curragh went out to do a private  
8 placement, and I provided this, Mr. Merrick, back last  
9 summer to you too. This is a memo faxed to Roy Sherwood  
10 from Curragh Resources. I'm not sure what number you  
11 would have on it, but --

12 Q. What's the date of it?

13 A. The date is August 30, 1991. And Curragh wanted to  
14 use Nesbitt Thompson to have a private placement raised  
15 of 55 million dollars.

16 It's interesting when you look what they wanted to  
17 do with that 55 million dollars. They had a zinc-lead  
18 mine out in Faro, and they wanted to use some money  
19 there. But when you read it, they said that they wanted  
20 to pay -- after expense and prepay the 12 million dollar  
21 loan to the Province of Nova Scotia. They wanted to pay  
22 it off. They wanted to pay it off on August 30, '91.

23 Now if this was such a special deal that we did in  
24 financing, can you think of one reason why a company  
25 would want to pay it off early? I think it's pretty

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1 concrete evidence that they thought this was the worst  
2 financial deal they had with all the whole project. In  
3 fact, that's what they told me. In order to save money,  
4 they were going to refinance it and get rid of our loan,  
5 pay us off completely.

6 And just so you'll know the kind of cooperation we  
7 got from the Federal Government on this issue, they just  
8 refused to even answer the request from the company. And  
9 not only did they hurt this project, but they hurt the  
10 project out in the Yukon where it was employing hundreds  
11 and hundreds of people.

12 I also want to comment, I reviewed the interview  
13 from Tom Merriam, the former Deputy Minister of Industry,  
14 and he leaves the impression that he had one week. I  
15 don't think he did it on purpose, but when you read it,  
16 you almost get the impression he had one week to do the  
17 12 million dollar loan. After the Federal Government  
18 said no, I was told they wanted us on the hook  
19 financially too. You're going to have a 12-million  
20 dollar loan. That's when we found out.

21 Maybe Merriam was surprised about the fact that we  
22 were going to be involved, but they had months and months  
23 and months to negotiate that loan. And the record is  
24 clear, it did take months, and months, and months to  
25 negotiate the detail of that 12 million dollar loan.

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1           And then after we did negotiate the details, the  
2           Federal Government came back to us again and said, "Now  
3           we want you to fully subordinate it." So every time we  
4           did something, the loop -- the hoop was raised another  
5           notch for us to jump through. So that's why we had a 12  
6           million dollar loan, and that's why it was subordinated.  
7           We were told by the Federal Government, "You must do  
8           this."

9           COMMISSIONER   Mr. Cameron, in fairness to you, I must  
10          say that you have ten minutes remaining, just so you'll  
11          stay on track.

12         A.    Well, time flies, doesn't it?

13         COMMISSIONER   Yes.

14         A.    Well, we can go through some of this later on then  
15          maybe. All this --

16         COMMISSIONER   Well, you're certainly going to be subject  
17          to examination at some length by Mr. Merrick.

18         A.    All this material, you know, I've read that people  
19          are concerned about it, so I'm not sure why you wouldn't  
20          want to hear it, but you know, you're the boss,  
21          Commissioner, and I'm going to follow your advice.

22         COMMISSIONER   Well, those are the terms under which I  
23          agreed to do it, Mr. Cameron, so we'll stick to those.

24         A.    Okay.

25         COMMISSIONER   Okay, thank you.

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1 A. I want to go to the explosion. I think the people  
2 should be interested in that. Everyone agrees it was in  
3 the Southwest section. Not everyone agrees where.

4 There was an RCMP map that I provided with you last  
5 summer. There was notes on that map. They said there  
6 was pyrite in the coal face which is a hard rock that  
7 would cause sparking.

8 They said the continuous miner was in an "on"  
9 position. They said the shuttle car wasn't full.

10 The interesting thing is that when you look at where  
11 they found the bodies, you'll find that of all the men  
12 operating the equipment, the gentleman on the continuous  
13 miner was the first one out. It seems to me that that's  
14 pretty clear evidence that he had the most warning when  
15 he saw the sparks, the blue flame. He wouldn't sit and  
16 look at it.

17 If it happened at the bolter, why wouldn't they be  
18 running out? Why wouldn't they be further ahead?

19 I think it's pretty obvious that in all likelihood  
20 the reason for the sparking was there. The machine was  
21 working, and the gentleman running the machine was the  
22 furthest out.

23 Well, that was continuous miner 2002. And that was  
24 -- let's look at this machine the day before, May 8. Now  
25 I'm not going to make any allegations. I'm simply taking

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1 the words of the miners themselves. These are not my  
2 allegations. But I think the issue of that meter on that  
3 -- that methane meter on that continuous miner 2002 seems  
4 very important. And it has been really kept from the  
5 public.

6 I got this from the Inquiry, it's an interview of --  
7 the RCMP interview of Mick Franks is what I'm looking  
8 for.

9 COMMISSIONER Mr. Franks did give extensive evidence to  
10 the Inquiry and I believed covered those points. So --

11 A. I just wanted to --

12 COMMISSIONER -- it is a matter of public record, Mr.  
13 Cameron.

14 A. Yeah, I did want to just run over it again because  
15 he said very clearly that the day before that he saw  
16 Arnie Smith change that methane meter on that. And when  
17 I read his testimony, he wasn't sure how much he changed  
18 it, because he said, "Well, that wouldn't be right  
19 because he didn't change his spans," I think the exact  
20 words were. "So I don't know what it would be. I don't  
21 know what that machine would be set at." And that's in  
22 the RCMP testimony. So it's not that he just adjusted it  
23 up to 1.5, but then he made the follow-up statement,  
24 "Well, I don't know what it would be because he just used  
25 a zero button and the spans weren't changed. So at the

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1 head I don't know what the level would be." So I think  
2 that's pretty important.

3 I also said well, what else has happened there?  
4 What else happened in that mine that night? We had  
5 testimony from Harvey Martin and -- no, from Mike Franks  
6 -- Mick Franks and Harvey Martin that was done by the  
7 Inquiry, and they were talking about the test buttons and  
8 they told us that the test buttons were pushed over and  
9 over and over and over again so often that they would  
10 blow the breaker switch. And all I'm asking people is  
11 that it seems to me that these would be pretty important  
12 items of why that explosion took place on that night.  
13 What would the combination be if this was taking place?  
14 The machine adjusted up; the operator didn't know, and if  
15 some of these other things were going on?

16 COMMISSIONER And all of that's in evidence.

17 A. Well, Commissioner, I guess my problem with that is  
18 that I called two or three people last night to ask them,  
19 just to do a little sampling, if they ever heard this,  
20 and they said no. And my concern with this issue is that  
21 we don't want to look at the truth. It's much more fun  
22 blaming someone else and then, especially, it's a much  
23 better story saying, "Well, the reason we're blaming  
24 other people is that the political people interfered, and  
25 that's why they didn't do their job."

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1           Who was it that changed that meter? Was it the  
2 inspector? Was it the regulators? Was it Don Jones or  
3 Pat Phelan? Was it the politicians?

4           Who was pressing the reset button so the machine  
5 wouldn't shut down this safety device? Was it the  
6 inspectors? Was it Don Jones? Was it Pat Phelan? Was  
7 it politicians?

8           Who was shutting off the dust collectors, which was  
9 a safety device on the machine? And we had testimony of  
10 that too.

11          My concern is that we dealt with those things, but  
12 they're simply lost in this other story that we want to  
13 create about this whole project. I mean, if we truly  
14 want to find why that mine blew up, I think this is  
15 pretty important evidence. It's vitally important  
16 evidence.

17          The fact that they would shut the vent tubes off  
18 with black plastic in an area they didn't think they --  
19 that it was necessary, wouldn't that allow methane to  
20 accumulate? The fact that Mr. Dooley testified that the  
21 last shift before the explosion that he was in the mine,  
22 that he found an opening in the barrier, six to eight  
23 inches long and one to two inches wide, wouldn't it --  
24 wouldn't you or I go and get a piece of plywood and cover  
25 that up, knowing that the methane was coming out at over

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1 three percent? And those things are important because  
2 somehow when that flame lit at the continuous miner and  
3 went up on the roof and the men were running, it went to  
4 an area that it could explode.

5 You know, I don't see why we can just -- because we  
6 don't like to hear these things, that we can sweep them  
7 under the carpet. And I resent people, when they say  
8 that this is blaming the victims, the victims --

9 COMMISSIONER I want to make it per --

10 A. -- are the people that died.

11 COMMISSIONER I want to make it perfectly clear, Mr.  
12 Cameron, when you use the term "we" that you are not  
13 including me --

14 A. No, I will --

15 COMMISSIONER -- because I'm not part of that "we."

16 A. No, I wouldn't do that, Commissioner.

17 COMMISSIONER No, okay. I'm here quite independent of  
18 the "we."

19 A. Commissioner, I'm not inferring that --

20 COMMISSIONER Okay, I just want --

21 A. -- and I'm sorry if you took --

22 COMMISSIONER I just want to get that on the record;  
23 that's all.

24 A. The bottom line, that this is a very, very important  
25 issue, and it's not fair to say we're blaming the

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1 victims. The victims are the people that died. The  
2 victims are the family that's been going through hell for  
3 the last four years trying to find answers. And I guess  
4 what I can't understand -- I do understand why people cut  
5 corners. I think we all cut corners in our lives. What  
6 I don't understand is for these experienced miners that  
7 were doing this.

8 And when I read the testimony, I see that the  
9 younger guys, the inexperienced guys, were the guys that  
10 was questioning a lot of these things. They were saying,  
11 "Are you sure this is right, this is safe?" And I don't  
12 understand why these people don't come back and take  
13 responsibility, because if you don't, what happens is  
14 there's another story comes from it.

15 And the families that have been grieving, and their  
16 grieving has turned to anger and bitterness, will never  
17 find any peace if they don't get the truth.

18 And that's why I'm so upset that people wouldn't own  
19 up to what they were doing. And instead of briefly  
20 speaking about it and shoving it under the table. The  
21 bottom line is that that mine blew up on that morning  
22 because of what was going on in there at that time.  
23 That's the bottom line.

24 Now you're not going to let me have any more time,  
25 are you?

MR. CAMERON - OPENING ADDRESS

1 COMMISSIONER Mr. Cameron, no, I'm not, bluntly. What  
2 I --

3 A. I had a lot of good stuff here.

4 COMMISSIONER What I am going to do is advise you to  
5 consult with Mr. Merrick over the break or at noon time,  
6 and with your own counsel, to make sure that the points  
7 that you want to get in evidence are brought into  
8 evidence. Because I don't want to blot everything out,  
9 but I want to get on with the more formal part of the  
10 Inquiry. And for that reason, you can get the evidence  
11 out through Mr. Merrick or through your own counsel, but  
12 at this time I will call on Mr. Merrick then to continue  
13 with this examination.

14 EXAMINATION BY MR. MERRICK

15 MR. MERRICK Mr. Cameron, I regret having to open my  
16 questioning of you on this point. And as you've been  
17 making your opening comments I've been thinking about  
18 whether I really should. But it seems to me that your  
19 opening comments have made a very fundamental point that  
20 we have to identify.

21 You were a person who was in a unique position to be  
22 able to give us some insight on what have been some very  
23 serious questions that have been raised in this inquiry.  
24 We have had evidence not just of individuals engaging in  
25 safety violations, we have had very disturbing evidence

MR. CAMERON, EXAM. BY MR. MERRICK

1 of the level of competence by inspectors and regulators.

2 We've had very disturbing evidence of the lack of  
3 understanding of the regulators' roles in this province  
4 and what their mandate was under the legislation.

5 We've had evidence of regulatory gaps, where one  
6 department would assume that another department was doing  
7 something. That raises very serious questions as to what  
8 can be done about that. How can we correct those gaps  
9 for the future?

10 And we've had evidence as to the approach and level  
11 of competence of performance of people throughout the  
12 system, not just in the company, but right up to Deputy  
13 Ministers' levels.

14 And I had hoped to hear from you some insights and  
15 some candid addressing of those issues.

16 What you have done instead is criticized politician  
17 partisanship on the part of others and said that that was  
18 a factor in all of this and that distorted the merits of  
19 it, and yet your whole opening comment was political  
20 partisanship.

21 You started with an opening comment, and I'm going  
22 to paraphrase it back at you. You said, "The great enemy  
23 of the truth is not the lie..." And then these are my  
24 words, but the distortion and partial truth, and  
25 partisanship leads to that.

MR. CAMERON, EXAM. BY MR. MERRICK

1           And here's my problem: We have to deal with the  
2 merits of the causes of the explosion of May 9th, not  
3 politician partisanship in this Inquiry. Political  
4 partisanship interferes with the ability to deal with it  
5 on the merits.

6           I'm going to suggest to you that it interfered with  
7 the contribution that you could make to us, and the  
8 reason I'm making this comment at the very beginning is  
9 because it suddenly brought home to me crystal clear that  
10 that is a very underlying, all-pervasive feature of Nova  
11 Scotia leadership life. Because I tried to vision you,  
12 sitting in your various offices, and your compatriots on  
13 both sides of the political spectrum, imagining how you  
14 would be dealing with the merits, and I couldn't get the  
15 image out of my mind that you would have been dealing  
16 with this mine, and whether it should be set up, and how  
17 it was to be regulated, with the same interference coming  
18 in from political partisanship as I think was displayed  
19 in your opening comments. Now that's a long-winded  
20 opening question. Do you want to respond to that?

21       A.    Was there a question in that --

22       Q.    Yes.

23       A.    -- or is that just a statement of fact?

24       Q.    It's a statement, and I would ask you to respond to  
25       it.

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Mr. Merrick, you have continued, through this whole  
2 inquiry, to deal with political allegations. You have.

3 Q. That's the way you see it?

4 A. Yes, absolutely. And if you wish I'll make -- I'll  
5 document it for you. So to make the statement now that  
6 somehow I'm supposed to be the statesman above all this  
7 when all this is swirling around, and every political  
8 allegation that was made, you looked into it.

9 And, you know, I would think you'd want to know the  
10 fact that everyone is saying that we did this in 1988  
11 because it was an election campaign, and it was done to  
12 get me elected, and you heard that over and over and over  
13 and over again. And you certainly have inquired with  
14 your questions with that tone in mind because I've read  
15 them.

16 I would think you'd like to know that, in fact, the  
17 project started long before '88. In fact, I didn't even  
18 know the company. I think that would be important.  
19 After all the questions asked, you know, I read this  
20 testimony and there's hardly a time you don't try to link  
21 me in some way or other. "Well, did you talk to Don  
22 Cameron or did he put any political pressure on you?" I  
23 think politics is a major component of this whole issue,  
24 and anyone that believes it's not, then there's nothing I  
25 can do.

MR. CAMERON, EXAM. BY MR. MERRICK

1 I'm here to answer the questions as best I can, and  
2 I'm going to try my best. I don't agree with all the  
3 statements of fact that you put in your questions either.  
4 You know, you make these statements, and I'm not sure  
5 that they're -- that I can accept everything that you put  
6 in your questions. But I'll do my very best with you.

7 Q. All right, and we'll get to them. I just think that  
8 we have seen this morning, very early in your  
9 presentation, a very significant fact of Nova Scotia  
10 political life.

11 A. I think I followed your lead in the last number of  
12 months, the kind of questions that you've been asked  
13 [sic].

14 Q. Well, then maybe we are both just partisan Nova  
15 Scotians.

16 A. Well, maybe we are.

17 Q. Let me --

18 COMMISSIONER Just one moment, please. I'm not going to  
19 permit an engagement between counsel and the witness of  
20 this type and nature. Mr. Merrick, you may proceed to  
21 ask the questions, and I take Mr. Cameron at his word  
22 that he'll answer them to the best of his ability. And I  
23 will, at the end of the day, make whatever conclusions I  
24 have to make based on the evidence that's before me as  
25 I've been doing for the last 18 years. Okay?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Commissioner --

2 COMMISSIONER Thank you.

3 A. -- I'd be very happy to abide by that, and I'll the  
4 questions in the tone that the -- the same tone that the  
5 questions are given.

6 COMMISSIONER Thank you, Mr. Cameron. Mr. Merrick?

7 MR. MERRICK Let's begin, Mr. Cameron, with the very  
8 beginning of this project and that was the establishment  
9 of the mine. I want to just get it clear whether the  
10 justification for Trenton 6 was to reduce sulphur  
11 emissions. I take it it was not?

12 A. No, that's dead wrong, it was. You had Trenton 5  
13 with no pollution controls on for sulphur.

14 Q. Yes.

15 A. It had pollution controls on for ash. You had  
16 Trenton 3 and 4 and Trenton 1 and 2; two 10s and two 20  
17 megawatts. They had no controls whatsoever. So the  
18 decision was to get rid of those four smaller units and  
19 build a new power plant that would have ash controls on  
20 it and burn low sulphur coal. And burn low sulphur coal  
21 in Trenton 5, and then you would have a real reduction in  
22 sulphur emissions. That was the plan right from day one.

23 If it wasn't, why wouldn't we build another Point  
24 Aconi, or why wouldn't we build what New Brunswick was  
25 doing? They were building scrubbers at the very same

MR. CAMERON, EXAM. BY MR. MERRICK

1 time. No one would build a plant at that period of time  
2 without making -- taking some effort to reduce the  
3 sulphur.

4 Q. At what point was the decision made that it would be  
5 low sulphur coal in that power plant as opposed to using  
6 scrubbers?

7 A. Well, I suppose when they signed a letter of intent  
8 back in 1986 with Suncor. That's where they were going  
9 to burn the coal, the low sulphur coal.

10 Q. At what point did you personally come to a decision  
11 that there should be a new mine in the Pictou area to  
12 supply that coal?

13 A. Well, it wasn't my decision, that decision was made  
14 before I even came -- even was Minister.

15 Q. I acknowledge that --

16 A. I started in '86, '87, '88. That wasn't my  
17 decision. It was a decision by the private sector that  
18 came in and said, "Here's an opportunity. There's low  
19 sulphur coal here. They want it at the Trenton plant.  
20 They have a pollution problem, and we're going to spend  
21 six, seven million dollars exploring for that coal."

22 Q. You're quite right. I didn't mean "decision" in the  
23 sense of governmental decision. I'm talking about you  
24 personally. When did you come to the conclusion yourself  
25 that there should be a mine to supply that coal in Pictou

MR. CAMERON, EXAM. BY MR. MERRICK

1 County?

2 A. There should be or could be? There's a difference.

3 Q. Your view that a mine was the right way to go, as  
4 opposed to bringing it in from somewhere else, as opposed  
5 to blending, as opposed to scrubbers.

6 A. Well, I'm sure back when I was a backbencher, along  
7 with everyone else in Pictou County knew something about  
8 this. We met with, I think it was John Shillabeer at  
9 Suncor, and he briefed us on what they were going to do.  
10 The other two members, three members, in Pictou County.

11 And clearly PICORD and the Industrial Commission,  
12 they were writing letters urging, supporting the opening  
13 up of a coal mine.

14 So I guess everyone -- there was a common belief  
15 that it would be a reasonable thing to do if you could  
16 find low sulphur coal and solve the pollution problem.  
17 It looked like a reasonable proposition.

18 Q. Had there been any extensive canvassing of options  
19 or alternatives?

20 A. You'd have to ask the Power Corporation that.

21 Q. What about from your perspective? Had you yourself  
22 known enough or been involved in the canvassing of any  
23 alternatives?

24 A. I was recommending to the Power Corporation that  
25 they would put much higher stacks so that we would have

MR. CAMERON, EXAM. BY MR. MERRICK

1 less pollution from those old units. I went to a lot of  
2 public meetings. I had a lot of pressure on me. So they  
3 -- my approach to the Power Corporation was, "Look, why  
4 don't you spend ten million or whatever it's going to  
5 take and build a new stack with some controls on it?"  
6 They come back and said that wouldn't make very economic  
7 sense and what they'd have to do is build a new plant and  
8 burn low sulphur coal.

9 Q. I'm talking about when the proposal is for the new  
10 Trenton plant and how it was going to be fuelled. Do you  
11 know of any efforts to evaluate alternatives to the  
12 establishment of a new mine for the supply of that coal?

13 A. I suppose they could take low sulphur coal in.

14 Q. Do you know if that was ever explored?

15 A. Well, I don't know. I know that they looked at the  
16 issue of scrubbers and they didn't think they had the  
17 space. They looked at the issue of putting scrubber on  
18 and burning the high sulphur coal, and they said, "We  
19 just don't have enough space here." If you know where  
20 the Trenton plant is, you'll understand.

21 Q. We've had some evidence that there was other sources  
22 of low sulphur coal that would have been available in the  
23 country. Was that canvassed at all?

24 A. Well, I don't know. You would have to ask the Power  
25 Corporation.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right. We have had evidence that the  
2 establishment, at least with public support, of a mine in  
3 Pictou County would have been contrary to a Federal  
4 policy that had come into being at about 1987, which was  
5 the Mineral and Metal Policy of the Government of Canada  
6 which stated that the private sector was the best place  
7 to allocate resources among alternative activities and  
8 investments. Was that policy in your consideration at  
9 all?

10 A. I heard about it after the project got going. I  
11 just read you this morning they were able to find money  
12 out West to assist the coal industry there, and that was  
13 in 1988. So I don't know if they applied that policy  
14 across the board. I know, by reading the press, that  
15 they spent a great deal of money supporting the coal  
16 industry in B.C., building the rail lines to get it to  
17 the ports to Japan. I don't know if that was included in  
18 the policy or not.

19 Q. So your awareness as a member of government in those  
20 days, you were not aware of this federal policy until  
21 after the Westray Mine was established?

22 A. Well, it was part of the debate that the Federal  
23 Government come out -- you know, I guess the way I look  
24 at it, the Federal Government decided -- that department  
25 decided they were going to scuttle this project, so they

MR. CAMERON, EXAM. BY MR. MERRICK

1 went out and they had guerilla warfare on it, and they  
2 found every organization and every department could find  
3 anything that the reason that this shouldn't go ahead,  
4 they got them to lobby. And so later on, they had the  
5 Coal Association and they had the Mining Association  
6 write letters. But that was later on.

7 Q. The only point of the question is that, to an  
8 observer, it would appear that we have sort of a basic  
9 Federal-Provincial problem here if we've got federal  
10 policies being established that either are not informed  
11 to the Provincial level or that Provincial activities run  
12 completely counter to them. It doesn't sound like the  
13 way a smooth Federal-Provincial system should operate.

14 A. Well, you know, I was aware of it after the fact,  
15 but I still think that it's very strange that in May, '88  
16 that they could find the money for the western coal. How  
17 did they get around the policy there? I just read that  
18 to you this morning. There was no fuss by anyone. No  
19 fuss by the Coal Association. That was all right.

20 Q. All right.

21 A. So, you know, there must have been some looseness to  
22 this policy.

23 Q. Let me move on to Curragh itself. What knowledge do  
24 you have as to how Curragh became involved in the  
25 project?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Well, I told you I provided you with that letter.

2 Q. Yes.

3 A. Which outlines how they were chosen. I never heard  
4 of the company before. They were chosen before I even  
5 became Minister. There's all kinds of allegations, you  
6 know, I've heard. But it doesn't cost much to have an  
7 allegation.

8 Q. Well, that's one of the purposes of today is to get  
9 the facts out. There had been allegations that you were  
10 instructed to get ahold of Mr. Frame or that Mr. Frame  
11 was referred to you by various other parties.

12 A. Why would I be getting ahold of Mr. Frame when I  
13 wasn't even in Cabinet and wasn't even going to run  
14 again?

15 Q. Do I understand you then to be giving evidence that  
16 as of the end of 1987, certainly into the early part of  
17 '88, you would have had no involvement with Curragh in  
18 relation to its proposal to Westray?

19 A. I can't recall.

20 Q. When do you recall the first connection between  
21 yourself and Curragh as a proponent of the project?

22 A. Well, clearly around, you know, the first part of  
23 '88 and then I became Minister. Clearly, clearly, we --  
24 you know, as the Member in the area, I'd be informed what  
25 was going on. I mean, by the first part of '88, it was

MR. CAMERON, EXAM. BY MR. MERRICK

1 clear the company made an agreement. It was in the  
2 paper. They were going to buy the project and proceed.  
3 So -- but no real formal issues until I became Minister.  
4 And then it was ongoing.

5 Q. Can you give me the first incident or point in time  
6 that you can recall being connected with Curragh or  
7 knowing of the Curragh project?

8 A. No, I don't want to speculate.

9 Q. But you are clear that you would not have been  
10 involved until after, apparently, Curragh had at least  
11 put its offer into Suncor?

12 A. You mean, picking Curragh as a -- I was not involved  
13 in picking Curragh, I can tell you that. I've heard --

14 Q. That wasn't my question.

15 A. You know, I've heard stuff being said at the time.  
16 I've heard that Esso wanted it and the government  
17 wouldn't let Esso have it because they wanted to just tie  
18 up the leases and ship low sulphur coal in from South  
19 America and supply Nova Scotia with that coal. And I  
20 remember someone in the government saying, "Well, you  
21 know, that's not what we want to do. We want to provide  
22 jobs." But believe me, I wasn't on the inner circle  
23 before I went back in Cabinet.

24 Q. No, I appreciate that, but that wasn't quite my  
25 question. I'm taking it from your evidence that you did

MR. CAMERON, EXAM. BY MR. MERRICK

1 not know of Curragh or Curragh's involvement in the  
2 project until probably after Curragh had made its offer  
3 to Suncor. Is that fair?

4 A. I don't want -- you know, I took an oath this  
5 morning, and I'm not going to lie, but I'm not going to  
6 just answer questions just to satisfy you either. I can  
7 tell you I wasn't involved in any way until after I  
8 became Minister. I might have been as a Member informed  
9 about things. I might have met Gerald Phillips in the  
10 meantime. I would think it might be likely. Clearly,  
11 the papers would have something about Curragh buying the  
12 project. I don't know. I didn't review that. If you  
13 have some documents, I'll review them and explain them to  
14 you.

15 Q. When do you recall first meeting Mr. Frame?

16 A. My recollection is after the project was well on the  
17 way.

18 Q. And can you identify that for me? What are you  
19 talking about in terms of timeframe.

20 A. Well, I would say that maybe the first time I talked  
21 to him -- the Premier told me to come in his office and  
22 they had him on a speaker phone, and there was some other  
23 people there. And I think that's -- I said, "Hello,"  
24 that's about it. I didn't know him.

25 Q. Can you place that in point of time?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. I really can't, sir.

2 Q. Would it have been after you went into Cabinet?

3 A. I wouldn't even want to -- I wouldn't even want to  
4 make that claim.

5 Q. If I can turn you to that black ring binder that we  
6 looked at during your opening comments, Exhibit 141.

7 Turn to tab 3 at page 66.

8 COMMISSIONER Fifty-six?

9 MR. MERRICK Sixty-six.

10 COMMISSIONER Sixty-six.

11 MR. MERRICK That's that handwritten memo from Nancy  
12 Hood that we'll come back to again, I'm sure. If you  
13 turn to the second page, stamped page 67.

14 A. Yes.

15 Q. You'll see in about the first main paragraph there,  
16 it says, "In early September..." And she's repeating  
17 here comments that she has attributed to Mr. Merrick.  
18 She says, "In early September, '88, D.C." which is you,  
19 "approached C.F." which is Mr. Frame, "to undertake the  
20 project. D.C. was and is convinced this is a good deal,  
21 even though T.M." and I believe that to be Mr. Merriam,  
22 "and the rest of staff are dubious at best." And then  
23 she says, I can't make out her handwriting, something  
24 about "...is question whether D.C. was told to approach  
25 C.F., Elmer MacKay, Brian Mulroney, and Buchanan." That

MR. CAMERON, EXAM. BY MR. MERRICK

1 is not consistent with what you recall, I take it?

2 A. Well, this is not true. I mean, it's not true.

3 This is September, '88. And Curragh made a decision on  
4 December 2, 1987, to proceed with the project, to buy the  
5 project. They signed the letter with Suncor. Now we're  
6 September '88, and you're saying I approached Cliff  
7 Frame.

8 Q. No, my only question and the real nub of what she is  
9 saying there that I want your comment on, and whatever  
10 time it may have been, is there any validity to her  
11 statement that you were told to approach Clifford Frame?

12 A. I did not --

13 MR. ENDRES Can I just make a point? The document I  
14 have at page 67 says, "D.C. approached by Clifford  
15 Frame." Not that he approached. That's the first part.

16 MR. MERRICK Well, I'm reading --

17 A. Now that could be different. But I can tell you I  
18 didn't approach him, and I wasn't asked to approach him.  
19 I think it does say "by."

20 Q. Okay, if you'll just slow down while I catch up to  
21 everybody. I'm reading where it says something about an  
22 unidentified word "Is question whether D.C. was told to  
23 approach C.F."

24 MR. ENDRES No, in early --

25 MR. MERRICK Page 67.

MR. CAMERON, EXAM. BY MR. MERRICK

1 COMMISSIONER I'm on 67, but I can't --

2 A. Are you on the second paragraph?

3 MR. MERRICK First paragraph, no, first paragraph under  
4 the heading, the first bullet. It starts "early  
5 September."

6 COMMISSIONER Okay, "D.C. approached C.F. to  
7 undertake..."

8 MR. MERRICK Yes, and then go down.

9 A. What's in before that? Is that "by"?

10 MR. ENDRES Yes, that's what it says to me.

11 MR. MERRICK Can't tell you. You can have just --

12 COMMISSIONER "Approached by..." Yeah, I think that's  
13 right, "approached by."

14 MR. MERRICK Then you go down three more lines. There  
15 is a word that looks like maybe, "There is question  
16 whether D.C. was told to approach C.F."

17 A. Well, I can tell you it's not true.

18 Q. All right, in whatever year.

19 A. In whatever year. I didn't approach Cliff Frame.

20 Q. All right, and by the time you know of Frame, he was  
21 in the deal?

22 A. Absolutely.

23 Q. Okay. Do you know how many other possible bidders  
24 there were that were dealing with Suncor?

25 A. I don't know if that's in the letter I provided you

MR. CAMERON, EXAM. BY MR. MERRICK

1 or not.

2 Q. The Suncor one?

3 A. Yes, the May 30th letter that --

4 Q. I've got it. Do you have it?

5 A. Yeah, there's no --

6 Q. I don't see --

7 A. He doesn't -- it doesn't say how many people, but --  
8 no, I don't know how many extra -- how many people  
9 applied, but I'm sure that that must be available  
10 somewhere.

11 Q. And I take it that you do not recall knowing how  
12 many or who they were back at that point?

13 A. Well, there was a fuss about how Curragh got this  
14 and --

15 Q. Yes.

16 A. -- so that I knew about Esso, and I knew why the  
17 government didn't like the idea of bringing in low  
18 sulphur coal from South America. With our own low  
19 sulphur coal here, they said, "They just want to tie up  
20 the leases." That's what I was told.

21 I knew about Coalcor. MacKenzie and Rose were very  
22 upset because they felt they didn't get a fair shake.  
23 And I don't know if anyone else applied or not. I really  
24 can't. But that was -- that was the stuff that was in  
25 the news or in the talk at the time.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right. Did you know anything else about this  
2 business of the Esso and the province or the government  
3 wasn't in favour of it because they intended to bring in  
4 South American coal? Do you know anything more about  
5 that?

6 A. I was just told that Esso wanted to tie up the  
7 leases and then bring their coal in from a big mine, a  
8 low sulphur coal mine they had in the south, and we  
9 didn't think that would do much for jobs in Nova Scotia.

10 Q. Did you ever have any evidence or proof that that  
11 was what Esso was intending to do?

12 A. I was just told that.

13 Q. The Coalcor proposal, what, if anything, did you  
14 know about it?

15 A. I met with MacKenzie and Rose in New Glasgow one  
16 day. They called me up. I was doing the backbench. I  
17 don't know what power they thought I'd have, but they  
18 called me up and wanted to have a meeting. And I thought  
19 it was a strange conversation, I guess.

20 Q. Do you know anything more about their proposal?

21 A. They were determined that they were going to do it.  
22 And they assured me that they had information that --  
23 from, I guess, Ottawa, that the financing would never,  
24 ever go through and that they wanted to do it.

25 Q. Your meeting --

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. And I asked them about their financing and I thought  
2 they gave me a very strange answer. I said, "Well, do  
3 you have the financial clout to actually pull this off?"  
4 And they said, "We're tied up with some British mining  
5 company and we're going to -- we're going to buy all our  
6 equipment from this one company, and they are going to  
7 give us a rebate on that equipment. And that we're going  
8 to use that as our -- as our down payment." And I  
9 thought to myself, "That sounds like a kick-back to me,"  
10 but I didn't say it to them. But, you know, they didn't  
11 seem to have any source of money. I didn't understand  
12 how they were going to do this major project without  
13 having a source of money.

14 Q. I take it that when you had that meeting with them,  
15 it would have been after Curragh had started its  
16 financial applications through the Federal Government, if  
17 they were --

18 A. Well --

19 Q. -- asking you about the federal financing or  
20 telling --

21 A. I can --

22 Q. -- you about it.

23 A. I can tell you I was still a backbencher at the  
24 time, so it was prior to -- it was prior to April 22nd,  
25 '88 and some months prior to that, I would say.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right. Do you know what, if any, involvement  
2 the province had in helping to choose or expressing its  
3 views on who Suncor should deal with?

4 A. No, the letter from Suncor explains some of that,  
5 and --

6 Q. And that's one of the reasons that I asked the  
7 question. The letter from Suncor, the May 30th, 1989,  
8 letter says, "The initial selection of candidates was  
9 made by Suncor and approved by N.S.P.C. as acceptable,  
10 potential developers.

11 A. Uh-huh.

12 Q. I'm assuming then that N.S.P.C. had some ability to  
13 express their preferences?

14 A. You will have to ask N.S.P.C. that.

15 Q. You never became aware of any communications or  
16 involvement that N.S.P.C. had in the selection process?

17 A. No, not at all.

18 Q. And I'm assuming, from your evidence, that you're  
19 not aware of any involvement that the Provincial  
20 Government had in the selection process?

21 A. Absolutely not.

22 Q. Do you have any information to indicate that anybody  
23 from government or the province had approached Suncor to  
24 talk about Curragh's involvement in the bidding process?

25 A. Could you repeat that?

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Do you have any information to confirm or deny that  
2 anybody from the Provincial Government had approached  
3 Suncor, to discuss with Suncor, Curragh's involvement in  
4 the bidding process?

5 A. Absolutely not.

6 Q. Let me take you to a document that I would again ask  
7 for your verification of, or denial of, or comments on.  
8 It's in Exhibit 141, tab 3 at page 1.

9 A. Page 1.

10 Q. It's a confidential memorandum that I have not been  
11 able to identify the author of. It probably was internal  
12 to Westray because it's marked to Mr. Frame, Mr. Redrupp  
13 and Mr. Forgaard.

14 A. Uh-huh.

15 Q. And if you look on the first paragraph under the  
16 title, "Political Front," --

17 A. Uh-huh.

18 Q. -- it says, "Bob Coates called John Buchanan. He,"  
19 and I'm assuming by "he," means Buchanan, "had talked to  
20 Thompson, the Chairman of Suncor, but didn't get much  
21 response. The bidding process has started, and it is  
22 hard to change. Buchanan was to call me for another  
23 chat, but has not done so. Bob says he is very busy, but  
24 I suspect he doesn't quite know how to handle Suncor."

25 It sounds, from that, as if Mr. Buchanan was trying

MR. CAMERON, EXAM. BY MR. MERRICK

1 to speak to Suncor on behalf of Curragh. Can you comment  
2 on it at all?

3 A. I'm not aware of this. I don't -- I don't find it  
4 very alarming either that if Sun -- if Curragh decided  
5 they wanted to be part of the bidding process and they  
6 were a little late getting in it, it looks like they were  
7 a little late getting in it, they're going to call as  
8 many people as they can to try to get in it. And if they  
9 call someone in Nova Scotia, because that's where the  
10 project was, I wouldn't find that alarming. I don't  
11 know. I wasn't involved in this.

12 Q. You don't know anything about it?

13 A. No, I don't. But to say it's "Political Front," my,  
14 we wouldn't want to look at the political front, would  
15 we?

16 Q. Only to the extent it interferes with the merits.  
17 Do you know if you, the Provincial Government, or the  
18 Power Corporation, had ever dealt with any of the other  
19 bidders for the Suncor project?

20 A. I can't -- I'm -- I can't -- no comment on that. I  
21 didn't and I can't speak for the Power Corporation.

22 Q. You have indicated the views or the comments that  
23 were expressed about the Esso bid and the problem with  
24 it, that it would just haul in --

25 A. That was a comment made to me in the hallway that

MR. CAMERON, EXAM. BY MR. MERRICK

1 we're not going -- we're not going to do that. We're not  
2 going to take low sulphur coal from South America if we  
3 have our own here.

4 Q. The only --

5 A. And I don't know who made it; it might have been the  
6 Minister.

7 Q. It's seems that Curragh is the one that begins to  
8 have dealings with the Provincial Government and begins  
9 to have dealings with the Nova Scotia Power Corporation.  
10 We have not seen any evidence of any of the other  
11 potential bidders having that same contact, other than  
12 maybe the Coalcor meeting with you as a backbencher. And  
13 I'm curious as to why the connection all seems to be with  
14 the one bidder?

15 A. I don't think that would be right. Reading this  
16 letter from Suncor, I think it's pretty obvious that they  
17 all had to deal with the Power Corporation. And Suncor  
18 would have to make sure the Power Corporation found them  
19 acceptable. So when I read this letter from Suncor  
20 saying how the sale was done, I wouldn't -- I would have  
21 difficulty agreeing with what you're saying. But you  
22 would have to ask Suncor and the Power Corporation that.

23 Q. All right. That's a mid-morning break time, Mr.  
24 Commissioner.

25 COMMISSIONER Take a break.

MR. CAMERON, EXAM. BY MR. MERRICK

1 INQUIRY RECESSED (TIME: 11:01 a.m.)

2 INQUIRY RESUMED (TIME: 11:16 a.m.)

3 COMMISSIONER Thank you. Okay, Mr. Merrick?

4 MR. MERRICK Thank you. Mr. Cameron, let me just  
5 finish off the point that we were dealing with before the  
6 break, and that was what other bidders may have been in  
7 the play at the time.

8 Do you know anything to support the suggestion that  
9 we've seen that one of the reasons that Esso may not have  
10 been considered was because it wanted to take time to  
11 evaluate the project and the Province may have been in a  
12 hurry to get on with the establishment of a mine?

13 A. All I was told, they wanted to ship their coal in  
14 from South America. They have a very large mine there, I  
15 think they called it a "pig," and they didn't know what  
16 to do with it. And they wanted to get sales. There was  
17 no -- what I was told, there was no concern about extra  
18 study. I mean, that seam was studied to death, so I  
19 suspect that wouldn't be the issue. There's -- there was  
20 reams of studies by three other companies before that.  
21 So I believe that they wanted to ship their coal in,  
22 which seems like a logical business decision.

23 Q. All right, let's talk about the Nova Scotia Power  
24 Corporation contract. As you've pointed out, there were  
25 letters of intent exchanged between Suncor and the Power

MR. CAMERON, EXAM. BY MR. MERRICK

1 Corporation back about 1986 or thereabouts.

2 A. Um-hmm.

3 Q. For how long had that contract been under  
4 negotiation; do you know?

5 A. The letter of intent or?

6 Q. Well, the fact that they're -- for how long had the  
7 parties been negotiating?

8 A. I don't know. I wasn't in Cabinet, had nothing to do  
9 with that period of time.

10 Q. You aren't able to tell us whether it goes back for  
11 a number of years into the early '80s?

12 A. I knew the Power Corporation wanted to buy coal back  
13 in the late '70s, and they brought in George Wimpey. So  
14 even though this -- it was an ongoing issue to try to get  
15 this low sulphur coal. It went on -- they had a problem  
16 and they were trying to fix it.

17 Q. Do you know if the terms and conditions -- let me  
18 back up. I assume from reading the letters from Suncor  
19 that the terms and conditions of the supply contract with  
20 the Power Corporation had been pretty well established  
21 down to the short strokes by the time Suncor sold the  
22 project. Can you comment on that?

23 A. No, I can't.

24 Q. You don't know to what extent there may have been  
25 some negotiations that still had to close a gap for a

MR. CAMERON, EXAM. BY MR. MERRICK

1 final agreement?

2 A. I cannot. All I know is when I cancelled the press  
3 conference a few days before the election in 1988 that  
4 they still had some minor details left for the Power  
5 Corporation to iron out, and I just said, "I'm not doing  
6 it."

7 Q. You weren't involved in those negotiations that --

8 A. Ab --

9 Q. -- that were monitoring --

10 A. Absolutely --

11 Q. -- what was happening?

12 A. -- not.

13 Q. All right, let's go to the \$12 million loan.

14 A. Um-hmm.

15 Q. Tell me how that came about.

16 A. Well, it came about, I guess, because of a decision  
17 by the Federal Government that they wanted -- they  
18 wouldn't accept some of the monies that Curragh was  
19 putting in, money they'd have to put in for guarantees of  
20 cost overruns, the money they put in to guarantee the  
21 remaining \$100 million loan, that they wanted them to  
22 have additional money in as equity. And so that  
23 initially, it came to us that we would be required to  
24 give them a \$12 million loan. And then when we agreed to  
25 that later on they said, "Now you have to fully

MR. CAMERON, EXAM. BY MR. MERRICK

1 subordinate it."

2 Q. Well, give me that, because that's something we do  
3 not have a good record in the documents on as to the  
4 development of that \$12 million loan. We know that there  
5 was the commitment ultimately made for it, but we don't  
6 have much leading up to that. Can you be as specific as  
7 you can, when did you, or did the Government, first hear  
8 that the Province was going to be approached for a loan?

9 A. I'm not sure where it came from, if it was through  
10 our people and the Federal -- you know, some of the  
11 officials, and through the Federal officials or the  
12 company came and said, "Now we're required to have  
13 additional money and, you know, we're going to ask you  
14 for a \$12 million loan," I really can't tell you. All I  
15 know is that it came after the project was proceeding and  
16 it was another requirement that we had to meet after the  
17 project was proceeding.

18 Q. What's your first recollection of your first  
19 knowledge of it or involvement with it?

20 A. Well, it would be very soon, just prior to our  
21 Department getting involved.

22 Q. Give me a time reference, please.

23 A. I'd have to go back and look at the dates when our  
24 Department actually started to negotiate the loan. It  
25 wouldn't be -- it would only be a few days before that.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Let me show you the documents that we have and see  
2 if they can assist us at all.

3 A. Okay.

4 Q. In Exhibit 141, at tab 3, page 19, that's a memo  
5 from Mr. Redrupp internally in Westray, and he makes  
6 reference there to this additional requirement. And I'm  
7 going to come back to some points -- portions of it.

8 A. This is 1989.

9 Q. Yes. And my impression was, reading this memo, that  
10 this may have been early on when the loan came into  
11 being. No, I'm sorry, I'm wrong on that. That talks  
12 about the bridge financing. That's not the loan itself.

13 A. That's well after they were involved --

14 Q. Yes --

15 A. -- so --

16 Q. -- you're right. Tell me -- you say that somehow  
17 the company approached, or somebody approached your  
18 Department with the fact that this was now going to be an  
19 additional requirement?

20 A. That's right.

21 Q. Tell me about the negotiations that took place.  
22 Obviously, they don't just walk in and say, "Give me a  
23 \$12 million loan"?

24 A. I think it was pretty clear cut they needed the  
25 requirement of the 12 million to satisfy the demands by -

MR. CAMERON, EXAM. BY MR. MERRICK

1 - for the Federal financing.

2 Q. Why did you understand they needed the 12 million?

3 A. The requirements from the -- that the -- to meet the  
4 requirements of the program they were applying under in  
5 the Federal department.

6 Q. Well, what were the requirements that they had to  
7 meet? I mean, surely, it wouldn't have been a  
8 requirement that Government loan money, necessarily. It  
9 must have been to satisfy some other requirement?

10 A. It was a requirement. They -- when they refused to  
11 accept some of the money the company was putting in as  
12 equity, to meet the equity part of the program, the  
13 Federal Government would accept a loan fully subordinated  
14 by the Provincial Government. But that came after. We  
15 talked about the loan and then the fully subordinated  
16 came a little bit later. That was another little  
17 surprise that came along.

18 Q. But did you understand at the very beginning that  
19 the company was looking for a loan from the Province in  
20 order to meet equity requirements?

21 A. Not that. It's to meet the Federal requirements.  
22 And I had the sense too that the Federal Government were  
23 saying, "Well, we're going to get their necks in this  
24 too," you know. "We're going to be putting money out;  
25 we're going to have them on the line too."

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Well, I'm sorry, I'm not clear on this. What was  
2 your understanding as to why they needed the 12 million?  
3 Surely, it wouldn't have been just that they needed a  
4 government lender? It must have been because they were  
5 short of the money. They needed it for equity. Nobody  
6 else had it. They didn't have it, whatever.

7 A. I told you, I had the sense the Federal Government  
8 were determined to have us in it financially, not just  
9 the coal contracts and the leases, but we were actually  
10 going to have some money in it too. That was my sense,  
11 talking to some people. And it was also a requirement to  
12 fulfil the obligation of the program they were applying  
13 under.

14 Q. Now we've had Mr. Rogers' evidence that under the  
15 A.E.P. program they needed to have a 20-percent equity  
16 component. Now that equity could be made up in a number  
17 of different ways, one of which would be a fully  
18 subordinated loan from another lender. Was that your  
19 understanding of why the Province was committing itself  
20 to the 12 million?

21 A. I guess the argument was with the Federal Government  
22 is they wouldn't accept some of the monies that the  
23 company was putting in. They wouldn't accept the fact  
24 that the company had to ante up dollars to guarantee that  
25 the project, any cost overruns, and they had -- there was

MR. CAMERON, EXAM. BY MR. MERRICK

1 a set amount. And they wouldn't accept the fact that the  
2 company actually had to ante up money to guarantee the  
3 rest of that loan that the Federal Government wasn't  
4 guaranteeing. There was an argument there. You know,  
5 that's when they went out and got the consultants too.  
6 So --

7 Q. All right, let me try it from that angle then. What  
8 did you understand the company had offered to try to  
9 satisfy this requirement for equity? When you say that  
10 they were going to have to ante up money, explain that to  
11 me.

12 A. Well, they had to have the resources to actually  
13 guarantee completion, and they had to have the resources  
14 to guarantee the remaining part of that loan that the  
15 Federal Government was guaranteeing.

16 Q. This wasn't money that was going to have to be  
17 expended up front; this was an obligation that the  
18 company might have?

19 A. It was an obligation the company had to have, and it  
20 couldn't use that -- those dollars out in the Yukon,  
21 where they were desperately trying to strip more  
22 territory to continue that operation. So, I mean, it was  
23 assets that they had to tie up. That's the way they put  
24 it.

25 Q. Well, what commitment --

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. That was their argument to us at least, anyway.

2 Q. What commitments was it that the company was  
3 prepared to make which were not being accepted?

4 A. Well, I don't know. You'll have to ask the Federal  
5 Government why.

6 Q. I'll tell you why I'm asking this. Twelve million  
7 dollars Provincial money, it was loaned to the company.  
8 I'm assuming that a very clear case would have been made  
9 for the need for the Province to loan that money before  
10 it would have been loaned. I'm trying to find out what  
11 that clear case was. So far you've told me that they  
12 needed it, and they needed it because some commitments  
13 that they were prepared to make on their own weren't good  
14 enough. So can we get anything more we can? What was  
15 the clear case for loaning --

16 A. I would --

17 Q. -- \$12 million of Provincial --

18 A. I would suggest --

19 Q. -- money?

20 A. -- that you talk to the officials that did --  
21 actually did the negotiations if you want the answer.

22 Q. All right. I just want to get your understanding.  
23 Are you able to give us anything more specific as to what  
24 your understanding was as to why \$12 million of  
25 Provincial money was put into the project?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. It didn't seem to be out of the way. Twelve million  
2 dollars at 11 3/4 percent on about a \$130 million  
3 project, that was pretty mild compared to most projects  
4 we got involved in. So it seemed to me it wasn't  
5 something that would alarm. It didn't seem to be unusual  
6 considering all the other projects.

7 Q. Mr. Cameron, that answer sounds to me like you're  
8 saying, "Look, we've given away so much money before to  
9 so many other things..."

10 A. No, no.

11 Q. "...this didn't matter."

12 A. Don't start that nonsense with me. That's not going  
13 to work.

14 Q. Then give me your answer.

15 A. I gave you my answer. You don't like the answer.

16 Q. Well, let me just make sure and then we can move on,  
17 because I want to be fair to you. Are you able to tell  
18 me anything more as to what the basis or justification  
19 was for the \$12 million loan other than the company  
20 required it because their other commitments they had made  
21 weren't being accepted?

22 A. In order to put the financial package together, they  
23 needed \$12 million more that could be accounted as equity  
24 to meet the financial requirements of that program.

25 Q. Do you know of any effort -- do you know if the

MR. CAMERON, EXAM. BY MR. MERRICK

1 company was challenged on that?

2 A. The Federal Government made it very clear to our  
3 officials that that was a requirement. So there was no  
4 mistake about it; the Federal Government wanted us in  
5 this deal.

6 Q. So am I now understanding that the \$12 million loan  
7 was put in because the Feds required the Province to loan  
8 the money?

9 A. The Federal Government wanted us to be in it  
10 financially. That comment was made to me by someone.

11 Q. Can you direct me to anything specific on that?

12 A. No, I just remember them saying they want our necks  
13 in here. They want us involved financially in this too;  
14 they're not going to go with us buying the contract and  
15 providing the leases and then the money. They're going  
16 to make sure that we have some money on the line too.  
17 That's why I think that's very consistent, was when the  
18 company wanted to go and make the private placement, it  
19 was agreed to by the bank, agreed to everyone, and they  
20 were going to pay us off, the Federal Government just sat  
21 on their hands and said, "No, we're going to keep them in  
22 there. We're not going -- even though it was going to  
23 help the project, we're not going to do it." They wanted  
24 us in this too.

25 Q. Let me come back to when the loan was made. Do you

MR. CAMERON, EXAM. BY MR. MERRICK

1 know if any attempt was made by the Province to challenge  
2 the company on whether they could raise 12 million of  
3 equity in some other fashion and thus avoid the Province  
4 having to put that amount of equity in?

5 A. Well, I think the company was challenged many, many  
6 times because the company complained to me about how  
7 tough it was negotiating with Elizabeth Cuddihy. And I  
8 just told the company, "You have to make the deal with  
9 her and the other officials, and that's the way it is."  
10 So I suspect they were challenged many, many times  
11 because they thought that we took a far, far too tough a  
12 stand.

13 Q. But can you give me any --

14 A. But I wasn't part of those dealings, so --

15 Q. Can you give me anything specific that would give me  
16 confidence that the Province really tested the company,  
17 and it wasn't just the case that we willingly handed over  
18 \$12 million when the company perhaps, if pressed, could  
19 have come up with it from some other source?

20 A. Well, you'll have to ask officials that actually did  
21 the day-to-day negotiations.

22 Q. From your position you can't give me anything  
23 further on that?

24 A. No.

25 Q. The question that has been raised is why a company

MR. CAMERON, EXAM. BY MR. MERRICK

1 in a \$130 million project should not be expected to put  
2 more equity into a project than just nine million cash up  
3 front. Did you ever know how much Curragh's investment  
4 actually was in the project?

5 A. Well, they said at that time they had 10 1/2 million  
6 in and then they bitterly complained that some of the  
7 financial commitments they were making weren't being  
8 accounted properly. And so there was an argument, and  
9 there was an argument, and two consultants, the Federal  
10 Government's and theirs, Price Waterhouse. So --

11 Q. Do you know if they did, in fact, put in 10 million  
12 and, if so, in what form?

13 A. Well, they paid eight million, was it, to Suncor?  
14 Wasn't it eight million?

15 Q. I've heard figures of nine, but --

16 A. Well, they paid something there. And I'm sure there  
17 was money spent, you know. They started the project.  
18 There was money spent. And at that time they didn't have  
19 a loan -- anything from us, so they must have spent some  
20 money.

21 Q. Did the Province ever require Curragh to account for  
22 its equity investment?

23 A. You'll have to deal with our accountants on that.

24 Q. You were never aware of that?

25 A. I wasn't the accounting department.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right. In a -- in reality, though, the Province  
2 was becoming a lender to this company, was it not?

3 A. Absolutely.

4 Q. Did it ever concern you that there was a relatively  
5 low amount of equity put into this project by the  
6 company?

7 A. It met the requirements. And there's lots of other  
8 projects just meet the requirements.

9 Q. This would be less than a 10-percent equity  
10 injection, if that's all they put in was their purchase  
11 money to Suncor.

12 A. Well, I'm not accepting that as fact because I can't  
13 speak for the company.

14 Q. And you can't tell me what different facts may be?

15 A. Well, it's -- you know, it's four or five years now,  
16 so --

17 Q. And I'm taking it, I'm sorry to be belabouring this  
18 point, but I assumed that there would be some evidence on  
19 this. You do not recall any meetings with company  
20 officials in which you would have pressed them on whether  
21 they really needed the \$10 million, and what --

22 A. Well --

23 Q. -- justifications they had?

24 A. -- we pressed them -- we pressed them very, very  
25 hard through our officials, and that's why the company

MR. CAMERON, EXAM. BY MR. MERRICK

1 complained over and over and over and over again to me  
2 that the officials I had negotiating the deal were far  
3 too tough. And I'd just point them back to the room and  
4 tell them that's who they had to deal with. So they must  
5 have been pressed on a number of times for them to  
6 complain to me over and over and over again.

7 Q. Yes, and no doubt you can be pressed on the terms of  
8 loans. I'm talking about the basic commitment for the 12  
9 million. Let me ask this. How much time elapsed from  
10 when the company first comes and says to you or to your  
11 Department, we need \$12 million, and when the commitment  
12 was made them to them that, subject to the lawyers  
13 working out the paperwork, you've got 12 million?

14 A. Well, not a long time but, of course, they knew then  
15 that the conditions would take months to do and it did.

16 Q. But how long would have elapsed between when they  
17 told you they needed the commitment and you gave them the  
18 commitment?

19 A. I can't tell.

20 Q. Weeks? Days?

21 A. I really can't say. I can't speculate on that.

22 Q. Just give me a second, I may --

23 A. That's why I think it would have been so useful, Mr.  
24 Merrick, if you provided those other financing deals with  
25 the companies around that time. I think you would have

MR. CAMERON, EXAM. BY MR. MERRICK

1 had a comparison. And maybe some of these concerns you'd  
2 see are pretty normal, but for some reason that's been  
3 hid from you. I can't quite understand why we couldn't  
4 put our hands on those other financial deals that the  
5 Province made through that year or two.

6 Q. Well, I'm interested, Mr. Cameron, in the merits of  
7 this particular transaction right now.

8 A. Well, we'd find out --

9 Q. We --

10 A. -- if these were out of line with what we were doing  
11 in other transactions. I think that would give you a  
12 pretty clear picture.

13 Q. We do know, if you can turn in at tab 3 of that same  
14 exhibit, this time to page 11, flipping back a bit.  
15 That's a letter, September the 9th, 1988 --

16 A. Um-hmm.

17 Q. -- from you to the company, and that is a commitment  
18 for parts of the package including the \$12 million loan.

19 A. Yeah.

20 Q. Can you place for me, using that as a reference  
21 point in time, how much prior to that you would have at  
22 least committed the Province to the loan?

23 A. It was months before that, I'd say.

24 Q. Was it?

25 A. I don't know. I'd have to go back and see the other

MR. CAMERON, EXAM. BY MR. MERRICK

1 dates, but --

2 Q. What about the other commitments that we see in  
3 there, including the take-or-pay contract and the mining  
4 lease? Had there been a commitment of those two points  
5 as well, months prior?

6 A. Let me put it this way, Mr. Merrick: There's nothing  
7 in this letter or any other letter that wouldn't be  
8 approved by Cabinet either as an O and R, Order-in-  
9 Council, or as a -- after Cabinet was finished the book  
10 we'd always go around the table. There would be nothing  
11 in a letter from me to any person in any company anywhere  
12 that wasn't approved by Cabinet.

13 Q. Well, you're answering a question I haven't asked  
14 yet, and I'll come to it in a few minutes. All I want to  
15 know, the other two points of commitment in this letter,  
16 have they been given to the company months previously as  
17 well?

18 A. Well, the take-or-pay contract was something that  
19 come on after again. That was another requirement by the  
20 Federal Government. I think it was the Federal Minister  
21 that suggested that. I think I read that somewhere.

22 Q. Had you made a commitment to --

23 A. He decided that he wanted to up the ante again and  
24 see if we can -- after having a signed contract, "Well,  
25 now go and get them to get another one." I mean, to me,

MR. CAMERON, EXAM. BY MR. MERRICK

1 it was another -- another part of the delay process.

2 Q. Had you made a commitment on the take-or-pay months  
3 prior to September 9th, 1988?

4 A. I don't know when we made that commitment.

5 Q. But would it have been prior to this letter?

6 A. I could tell you that it approved in Cabinet before  
7 we wrote this letter.

8 COMMISSIONER Mr. Merrick, on that \$12 million, it's in  
9 my mind that this -- there were previous loans on an  
10 interim basis and the 12 million sort of rolled those in.  
11 Is that --

12 MR. MERRICK We've had evidence that there was interim  
13 bridging loan --

14 COMMISSIONER Yes.

15 MR. MERRICK -- and it was done subsequently that was  
16 paid out of the \$12 million loan, I guess.

17 COMMISSIONER Yes.

18 MR. MERRICK That all went through at the time the  
19 Federal financing finally came through.

20 COMMISSIONER Okay, that's -- yeah, that's what I was  
21 thinking.

22 A. Commissioner, maybe I can clarify that for you. The  
23 \$12 million loan was made up front and then, with the  
24 delays, and the pressure came on to supply -- to get the  
25 project ready to supply coal. The company approached us

MR. CAMERON, EXAM. BY MR. MERRICK

1 for an interim loan after they had some pretty good  
2 assurances, and we did, that the Federal government would  
3 go ahead with their financing to get the project started.

4 COMMISSIONER But the interim came out of the 12?

5 A. Well, I don't know -- that's exactly what happened.

6 COMMISSIONER Or was part of 12?

7 A. That's exactly what happened.

8 COMMISSIONER Yeah, okay. Okay.

9 A. They didn't get eight and twelve on top of that.

10 COMMISSIONER No, no, no, I realize that. Yeah.

11 A. They -- when -- before they got the 12-million  
12 cheque, they had to pay back the eight million, plus the  
13 interest.

14 COMMISSIONER That's what I --

15 A. It was \$8,250,000 --

16 COMMISSIONER That was my understanding, yeah. Okay,  
17 thank you.

18 A. But the \$12 million loan was before that.

19 COMMISSIONER Yeah, okay. Thank you. I'm sorry --

20 MR. MERRICK Just to fin --

21 COMMISSIONER -- Mr. Merrick.

22 MR. MERRICK Just to finish off my point, Mr. Cameron,  
23 from where you sat, your understanding as to why there  
24 had to be the commitment for the 12 million, you said  
25 that you had heard that the Feds wanted the province on

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1 the line as well, financially?

2 A. Yes, I did.

3 Q. Other than -- can you identify how that requirement  
4 was conveyed to you? Did somebody tell you verbally?  
5 Was in it a document?

6 A. I believe maybe it was some officials dealing with  
7 the Federal officials, but they wanted us on the line  
8 too. And the fact that they wouldn't allow us to be  
9 released, which would have helped the project, it's  
10 pretty obvious that they weren't going to let us off the  
11 hook. We were going to keep our money in there come hell  
12 or high water. I mean, why wouldn't you approve that  
13 private placement? What would -- what benefit would  
14 there be not to approve it if it's going to help  
15 everyone? And we were going to get our \$12 million back.  
16 Why wouldn't you approve it? It was the attitude that,  
17 "We want these guys there --

18 Q. You've skipped --

19 A. -- period."

20 Q. You've skipped ahead now to when the company was  
21 trying to do a debenture issue.

22 A. I think it's -- all it does is it gives credibility  
23 to my statement that the Federal Government wanted us in  
24 there. They were going to keep us in there, and that was  
25 it.

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1 Q. Let me come to the interim loan and see if I can get  
2 from you anything to help in understanding why the  
3 Province was required to flow those funds. Can you  
4 recall how it came into being?

5 A. Well, the pressure was on. It was delayed. The  
6 project was delayed and the pressure was on. There was a  
7 coal contract. And there was assurance that the Federal  
8 Government would come through sometime, and the concept  
9 was, "Well, if they're going to come through, you gave us  
10 \$12 million. Advance some of that, and we can actually  
11 start the project and try to keep to schedule."

12 Q. All right. So the company --

13 A. That's my understanding.

14 Q. Well, you were, at that point, the Minister  
15 responsible for it?

16 A. Uh-huh.

17 Q. And you've told me that the company came and said,  
18 "Look, we need cash because..."

19 A. "We would like to start the project."

20 Q. "We would like to start the project; we need cash"?

21 A. Uh-huh.

22 Q. And the province basically gave it to them?

23 A. Well, we didn't gave [sic] it to them. There was a  
24 lot of -- a lot of conditions attached to it. You will  
25 see --

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right, you loaned it to them with paperwork?

2 A. Yeah, at 11.75 percent interest, I might add.

3 Q. All right. But can you point me to anything to  
4 indicate that the province satisfied itself first that  
5 there was no other option and that the company couldn't,  
6 itself, generate \$8 million in cash to start its own  
7 project?

8 A. Well, I -- the company was having some difficult  
9 [sic] out west because low mineral prices and the  
10 Canadian dollar. And we knew that, so I don't -- you  
11 know, either the money had to come from the other project  
12 out in Faro or they had it in their back pocket. So --

13 Q. Well, let's --

14 A. Apparently our officials decided it was necessary.  
15 They proceeded to put the paperwork together. So --

16 Q. But they wouldn't make the decision to grant the  
17 interim loan. That would have to come at your level or  
18 above?

19 A. That the Cabinet -- Cabinet, finally.

20 Q. All right.

21 A. I would take that to Cabinet and say, "Look, they  
22 want to start the project. They would like an advance of  
23 the \$8-million loan. We already committed to giving them  
24 \$12 million. I don't know what's so difficult about  
25 this. You say, "We make a deal. We're going to give you

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1       \$12 million, and we know that the project has been  
2       delayed." And they say, "Well, look, advance us some of  
3       that money under these conditions. Let's get going." I  
4       don't -- there's no secret or anything hard to  
5       understand. If we didn't give them the \$12-million loan  
6       prior to that, then I can understand. I don't understand  
7       what you're driving at. We committed to give them a \$12  
8       million loan. We knew they had a Power Corporation  
9       contract. And because we gave them eight million of that  
10      a little before, I don't understand the point.

11      Q.    Well, let me bring it down to -- and maybe I'm not  
12      sophisticated enough to be able to accept these things,  
13      but the province is a banker. It's being asked for a  
14      loan. Whenever I would go to a banker to ask for a loan,  
15      he would first shake me down until he saw the colour of  
16      my change.

17      A.    Uh-huh.

18      Q.    And only if he was absolutely satisfied that, (a), I  
19      needed it and, (b), I was going to give him my three  
20      lives hereafter as security, he would give it to me.

21      A.    Yes.

22      Q.    You're telling me that the company walked in and  
23      said, "Give me 12, because we need it."

24      A.    That's --

25      Q.    And it was given?

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1 A. I -- I didn't tell you that. Now, Mr. Merrick,  
2 please don't do that to me. I'm not going to let you get  
3 away with it. You've done that to every witness, and I'm  
4 not going to let you get away with me. I didn't say we  
5 walked in -- they walked and said, "Give me 12 million  
6 and you can have it." I finished telling you that they  
7 complained over and over, and over, and over again how  
8 tough the negotiations were about that \$12-million loan.  
9 It seems that our Department went through a very thorough  
10 negotiation with them because of all the complaints of  
11 how tough the negotiations were. A \$12-million loan was  
12 granted. Cabinet approved it.

13 Now to say that some -- that some strange thing  
14 happened because we gave them eight million up front,  
15 after that negotiation took place, I don't know what  
16 you're trying to get at.

17 Q. Well --

18 A. But please don't make statements that -- they just  
19 walked in and we handed them the \$12 million.

20 Q. Let's me ask --

21 A. That's not fair.

22 Q. Let me ask it this way. What efforts are you aware  
23 of of the province making to challenge Westray on why  
24 they needed to use Provincial money to start it up? Do  
25 you know of any efforts or evidence that they gave that

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1 they wouldn't be able to put it in themselves, if  
2 required to?

3 A. Well, Mr. Merrick, all I can tell you, that our  
4 Department took a number of months to negotiate that  
5 loan. I know the people involved. I know they're good  
6 people. I know they can be very firm. I know the  
7 negotiations were long and strenuous. The company  
8 complained over and over and over again that they were  
9 too tough. They went back and they finished the deal. I  
10 would assume from that, that our officials did their job.

11 The very fact that we ended up with a loan for \$12  
12 million at 11 3/4 percent interest on \$130-million  
13 project, and you wouldn't give me the other information I  
14 wanted to show how much tougher this loan is compared to  
15 every other one we made during that same period of time,  
16 tells me they did a very good job. Why didn't you give  
17 me that information on all those other deals that were  
18 made during that period of time? And I will guarantee  
19 you that we never charged one other person 11 3/4  
20 interest. And I will guarantee it that those deals were  
21 better deals for the company than this one. So I would  
22 say from all that, and when you look at the way that  
23 government was operating at the time that this was a very  
24 tough deal to get through.

25 Q. Let me make sure I've understood you fairly. You,

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1 as Minister, can you tell me today, what efforts -- what  
2 satisfied you that the company required Provincial money  
3 and could not raise it from its own resources --

4 A. I --

5 Q. -- other than --

6 A. I took advice --

7 Q. -- there were tough negotiations --

8 A. -- from my officials.

9 Q. -- with your officials?

10 A. And if my officials came back and said they didn't -  
11 - they don't need the \$12 million, then they wouldn't  
12 have got the \$12 million.

13 Q. What evidence can you tell me today that your  
14 officials were, in fact, negotiating with the company  
15 whether they needed it at all, as opposed to merely  
16 negotiating the terms of the documents?

17 A. You will have to talk to them.

18 Q. You don't know? Do you know if your officials were  
19 instructed to go out and challenge the company as to  
20 whether it needed it in the first place, as opposed to  
21 what terms it would be granted on?

22 A. My officials did a very good job in negotiating that  
23 \$12-million loan, Mr. Merrick. And if you would look at  
24 other deals made at the same time, that's the conclusion  
25 that you would come to. I just don't understand why you

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1 want to beat this to death and try to have another story  
2 come from it.

3 Q. All right. Let me see what -- if we can get any  
4 assistance or fill in the picture at all from some of the  
5 documents. If we can go to that document I showed you a  
6 few minutes ago incorrectly when we were talking about  
7 the \$12-million loan, that's at tab 19 of page -- sorry,  
8 page 19 of tab 3. And that's that internal company  
9 memorandum. The part that seems to talk about the  
10 interim financing is over on the second page of it,  
11 stamped page 20, second major paragraph. It starts,  
12 "Following my conversation with Peter, I talked to Don  
13 Cameron."

14 COMMISSIONER I'm sorry, Mr. Merrick, where are you?

15 MR. MERRICK It's page 20 now of tab 3, Exhibit 141.

16 COMMISSIONER Oh, 20, okay. I was on the wrong page.

17 MR. MERRICK It's the second page of that memorandum.

18 COMMISSIONER Okay, thank you.

19 MR. MERRICK The second paragraph says, Following my  
20 conversation..." et cetera, et cetera. And then if you  
21 go down about six lines, you will see the sentence that  
22 starts, "Don said he wanted to set up the machinery for  
23 the province to make some undertaking to advance bridge  
24 funds to Westray Coal. And in this regard, he wanted to  
25 send his Deputy, Tom Merriam, and Elizabeth Cuddihy to

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1 Toronto on Tuesday, January the 17th."

2 A. Yeah. So?

3 Q. Do you see that?

4 A. Yeah.

5 Q. It sounds almost as if they were coming to you with  
6 a requirement that could not be met anywhere else. It  
7 sounds more like you were offering them money to just  
8 facilitate things?

9 A. I didn't write this memo.

10 Q. No, I know.

11 A. Believe me, they came to us to try to get the  
12 project going. They were held up. They wanted this  
13 interim financing to get moving. So I don't -- I didn't  
14 write this article, and if that's the way he wants to put  
15 it in his handwriting, that's fine. But I -- that's not  
16 the way it happened.

17 Q. If we look down the last paragraph on that page, it  
18 says, "In advance of the Tuesday meeting, Westray Coal is  
19 preparing a detailed listing of required work and related  
20 expenditures and contractors over at least the next three  
21 months and the discussion should be held on the security  
22 position which the Province might be looking for and any  
23 advancement of bridging funds. Naturally, the Province  
24 would think at first that they should get a first charge  
25 on the coal property, but I seriously question whether

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1 they should be entitled to a first charge..." et cetera,  
2 et cetera.

3 A. Uh-huh. Yes --

4 Q. Right?

5 A. --there was quite --

6 Q. I take it --

7 A. -- an argument about that.

8 Q. Yeah. Now this is dated January 12th, 1989.

9 A. Uh-huh.

10 Q. Can you tell me if you can recall anything prior to  
11 this point in time dealing with the interim loan?

12 A. I can't say for sure.

13 Q. Would it have been -- would the need for the interim  
14 loan have come up at about this time?

15 A. I don't know. You have all the documents from the  
16 Department. Was there anything prior to this?

17 Q. Let me ask you this: Do you have a recollection of  
18 a specific request coming in to initiate this as opposed  
19 to the Province possibly suggesting it?

20 A. My recollection is that we didn't suggest it.

21 Q. No.

22 A. The company was pushed for production. They had to  
23 get the project going to meet -- to meet the contract at  
24 the Power Corporation.

25 Q. Do you recall a specific request for the funds prior

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1 to it getting to this stage that we see in this memo?

2 A. I can't honestly tell you if someone approached  
3 before that, Gerald Phillips or someone else said, "Look,  
4 can we have an advance on some of that money to get the  
5 project going?" I can't honestly tell you today that it  
6 was before this date or after the date. I don't know.  
7 Or Marvin Pelley, I can't tell you that.

8 Q. All right. Just following through the documents  
9 that we do have before us, if you flip over to the next  
10 page, it's a memorandum from Elizabeth Cuddihy to --

11 A. Which one?

12 Q. The next page, stamped page 21.

13 A. Okay.

14 Q. It's that memorandum.

15 A. Uh-huh.

16 Q. Elizabeth to Tom Merriam. The only reason I note  
17 this is that it's several days later. It must have  
18 followed the meeting in Toronto on January the 17th that  
19 was referred to.

20 A. Uh-huh.

21 Q. And it refers to the maximum interim financing to be  
22 provided would be \$4 million.

23 A. Uh-huh. And she's referring, in her lead-in  
24 paragraph -- she says, "This will confirm your  
25 instructions to me on January the 21st wherein you

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1 advised the following arrangement was made between the  
2 Minister," that would be yourself, "Mr. Merriam and  
3 Westray. So a deal -- a basic commitment had been made  
4 by that point, I take it?

5 A. [No verbal response].

6 Q. At least she suggests in her wording that a basic  
7 commitment had been made?

8 A. Uh-huh, that might be.

9 Q. All right. Now if you look at paragraph four, she  
10 raises the question as to what happens if this project  
11 doesn't go ahead and how does everybody get money back.  
12 The proposal that Mr. Redrupp had set out in his memo  
13 that we looked at a few minutes ago is that naturally the  
14 province should think they'd get a first charge, but the  
15 company would want to do something else.

16 A. There --

17 Q. Do you recall anything about that?

18 A. Yeah, there was a big argument. They said, "We,"  
19 you know, "we have ten or twelve million and you guys  
20 only had four in. You know, at least we want to have --  
21 be on an equal footing with you." "Pari passu," or  
22 something I think was the term. "We don't want to lose  
23 all our money if -- you guys are in the driver's seat  
24 here now, and if something happened, we would want at  
25 least to get some of our money out." I think that's what

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1 the argument was.

2 Q. And I take it that ultimately the Province agreed to  
3 that?

4 A. I think we agreed to pari passu.

5 Q. Now help me with this for a second. We have a  
6 project owner who puts a certain amount of money in and  
7 borrows a certain amount of money from a lender.

8 A. Uh-huh.

9 Q. As Mr. Redrupp points out, normally, one would  
10 expect the lender to acquire first charge on the assets.  
11 But in this case, the borrower comes and says, "Hey,  
12 we've both got money in here; let's share equally."

13 A. Except that we agreed that it would be a fully  
14 subordinated loan, that \$12-million loan.

15 Q. Yes.

16 A. Fully subordinated doesn't give you a position.

17 Q. But this is separate now.

18 A. You're down at the bottom. This is an advance of  
19 that loan.

20 Q. But you're -- Elizabeth Cuddihy, and we'll come  
21 across one of her memos in a few minutes that says:  
22 "You've got to keep these two loans separate."

23 A. Uh-huh, yeah.

24 Q. The interim financing has to be kept completely  
25 separate from the 12 million for --

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- 1 A. For accounting purposes they do, yeah.
- 2 Q. And it has to be dealt with on its own loan terms?
- 3 A. Uh-huh, but they --
- 4 Q. So --
- 5 A. -- were the same as the \$12-million terms.
- 6 Q. But why wouldn't the province say to Westray, "Look,
- 7 we're advancing you by way of a separate loan, an advance
- 8 of four million or eight million. We want security,
- 9 first-charge security?
- 10 A. And they said, "Why don't we -- we go in this on a
- 11 pari passu basis," so --
- 12 Q. Joint venturers?
- 13 A. So as -- you can -- if my -- maybe that's what it
- 14 is, until we get the Federal funding. So if we invest
- 15 more money or more money of yours is invested, then
- 16 that's how it will come out.
- 17 Q. But a normal lender -- if you were to go into a
- 18 normal lender and say, "Look, I'm putting some equity in
- 19 and I need your money borrowed on it," and instead of
- 20 giving you a first charge, let's share this charge in the
- 21 assets --
- 22 A. Uh-huh.
- 23 Q. -- you would be thrown out of their office on your
- 24 head, wouldn't you?
- 25 A. I don't know. I borrowed money quite a few times,

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1 different ways, and no one's threw me out yet, so I don't  
2 know.

3 Q. Was any attempt made to hold firm on this point and  
4 to challenge the company?

5 A. There was a lot of discussion between our officials  
6 and the company on this one.

7 Q. Well, you tell me. You were the Minister in charge.  
8 What were your instructions as to whether the province  
9 was going to challenge the company on this or hold firm?

10 A. My instruction is to get the best deal you can for  
11 the Province. And, of course, by that time, the project  
12 was started. We would like to see the project, you know,  
13 completed too, so you had that hanging over your head.

14 Q. Would that have affected your judgement at all, the  
15 fact that you wanted to see work going on on the project?

16 A. No, I think I'd like to see, you know, what was  
17 fair, fair to the both sides. A reasonable -- a  
18 reasonable solution. Sometimes people get dug in, but my  
19 approach would be, "Look, do the best deal you can for  
20 the Province, but, you know, try to -- try to have it  
21 fair," because, in the end, you're better off being that  
22 way.

23 Q. So that was acceptable to you?

24 A. The final --

25 Q. I see.

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1 A. The final deal was acceptable. It didn't amount to  
2 anything because, as you know, they paid it all back and  
3 we were quite sure that the Federal finance was coming.  
4 We were assured by them it was coming through. So,  
5 really, this didn't affect the mine. It didn't affect  
6 the safety of the mine. It didn't affect anything.

7 Q. Well, this is January '89. We're going to come to  
8 some memos in a little while that suggest that you didn't  
9 believe that Federal financing was going to come through  
10 even as late as 1990?

11 A. Well, I don't know. Maybe -- maybe we were saying  
12 things to call their bluff, but we will deal with that  
13 later.

14 Q. All right. In any event, can you recall what  
15 information your officials would have put before you to  
16 have satisfied you as the Minister that the province had  
17 to share a security position on this interim loan?

18 A. Well, it was the best deal they could come to, and I  
19 accepted it.

20 Q. All right.

21 A. And it was paid off with interest.

22 Q. I take it that her memo is correct that it first  
23 started out being talked about as possibly \$4 million?

24 A. Uh-huh.

25 Q. Can we now turn to the next page over which is a

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1 further memorandum three days later. And you will see  
2 where this is a memorandum to you. In her first  
3 paragraph she makes the point that, "In order for the  
4 Province to be in a position to provide interim financing  
5 to Westray without confirmation of banking and federal  
6 financing, any advances would have to be treated as a  
7 loan separate and apart from the original \$12 million  
8 equity financing."

9 A. What page are you on? I want to just make sure I'm  
10 on the right page.

11 Q. Page 22, stamped page 22.

12 A. Okay.

13 Q. Memo, January the 26th?

14 A. Uh-huh.

15 Q. First paragraph. She's making the point that any  
16 advances would have to be treated as a loan separate and  
17 apart from the original \$12 million equity financing?

18 A. Uh-huh.

19 Q. So that it was to be treated as a completely  
20 separate loan transaction?

21 A. For accounting purposes yes, but it was very clear  
22 that as soon the \$12 million came in, this had to be all  
23 paid off.

24 Q. Yes.

25 A. So you couldn't have both.

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1 Q. Yes. No, I understand that and that's agreed. She  
2 points out in the second paragraph, "The provision of  
3 four million is not sufficient to enable the continued  
4 flow of progress. Cash flows indicate financial  
5 commitments must be made beyond four million in the time  
6 frame and if this is not realistic to consider..." et  
7 cetera, et cetera. And she wants you to confirm that  
8 whatever conditions she had attached were acceptable.

9 A. Um-hmm.

10 Q. At that point in time, how much were you prepared to  
11 commit in the way of interim financing?

12 A. I guess what was necessary to keep the project  
13 going.

14 Q. Well, had you --

15 A. And I think my own staff said, "Look, it's not going  
16 to be enough, it should be -- by looking at all the  
17 documents, it should be eight million instead of four."

18 Q. Well, she didn't say -- I don't think she eight in  
19 that memo. What was your understanding as to how far you  
20 were prepared to go? Your recollection of how far you  
21 were prepared to go?

22 A. I was hoping that four million would get the project  
23 going, but --

24 Q. Had you --

25 A. And they say that's not going to work because the

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1 Federal approval is not going to be done, so it's not  
2 going to work, and you'll be back again. I think that's  
3 the exact words they said to me, "That's not enough."

4 Q. Well, let me try this on. Do you know if at that  
5 point the commitment that had been given to the company  
6 was capped at a specific amount or was it basically, you  
7 were going to give them such interim financing as  
8 appeared fair and reasonable?

9 A. No, I would say that we wanted to keep it as low as  
10 possible, and the \$4 million was what we came up with. I  
11 remember staff saying to me, "This won't do it; you'll  
12 have another delay. It will just get the project going.  
13 Look it, we went to the company. These are the  
14 commitments they've got to make over the next number of  
15 months, and then we'll have another situation where it's  
16 closed down again. Another fuss. So it won't do." So  
17 that's how they got back with a figure of eight million.  
18 They looked at what the company requirements would be  
19 over the next number of months that we thought would take  
20 to get the Federal financing in place and came back with  
21 this other figure.

22 Q. Who arrived at the eight million? Was that what the  
23 company needed or was that what the Province was prepared  
24 to give?

25 A. I think they looked at the requirements of the

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1 company over that period of time, if I remember right. I  
2 think that's what the discussion was. But, you know,  
3 this is a few years ago so, you know, don't expect me to  
4 be absolutely dead on in everything, but I --

5 Q. No.

6 A. -- I think that that's what happened. I think that I  
7 recall that they said, "No, this won't be enough. We  
8 looked at the requirements."

9 Q. So the extent of commitment by the Province was  
10 being set by the requirements --

11 A. To keep the project --

12 Q. -- of the company?

13 A. -- going, yeah.

14 Q. Without any specific amount being capped at that  
15 point in time?

16 A. Well, up to amount --

17 Q. Up to 12 million --

18 A. I guess we -- well, no, we decided eight million was  
19 it.

20 Q. All right. Did it ever concern you as Minister that  
21 the company didn't seem to be prepared to even use its  
22 own money to do some of its own start-up on an interim  
23 basis?

24 A. Well, you would have to ask the company what money  
25 they spent. You know, again, this is a statement --

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1 Q. That wasn't my question.

2 A. No, you -- in your question, though, you say, "The  
3 company wouldn't use any of its own money." I don't know  
4 if the company used any of its own money. You fill all  
5 your answers [sic] with these purported to be facts, I  
6 don't know. Maybe it is. But I would like to know if  
7 it's true. Did the company spend some of its own money  
8 along the line too? I'm not sure.

9 Q. Well, that's a good question. Do you know if they  
10 were spending any of their own money?

11 A. Well, I -- sitting here today, no. But I'm sure if  
12 we get back and got the proper people, we'd find out the  
13 answer to that.

14 Q. Do you know if you addressed that at the time?

15 A. It might have been. It might have been the  
16 financial crunch. They were out in Faro where they had  
17 hundreds and hundreds of men working and got caught in  
18 low prices, and they had to strip more area off to  
19 continue the mine operating. I know they were in a  
20 financial crunch out there. I met the leader of the  
21 government out there, and he was very concerned about it,  
22 called me on a number of times about it because it meant  
23 30 percent of their total economy. So I clearly remember  
24 that. There must have been some financial crunch on  
25 because they wouldn't be talking that way.

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1 Q. Well, let me come back to my question of a moment  
2 ago. Can you recall as Minister being responsible -- or  
3 being concerned about the fact that the company was  
4 looking to the Province -- Province's money to cover some  
5 of their initial start-up costs on an interim basis.  
6 That would suggest to me --

7 A. Look --

8 Q. -- that the company wasn't putting in an awful lot  
9 or maybe it didn't have any ability to put in --

10 A. -- we gave them the \$12 million loan. We had  
11 requirements of when that money would go in. The Federal  
12 Government, in their wisdom or lack of, decided we're  
13 going to play some games here, and we're going to hold  
14 the project up for 14 months. Now what was -- what  
15 difference was it to the taxpayer of Nova Scotia if our  
16 money went in a little earlier than it was supposed to?  
17 We committed to put the money in. What's the point?  
18 What point are we trying to make here, that our money  
19 went in a little earlier than it was supposed to? That  
20 somehow that has some major effect.

21 I'm sure when the guys are pushing the reset button  
22 to override the safety device they were saying, "Oh,  
23 yeah, that Don Cameron gave them a \$8 million loan too  
24 early. We're allowed to do this now."

25 Q. Well, let me move on. The next thing that came up

MR. CAMERON, EXAM. BY MR. MERRICK

1 was this business of what security position to take, and  
2 we looked at that for just a few minutes. I want to  
3 refer you to a couple more documents on that. Can you  
4 turn to page 24 in that same volume that we're going  
5 through, and this is from your Deputy to you, a  
6 memorandum dated February the 8th, '89. Do you have it?

7 A. Um-hmm.

8 Q. And he talks in his first paragraph about, "That  
9 they've reviewed the most recently amended interim  
10 financing deal. It increases the funding level to eight  
11 million and lengthens the payment date," et cetera, et  
12 cetera.

13 And then he says in his second paragraph:

14 "It is unacceptable to Westray that in the event of  
15 default the Province has the right to act on its security  
16 and seize title to the company's assets and proceed to  
17 recover its interim financing in a normal commercial  
18 manner. We have included this condition because it is  
19 essential that we be able to take control of the property  
20 so that we can proceed with the mine development in event  
21 Westray cannot. However, Westray wishes to have pari  
22 passu security with the Province on its own assets. And  
23 in the even of default be entitled to release its  
24 interest in the security for its share of the value..."  
25 and he underlines this, "...the value of the project as a

MR. CAMERON, EXAM. BY MR. MERRICK

1 going concern. Under these terms Westray retains an  
2 ownership interest in the project even in the event of a  
3 default."

4 And then he goes on to point out the significance of  
5 this:

6 "The pari passu clause would essentially mean that  
7 the Province is entering into a joint venture with  
8 Westray with the Province assuming the financial risk.  
9 The provision for valuation as a going concern would mean  
10 that the Province would have to write Westray another  
11 cheque for 10.5 million in order to gain unencumbered  
12 rights to the property after having already laid out its  
13 18 million in interim financing which would never be  
14 recovered." Is that a valid point?

15 A. Where does he get the 18 million?

16 Q. Well, did you understand that -- he points out to  
17 you that the normal commercial manner would be for the  
18 Province to have taken first security position on the  
19 assets.

20 A. Um-hmm.

21 Q. Westray, using this argument that they also had put  
22 money in there and, therefore, should share in the  
23 security, has now added a clause that the Province could  
24 acquire the assets only by buying them out at the value  
25 of the project as a going concern. And then he says

MR. CAMERON, EXAM. BY MR. MERRICK

1 they've got 10.5 million in there. If the Province  
2 wanted to recover its money, it would have to first give  
3 them a cheque for 10 million in addition to the eight  
4 that you'd already spent. Did you understand that at the  
5 time?

6 A. Yes, I do.

7 Q. Were you in agreement with Westray's proposal?

8 A. Well, they put \$8 million into it when they bought  
9 the project. That was their hard, cold cash. I suspect  
10 they put something else in after that. It appears they  
11 have. And what they were saying is that, "You'd be in  
12 the driver's seat, and if you want to shut this thing  
13 down, we walk away without nothing. We'd like at least  
14 to have that amount of money that we put in, back."  
15 Maybe it's not unreasonable, is it?

16 Q. So if the thing were to shut down, they'd get their  
17 cheque for ten-five or whatever they put in?

18 A. And we'd have the assets.

19 Q. And you'd have the assets, which, I suppose, at that  
20 point was what?

21 A. Well, it must have been worth something.

22 Q. Couple of holes in the ground.

23 A. That -- you know --

24 Q. Well --

25 A. No, don't --

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. -- tell me.

2 A. -- showboat. Don't showboat. You know, that's kind  
3 of nonsense. "A couple of holes in the ground."

4 Q. But isn't --

5 A. There's companies --

6 Q. -- this what your Deputy --

7 A. There's companies --

8 Q. -- Minister --

9 A. -- looked for years at that low sulphur coal. It's  
10 a real asset and there's lots of companies looked at it.  
11 They're out there digging the same coal right now. Why  
12 do you think they're digging it? Because it's an asset.  
13 It's being sold every day to the Power Corporation, the  
14 Foord seam. As we sit here right now, it's being mined.  
15 So don't tell me that there was a couple of holes in the  
16 ground --

17 COMMISSIONER Mr. Cameron --

18 A. -- there was no --

19 COMMISSIONER Mr. Cameron. Mr. Cameron, nobody is  
20 showboating in this inquiry. We are here trying to get  
21 at the truth of what happened that contributed to or  
22 caused the May 9th disaster. I know you're after that  
23 too. And it's totally counter-productive for you to be  
24 accusing counsel of showboating or anything like that.  
25 We are not doing that.

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1 A. Mr. Commissioner, I'd be very happy to abide by any  
2 ruling you make. It's just that when he makes -- he  
3 makes questions and puts those kind of tones in it, then  
4 I'm going to react to it, I'm sorry.

5 COMMISSIONER Well, let me just ask you if you would  
6 answer the question without embellishment --

7 A. Well --

8 COMMISSIONER -- okay?

9 A. -- if he could please try to ask the questions  
10 without embellishment too, I think it would be a lot  
11 easier for both of us, and I know a lot easier for you,  
12 Commissioner.

13 MR. MERRICK Is that not the point that your own Deputy  
14 Minister is making to you in that memo?

15 A. I don't know what the point he's making. I don't --  
16 we finally decided that it would be pari passu. It  
17 didn't cost the taxpayers one cent. It was all paid back  
18 with interest at 11.75 percent interest. I don't  
19 understand what this has [sic] with the mine explosion.  
20 It was paid back with interest at 11.75 percent. So,  
21 apparently, the decision wasn't too -- a great one to  
22 take.

23 Q. So that if we can just flip over to page 26, that's  
24 a letter to you to Westray, in which you confirm the  
25 Province's commitment to give the interim financing?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Well, if I could read the letter, I'd be all right,  
2 but I can't read this letter.

3 Q. All right, well, I've got a --

4 A. The quality is not there.

5 Q. I'm going to su --

6 A. If that's what it says, then I accept that.

7 Q. And, in fact, that's what did in -- occur, was it  
8 not, that the Province agreed to make the interim  
9 financing and on the terms pari passu as far as security  
10 goes, that Westray had proposed?

11 A. Yes, that's my recollection.

12 Q. All right. Did it cause you any concern when your  
13 Deputy Minister had in his February 8, 1989, memo --  
14 suggested that you were, in effect, entering into a joint  
15 venture with Westray?

16 A. No, I didn't see it that way. I had every  
17 confidence that the Federal Government would go through  
18 with their funding; the money would be paid back, and we  
19 went back to the original \$12 million loan. And, as you  
20 know, that's exactly what happened, plus a quarter of a  
21 million dollars in interest.

22 Q. Just on this one point of the -- this proposal by  
23 Westray for this pari passu security business. Can you  
24 turn to page 62 --

25 A. Sixty-two.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. -- in that same tab? This is skipping ahead now.

2 It's a memo from Elizabeth Cuddihy to Marvyn Robar, dated  
3 May 10th, 1990.

4 A. Um-hmm.

5 Q. And we know from glancing at it that we're now at a  
6 point in time where the Federal financing package is  
7 finally getting put down on a piece of paper with  
8 signatures. And, apparently, from this memo, the company  
9 came to the Province and said that before they accepted  
10 the Federal financing, they wanted commitments on the  
11 three points that they -- she sets out in her memo.  
12 Number one, "Extension of interim loan arrangement.  
13 Confirmation that the Province was extending the \$12  
14 million loan and take-or-pay arrangement. The Province's  
15 agreement to the subordinated requirement."

16 And if you read the next paragraph, I'm going to see  
17 if you can help me on this because I'm not clear. She  
18 says:

19 "I advised you that you, Joe MacDonald, and I had  
20 reviewed the drafted Federal offer, and it was our  
21 opinion that nothing was required from the Province for  
22 Curragh to accept the Federal offer. He advised that, in  
23 his opinion, if Curragh Resources accepted the Federal  
24 offer, the Province would no longer be required to buy  
25 Curragh Resources out under the interim loan

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1 arrangement."

2 That was that pari passu security arrangement that  
3 we looked at. "This appears to be the reason why he was  
4 recommending to Curragh that they not accept the Federal  
5 offer until we put a commitment in place on the \$12  
6 million loan."

7 Now I assume from that that Curragh was now trying  
8 to take that same pari passu buy-out arrangement from the  
9 interim loan and blend it into the \$12 million loan.

10 A. Well, I --

11 Q. Can you help me on that?

12 A. I don't assume that. That was never -- that was  
13 never -- as far as I'm concerned, it was never part of  
14 the negotiations. We negotiated the conditions of the  
15 \$12 million loan, and there's going to be no change in  
16 that. So I don't read that in that, but maybe you do.

17 Q. You can't recall any proposals or --

18 A. Abso --

19 Q. -- initiatives --

20 A. I can't.

21 Q. -- from the company?

22 A. Absolutely not.

23 Q. All right. In any event, we know that Elizabeth  
24 Cuddihy was recommending -- you look over on page 63, she  
25 says, "He seems insistent on us drafting a letter to

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1 Curragh confirming the \$12 million arrangement including  
2 the subordination matter. I advised him that we are  
3 reviewing the issues, and we will be prepared to move as  
4 soon as the Federal offer is received and accepted by the  
5 company. And unless I am instructed otherwise, that is  
6 the course we intend to follow."

7 A. Um-hmm.

8 Q. In short, that she's not going to do anything until  
9 Curragh accepts the offer as is?

10 A. From the Federal Government?

11 Q. Yes.

12 A. Um-hmm.

13 Q. If you can then turn to page 64, this is a letter  
14 from you to Curragh the same date. Short and to the  
15 point. "Further to our letter of January 9th in respect  
16 of financing arrangements, we confirm the Province's  
17 agreement to extend the completion of permanent financing  
18 arrangements. We confirm that the Province is prepared  
19 to enter into a subordination agreement in respect of the  
20 12 million loan on terms and conditions satisfactory to  
21 Curragh and the Province."

22 A. Um-hmm.

23 Q. I take it -- do I take it from this letter that you  
24 did not follow her advice? You gave them the letter  
25 they'd been requesting and which she said she saw no need

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1 for.

2 A. I'm not sure they're the same thing.

3 Q. Well, I'd like your help on that.

4 A. One is saying extend the permanent financing  
5 arrangement for the project from February 28 -- and there  
6 were deadlines on that. They had to accept it by such  
7 and -- And then the one that you're referring to is an  
8 extension of interim loan arrangements. "We confirm that  
9 the Province is prepared to enter into a subordinated  
10 agreement." Well -- but that wasn't news. We agreed to  
11 that a long time ago. That was a request by the Federal  
12 Government, so I don't --

13 Q. Well, I just want to make -- focus it for you. If  
14 you look at her memo on page 62, bottom paragraph --

15 A. Yeah.

16 Q. -- six lines down, she says:

17 "This appears to be the reason why he was  
18 recommending to Curragh that they not accept the Federal  
19 offer until we put a commitment in place on the \$12  
20 million loan. I explained to him that I was not prepared  
21 to discuss the Federal offer with Federal officials in  
22 respect of subordination until Curragh has, in fact,  
23 received an offer signed by the Federal Government."

24 And then your letter of that same date seems to give  
25 that confirmation --

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1 A. On the --

2 Q. -- on the subordination agreement?

3 A. On the subordination, yeah. I mean, that was pretty  
4 clear cut, the Government decided we're going to  
5 subordinate. I remember we're going to Cabinet and  
6 saying, "Now they want to subordinate the loan." I  
7 wasn't too fussy about that, to tell the truth, but we  
8 realized that's the only way it was going to be done.

9 Q. Are you able to tell me today whether your letter of  
10 May the 10th was, in effect, not consistent with the  
11 position that Elizabeth Cuddihy was recommending?

12 A. Well, she -- the letter is not -- the letter is  
13 different than this. The one aspect of subordination is  
14 certainly in here, and she said she didn't want to  
15 discuss it with them.

16 Q. All right, let me just finish off the point for  
17 record purposes. If you turn over to page 65, that's a  
18 letter from Mr. -- well, from Westray to you, responding  
19 to your May 10th letter, and just wanting clarification.  
20 He asks you, "To confirm that the Province will do  
21 whatever is necessary so that the \$12 million from the  
22 Province qualifies as equity under the Atlantic  
23 Enterprise Program, e.g., it is subordinated to the  
24 claims of all secured and unsecured creditors." And the  
25 Province gave that commitment, I take it?

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1 A. Yes, we did.

2 Q. Okay. Let me move on to the next component of the  
3 Provincial involvement, the take-or-pay agreement.

4 A. Um-hmm.

5 Q. Why was that given?

6 A. Why was it given? Again, it was another loop that  
7 the Federal Government put up after we satisfied the  
8 present ones. They said if you have a contract with the  
9 Power Corporation, that's what we needed. And then when  
10 we achieved that -- I still believe that somewhere I read  
11 that one of the Ministers said, "Well, now let's go back  
12 and see if they can get a contract for the remaining  
13 amount. This was --

14 Q. For the what?

15 A. For the remaining amount of coal. Now, you know,  
16 this was -- first they were saying the project was not  
17 viable, and we got the Power Corporation contract. They  
18 said that at one point that would be satisfactory.

19 Then the next step, they said, "No, even with that,  
20 it's -- we're going to have to have more coal." And we  
21 pointed out that in fact the contract with the Power  
22 Corporation was for 700,000 tonnes a year. And in the  
23 contract, the Power Corporation would buy another 100,000  
24 tonnes when the Westville strip mine shut down, and we  
25 knew the life of that mine was getting near to the end.

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1 So then it was 800,000. So it was rather unusual to tell  
2 a company that you have to have signed contracts for --  
3 if you had signed contracts for 800,000, it would be  
4 rather unusual to say, "Well, now we want to have signed  
5 contracts remaining." They certainly didn't do that with  
6 DEVCO when they were drilling mines. They didn't know  
7 where they were going to sell the coal. So it was  
8 another way to delay the project. So they said, "Well,  
9 unless you can get a signed contract for the 700,000 up,  
10 and the fact that the Power Corporation will take more  
11 down the road, well, that's -- that's -- you know, that's  
12 down the road."

13 So that's where the take-or-pay came from. And,  
14 again, it was enforced by this position of the Federal  
15 Government.

16 And the take-or-pay was simply a very simple --  
17 everyone has tried to make it very complicated and make  
18 it something it's not. What we said to them was, "Okay,  
19 to help put your financing in place, with a clear  
20 understanding that you will never get one red cent out of  
21 this. You have to understand that." And I think they  
22 under -- at least, Gerald Phillips and Marvin Pelley  
23 understood it very clearly, believe me.

24 I'm not sure if Mr. Frame was ever told this, but  
25 that's for them to discuss.

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1           A clear understanding they would never get one red  
2           cent of it. So it would be put in place as a way to help  
3           them put their financing in place, that we would enter  
4           into a contract to take or pay for 275,000 tonnes,  
5           knowing -- knowing that 100,000 tonnes of that was going  
6           to go the Power Corporation under their contract when the  
7           Westville strip mine completed operation. And it was  
8           only a matter of time -- a couple of years or something  
9           and the strip mine did close down. So it wasn't going to  
10          be a long period of time.

11          The company would have to make an effort and show us  
12          that they tried to sell that remaining coal at world  
13          price, low sulphur coal at world price. So they would  
14          have to find a market of 175,000 tonnes at world price.

15          Now I didn't think that was a real hard deal to  
16          accept, the fact that it was low sulphur coal, that more  
17          and more and more people were very concerned about  
18          sulphur emissions.

19          New Brunswick were building plants. They were going  
20          to buy low sulphur coal from South America, I think. I  
21          even talked to the Premier and officials in New  
22          Brunswick, and they said, "Look, there will be no  
23          problem. We'll buy the coal. If there's a good price,  
24          we'll buy the coal. We would rather buy it."

25          It didn't seem like it was a great risk that someone

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1 would be able to sell that amount of low sulphur coal in  
2 these environmental times when people are concerned about  
3 the environment.

4 We also said that, if we wanted the coal, we would  
5 have a choice to leave it in the ground and pay for it.  
6 For example, if in the next year or two we decide we're  
7 going to cut in half the sulphur emissions from the  
8 160,000 tonnes a year for our power plants down to 80,000  
9 tonnes a year, there would be some very tough decisions  
10 would have to be made. And you might want some of that  
11 coal.

12 But if we changed our mind again and went to gas or  
13 something else, you would have to pay us back every cent  
14 of that money at the end of the contract.

15 So when I looked at this whole contract, I really  
16 don't know how the company could get much off it. They  
17 would have to prove, without doubt, that they tried to  
18 sell it at world price. And world price is established  
19 by what you sold the last tonne of coal yesterday for.  
20 And they would -- they'd have to tell us that, no, we  
21 couldn't sell it to New Brunswick, even though New  
22 Brunswick was actually buying a million tonnes of this  
23 coal. It seemed to me it wasn't -- it wasn't something  
24 that was a great concern.

25 But like everything else in this project, it was

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1 taken and it was twisted and turned and it was going to  
2 cost millions and millions of dollars and, you know,  
3 that's made the headlines. And either people didn't read  
4 or understand it. It's just that simple.

5 Q. Well, let's go through it for a few minutes.

6 A. Uh-huh.

7 Q. Let me start, first, by its origin. Under that  
8 exhibit, tab 3, can you turn to page 6 this time?

9 A. We're on tab 3?

10 Q. Yes, page 6. That's a letter from Price  
11 Waterhouse --

12 A. Uh-huh.

13 Q. -- to yourself. That's Mr. Redrupp and he thanks  
14 you for meeting with he and Marvin Pelley in the previous  
15 week --

16 A. Uh-huh.

17 Q. -- to discuss current developments. And then he  
18 says, in the next paragraph, halfway down, "As to the  
19 support from the Province of Nova Scotia, I want to  
20 confirm the commitments which Westray Coal will require  
21 from the Province and which we discussed at our meetings  
22 on June 29th and 30th." And then he goes on to say, "The  
23 Province of Nova Scotia will guarantee the sale of up to  
24 one million tonnes of coal from Westray Coal, Pictou  
25 County Coal Project..." et cetera, et cetera. "It's

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1 understood a contract purchase of 710,000 tonnes has been  
2 committed by the Power Corporation."

3 Would it be a fair assumption for us to make that  
4 the requirement for this commitment by the Province was  
5 first present or proposed in this time frame, and I'm  
6 talking there the end of June, early July?

7 A. Well, he says, "a guarantee up to one million  
8 tonnes," so it must have been.

9 Q. Well, he's referring to meetings that he had with  
10 you the previous week to discuss developments on the  
11 financial needs. And then he says, "As to the support of  
12 the Province of Nova Scotia, I want to confirm the  
13 commitments which Westray will require from the  
14 Province." And I'm assuming from that that at those  
15 meetings on June 29th and 30th would have been probably  
16 the first time that this requirement was being discussed  
17 with the Province. Would that be fair?

18 A. I don't know.

19 Q. Can you recall it going back any earlier than that?

20 A. I really can't tell you that.

21 Q. All right. In any event, we see a letter from you,  
22 if you turn over to page 9, a letter from you to Robert  
23 de Cotret, dated July the 8th, '88.

24 A. Uh-huh.

25 Q. This would have been a matter of four or five days

MR. CAMERON, EXAM. BY MR. MERRICK

1 later where you commit -- where you say in the first  
2 paragraph, "I'm, therefore, very pleased to advise you  
3 that provincially we have agreed, in principle, to  
4 provide the following assistance to Westray Mining  
5 Corporation..." and then you talk about the three  
6 components, including the take-or-pay agreement?

7 A. Uh-huh.

8 Q. The conclusion I'm drawing from that is that within  
9 approximately a week of when Westray comes to you and  
10 says, "We need this commitment from the province."

11 A. That's not fair.

12 Q. Well, you tell me what's fair?

13 A. You're saying we did it in a week. Is that what  
14 you're saying?

15 Q. That's what the documents suggest.

16 A. No. No, that's not right.

17 Q. Well --

18 A. That took a lot --

19 Q. -- then tell me what is right?

20 A. -- longer than a week to hammer that one out,  
21 believe me.

22 Q. Well, can you tell me anything -- can you help me  
23 with any specifics?

24 A. You have all the information. You know, I didn't  
25 take information from my office, so you have all the

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1 information. So --

2 Q. Well, let me --

3 A. -- I can tell you that it took a lot longer than a  
4 week to hammer out the take-or-pay contract.

5 Q. Well, I know that following July, 1988, it goes on  
6 for quite a lengthy time hammering out the terms of the  
7 agreement. So that took a long time?

8 A. Well, that's fine. That's what I'm referring to.

9 Q. Do you -- that's what you're referring to. My  
10 question to you was this --

11 A. Wouldn't the terms of the agreement be pretty  
12 important?

13 Q. Yes.

14 A. I mean, doesn't that end up meet -- your liability  
15 is determined by the terms in the agreement? Wouldn't  
16 the terms of the agreement be the key to the whole thing?

17 Q. So what you're saying is that you recall it taking a  
18 long time to work out the terms of the agreement. And I  
19 can accept that.

20 A. I guess it -- what I'm saying to you, it took me a  
21 long time, from the time that this was an issue until it  
22 was actually finalized.

23 Q. All right. I understand that. That's not my  
24 question. My question to you is this --

25 A. You don't like the answer.

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1 Q. -- are you able to tell me whether the assumption  
2 that we draw from these documents, that there was only  
3 about a week from the time the take-or-pay agreement was  
4 proposed, to when you write this letter to de Cotret?

5 A. I can't -- I can't confirm that.

6 Q. All right.

7 A. I really can't.

8 Q. What --

9 A. It doesn't seem like that to me, but I don't have  
10 any proof, so I can't argue with you.

11 Q. All right.

12 A. But it certainly doesn't -- that's not my sense.

13 Q. Well, let me come to this point then: What was  
14 being looked for here, as we've heard evidence and seen  
15 some of the documents was some assurances by the Feds, at  
16 least, and possibly the commercial bankers, that Westray  
17 had a commitment for the sale of its coal to customers.

18 A. Uh-huh. It had a commitment from the Power  
19 Corporation. What efforts did you make or did you  
20 understand were made on behalf of the province to have  
21 Westray get those commitments for the balance of the coal  
22 from some other source?

23 A. Well, that was the deal in the take-or-pay.  
24 After --

25 Q. That was with the Province. What efforts did you

MR. CAMERON, EXAM. BY MR. MERRICK

1 make to avoid the Province having to enter the take-or-  
2 pay agreement by telling Westray, "Go out and sign your  
3 contract with the Premier of New Brunswick"?

4 A. That's exactly what I told them, but we had a group  
5 in Ottawa that was going scuttle this, and they said,  
6 "No, you have a signed contract or we're not going to do  
7 the deal."

8 Q. But what efforts --

9 A. I pushed them and in fact they negotiated with CN  
10 and they negotiated with New Brunswick. And they  
11 negotiated other places. They showed me a list of  
12 companies they actually went out and sought. Because I  
13 didn't want to do this take-or-pay, so I pushed them to  
14 do that. The bottom line was that the same people in  
15 Ottawa who lied about the fact that it was going to cost  
16 \$290 million on DEVCO, which it was completely false,  
17 those same people were saying that, "No, you're going to  
18 have to have a signed contract or the deal is not done,  
19 period."

20 Q. Wait a minute now. Are you telling me that you  
21 understood that if Westray had signed contracts with  
22 other purchasers, such as the Province of New Brunswick,  
23 that that would not have been acceptable?

24 A. Yeah.

25 Q. You're telling --

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. That would have been acceptable.

2 Q. That would have been acceptable?

3 A. Yeah.

4 Q. And it comes back to my question. Why didn't you  
5 tell Westray, "We're not going to sign a take-or-pay  
6 agreement. There are customers out there. I've talked  
7 to the Premier of New Brunswick, and he's agreed to buy  
8 your coal. Go get a signed contract from him"?

9 A. I did exactly that. And you know what the answer  
10 was? "This project has been talked about since the early  
11 '80s. You're the third company that has been involved in  
12 that. When you start producing coal, you come and we  
13 will buy some."

14 Q. So buyers were not prepared to enter into purchase  
15 agreements?

16 A. That was what my -- my understanding was. And  
17 because the project was talked about so long, they said,  
18 "Well, get the project going. It won't be hard to sell  
19 this coal; get it going. When you have coal, come and  
20 we'll buy some."

21 Q. All right. That's probably as good a break point as  
22 any, Mr. Commissioner.

23 COMMISSIONER Okay, we will recess until 1:30 then,  
24 thank you.

25 INQUIRY RECESSED (TIME: 12:31 p.m.)

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1 INQUIRY RESUMED (TIME: 1:32 p.m.)

2 COMMISSIONER Thank you. Perhaps we should adjourn to  
3 the front lawn, Mr. Merrick.

4 MR. MERRICK All in favour, yes.

5 COMMISSIONER The weather is appropriate. Okay, sir.

6 MR. MERRICK Mr. Cameron, I just want to finish off on  
7 the point that we were talking about before the noon  
8 break which was the take-or-pay agreement, and I wanted  
9 to make sure that I had understood your recollections.  
10 You had told me before the break that you had understood  
11 the company had gone looking for other markets to  
12 purchase the balance of the coal that was required. What  
13 information did they give you as to their efforts and the  
14 status of their efforts?

15 A. Well, they told me that they were quite sure they  
16 could sell coal, they'd have signed contracts that  
17 quickly, because of the delay by the Federal Department  
18 to get everything in place that quickly, they would have  
19 difficulty. And the fact that three other -- in fact,  
20 some of the places they went, they said, "Well, you know,  
21 we were approached by Suncor and then Placer and now you.  
22 Why don't you come to us when you have some coal?"

23 Q. Now from the documents that we've got, there were a  
24 couple of pieces of paper that referred in a peripheral  
25 way to possibly some sources in New Brunswick buying coal

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1 and that sort of thing, but can you give us anything more  
2 specific as to who they would have approached and what  
3 assessments were made as to the potential for them being  
4 purchasers down the road?

5 A. Well, I think they hired a consultant, Whalen,  
6 maybe?

7 Q. Uh-huh.

8 A. And he made -- I read at one point a report that he  
9 made -- I don't know if you have that or not, but --

10 Q. It's not ringing a bell, but --

11 A. He referred to a number of places they could sell  
12 the coal to and didn't think it would be any difficulty.

13 Anyway, one thing I didn't mention before lunch is  
14 that I made it very clear in public and in the House that  
15 we would never pay one cent on the take-or-pay. That was  
16 an agreement we made with the company. And I told them  
17 after when they went -- for whatever reason decided they  
18 were looking at exercising this option, I said, "You can  
19 sue us; you can do anything you want. You knew what the  
20 understanding was. You're not going to get one red cent  
21 from the taxpayers of Nova Scotia on take-or-pay." I  
22 think there's evidence, when you read through the file,  
23 from Industry, Trade and Technology. I think Marvyn  
24 Robar makes that very clear in his memo that the company  
25 assured him that they would never, never utilize this

MR. CAMERON, EXAM. BY MR. MERRICK

1 provision.

2 It was put in place to satisfy the requirements of  
3 the people trying to put this financial package together.  
4 Pretty obvious they could sell the coal otherwise, and we  
5 weren't going to give them one red cent and they knew  
6 that.

7 Q. Now I know that that was your position because you  
8 had stated it very emphatically on a number of occasions,  
9 but -- and this was a question I wanted to ask you: You,  
10 nevertheless, entered into an agreement on paper that  
11 gave the company the right to --

12 A. We would have --

13 Q. -- seek payment from the Province?

14 A. We would have to do that, yes.

15 Q. Did you ever have anything that would have legally  
16 protected the Province against them ever exercising that  
17 document?

18 A. Well, I suppose it's like every other document and,  
19 you being a trained lawyer, you would understand, you can  
20 look at a document and you can see different things in  
21 it.

22 I made sure there it was F.O.B. Pictou, not the  
23 power plant. I noticed the company afterwards trying to  
24 add something on to have the trucking to the power plant  
25 so they could get a higher price for this coal.

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1           The company made a commitment to us. I wanted the  
2 agreement as loose as possible so there would be some  
3 room for argument if they went back on their word. But I  
4 can tell you, I wasn't going back on my word, and there  
5 was no way that the Province was going to spend any money  
6 on the take-or-pay and they knew it.

7           Q. But if they -- and this is my problem, if they had  
8 decided to exercise it, other than fighting with them in  
9 court, what did you have that would have been an  
10 assurance that they would never be able to --

11          A. They would have to prove to us that they actually  
12 tried to go and sell the remaining tonnage. And if it  
13 was a couple of years after they got going, it means that  
14 it would be only 175,000 tonnes because, clearly, the  
15 Power Corporation, when the Westville strip mine closed  
16 down, they committed to take that tonnage. So there  
17 would be 175,000 tonnes, and they would have to prove to  
18 us that they couldn't sell 175,000 tonnes at world price.  
19 That's what they'd have to prove, and I don't think they  
20 could do that.

21          Q. I suppose it would depend on what that world price  
22 was at the time, whether they could come to the Province  
23 for any differential?

24          A. That was not my understanding. It was world price.  
25 They had three coal market prices and they would have to

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1 -- they would look what that price was. That price is  
2 established by what someone else sold it for. And it  
3 seems to me it's pretty obvious that if someone else sold  
4 it for that price, and they were taking an average of  
5 that, that they should be able to do it too.

6 And I really think that when you're in a situation  
7 where people are very, very concerned about the  
8 environment and their health and the effects of that  
9 environment on their health, do you really think it was  
10 unreasonable to believe that this company wouldn't be  
11 able, in that climate, to sell 175,000 tonnes of low  
12 sulphur coal? I really don't think so. I don't think it  
13 takes much imagination to figure that one out.

14 Q. Is it correct, though, that on the basis of the  
15 documents and the evidence that exists, there was nothing  
16 that would have prevented the company from trying to  
17 exercise the agreement if they had wished to do so or if  
18 circumstances were such that they thought that there was  
19 something in it for them?

20 A. If they wanted to break their word, they had every  
21 right to exercise that document. And I can tell you it  
22 would have got a tough response from us.

23 Q. All right. And their word would have been the  
24 verbal undertakings that were given or the verbal  
25 statements by you to them that they were never going to

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1 be able to recover?

2 A. And they made it to our officials in the Department.

3 And they made it over and over and over again.

4 Q. Who, on behalf of Curragh, committed never to  
5 enforce the agreement?

6 A. Clearly, Marvin Pelley and Gerald Phillips would  
7 know. There was something said later on, though, that I  
8 often wondered if Cliff Frame actually understood the  
9 deal that he got into.

10 Q. What was it that later happened that made you wonder  
11 whether Frame --

12 A. Well, it -- there was comments made, "Well, you  
13 know, we can go proceed now and if we can't sell the  
14 coal, we will just proceed to exercise the option in this  
15 agreement." Well, that wasn't the deal.

16 Q. Mr. Frame made comments like that?

17 A. That was my impression that, through Marvin or  
18 someone else, that Cliff thought that they could exercise  
19 that. Frame didn't say it to me directly, that's for  
20 sure.

21 Q. Uh-huh. At what point in time was that?

22 A. It was after -- after they were in production. But  
23 they would have to be up to full production anyway before  
24 they could -- they would have to prove they were at  
25 975,000 tonnes' production before they could exercise it

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1       anyway. And, of course, they never even got close to  
2       that.

3       Q.    If you can turn to that Exhibit 141 at tab 3, this  
4       time at page 91, it's a memo -- I'm not stamped -- tab 3.

5       A.    Yeah.

6       Q.    Page 91.

7       A.    Oh, 91?

8       Q.    Yes.

9       A.    I was looking at 141.

10      Q.    This is a memo, April 23rd, '91?

11      A.    Uh-huh.

12      Q.    From Mr. Robar to Elizabeth Cuddihy. And he's  
13      talking there about -- just give me a second and I may  
14      refer you to another document first in point of time  
15      maybe. Yeah, flip ahead, just for a few moments, to an  
16      earlier document in sequence.

17      A.    Would you --

18      Q.    This --

19      A.    -- mind if I just pointed out one line in this one  
20      before we flip, or --

21      Q.    Sure.

22      A.    -- can I come back to it?

23      Q.    Go ahead.

24      A.    "Despite the take-or-pay contract, the onus is on  
25      the company to take -- to make all reasonable efforts to

MR. CAMERON, EXAM. BY MR. MERRICK

1 sell the production from the mine. The company  
2 repeatedly assures us through negotiations that the take-  
3 or-pay contract would never be used, and it was simply  
4 for securing bank financing."

5 Q. Yes, all right. Now let's go back to the memorandum  
6 on February the 20th which is at page 81.

7 A. Eighty-one.

8 Q. And that's the memo from Mr. Robar to --

9 A. Uh-huh.

10 Q. -- Mr. MacNeil? And he talks about a whole variety  
11 of things dealing with the take-or-pay agreement.

12 And if you turn over to page 83, item four down at  
13 the bottom of the page, he says there, "In my review of  
14 the Westray files, I came across a report prepared by a  
15 consultant discussing the sale of coal to New Brunswick."  
16 I take it that may have been the consultant you were  
17 referring to a few minutes ago.

18 "It was his opinion that Westray would be  
19 competitive in this market if they could deliver coal at  
20 a price of about \$66 a tonne. It has been estimated that  
21 delivery costs would be in the range of \$16 per tonne;  
22 therefore, Westray would receive a railhead price of \$50  
23 a tonne. Assuming direct variable costs of \$11 a tonne,  
24 a sale to New Brunswick at this price would provide a  
25 \$39-a-tonne contribution to profit."

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1           If we look at the pay scenario under the take-or-pay  
2 agreement, Westray would receive \$73 a tonne, less \$11  
3 tonne direct variable costs, giving a contribution to  
4 profit of \$62 a tonne. The difference between the two  
5 options is \$23 a tonne. Total difference in cash  
6 contribution to Westray is \$6,325,000."

7           Then he goes on to point out, "Westray has the  
8 option of not invoking the take-or-pay agreement if they  
9 determine that they can obtain a reasonable price for the  
10 coal. Whether the above case would be considered  
11 reasonable is not known, and whether Westray would want  
12 all or part of the differential is not known."

13           He is apparently reporting on the contingency that  
14 if Westray decided to try to exercise the option under  
15 that kind of scenario, that there may be an obligation of  
16 \$6,325,000?

17           A. I disagree with that.

18           Q. What do disagree with in that analysis?

19           A. I go back to the first part you read, and it said  
20 that they could deliver coal at a price about \$66 a  
21 tonne.

22           Q. Yes.

23           A. I am convinced they could. And that's -- and that's  
24 -- and that would be world price. They would have to  
25 show us they couldn't sell it for world price, and this

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1 person is saying, yes, they could.

2 Q. Well, isn't his point that, even if they sold at \$66  
3 a tonne --

4 A. Yeah.

5 Q. -- under the take-or-pay agreement, they could then  
6 come to the province for the differential between it and  
7 the \$73 a tonne?

8 A. Not if it's world price. If they wanted to sell it  
9 for less than world price, then they would come back and  
10 say, "Look, there's a differential here." But that would  
11 be world price.

12 Q. Yes.

13 A. And that's what I'm saying. They could have sold it  
14 at world price, and they would have to prove to us that  
15 they couldn't and they could. This guy is saying they  
16 could.

17 Q. And if they could, but this is the point I want to  
18 get clarified, assuming world price was \$66 a tonne at  
19 that point in time --

20 A. Uh-huh.

21 Q. The price under the take-or-pay agreement was \$73 a  
22 tonne. He's suggesting --

23 A. No, that's not the --

24 Q. -- or implying that they could recover the  
25 differential?

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1 A. No, I'm telling you he couldn't. And I have already  
2 stood in the Legislature and assured the Province that it  
3 wouldn't cost them a cent. And we are -- we were the  
4 Government.

5 Q. Then let me ask you this question.

6 A. And we read earlier where the company said they  
7 understood that they would never -- it would never cost a  
8 cent.

9 Q. I have your point on the verbal agreements between  
10 you and the company --

11 A. Uh-huh.

12 Q. -- that they would never enforce it, but on the  
13 documents, it appears that they would have had the  
14 option, subject to fighting with the Province about it?

15 A. Well, I don't know where they got this \$73 a tonne.  
16 I looked at some figures last night, and they had all  
17 kinds of things figured in it and which didn't include --  
18 which wasn't included in the take-or-pay. I mean, they  
19 were going -- they were going to include the costs of  
20 shipping that to the power plant in Trenton. And every  
21 time it would touch a shovel or a truck, there was extra  
22 cost.

23 The bottom line is the take-or-pay said, "F.O.B.  
24 Pictou." And I remember arguing about that and saying,  
25 "No, leave it Pictou. I'm going to keep it as low as

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1 possible." It comes in a ship to Pictou, and that's the  
2 least expensive port. After that, you've got to truck it  
3 and stuff. That was never part of the take-or-pay.

4 Q. Did the take-or-pay, on it's written terms, allow  
5 the company to seek a differential in price if they sold  
6 at a world price that was below the take-or-pay price?

7 A. If they sold below the world price?

8 Q. Yes, a world price --

9 A. Yes.

10 Q. -- that was below.

11 A. Yeah, I think --

12 Q. Yes?

13 A. -- there was some -- I would have to go through it,  
14 but, yes, I think there was some provision of saying,  
15 "Look, if you wanted to sell it..." But, again, that  
16 didn't make sense because how is world price established?  
17 World price is established at what you sold the last  
18 tonne of coal for. That's how you establish world price.  
19 And if someone is able to sell a tonne of coal for "X"  
20 dollars, surely those people would be able to sell it for  
21 "X" dollars.

22 Q. Would not Mr. Robar's analysis then be correct if,  
23 under the circumstances prevailing at the time, \$66 a  
24 tonne happened to be world price?

25 A. If it happened to be world price, that's what they'd

MR. CAMERON, EXAM. BY MR. MERRICK

1 get, period.

2 Q. And would they then not, under the agreement, be  
3 entitled to come and seek the --

4 A. No.

5 Q. -- differential from the province?

6 A. No, I disagree with that. That was not --

7 Q. On what basis?

8 A. -- my understanding. It certainly wasn't my  
9 understanding of the agreement. They had to go and sell  
10 it at world price. And if they could sell it at world  
11 price, then that's it, they'd have to prove to us they  
12 couldn't. And my approach was world price is established  
13 by the last tonne of coal that was sold.

14 Q. Well, let me make sure I've got this. And we can  
15 clarify it, perhaps, by reference to the agreement. Is  
16 it your understanding of the agreement that if they sold  
17 at world price --

18 A. Uh-huh.

19 Q. -- and world price was less than the amount in the  
20 take-or-pay agreement, were they to be entitled to seek  
21 the differential?

22 A. That is not my understanding.

23 Q. All right.

24 A. Because the price in the take-or-pay agreement was  
25 established by using world price.

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1 Q. All right. Let me take you to that next document  
2 that we were looking at a few moments ago. This is a  
3 later memorandum from Mr. Robar --

4 A. And what page is --

5 Q. -- to Elizabeth Cuddihy. This is at page 91. And  
6 do you have it?

7 A. Yes.

8 Q. Third paragraph down. Again, they're talking about  
9 the take-or-pay contract. In the second paragraph they  
10 make the statement that you referred us to. Then in the  
11 third paragraph he says, "You will note that C.R.I.," and  
12 I assume that's Curragh Resources Inc., "has the option,"  
13 if the bank agrees, I would presume, "of selecting a  
14 price less than the take-or-pay price, if reasonable. If  
15 the terms and conditions of the take-or-pay were public  
16 knowledge, the Province would literally be held to ransom  
17 by a prospective purchaser.

18 The following example will illustrate, an  
19 independent party estimated that \$66 a tonne would be a  
20 reasonable price for New Brunswick to pay for the coal at  
21 their new power," station, I assume. "The current take  
22 price for coal under the take-or-pay is about \$73 a  
23 tonne. As the only knowledge New Brunswick now has of  
24 the take-or-pay is that some sort of contract exists, it  
25 will probably negotiate in good faith at around the fair

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1 market price. This price may be sufficient that Curragh  
2 will not invoke the take-or-pay, or may look to the  
3 Province for only the difference between the prices.  
4 However, if New Brunswick or any other prospective  
5 purchaser has full knowledge of the take-or-pay and knows  
6 that the Province of Nova Scotia has essentially  
7 guaranteed both a quantity and price, any reasonable  
8 bargaining position Curragh has will be destroyed.  
9 Knowledge of the take-or-pay contract will give any  
10 purchaser the upper hand. In these circumstances, the  
11 Province of Nova Scotia might -- the Province of New  
12 Brunswick might only offer \$50 a tonne, knowing that the  
13 Province of Nova Scotia will likely be called upon to  
14 make up the difference."

15 Now he's obviously -- was he one of the officials  
16 that was involved in negotiating the agreement?

17 A. Well, he's one of the officials in Industry, Trade  
18 and Technology, so I'm --

19 Q. And was he involved --

20 A. -- sure he was -- I'm sure he was involved. There  
21 was some assistance from Natural Resources, too, I  
22 think --

23 Q. And certainly Elizabeth Cuddihy would have been  
24 involved in the negotiating of the agreement?

25 A. Yes, I would say so. And --

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1 Q. And your --

2 A. -- Natural Resources people, I think. I think they  
3 went to get some advice from them.

4 Q. Your officials appear to be clearly under the  
5 understanding that Curragh might be in a position to come  
6 against the Province for any differential in price?

7 A. Well, I don't agree with it.

8 Q. All right.

9 A. I told you before they weren't going to get any  
10 money. There's a clear understanding to the company they  
11 weren't going to get any money. The \$73, I don't know  
12 how they arrived at that figure. But, clearly, that  
13 formula has to come from world price. I doubt if world  
14 price was \$73 a tonne. That sounds a little high to me.  
15 So I don't know where they got the figure of \$73 a tonne.  
16 But it sure doesn't sound like world price to me.

17 Q. Were you ever aware of the discussion going on in  
18 your Department about this possible scenario developing  
19 and the valuations that were being put on the potential  
20 liability under the take-or-pay agreement?

21 A. Yes. Mr. MacNeil, who ran the Resources Board -- I  
22 can't remember the -- he was concerned by what liability  
23 he would have to attach to his financial statements and  
24 wanted to abide by the law and say, "Well, it may not be  
25 used, but for accounting procedures, we have to have a

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1 figure that attaches some liability." So, yes, there was  
2 a lot of discussion about that.

3 Q. And how much did he value the contingent liability  
4 at?

5 A. I'm not sure what he did.

6 Q. Would it have been in the vicinity of 14 million?  
7 Is that --

8 A. He might have used -- he might have used that  
9 figure.

10 Q. Is that probably in the ballpark as to what you  
11 recall?

12 A. I don't know. I really wasn't overly concerned  
13 about it because I knew it was going to be zero. And for  
14 accounting practices if he needed to fulfil his  
15 obligation under the law, if that's what he felt was  
16 fair, that's fine. But I knew it wasn't going to cost  
17 the taxpayers any money.

18 Q. Do you recall if he was putting that contingent  
19 liability in as an annual liability? If the take-or-pay  
20 were exercised annually?

21 A. I suppose -- I suppose he would have to judge that  
22 on whether it was called or not. If they didn't call it,  
23 there would be no liability, so I suspect he wouldn't put  
24 the figure in then.

25 Q. Under the take-or-pay agreement, the company would

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1 have to give notice by a certain date --

2 A. Uh-huh.

3 Q. -- if they intended to exercise the agreement. Am I  
4 correct -- right on that?

5 A. Yes.

6 Q. And there were negotiations when the company wanted  
7 to change those provisions, to move back that date by  
8 which they would have to exercise by giving notice. Do  
9 you recall that?

10 A. Yes, I do.

11 Q. I will give you a reference to a document that may  
12 assist. If you can turn to tab 4 now in that same  
13 exhibit book, at page 12. I'm sorry, I'm in the wrong  
14 exhibit book. It should be Exhibit 137, tab 4.

15 COMMISSIONER The same tab and page, Mr. Merrick?

16 MR. MERRICK The same tab and page.

17 COMMISSIONER Different book?

18 MR. MERRICK Exhibit 137. Tab 4, page 12. This is a  
19 memo to Nancy Ripley-Hood from Mr. Phelan.

20 A. What page is it?

21 Q. Page 12.

22 A. Oh, I'm sorry.

23 Q. Tab 4. This is a couple of months later now. In  
24 fact, it's almost eight months later, I guess. And  
25 you'll see where Mr. Phelan is writing to Ms. Ripley-

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1 Hood. And it says, "When the Board of Novaco..." and  
2 that was the company that had actually entered the take-  
3 or-pay agreement, I believe?

4 A. Um-hmm.

5 Q. "When the Board of Novaco Limited met with Marvin  
6 Pelley of Curragh Resources on November 22nd, '91, he  
7 informed us that Curragh Resources Inc. had not been able  
8 to sell the coal they expect to produce in the calendar  
9 year 1993. Curragh will be required to give an election  
10 notice pursuant to Clause 3.01 of the take-or-pay  
11 agreement to Novaco by December 31st, '91, so as not to  
12 be in breach of the agreement with their bank."

13 Now, as I understood it, Curragh would have to give  
14 notice, I want to make sure I've got this straight now,  
15 almost a year in advance of when they intended to  
16 exercise the agreement. Am I right?

17 A. Um-hmm, I think that's fair.

18 Q. So that if they anticipate that they may be calling  
19 on the Province to honour its obligations under the  
20 agreement for the year 1993, they would have to give  
21 notice of that by December 31st, '91 --

22 A. Um-hmm.

23 Q. -- right? And, apparently, Curragh was getting  
24 ready to do that?

25 A. Apparently, they were, yeah.

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1 Q. Did you know about that?

2 A. Yes, I did.

3 Q. And what did you do about it?

4 A. We had a very tough conversation about it. And I  
5 reminded them of the commitment made and that they simply  
6 wouldn't be getting one cent of money from the Provincial  
7 Government, that they could sue us, they could do  
8 anything they want, but they were going to honour their  
9 commitment. And their commitment was that they would not  
10 exercise this agreement.

11 Q. Who did you have that tough conversation with?

12 A. I would say it was Gerald Phillips and Marvin  
13 Pelley.

14 Q. And if they sued you, what could you have done about  
15 it?

16 A. I would go to the contract and say, "You did not  
17 abide by the contract. You did not make an effort to  
18 sell this coal. You did not fulfil the obligation under  
19 this contract, and, therefore, we owe you no money."

20 Q. I guess that would be a question of evidence for the  
21 Court. Let me come back to --

22 A. Oh, I think we'd have a pretty strong ground to  
23 stand on.

24 Q. Well, we won't exchange legal opinions. Let me take  
25 you back to the December 4th memo that we're looking at.

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1 The next paragraph says, "At the Novaco meeting held on  
2 December 3rd, '91, the Board agreed to Curragh's request  
3 to amend the take-or-pay agreement so that Curragh would  
4 not be required to give the election notice until June  
5 30th, '92. The Board's decision is subject to your  
6 concurrence." He's writing to Nancy Ripley-Hood. "That  
7 the contract can be legally amended. That the other  
8 parties agree and that Novaco can agree to the delay of  
9 the notice without compromising its position or the  
10 position of the Government of Nova Scotia." And then --  
11 that's his memo to her, I assume, seeking her input. If  
12 we then turn to her reply, which is at page 14 -- do you  
13 have that?

14 A. Yeah, on 14?

15 Q. Yes.

16 A. Um-hmm.

17 Q. And in the second paragraph she says, "There is  
18 absolutely no reason to extend the time for giving us an  
19 election notice. Westray maintains it is for political  
20 reasons. I think Cabinet and Novaco should consider the  
21 following..." and then she goes through her reasons why  
22 the amendment should not be granted. And we don't have  
23 to read them in any detail, but she sets out four reasons  
24 from her provision, basically, coming to the fact that it  
25 would mean that Westray could, in fact, recover even more

MR. CAMERON, EXAM. BY MR. MERRICK

1 under that scenario, or possibly recover for two years in  
2 one --

3 A. I don't --

4 Q. -- which --

5 A. -- follow that, but anyway.

6 Q. Well, let's take a look at it then.

7 A. Yeah.

8 Q. Paragraph one, "If we let Westray give the notice  
9 now, in all probability we will not have to take-or-pay  
10 for coal this year because the company cannot achieve the  
11 full production level. If we extend the notice, in all  
12 probability the company will have time to produce enough  
13 to kick in the TOP provisions." So she's suggesting that  
14 it would jeopardize the Province to not require Westray  
15 to give the notice now.

16 Then in number two she says, "If we extend the time  
17 to give an election notice, we are reducing the time for  
18 us to give our TOP option." That is whether the Province  
19 will take the coal or pay for it. "We need this time to  
20 decide whether to take or pay. We also need the time to  
21 ascertain whether Westray used their best efforts."

22 Then in number three she says, "If the time is  
23 extended, we will receive two election notices in one  
24 year. The political ramifications are obvious: we will,  
25 in fact, have two payments in one calendar year."

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1           And then she goes on, "To sum it up, there's no  
2           legal reason to amend this agreement. It puts the  
3           Province and Novaco in a less than optimal position so  
4           that the company can be put in a better position. I  
5           recommend the Province does not agree to such an  
6           amendment."

7           A. Well, they couldn't be paid twice in the same year  
8           so I don't know where she's getting that. So --

9           Q. Well, it looks as if Department officials were  
10          operating on the premise that this agreement might well  
11          be enforceable, and being concerned about whether it  
12          should be amended.

13          A. Well, they said they maybe -- even have a chance to  
14          look at the -- reach production. You know, you look at  
15          this, and December of 1991 we knew they weren't even  
16          anywhere close to production.

17          Q. Well, let me just take you two more steps on, the  
18          next page is page 16.

19          A. Um-hmm.

20          Q. This is a memorandum from Phalen to Mullally, his  
21          Deputy Minister. He recites the fact that Curragh has  
22          requested the amendment. He recites the fact that the  
23          Novaco Board is in agreement with it provided the  
24          solicitors concur. He notes that, "Nancy Ripley-Hood and  
25          Elizabeth Cuddihy jointly review the matter at Novaco's

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1 request. They have advised that Cabinet approval is  
2 required." He doesn't say that they opposed it. He  
3 merely says that they noted Cabinet approval was  
4 required. That a Cabinet memorandum was prepared and  
5 that it was submitted to Cabinet. Did Cabinet approve  
6 the amendment?

7 A. I think maybe they did.

8 Q. Why would you approve it --

9 A. Take or pay --

10 Q. -- in light of, first, your view that it was  
11 unenforceable agreement, and second, in the face of Nancy  
12 Ripley-Hood's legal objections?

13 A. Well, the Board of Directors, didn't you just read,  
14 passed a motion authorizing the Chairman to sign the  
15 amendment to the take-or-pay?

16 Q. "Subject..."

17 A. The Board --

18 Q. "Subject to our solicitors' concurrence that the  
19 contract can be legally amended without compromising its  
20 position or the position of the Government of Nova  
21 Scotia."

22 A. I guess the Cabinet didn't -- I took their advice  
23 and they made a decision.

24 Q. Did you take it to Cabinet?

25 A. Yes, I would.

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1 Q. Were you aware of Nancy Ripley-Hood's objections and  
2 her position that it was not -- that it would jeopardize  
3 the Province's position?

4 A. I'd be surprised if someone didn't inform me of  
5 that. I can't say I was, but I'd be surprised if  
6 Elizabeth Cuddihy wouldn't say, "Nancy doesn't think this  
7 is a good deal," and then we'd go through it and made a  
8 decision.

9 Q. Why would you do it in the face of the points raised  
10 by Nancy Ripley-Hood?

11 A. Because it didn't make any difference.

12 Q. If it didn't make any difference, why do it? Why  
13 not just write back to the company and say, "Listen,  
14 you've got an unenforceable agreement. Go away, leave us  
15 alone"?

16 A. They were happy to -- the Board was happy to change  
17 it. I was happy to change it. The bottom line was that  
18 they were never going to get any money and they knew it.  
19 And they were told directly from me, and they repeated  
20 that to our officials. So I didn't care what they did.  
21 They just weren't ever going to use it.

22 Q. Although you allowed them to make an amendment  
23 which, if they did sue you, would put the Province in a  
24 worse position?

25 A. That's not -- that is simply not true; you could

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1 only elect once a year.

2 Q. That's what Nancy Ripley-Hood's memo says.

3 A. Well, you know, look, I don't think I ever talked to  
4 Nancy, maybe -- maybe I have. But, you know, people do  
5 make mistakes. They do make mistakes about their  
6 interpretation. You couldn't collect twice in the one  
7 year with this agreement.

8 Q. Well, actually I think she -- anyway, we won't  
9 debate that, it stands on its own. I would su --

10 A. I'm wondering what we're digging at because it's  
11 very obvious they weren't going to get any money. It's  
12 very obvious and documented the company understood that.  
13 I'm wondering what -- just what we're trying to drive at.  
14 I mean, what is -- what are you -- what point are you  
15 trying to make?

16 Q. First, Mr. Cameron, I just want to know how much you  
17 were in control of the situation, to what extent you  
18 were, in fact, bargaining in the best interests of the  
19 Province, and to what extent this may no longer have been  
20 a Provincially-supported private enterprise, but in  
21 reality had become a joint venture because of your  
22 commitment to it.

23 A. It wasn't a joint venture at all. And everything  
24 that was approved was approved by the full Cabinet.

25 Q. Yes.

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1 A. Every time.

2 Q. Was the Cabinet advised of Nancy Ripley-Hood's  
3 objections?

4 A. If was it on the document that came in, they'd see  
5 it.

6 Q. It doesn't appear to have been on the document.

7 A. Well, I can't say.

8 Q. All right.

9 MR. ENDRES We don't have the document in front of us.  
10 I think it's only fair to point it out. There's no  
11 Cabinet Memorandum in front of us now, so how can we say  
12 it's --

13 MR. MERRICK Well --

14 MR. ENDRES -- not there?

15 MR. MERRICK -- I have not seen any Cabinet Memorandum  
16 that has that on it.

17 MR. ENDRES But there's also a note on page 16, in  
18 paragraph 3, that Nancy Ripley-Hood and Elizabeth Cuddihy  
19 jointly reviewed the matter at Novaco's request, and they  
20 have prepared the document, the Memorandum to Cabinet.

21 MR. MERRICK Yes.

22 A. So maybe she reviewed it and was -- some of this was  
23 explained to her and felt differently about it. I don't  
24 know. She was just trying to do her job, I suspect.

25 Q. How do you answer the points?

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1 A. [No audible response]

2 Q. For example, point number one, I'm looking at page  
3 14 now, "If we let Westray give the notice now, in all  
4 probability we'll not have to take or pay for the coal  
5 this year because the company cannot achieve the full  
6 production level." That would have been a requirement  
7 under the agreement?

8 A. Well, I don't think they could exercise it if they  
9 weren't at the production level.

10 Q. That's her point. If the company was forced to give  
11 the election notice then, it might not have been able to  
12 claim because they wouldn't have been at their production  
13 level. If you allow them to defer it, they might have  
14 been able to qualify. How do you answer that point?

15 A. They couldn't -- they couldn't qualify it later  
16 either; we know that. They weren't anywhere close to  
17 production. And if --

18 Q. Did you know that in --

19 A. -- if that was -- yes, I knew that.

20 Q. You knew they weren't --

21 A. We --

22 Q. -- going to be close to production --

23 A. We knew they were in trouble --

24 Q. -- a year later?

25 A. We knew by this time they were having trouble

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1 meeting the production.

2 Q. All right.

3 A. Knew very clearly they were having trouble.

4 Q. Let me move on.

5 A. Why do you think they were trying to open the strip  
6 mine?

7 Q. Let me move on. We're back in Exhibit 141, tab 3,  
8 this time at page 9. We looked at this document a little  
9 this morning. That's your letter of July the 8th, 1988,  
10 to Mr. de Cotret?

11 A. Um-hmm.

12 Q. Where you tell him, "I'm very pleased to advise you  
13 provincially we have agreed in principle to provide the  
14 following assistance: The Province will enter into a  
15 take-or-pay agreement for 275,000 tonnes of coal." If  
16 you then turn over to page 11 --

17 A. Ten or eleven?

18 Q. Eleven.

19 A. Um-hmm.

20 Q. The next letter, it's from you to Westray dated  
21 September the 9th. This would be about a month and a  
22 half later. You say to Westray, "Further to recent  
23 discussions in respect to the development of the coal  
24 mine at the Foord seam, I am pleased to advise that the  
25 Province agrees to provide..." nothing about "in

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1 principle," "...a take-or-pay contract for 275,000 tonnes  
2 per year for a term of 15 years, on the terms and  
3 conditions attached."

4 Can you now turn to page 33. This is a memorandum a  
5 year later, over a year later. Do you have it?

6 A. Um-hmm.

7 Q. Dated November the 3rd, '89, from Elizabeth Cuddihy  
8 and Marvyn Robar to you, via Thomas -- via your Deputy  
9 Minister. She says -- or they say, "We refer to a letter  
10 dated October the 31st, '89, copy attached, from Westray  
11 Coal." And if you'll just flip the page, you'll see the  
12 letter from Westray Coal, at page 34. And just looking  
13 at that for a moment, their letter is to you saying,  
14 "Reference is made to your letter of agreement addressed  
15 to Westray Coal, dated September 9th, '88..." That was  
16 the letter we looked a minute ago, "...wherein you  
17 confirmed your Province's agreement, among other things,  
18 to provide a loan in the amount of 12 million and a take-  
19 or-pay contract for 275,000 tonnes of coal per year."  
20 They then go on to ask for some amendments on time  
21 periods because of the delays that had been -- being  
22 encountered.

23 Now let's go back to page 33.

24 A. Page 33?

25 Q. Yes, that's the memo from Cuddihy and Robar.

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1 A. Okay.

2 Q. They say, "We refer to letter dated October the 31st  
3 requesting confirmation of the 12 million loan, a take-  
4 or-pay contract, and leasing arrangement from the  
5 Department of Mines. We have drafted the attached  
6 response for your signature for the following reasons."  
7 Then they say, "The only authority we have to extend any  
8 matter relating to the Pictou coal mine project relates  
9 to the 12 million loan agreement. You will recall that  
10 the Cabinet did not approve the execution by the  
11 Department of any arrangement relating to take or pay,  
12 and if such were to be granted at any time, a specific  
13 Cabinet authority would be required." And they didn't  
14 want to respond to Westray's letter that was reflecting a  
15 commitment for a take-or-pay contract --

16 A. Um-hmm.

17 Q. -- for that reason. Do you see that?

18 A. Yes, I do.

19 Q. Let me take you to one other document while we're  
20 there. Can you turn to page 66? That's the Nancy  
21 Ripley-Hood memo of July the 15th, '70 [sic]. And if you  
22 can turn over to page 68, this is Nancy Ripley-Hood's  
23 recitation as relayed to her by Mr. Merriam, your Deputy  
24 Minister. And on page 68 she's been going over the last  
25 series of transactions, and then she says in the middle

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1 paragraph, "When it comes time to start negotiating take  
2 or pay, however, Donald Cameron's staff advise him again,  
3 in writing, that his Department has no legal authority to  
4 enter take or pay and that they will not do the necessary  
5 drafting..." et cetera.

6 So my question to you is: Did you have Cabinet  
7 approval to commit the take-or-pay agreement in September  
8 of 1988?

9 A. I would not put it in the letter without having  
10 Cabinet approval. Absolutely not.

11 Q. Well, you tell me: Did you take it to Cabinet and  
12 did Cabinet approve committing to a take-or-pay agreement  
13 in September of '88?

14 A. I would not write a letter saying that we -- you  
15 have a take-or-pay agreement without going to Cabinet and  
16 having approval.

17 Q. Your staff is saying here you didn't have it, that  
18 Cabinet had refused to give you that authority.

19 A. Maybe at that time. But I would not write that  
20 letter if I didn't get permission from Cabinet to do it.

21 Q. They're saying you did not have approval prior to  
22 1989, July --

23 A. What they --

24 Q. -- sorry, '90.

25 A. What they may be saying is that we didn't have the

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1 documents. But lots of times in Cabinet we would have a  
2 decision -- we'd go through the book and then have a  
3 decision made on a number of issues after we got the  
4 agenda done to the book, and agree to do certain things.  
5 So they may be saying that I didn't have the paperwork  
6 done, but I can assure you that I did not write a letter  
7 on this or any other item that Cabinet didn't give its  
8 approval.

9 Q. Tell me about Cabinet approval. Tell me when you  
10 took it Cabinet; tell me what was passed in Cabinet.

11 A. Well, if we agreed in Cabinet to do this, then we'd  
12 follow it up later with an Order-in-Council.

13 Q. You tell me. You're the one that says that you got  
14 Cabinet approval in 1988 to make a commitment on behalf  
15 of the Province to sign the take-or-pay agreement. You  
16 tell me when you took it to Cabinet, what Cabinet meeting  
17 it was and what was passed.

18 A. Well, if you can tell me what you did in 1988 on  
19 some particular day, then I'll try to do the same, but  
20 that's unreasonable. All I'm telling you, if you want to  
21 deal with the issue, the issue is that I would not put  
22 anything in a letter to any company that Cabinet did not  
23 agree to, either through an Order-in-Council or an  
24 agreement in Cabinet after -- after it went through the  
25 book. And that was done many, many times.

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1 Q. Mr. Cameron, you've known that I'm -- been intending  
2 to ask you about this because this morning you  
3 anticipated my question several times by making the  
4 comment that you always had Cabinet approval. Now this  
5 is a point that I think is of some significance, and I  
6 want your evidence on the point. If you got Cabinet  
7 approval to make the commitments that you did in '88, you  
8 should be able to point me to something that evidences  
9 that because I've got two pieces of paper from your staff  
10 that said you don't -- that you didn't.

11 A. Mr. Merrick, I think you're more interested in  
12 trying to embarrass me than get to the truth. The truth  
13 is that I would not write a letter to any company on any  
14 issue without having Cabinet approval. That's the way --

15 Q. Well --

16 A. -- it was done.

17 Q. -- let me go back --

18 A. And if staff didn't have the proper paperwork, I can  
19 understand their memos. But I think if you talk to other  
20 Cabinet Ministers, you'll understand that lots of times  
21 things are agreed to and then we go back and say, "We  
22 agreed to this. Get the proper documentation for it."  
23 And that was done lots of times.

24 Q. Page 33. Memo from Elizabeth Cuddihy to Marvyn  
25 Robar. Look at what they are saying. They are not

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1 saying, "We have not seen any paperwork on this." They  
2 are not saying, "We're not sure whether Cabinet approved  
3 it or not." Here are their words, "You will recall..."  
4 this is to you, "You will recall that the Cabinet did not  
5 approve the execution by the Department of any  
6 arrangement relating to take or pay..."

7 A. So?

8 Q. "...and if such were to be granted at any time, a  
9 specific Cabinet authority would be required."

10 A. So that might have been left in the book. Lots of  
11 times that was done. If they wanted more information, it  
12 would be left in the book.

13 Q. Is that --

14 A. It can be done.

15 Q. Is that what you're suggesting got written into the  
16 book?

17 A. I have no idea. All I can tell you is that you --  
18 you asked me to tell the truth, and I'm telling you that  
19 I would not write a letter without having Cabinet  
20 approval. There's no -- there can be no difference from  
21 that.

22 Q. All right.

23 A. That's the bottom line.

24 Q. Then when Cab --

25 A. And if it was -- if the Cabinet was concerned at one

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1 point and left it in the book that day, it wouldn't be  
2 done. If Cabinet agreed to it and we didn't have a piece  
3 of paper, then the proper paper would be put forth after.

4 Q. When Cabinet decides something, it's usually by way  
5 of Cabinet minute or some other piece of paper that shows  
6 that they decided that. I have been unable to find any  
7 piece of paper that reflects the fact that in 1988  
8 Cabinet authorized you to sign the letter that you did.  
9 Can you give me any pointer to where we should look?

10 A. Well, I don't have the ability to go back and look  
11 through every piece of paper. All I can tell you is that  
12 hard, cold fact, and you're not going to get me off it.

13 Q. Do you remember taking the issue to Cabinet?

14 A. Yes, I do. We discussed the issue, we discussed the  
15 loan; we discussed the subordination; we discussed it  
16 all.

17 Q. Do you remember --

18 A. And we -- the subordination, for example, that  
19 wasn't taken on the piece of paper. We approved the loan  
20 and I remember going in and saying, "Now -- guess what  
21 they want now? Now they want to subordinate the loan,"  
22 and that was agreed to without a piece of paper. Then it  
23 was documented after. Do you remember in 1988, prior to  
24 your writing to Mr. de Cotret in July and prior to your  
25 writing to Mr. Frame in September, taking that issue to

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1 Cabinet as to whether you could commit the province to a  
2 take-or-pay agreement?

3 A. Mr. Merrick, you asked this question 15 times.

4 Q. Yeah.

5 A. I'm telling you that I didn't sign a take-or-pay  
6 agreement with this company or any other issue without  
7 having Cabinet approval.

8 Q. Yes.

9 A. Now that should be very clear for you.

10 Q. I've got that.

11 A. Good.

12 Q. Now my question is do you remember your request to  
13 Cabinet --

14 A. I don't remember --

15 Q. -- in '88?

16 A. -- the exact day. But all I can tell you is I did  
17 it.

18 Q. You remember taking this request in '88 to Cabinet?  
19 Have I got that?

20 A. I don't know when I took it to Cabinet. All I can  
21 tell you, I took the request to Cabinet.

22 Q. Do you recall how Cabinet dealt with it the first  
23 time?

24 A. No, I don't.

25 Q. You don't remember if they authorized it or didn't

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1 authorize it?

2 A. No, I don't. I don't know how many times we  
3 discussed -- I don't know.

4 Q. So that do you -- I take it then you cannot dispute  
5 the statement that appears in this memo by Elizabeth  
6 Cuddihy and Mr. Robar that the Cabinet did not approve  
7 the execution by the Department of any arrangement  
8 relating to take-or-pay and if --

9 A. I don't know --

10 Q. -- such were to be granted --

11 A. There was a piece of paper that -- it wasn't done.

12 Q. Are you able to --

13 A. I don't know.

14 Q. -- dispute whether that is the reality?

15 A. I'd have to understand the surroundings of this.

16 Was the day -- draft a piece of paper and I took it and  
17 it was turned down? I don't know. Did they look through  
18 the book and say, "Hey, we don't have legal authority to  
19 do so"? I don't know. That happens lots of times. They  
20 will say, "Well, we don't have legal authority to do this  
21 yet. You will have to take this in before we can  
22 exercise this." I don't know what they're referring to  
23 here. I'm not reading anything into it. The bottom line  
24 is that Cabinet approved every part of the deal.

25 Q. Ultimately.

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1 A. That's the bottom line.

2 Q. Ultimately. I'm talking about '88. Let me ask you  
3 this: Mr. Rogers, when he was on the stand, said that he  
4 consistently was asking you for a piece of paper that  
5 confirmed that the province was prepared to make that  
6 commitment.

7 A. Uh-huh.

8 Q. And you consistently put him off and put him off for  
9 some period of time. And that he was skeptical that such  
10 a piece of paper never existed.

11 A. Well, it existed.

12 Q. Here's my question: Is it possible that his  
13 evidence is correct, that you were not able to show him a  
14 Cabinet document because you didn't have a Cabinet  
15 document?

16 A. No, that's not true. I didn't want him to see it  
17 because I didn't trust them.

18 Q. What Cabinet document did you have prior to 1990?

19 A. I don't know, but I didn't want them to see it  
20 because I didn't trust them. I figured they'd --

21 Q. So you had --

22 A. -- give it to -- I figured, before the day was over,  
23 they would give it to DEVCO.

24 Q. So you had a piece of paper that you didn't want him  
25 to see, but you don't know what that piece of paper was?

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1 A. Not on a particular date.

2 Q. We've come to that second memo. This is at page 68,  
3 Nancy Ripley-Hood. It says, "When it comes time to start  
4 negotiating take-or-pay, however, Don Cameron's staff  
5 advise him again, in writing, that his Department has no  
6 legal authority to enter take-or-pay and that they --  
7 they will not do the necessary drafting."

8 A. So, we didn't have legal authority.

9 Q. Do you remember your staff telling you that you  
10 didn't have legal authority?

11 A. I -- I'm not sure I can answer that. But I knew  
12 there was a lot of discussion of who was going to draft  
13 the take-or-pay and what department wanted it. And by  
14 this time, this whole project became such a political  
15 circus, that I had the feeling no one wanted to touch it.  
16 And so --

17 Q. This isn't politics we're talking about now, Mr.  
18 Cameron. This is you and your department --

19 A. No.

20 Q. -- and what your evidence is.

21 A. This is -- I'm allowed to give the answers, and  
22 you're going to have to accept them. You can ask the  
23 questions, and I'm going to give my answers. I'm telling  
24 you that it became such a political issue, I had the  
25 sense that a lot of people didn't want to touch it. And

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1 so I do recall them saying, "Well, let's put it over  
2 there," and they said, "No, we don't want it." And,  
3 finally, Novaco got it. But I remember the discussion  
4 that no one wanted to -- to get involved. And I thought,  
5 "Well, no wonder, all -- every day it's raised in the  
6 press. It's..." You know, it became a circus.

7 Q. Do you recall your staff telling you that your  
8 Department did not have the legal authority to enter into  
9 a take-or-pay agreement?

10 A. They may have told me that.

11 Q. Do you recall them saying it to you in writing?

12 A. I can't recall now, but it -- they must have because  
13 we didn't do it.

14 Q. Do you recall -- and it goes on to say here, the  
15 next paragraph, "Since Don Cameron can't get work done  
16 in-house, he goes to MCR." I assume that's McInnes,  
17 Cooper, Robertson, the law firm. "MCR also advise he has  
18 no authority and the take-or-pay not in best interests of  
19 the Province." Is that an accurate statement?

20 A. I don't know. I didn't go to MCR; it was the  
21 Department. I didn't recommend them, so --

22 Q. Was MCR hired to assist the Department in the take-  
23 or-pay negotiations?

24 A. I understood they were hired to do the whole deal  
25 because there was such a backlog of documents that had to

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1 be dealt with that we didn't think -- my advice from the  
2 Department, we didn't think we could handle it all. So I  
3 think they were involved in a lot more than the take-or-  
4 pay, I think. The whole package was done there --

5 Q. Did they --

6 A. -- in the end.

7 Q. Did they advise your department that your department  
8 had no authority to sign a take-or-pay agreement?

9 A. Maybe they did. They didn't advise me of that.

10 Q. But, Mr. Cameron, I'm having a little difficulty  
11 here. You were the Minister?

12 A. Yes.

13 Q. This is a key point. You know that we're going to  
14 be talking about it today. You are telling me you can't  
15 be sure or not whether that outside law firm gave you  
16 that legal opinion?

17 A. To me directly?

18 Q. Have I got that correct?

19 A. To me directly?

20 Q. To your department?

21 A. I couldn't tell you if they did or not. They  
22 probably did. Our department was saying it was not legal  
23 for that department to do it. And the fact it was done  
24 to Novaco would kind of back that statement up, wouldn't  
25 it?

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Do you recall the written opinion from MCR?

2 A. No, I don't recall that right now.

3 Q. Do you remember that there was a written opinion?

4 A. No.

5 Q. Do you dispute the fact that you had to go to --  
6 that your department had to go to MCR because your own  
7 staff refused to do the documents?

8 A. I think you're leading -- your leading down a road  
9 that you want to go to. I think --

10 Q. I'm reading --

11 A. -- the bottom --

12 Q. -- the document from your own staff.

13 A. Well, the bottom line is that that company did the  
14 whole deal. And there was documents five feet thick.  
15 And the discussion in our department, we don't have time,  
16 with all the other deals we're doing, we don't have time  
17 to just do this one and nothing else. We have to go  
18 outside for some outside advice.

19 And, Mr. Merrick, that's not unusual either. It's  
20 not the first time it happened and it's not the last time  
21 it will happen.

22 Q. I'm not talking about going to outside legal advice,  
23 Mr. Cameron. I'm talking about the fact that your staff  
24 advised you that you couldn't do it. They refused to  
25 draft the documents, so outside legal counsel were

MR. CAMERON, EXAM. BY MR. MERRICK

1 retained who also agreed that you had no legal authority.

2 That's what I'm talking about.

3 A. No, you're reading something into it that just  
4 simply isn't there.

5 Q. Well, that's what I'm reading --

6 A. We went outside for advice because we needed  
7 additional help to put all the paperwork together. They  
8 didn't --

9 Q. But you --

10 A. They didn't just do the take-or-pay contract, Mr.  
11 Merrick. You're trying to leave these people think that  
12 all we did was go out and get them to do the take-or-pay  
13 contract. That wasn't the case.

14 Q. I just want to be specific. You do not dispute that  
15 your staff advised you you didn't have legal authority?  
16 You don't dispute that?

17 A. Why would I?

18 Q. You don't dispute that they refused to draft the  
19 documents for that reason?

20 A. Well, I wouldn't expect the drafted documents if  
21 they didn't have legal authority.

22 Q. You don't dispute that outside counsel were obtained  
23 in order to try to overcome that problem?

24 A. I do. Outside counsel was obtained to do the whole  
25 deal --

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right.

2 A. -- not just that.

3 Q. Do you dispute that outside counsel also supported  
4 the opinion that you didn't have authority to do the  
5 take-or-pay?

6 A. That's what it's saying here, but I'm not aware of  
7 that.

8 Q. Do you dispute it?

9 A. I don't know. I can't dispute something I'm not  
10 sure of.

11 Q. All right.

12 A. But the fact that we did it with Novaco would seem  
13 to me to be evidence that we didn't have the legal  
14 authority to do it in our department and, again, that's  
15 not unusual at all. You have your legislation that each  
16 department comes under. And from time to time you will  
17 say that doesn't fit in the legislation. We will have to  
18 do it over here through this legislation. I don't think  
19 you would be trying to make something out of this that  
20 simply isn't there. This is the way it operates.

21 Q. Do you recall if one of the concerns about your  
22 legal authority was not just whether you had the  
23 legislative mandate in your department, but also whether  
24 Cabinet had refused to give that kind of a commitment  
25 when you first went to them in '88?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Refused? On what issue?

2 Q. Refused to commit, refused to allow you to give a  
3 commitment for a take-or-pay agreement?

4 A. Well, I would have to go back to some -- some  
5 Cabinet records, if I can get them. The fact is that  
6 Cabinet approved the take-or-pay project.

7 Q. We know, ultimately, they did.

8 A. Uh-huh.

9 Q. That's not the point.

10 A. Well, the point is that lots of time Cabinet -- I've  
11 seen the issues rest on the Cabinet book for a month  
12 before it was approved because they wanted more  
13 information. Why would it be different this time, if  
14 they didn't approve it the first day?

15 Q. Well, let's take a look and just close off the point  
16 as to when Cabinet finally did approve.

17 A. Uh-huh.

18 Q. Can you turn to page 36? This is December 14th,  
19 '89, a year and four to five months after you had made  
20 the commitments to de Cotret and to Westray.

21 A. Uh-huh.

22 Q. A memorandum from Mr. Merriam to Elizabeth Cuddihy.  
23 It says, "In keeping with the Minister's wish to process  
24 a Cabinet minute to seek authority for him to sign a  
25 letter of undertaking with Westray for a take-or-pay

MR. CAMERON, EXAM. BY MR. MERRICK

1 agreement, I make the following points:

2 I understand that the demands on the province by the  
3 Federal Government regarding coal contracts with DEVCO  
4 have been satisfied by a letter forwarded by our Premier.  
5 This would appear to clear the way for avoiding any  
6 conflict on the displacement of DEVCO coal."

7 I infer from that that that had been one of the  
8 things that had been causing Cabinet to refuse to agree  
9 to a take-or-pay agreement up to that point. What do you  
10 say to that?

11 A. It had nothing to do with the take-or-pay at all.

12 This is --

13 Q. Had that been a problem --

14 A. This was the requirement --

15 Q. -- in Cabinet?

16 A. -- for the Federal Government, that the Federal  
17 Government was demanding. Nothing to do with take-or  
18 pay.

19 Q. Well, I read from that -- he says, "This would  
20 appear to clear the way for avoiding any conflict on the  
21 displacement of DEVCO coal." It makes it sound like it  
22 would clear the way for giving Cabinet approval. Am I  
23 misreading that?

24 A. No, no, you're reading something there that's not  
25 there, my friend.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. All right. Let's take a look at the --

2 A. This was an issue with the Federal Government, very  
3 concerned about DEVCO.

4 Q. Let's take a look at item two, "In view of the  
5 above, I believe it will not be a problem to provide the  
6 Federal Government directly with a copy of our commitment  
7 regarding a take-or-pay contract if need be. As well,  
8 the Minister is aware, while it is the intention of  
9 Westray not to call on the take-or-pay, the legal --  
10 while it is the intention of Westray not to call on the  
11 take-or-pay contract, the legal commitment will be there  
12 for the province."

13 A. Uh-huh.

14 Q. "And there is always a possibility we may be  
15 required to fulfil the purchase requirement of the  
16 contract in some future year." He didn't seem as  
17 confident as you?

18 A. Well, he's entitled to his opinion.

19 Q. In any event, he's also expressing the fact that if  
20 Cabinet now approves the minute in 1989, there should be  
21 no problem in giving it to the Federal Government, once  
22 it exists? Is that a fair implication from this  
23 paragraph?

24 A. No, I don't read it that way.

25 Q. All right. In any event, he finishes off by saying

MR. CAMERON, EXAM. BY MR. MERRICK

1 that the Ministers required a Cabinet minute be drafted  
2 so he can carry it forward for approval. And I assume  
3 that she did because we now turn over to page 37.

4 This is January the 9th, 1990. And it's from you to  
5 Elizabeth Cuddihy. You say, "I have received Cabinet  
6 authority to finalize the contract with Westray regarding  
7 a 12-million loan and take-or-pay contract. Would you  
8 please provide me with the appropriate correspondence to  
9 the company dealing with this matter."

10 A. Uh-huh.

11 Q. It makes it sound as if you've just now gotten the  
12 commitment from Cabinet?

13 A. No, it doesn't. It makes it sound to me that the  
14 final -- a final package with all -- after all those  
15 negotiations through all that time, that final -- that  
16 final piece of paper went back to Cabinet, and they  
17 approved it. That's what it makes me think.

18 Q. Okay. Let's look over at page 38. You've asked her  
19 to prepare the appropriate correspondence. The next  
20 page, page 38, is a letter, the same date, January the  
21 9th, 1990 --

22 A. Uh-huh.

23 Q. -- from you to Westray. Is that the letter she  
24 prepared for you?

25 A. I suspect. I didn't draft many letters. I suspect

MR. CAMERON, EXAM. BY MR. MERRICK

1 she did.

2 Q. Okay. So that's the letter confirming that the  
3 province has now committed. And it says, "Further to  
4 your request of October 30th -- 31st, '89, in respect of  
5 a loan without...the Province to Westray and the take-or-  
6 pay contract for 275,000...this will confirm the Province  
7 is prepared... (b) to enter into a take-or-pay contract  
8 for 275,000 tonnes per year for a term of 15 years,  
9 substantially on the terms and conditions attached."  
10 Just flip back to page 11, if you would, of that same  
11 tab.

12 A. Uh-huh.

13 Q. It seems to be almost -- it's exactly the same  
14 commitment that you had purported to give on September  
15 the 9th, 1988?

16 A. Uh-huh.

17 Q. Why would it be necessary to repeat that letter,  
18 except for the fact that you now had Cabinet approval to  
19 give that letter?

20 A. Mr. Merrick, I told you earlier that I did not write  
21 this letter on September 9th without having Cabinet  
22 approval.

23 Q. Yes.

24 A. I don't want to be called a liar. I told you I had  
25 approval. Now I don't understand why you continue to

MR. CAMERON, EXAM. BY MR. MERRICK

1 push this issue and try to make it sound like it's  
2 something else. I had Cabinet approval when I wrote this  
3 letter. And if it took two years or five years, because  
4 of the drag on the Federal Government to negotiate the  
5 final things and then come back with the final package  
6 then, fine. But from the time we said we would do it,  
7 until we got all the negotiations done, there was a long,  
8 long period of time that took place. But please don't  
9 try to misrepresent that.

10 When we told them we would give them a \$12-million  
11 loan, there's was months of negotiations after that.

12 Are you telling me that there's something dishonest  
13 of telling people this is what we will give you, but  
14 we're going to have to negotiate the details and then  
15 months -- months later, when you get the details done,  
16 you pass a final order doing that? That's how government  
17 works, and it's unfair for you to continue to attack me  
18 and make it look like I have done something that wasn't  
19 appropriate as a Cabinet Minister. I would not write a  
20 letter to any company without getting approval from  
21 Cabinet. Believe me.

22 Q. I acknowledge, Mr. Cameron, this is a point I am  
23 exploring. Because on the documents we have, it raises  
24 questions whether you did in fact have Cabinet approval  
25 to write as you did in September of '88. My question to

MR. CAMERON, EXAM. BY MR. MERRICK

1 you is, at this point in my examination, why would there  
2 be a need for a second letter on identical terms in  
3 January of 1990 when --

4 A. Were the terms all --

5 Q. -- you had already --

6 A. Were the terms all spelled out? You know how long  
7 the contract were [sic].

8 Q. Well, take a look --

9 A. Were they all spelled out then and did they change?

10 Q. You tell me. Take a look at your September 9th --

11 A. Well --

12 Q. -- 1988 letter on page 11. You say, "The Province  
13 agrees to provide..." and then you down on the third  
14 item, "...a take-or-pay contract for 275,000 tonnes per  
15 year for a term of 15 years and the terms and conditions  
16 contained in Schedule A attached hereto."

17 A. Yeah.

18 Q. Now we don't have the Schedule A.

19 A. No. And you know how many times the schedules were  
20 changed after it went into negotiation, time and time,  
21 and time again. They came back and that wasn't agreed  
22 and we wouldn't agree to something and it was changed and  
23 changed and changed.

24 And this letter back in 1990, maybe it's a letter  
25 they required back then for the banks or someone else. I

MR. CAMERON, EXAM. BY MR. MERRICK

1 don't know. They were always calling us and saying,  
2 "Look, can we have a letter now that's going to confirm  
3 this?" So maybe that was their requirement back then.  
4 Maybe the -- maybe we had all the details here then. I  
5 can't tell you. Maybe there were some changes and this  
6 is the final, or maybe this is a letter they required for  
7 some of their financing.

8 They went out to the private sector and financed  
9 this through the bank. So I don't know what this letter  
10 was back then, but maybe it was a requirement of theirs.  
11 I just simply can't tell you. What I can guarantee you  
12 is that I would not write anything that wasn't approved,  
13 period.

14 Q. On page 38, which is your January 9th, 1990, letter,  
15 you say, "This will confirm that the Province is  
16 prepared..." and then under item (b), "...to enter into a  
17 take-or-pay contract for 275,000 tonnes per year for a  
18 term of 15 years, substantially on the terms and  
19 conditions attached here to as Schedule B." Are you able  
20 to tell me what, if any, terms may have changed over that  
21 intervening --

22 A. I don't know.

23 Q. -- time?

24 A. Maybe none. Maybe they just wanted this letter.

25 But I can tell you, when I read this letter back on

MR. CAMERON, EXAM. BY MR. MERRICK

1 September 9th, and it says Schedule A was attached, it  
2 seems to me if Schedule A is attached, there's been a lot  
3 of work done to it. And Elizabeth Cuddihy, who drafted  
4 this letter, I'm quite certain, I didn't draft any  
5 letters, she would not allow me to put something in that  
6 I didn't have some approval. If I told her that, yes,  
7 Cabinet approved it that day, that's fine. But there was  
8 a lot of work done if there was a schedule attached, so  
9 certainly there was a lot of people knew about it.

10 Q. Let me just finish off one other point that I would  
11 like to know about on this take-or-pay agreement. What  
12 was going to happen to the take-or-pay agreement in the  
13 event that Curragh sold the property?

14 A. We told them we would not let it go.

15 Q. Was that in the agreement?

16 A. We announced it and it caused a big flap.

17 Q. Was it in the agr -- did you have any legal  
18 agreement, pardon the use of the word "legal," legal  
19 agreement that would have prevented Curragh from being  
20 able to hand over the take-or-pay agreement to a  
21 purchaser?

22 A. I don't know. I'd have to look at the agreement,  
23 but I can tell you, it was not going to go anywhere else.

24 Q. That became an issue later on?

25 A. Pardon?

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Did that become an issue later on?

2 A. When Curragh announced that they were going to go  
3 look for a buyer, I remember making this statement in the  
4 House that the take-or-pay would not be going to any new  
5 owner.

6 Q. Was that something that you had thought about in  
7 advance or did that issue only arise later on when there  
8 was evidence that Curragh was looking for a buyer?

9 A. I didn't really like the take-or-pay, and I just  
10 wasn't going to go through the hassle if there was  
11 another owner.

12 MR. ENDRES If I can just be of assistance for a  
13 moment. If we look at page 48 of the take-or-pay  
14 agreement at paragraph 15.13.

15 MR. MERRICK Sorry, where is that? Sorry?

16 MR. TRAVES Sixty-four, tab 4, page 48.

17 MR. MERRICK Sixty-four?

18 MR. ENDRES Sixty-four, tab 4, page 48. At paragraph  
19 15.13, I think it provides for whether or not it can be  
20 passed on or not to a subsequent purchaser of the Westray  
21 property.

22 CLERK What page was that again?

23 MR. MERRICK 15.13.

24 MR. ENDRES Forty-eight.

25 MR. HEBERT Mr. Commissioner, the copy I have wasn't

MR. CAMERON, EXAM. BY MR. MERRICK

1 even signed. Is this the only copy that we have of this?

2 COMMISSIONER Mr. Merrick?

3 MR. MERRICK I don't know, Mr. Commissioner. I'm a  
4 little caught off guard as to what version this agreement  
5 is. It looks like a draft. In fact, it's marked  
6 "draft," and it is unsigned. But I think the point is  
7 obviously a valid one that in a draft document, at least,  
8 there was Clause 15.13 put in.

9 Now just looking at that, though, it suggests, and  
10 just give me a second, it suggests that it could be  
11 assigned to permitted individuals or permitted entities.  
12 Because in the first sentence, it says: "This agreement  
13 should be binding upon and shall enure to the benefit of  
14 the parties, their successors and permitted assigns."

15 And then the last sentence says: "The purchaser may  
16 assign this agreement provided the assignee agrees in  
17 writing to be bound by all the terms and conditions of  
18 this agreement. And provided C.R.I. receives written  
19 confirmation from the Province that the provincial  
20 guarantee remains in full force and effect." I'm not  
21 sure what that means. Are you able to elaborate any  
22 further than what this draft tells us?

23 A. No, I just can tell you that it wasn't going to any  
24 other company. The bottom line was that no other company  
25 would ever have it.

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1 Q. All right, thank you.

2 A. I think it's pretty obvious that they couldn't after  
3 you read that.

4 Q. Now I take it -- well, let me take you to another  
5 document. I'm going to move on to another topic right  
6 now, Mr. Cameron. I want to move in to the area of what  
7 the Province was prepared to do by way of a provincial  
8 deal in lieu of the Feds. And we're back in Exhibit 141,  
9 at tab 3, page 51.

10 COMMISSIONER Page?

11 MR. MERRICK Fifty-one.

12 COMMISSIONER Fifty-one, thank you.

13 MR. MERRICK This is a memorandum from Mr. Phillips,  
14 internally, to Mr. Forgaard. Do you have it?

15 A. Yes, sir.

16 Q. In paragraph one, he says, "I talked with Don  
17 Cameron this morning." Now this is March 9th, 1990, and  
18 we know that the Federal process was almost the  
19 culmination but had not yet been achieved, and that it  
20 was almost down to a day-to-day kind of thing.

21 He says, "I talked with Don Cameron this morning.  
22 He discussed his proposal at Cabinet yesterday afternoon.  
23 Unfortunately, it was a formal Cabinet meeting and they  
24 only had a limited time for new agenda items, but they  
25 did spend a reasonable amount of time on discussing Don

MR. CAMERON, EXAM. BY MR. MERRICK

1 Cameron's new proposal."

2 I'm assuming from that that he is referring to the  
3 proposal that the Province do the Westray deal and ignore  
4 the Feds altogether. Would that be fair?

5 A. Well, I'd have to just reflect on this a little bit.

6 Q. If we look in the second paragraph, it says:

7 "Premier Buchanan said that he has been assured by the  
8 Prime Minister that the Westray funding would be approved  
9 without delay within a number of days. Don Cameron  
10 stressed that the Prime Minister has said that many times  
11 before and the deal would be done without delay. Premier  
12 Buchanan agreed, but he said he was assured that the deal  
13 for the Federal funding would be completed in just a very  
14 few days so why bring up a new proposal at this stage of  
15 the game?"

16 And then you brought -- stressed the fact it would  
17 save taxpayers' money.

18 A. Um --

19 Q. And then if you look --

20 A. Yeah.

21 Q. -- at paragraph three, I guess this is more  
22 explicit. It says: "However, everyone was in agreement  
23 that it would save the taxpayers money. So they did  
24 agree that if the Federal deal is not completed within  
25 the next few days that Don was given the go-ahead to

MR. CAMERON, EXAM. BY MR. MERRICK

1 proceed with finalizing the deal with Westray and the  
2 Province."

3 A. I -- there's a number of things that come to my mind  
4 about this issue. If you look at that Cabinet document I  
5 gave you this morning outlining the whole concern, they  
6 were very concerned, and they said that -- at one point  
7 they said, "We really should be involved in this because  
8 we wouldn't have any control at all over DEVCO, and so we  
9 really should be involved some way in this deal."

10 So at one point I said, "Well, you know, if they're  
11 just going to keep putting it off and putting it off and  
12 putting it off, why don't we structure a deal without  
13 them? Let's put their feet to the fire and see if  
14 they're really serious about this business of their  
15 saying, 'We don't want to be left out of this because we  
16 want to make sure that we have control and that we can  
17 force the Power Corporation to pay \$20 a tonne more for  
18 the coal than they should, and we want that kind of  
19 control.'" So this may be some of that.

20 We looked at the possibility of -- you know, when  
21 you look at Point Tupper and you know that they're over  
22 the pollution levels lots of times during the year, it  
23 would have been very, very inexpensive to burn some low  
24 sulphur coal there.

25 And some of DEVCO's coal could have been burnt at

MR. CAMERON, EXAM. BY MR. MERRICK

1 Trenton 5 which would have saved a lot of money too.  
2 It's just that we weren't able to do those kinds of  
3 things with the attitude of a few, a very few people, in  
4 the Department in Ottawa.

5 So whether this deal was something like that or  
6 whether we were actually thinking about selling the coal  
7 for Point Tupper, I'm not quite sure. But I know we  
8 talked about the serious pollution problem at Point  
9 Tupper and said, "Well, fine, if the Feds don't want to  
10 do this, we just finished spending half a billion dollars  
11 on Point Aconi so we could buy from DEVCO," and, again, I  
12 support that and still do, and was a very, very strong  
13 supporter of that. That's a huge amount of money. And  
14 the extra money to operate that plant.

15 "If the Feds aren't interested in this, maybe what  
16 we should do then is just say, fine, we'll just -- we'll  
17 go and give you a contract to sell to Point Tupper. And  
18 instead of looking at scrubbers in that area, we'll solve  
19 the pollution problem that way."

20 I'm not sure of, you know, just what stage this is  
21 referring to.

22 And the other thing is, that you must remember, that  
23 this is a memo from Gerald Phillips. This is -- these  
24 are his words. This is what he wants those people to see  
25 and I might -- may not have put things in exactly this

MR. CAMERON, EXAM. BY MR. MERRICK

1 context, you know. Sometimes you see things different  
2 than I would in the same conversation. So there's a  
3 whole lot of variables here.

4 Q. All right, I appreciate that this is his memo  
5 purportedly reporting what you were telling him. But  
6 he's obviously talking about some specific kind of  
7 proposal. Let me see if we can flush it out here a  
8 little bit. That was March the 9th, 1990.

9 If you can turn to Exhibit 139, at tab 16. That's  
10 that big black ring binder that -- Tab 16, page 86.

11 COMMISSIONER Page 86?

12 MR. MERRICK Page 86. It's a memo dated March 15th,  
13 this is six days later, from Gerald Phillips. It's  
14 internal. Do you have it?

15 A. Um-hmm.

16 Q. And he's saying, "As per our conversation yesterday,  
17 I contacted Don Cameron this morning. I asked him when  
18 he would be available to meet with us and negotiate a  
19 Westray/Provincial agreement." And he talks about the  
20 fact you were going to be leaving on vacation.

21 Third paragraph he says, "Don would like to meet  
22 with us on Friday, March 23rd, 1990. Harry Rogers has  
23 assured Don the Federal Government will finalize..." et  
24 cetera. And he's reciting the fact that you were  
25 expecting or hoping that the Feds would come through.

MR. CAMERON, EXAM. BY MR. MERRICK

1           Then in the fourth paragraph, he cites -- or he  
2           says, "Don spoke to Premier Buchanan again about a  
3           provincial deal with Westray. The Premier is still  
4           concerned about such a deal because there is a by-  
5           election coming up in Cape Breton. Don stressed to the  
6           Premier that it does not make sense to put scrubbers on  
7           Point Tupper when they can burn Westray's lower sulphur  
8           coal."

9           And then he makes the point that he tells you that,  
10          "If NSPC does not burn their coal, they will sell 400,000  
11          tonnes to New Brunswick."

12         A. Ah-hah, they were going to sell it to New  
13         Brunswick --

14         Q. And then --

15         A. -- not the take-or-pay, I guess.

16         Q. And then he says, "Don will have the opportunity to  
17         discuss the Provincial/Westray deal in Cabinet on  
18         Thursday, March 22nd, and again obtain Cabinet's  
19         blessings." I'm assuming from that that the deal now as  
20         being discussed between you and Mr. Phillips is,  
21         essentially, that the Province would do the financing  
22         with Westray without the Feds?

23         A. Well, I wasn't prepared to the same financing, I can  
24         tell you that. So --

25         Q. But is that what we're talking about, that the

MR. CAMERON, EXAM. BY MR. MERRICK

1 Province would step in and replace the Feds?

2 A. What the Province would do is sell 400,000 tonnes of  
3 coal to Point Tupper, and that, of course, would make the  
4 project that much more viable too.

5 Q. That would be in addition to what would be sold to  
6 the Power Corporation?

7 A. Yeah, 800,000 in Pictou County.

8 Q. So that we're talking 750 to the Power --

9 A. Seven hundred was the original deal, but you know  
10 that the strip mine is closed down --

11 Q. Yes.

12 A. -- so that's 800, so that would make a much better  
13 deal for the company.

14 Q. So you're saying that --

15 A. So there's no way that I would do the same deal with  
16 them. But I always felt in the back of mind that the  
17 Federal Government would come through anyway.

18 Q. All right, but I take it that what you were  
19 discussing with Cabinet at this point, and with Premier  
20 Buchanan, and with Gerald Phillips, was that a straight  
21 Provincial/Westray deal would be done that would not --

22 A. There was --

23 Q. -- include the Feds?

24 A. There was certainly some discussion about that,  
25 yeah. The Feds were concerned about that. They make

MR. CAMERON, EXAM. BY MR. MERRICK

1 that comment in their Cabinet document. But I would  
2 point that out to you that Gerald Phillips was very clear  
3 that he would sell 400,000 tonnes of coal to New  
4 Brunswick. And, of course, 400,000 tonnes of coal to New  
5 Brunswick, there's no way they could utilize their take-  
6 or-pay agreement.

7 Q. If he could sell --

8 A. That would --

9 Q. If he could sell to --

10 A. That would --

11 Q. -- New Brunswick, why allow him to get a take-or-pay  
12 from the Province? Why not force him to do this deal  
13 with New Brunswick?

14 A. Well, this was after the fact, wasn't it?

15 Q. At about the time, just very shortly after you  
16 started negotiating the terms of the take-or-pay --

17 A. Yeah.

18 Q. -- we see where you had written there a letter in  
19 January of 1990 confirming you, again, had Cabinet  
20 approval. Why take or pay if you he could sell 400,000  
21 to New Brunswick?

22 A. I answered that question to you before, Mr. Merrick,  
23 and so I'll have to answer --

24 Q. All right.

25 A. -- again, I guess. I told you that when they went

MR. CAMERON, EXAM. BY MR. MERRICK

1 to these companies, before they actually had their coal,  
2 the companies all said, "Look, we've been -- this is  
3 about the third time that we talked to people about  
4 Pictou coal. Would you please get the coal mine going  
5 and we'd be very, very interested." All my point is:  
6 It's pretty obvious the company understood the conditions  
7 of the take-or-pay and understood the obligation to sell  
8 that coal. That's my point.

9 Q. All right, let me pick up and trace it a little  
10 further. Let's go back to Exhibit 130 -- sorry, 141.

11 A. 141, in the same book?

12 Q. That was the previous book that we were working on.

13 A. Okay.

14 Q. Still under tab 3, this time at page 52. This is a  
15 memo, now five days later, from Mr. Phillips to his  
16 distribution list. He says: "I had a lengthy telephone  
17 conversation with Don Cameron this morning." Talks about  
18 the rescheduling of Harry Rogers' trip.

19 Then paragraph two he says: "Don met with Premier  
20 Buchanan last night at which time he suggested to the  
21 Premier that he phone Harry Rogers and tell him to forget  
22 about the meeting on Thursday because, as they were told  
23 last week, the Provincial Government is prepared to  
24 finalize a deal with Westray.

25 The Premier stressed again that he is concerned

MR. CAMERON, EXAM. BY MR. MERRICK

1 about the by-election in Cape Breton. Don said that the  
2 Premier still believes they can win the by-election. But  
3 Don feels there is no chance of winning because the  
4 latest internal opinion poll shows they have only nine  
5 percent support."

6 A. We wouldn't want to get into politics now, would we,  
7 Mr. Merrick?

8 Q. I'm just reading the stuff you told Gerald Phillips.

9 A. Mmm, well, maybe or maybe not.

10 Q. Paragraph four -- well, I'm not sure where else Mr.  
11 Phillips would get an internal poll. Anyway, let's move  
12 on.

13 Paragraph four. "Don feels the Premier is prepared  
14 to `sell the farm' to try and win the by-election in Cape  
15 Breton. Don said he is going to continue to work on the  
16 deal with Westray because he does have enough Cabinet  
17 support to finalize it. I told Don that we are prepared  
18 to sit down immediately to finalize the deal with the  
19 Province regardless of what is going to occur with the  
20 Feds."

21 Paragraph five. "Don wanted to know what it would  
22 take to finalize the deal. I told him that the loan  
23 guarantee..." he's talking there, I assume, the 85,000,  
24 "...the \$12 million loan, the additional coal sales to  
25 Point Tupper..." would they be the 400,000 tonnes he's

MR. CAMERON, EXAM. BY MR. MERRICK

1 talking about?

2 A. Yes, I would --

3 Q. "...and..."

4 A. -- suggest, yeah.

5 Q. "...and a \$10 million interest-free loan, not  
6 payable until 1995 is what we're looking for. Don did  
7 not seem surprised by the request for the \$10 million  
8 loan. I stressed that when we started to deal with the  
9 Federal Government, the initial request -- 28 million  
10 interest buy-down which was reduced to 8.75 million. I  
11 told Don we had prepared a draft letter -- that we have  
12 prepared a draft letter in relation to the  
13 Provincial/Westray deal. Don said he would like to  
14 complete the deal with Westray as soon as he can, but he  
15 would like to have the Premier's support, therefore, he  
16 will speak to Premier Buchanan again."

17 So things were moving toward possibly a straight  
18 deal with the Province?

19 A. Well, in the back of my mind I never wanted to go  
20 alone. I thought it was better to work this out with the  
21 Federal Government. You know, you don't get yourself  
22 elected to see -- to cause problems.

23 I still think that DEVCO could be a very, very  
24 viable industry if they would stop running it like a  
25 political party.

MR. CAMERON, EXAM. BY MR. MERRICK

1           And I was upset about the way Ottawa was dealing  
2 with this issue. But my preference was to continue to  
3 have a deal with Ottawa and get some semblance of order  
4 again in the relationship and to proceed with a  
5 provincial deal. It was good negotiating on our part.  
6 But that -- I never really wanted to do that. But we  
7 certainly would negotiate, and we could use it in  
8 negotiations with the Federal Government. You know,  
9 "We're close to a deal with Curragh, and if you don't  
10 want to do it, then we'll do it on our own." I think  
11 that's good negotiations.

12           But I didn't agree to any loan or anything else.  
13 And this is what he's saying that they'd want. And I  
14 told Gerald that there's no way that we were going to  
15 give him a loan guarantee on that \$100 million loan.  
16 It's just too rich for us. I don't know if he put that  
17 in the note or not --

18 Q.    No --

19 A.    -- but I told him that we couldn't do that. It was  
20 just too rich for us.

21 Q.    He certainly hasn't referred to that in this  
22 memorandum, but we'll come to a few comments a little  
23 later. Only two questions I wanted to ask you about this  
24 one: He seems to have gotten the impression, or at least  
25 the interpretation I put on his version of the

MR. CAMERON, EXAM. BY MR. MERRICK

1 conversation, was that you were prepared to go with a  
2 Westray/Provincial deal, notwithstanding the Premier's  
3 position if you had to. Is that fair?

4 A. Oh, the Premier was the boss so he -- in the end he  
5 could -- he would say no -- yes or no. That's the bottom  
6 line. There's no way that we'd go with the deal without  
7 the Premier's consent. I mean, he is the boss.

8 Q. The Point Tupper proposal, you had talked with Mr.  
9 Phillips about those 400,000 tonnes at this point?

10 A. Um-hmm. That was clearly talked about.

11 Q. Explain that to me, because Point Tupper I'm not too  
12 familiar with. Was that an existing supply that you  
13 might have satisfied from Westray?

14 A. Well, Point Tupper is another area that they have a  
15 great deal of difficulty with the air pollution. I've  
16 looked at some figures only in the last day or two, and  
17 the figures I saw they were four times above what they  
18 should be allowed to, in terms of sulphur emission. It's  
19 -- Pictou County and Point Tupper are the areas that  
20 really had a problem with sulphur emissions. And so it  
21 would be a logical thing to try to do something about  
22 that environmental problem.

23 I always wanted to blend coal; I always wanted to be  
24 able blend coal. I thought it made more sense to burn a  
25 little bit of DEVCO coal in Trenton 5, the existing plant

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1 that wasn't equipped to burn high ash coal which Pictou  
2 County coal is. To blend Pictou County coal, low in  
3 sulphur, with the low ash coal from Cape Breton and do  
4 the same thing at Point Tupper and have a real benefit in  
5 both areas for the people that live there.

6 The environment is something that the people are  
7 becoming more and more concerned about and there's going  
8 to be a great pressure down the road. DEVCO is going to  
9 be in some great difficulty down the road if we don't  
10 install scrubbers or blend coal to meet the requirement.  
11 That's what I always wanted to do, but the Feds wouldn't  
12 let us do it.

13 So Point Tupper was always in the equation a little  
14 bit. But what they're saying here is that we'll do --  
15 we'll sell all the coal to Point Tupper, the whole thing,  
16 not blend, because we couldn't get an agreement from the  
17 Feds.

18 Q. That would displace the 400,000 tonnes that was then  
19 being supplied by DEVCO?

20 A. Yeah. But remember, DEVCO was picking up 200,000  
21 above what they were losing at Trenton and Trenton 5, by  
22 Point Aconi. So, you know, it wasn't a total  
23 displacement at all.

24 Q. Let me --

25 A. They were losing 300,000 tonnes at Trenton. They

MR. CAMERON, EXAM. BY MR. MERRICK

1 were getting -- they were going to pick up 510,000, I  
2 think, at Port Aconi. So that they were ahead of the  
3 game. If they lost it, they'd be behind a little bit.

4 Q. Let me continue with this sequence just for another  
5 couple of minutes.

6 COMMISSIONER Mr. Merrick, just out of curiosity, I'm  
7 mindful of a point that was brought up during the  
8 examination of Mr. Rogers last week. And if you recall  
9 the agreement that came down -- or that went up to Ottawa  
10 about the undertaking to purchase -- continue the  
11 purchase of DEVCO coal, and it said, "Industrial Cape  
12 Breton -- any generating plant in industrial Cape  
13 Breton." Now that -- the word "industrial" was  
14 subsequently taken out, but I suppose I'm just devious  
15 enough, Mr. Cameron, to think that "industrial" was put  
16 in to give the Province access to Point Tupper.

17 A. Are you talking about the letter that Buchanan and  
18 Comeau sent to -- guaranteeing that they'd use all DEVCO  
19 coal?

20 COMMISSIONER I think that's what it is, yeah.

21 A. I think there's a second letter dated the 14th maybe  
22 that even said -- it went beyond that and said that any  
23 new generating plants on mainland Nova Scotia, except  
24 Trenton, would also --

25 COMMISSIONER That's right, yes.

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1 A. So I don't think there was anything devious about  
2 it. I think --

3 COMMISSIONER Oh, it's not devious. I just used that to  
4 describe my thinking on it.

5 A. Yeah, can I clarify that and say that the Federal  
6 Government was demanding this from the Province of Nova  
7 Scotia to facilitate making this deal. I suppose the  
8 Province of Nova Scotia wouldn't feel any obligation had  
9 the Federal Government turned down the deal. So those  
10 letters wouldn't mean anything. Those letters were --

11 COMMISSIONER No, I just referred to that because, as I  
12 read it, I chuckled and thought to myself, "Yeah, good  
13 move." Because you're protecting a market outside of  
14 industrial Cape Breton. That's all I meant.

15 A. I think the first letter covered all of Cape Breton.

16 COMMISSIONER Yeah.

17 A. And the second letter covered the whole province  
18 except Trenton.

19 COMMISSIONER Okay.

20 MR. MERRICK Actually, that may be a point you want to  
21 take a mid-afternoon break on.

22 COMMISSIONER Okay, we'll take ten minutes then, thank  
23 you.

24 INQUIRY RECESSED (TIME: 2:57 p.m.)

25 INQUIRY RESUMED (TIME: 3:13 p.m.)

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1 COMMISSIONER Thank you. Mr. Merrick?

2 MR. MERRICK Thank you. Mr. Cameron, let's pick up  
3 where we left off. As we're tracing through some of  
4 these memorandums from Mr. Phillips. The next one that I  
5 would like to take you to is on page 54 of Exhibit 141,  
6 tab 3. It's dated March 27, which is seven days later  
7 than the one we were just looking at.

8 A. Fifty-four?

9 Q. Fifty-four, page fifty-four, tab three. It's a  
10 memorandum dated March 27, 1990.

11 A. From Gerald?

12 Q. Yes. And again, he's reciting two telephone calls,  
13 one from Roy Sherwood and one from Tom Merriam. And the  
14 first couple of paragraphs, he talks about some  
15 environmental issues that were being dealt with, whether  
16 or not the Federal package is going to go through. And  
17 then you come down to paragraph 5 which is what I wanted  
18 to ask you about. He says, "Tom..." and that would be  
19 Tom Merriam, I guess, "Tom's main reason for calling was  
20 the interim finances. Tom is looking for a check for \$8  
21 million from Curragh Resources Inc., assuming we do get  
22 our Federal approval this Thursday. I told him the  
23 timing would be too quick for Curragh to finalize things.  
24 And before we finalize anything, we would like to pursue  
25 providing coal to Point Tupper. Tom tried to insist that

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1 we should try to do one thing at a time. He said that  
2 once we have the Federal funding in place, discussions  
3 would commence with respect to potential sales to Point  
4 Tupper. There may be only one opportunity to sell coal  
5 to Point Tupper if we go along with our Federal funding."

6 And then over on the next page, he says, "I would  
7 like to suggest we make two commitments to Don Cameron  
8 (1) the 400,000 tonnes coal sale to Point Tupper would  
9 eliminate the need for the 275,000 take or pay; (2) we  
10 could guarantee to Don that we would have a cheque for \$8  
11 million available at the end of the month. However, I  
12 did tell Tom Merriam that the cheque could not be  
13 available at month end. If everything is finalized and  
14 we have agreed on certain things by month end, there may  
15 be a way for Don Cameron to save face with respect to his  
16 financial year end, the end of March. He could show on  
17 accounts receivable that they do have an amount of \$8  
18 million outstanding..." et cetera, et cetera.

19 And in paragraph 9 where Merriam, apparently, was  
20 going to speak to officials about this repayment.

21 The fiscal year end was the end of March, I take it,  
22 1990?

23 A. Uh-huh. Yes.

24 Q. And the interim loan had originally been anticipated  
25 that it would be paid back by year end?

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. I think prior -- we anticipated prior to that and we  
2 extended it. It just kept dragging on. But initially we  
3 thought we'd be back long before that.

4 Q. I'm assuming that his reference to whether or not it  
5 was going to cause you any embarrassment would merely be  
6 that he's referring to the fact that if it wasn't paid  
7 back by year end, it would have to be shown in some  
8 accounts somewhere.

9 A. Well, it would have to be shown anyway. I mean, it  
10 wouldn't be an embarrassment. It's just that I wanted it  
11 to be in by the end of the year, so it was in and it was  
12 out that same year. So it wouldn't be -- there's no  
13 embarrassment. I mean, and you couldn't hide the fact it  
14 was given. So you know, there was no embarrassment.  
15 It's just I wanted it paid back before the end of the  
16 fiscal year so we wouldn't be showing it outstanding.

17 Q. Let me ask -- the points I want to ask you about, on  
18 that first page, paragraph 5, in that second sentence in  
19 the first, third sentence, I guess, in the first --  
20 paragraph 5, where Phillips is saying, "I told him the  
21 timing will be too quick for Curragh to finalize things.  
22 And before we finalize anything, we would like to pursue  
23 providing coal to Point Tupper."

24 And the he says in the next paragraph: "Once we  
25 have the Federal funding in place, discussions would

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1 commence..." et cetera. There may be only one  
2 opportunity to sell coal to Point Tupper if we go along  
3 with our Federal funding. I got the impression from that  
4 that Phillips was developing the negotiating tactic that  
5 they would perhaps hold back or delay the payment of the  
6 \$8 million in hopes of getting a commitment for Point  
7 Tupper.

8 A. And that's -- I don't get that. I don't read that  
9 into that. I mean, there's no way they could get the \$12  
10 million until the \$8 million was paid back with interest.

11 Q. Well, he says in the next paragraph: "I'd like to  
12 suggest that we make two commitments."

13 A. Yeah, well, they're not commitments. The 400,000  
14 tonnes would automatically eliminate the 275, so he  
15 wasn't giving me anything at all. And having the cheque  
16 by the end of the month, I mean, would have been nice,  
17 but there was really no embarrassment. Everyone knew we  
18 gave them \$8 million, so there was no embarrassment about  
19 it.

20 Q. Did you ever detect that Phillips was going to try  
21 to now negotiate an additional 400,000 tonnes of coal  
22 merely in order to expedite the repayment of the interim  
23 loan?

24 A. Absolutely not. There's no connection. They would  
25 be required -- as soon as the Federal deal went through,

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1 they were required then to settle up. And that's exactly  
2 what happened.

3 Q. So there was no discussion with you and the company  
4 about that possibility?

5 A. The connection between paying the loan back and  
6 negotiating? Absolutely not. They had to hand the  
7 cheque, eight million, two hundred and some thousand,  
8 that included interest, when the other cheque of twelve  
9 million went to them. So there was no question about  
10 that.

11 Q. Let me take you to the next document which is on  
12 page 56. This is two days later. Another memo from  
13 Gerald Phillips, March 29. This time he says, "Don  
14 Cameron phoned me this morning to inform me that Westray  
15 will not receive Treasury Board approval today." You  
16 were disgusted with the delay. "Further promises..."

17 A. That would be true.

18 Q. Then we get to paragraph 3: "After Don talked with  
19 Harry Rogers, he met with the Premier. Don told the  
20 Premier that the Federal Government was not going to give  
21 their approval today. Don also told the Premier that he  
22 was going to complete a Provincial deal with Westray.  
23 And the Premier told Don that he cannot do that. Don  
24 said he does not care what the Premier says, he's going  
25 to do a deal regardless because this is becoming an

MR. CAMERON, EXAM. BY MR. MERRICK

1       embarrassment to everyone involved."

2       A.    Ha, ha, ha.

3       Q.    Were you going to do a deal?

4       A.    Let me tell you that --

5       Q.    This is what Phillips says you told him.

6       A.    Yeah, that's right.  Phillips is writing this, and  
7       he's writing to his people, and for whatever reason.  But  
8       you don't do a deal without the Premier.  That's not the  
9       way it works.  I've been around for twenty years.  I was  
10       Premier, and you don't do a deal like that on your own  
11       without the Premier.  You don't get it through Cabinet.  
12       If the Premier says in Cabinet, "We're not doing that,"  
13       then it's not going to be done.  And the orders won't be  
14       signed.  So it's just that simple.

15       Q.    Well, was Phillips making that up?

16       A.    Well, I don't know what he's writing about, but he's  
17       probably trying to embellish some of the conversation for  
18       the people he's writing the note to.  I don't know, but  
19       I've been in politics for twenty years prior to leaving.  
20       And I'm telling you that anyone that's there knows that  
21       there's no way you can do the deal without the Premier.  
22       There's no way -- how would you get it through Cabinet?  
23       The Premier is sitting there as Premier of the Province,  
24       and he says, "We're not going to do the deal."  And the  
25       rest of the Cabinet is going to say, "Oh, sorry, Premier,

MR. CAMERON, EXAM. BY MR. MERRICK

1 we're going to do it." No, it doesn't work that way. It  
2 just doesn't work that way.

3 Q. So this is completely put in by Phillips?

4 A. Yeah.

5 Q. Nothing you told him --

6 A. That might be his impression. All I know is the  
7 rules I had to play under, and you don't do a deal  
8 without the Premier. If the Premier in Cabinet says, "I  
9 don't want that to happen," it's not going to happen.

10 Q. So that you gave Phillips nothing that he might have  
11 based that on?

12 A. I'm sure we talked about being upset about again  
13 delayed, which was the favourite game. It's going to be  
14 done this week. No, it's going to be done next week.  
15 I'm sure we talked about the possibility of doing a deal.  
16 In fact, I thought that was good negotiating on our part.  
17 But to say that we're going to do it without the Premier,  
18 that's going too far.

19 Q. All right, let me take you to paragraph 5. "Don  
20 asked about the amount of the loan guarantee.  
21 Apparently, the Premier's concern about the Westray  
22 Provincial deal is the 85 percent loan guarantee. Don  
23 wants to know if we can go with a smaller amount of loan  
24 guarantee. I told him that I am not sure, but if we give  
25 up something in one area, we will expect to gain

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1 something in another area."

2 And then he goes on to talk about how they have lost  
3 in excess of \$20 million, when I guess, what he's really  
4 saying is that they asked for \$20 million more than they  
5 were going to get.

6 And then he says, in paragraph 8: "However, Don did  
7 say that he does not want to get our senior people worked  
8 up about finalizing the Westray Provincial agreement just  
9 yet."

10 A. Yeah, because I didn't want to make a deal, and the  
11 bottom line is I didn't want to make a deal. I didn't  
12 want him to go back and get them all excited at his  
13 headquarters about doing this deal. I wanted to get the  
14 deal finalized so DEVCO would have sales and Westray  
15 would have sales.

16 Q. Well, obviously Mr. Phillips was getting all excited  
17 about this Provincial deal because he could see an even  
18 fatter package waiting for him under the tree.

19 A. No, there would be no fatter package. And in fact,  
20 the Premier's concern about 85 percent was a concern I  
21 had. It simply was. I remember some of the discussion  
22 was, "Well, you know, if we put a scrubber on there, it's  
23 going to cost us \$125 million at least. And it's going  
24 to cost \$16 million every year after that."

25 And then the debate was, "Well, there's not enough

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1 room. There's not enough space down at the plant to do  
2 that."

3 So some people were saying, "Well, it's a lot  
4 cheaper than a scrubber." But I thought it was too rich  
5 for our blood. And I didn't want to see this kind of a  
6 deal.

7 But I think it was important for us to negotiate. I  
8 think it was important for us to allow the Feds to know  
9 that we were negotiating, so they would start playing  
10 fair. The bottom line was that we should have had a deal  
11 long before that.

12 DEVCO and Westray should have been doing things  
13 together. We should have been blending coal. It would  
14 have been a benefit to both. There's an awful lot of  
15 people feel that.

16 Q. Just give me a second. You've said on a number of  
17 occasions that these discussions with Westray were a good  
18 negotiating tactic. I'm assuming that you mean a good  
19 negotiating contact vis-a-vis the Feds?

20 A. Yeah, because they were very concerned. If you read  
21 the document, they'll tell you they're very concerned.  
22 At one point they said, "We really should be involved  
23 because we want to have some control over those guys. We  
24 want to dictate what we want for DEVCO. So we really  
25 should be involved." There's some real danger if we're

MR. CAMERON, EXAM. BY MR. MERRICK

1 not involved in this.

2 Q. But if this is a negotiating ploy vis-a-vis the  
3 Feds, Phillips is certainly getting misled by it because  
4 he's beginning to get his eyes sparkling here.

5 A. No, if --

6 Q. Here's my question: We know that you told the Feds  
7 at one point that "If you guys don't do the deal, we  
8 will."

9 A. Yeah.

10 Q. But the only evidence is that's all you ever said to  
11 them.

12 A. Uh-huh.

13 Q. There was never any indication that they knew that  
14 you were dealing with Westray in this amount of detail at  
15 this point in time. Were you keeping them informed as to  
16 the details of these discussions?

17 A. Oh, I think our officials would be talking to their  
18 officials. It's pretty hard to keep secrets within the  
19 Civil Service.

20 Q. Because if the Feds weren't being told the details,  
21 the only assumption, I suppose, you could draw is that  
22 there maybe was some merit, and that you really were  
23 pursuing a Provincial deal.

24 A. I think had the Feds absolutely said "No, we're just  
25 absolutely not going to do it," I think there would have

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1       been some deal made in the end.

2       Q.     A Provincial deal?

3       A.     I think likely.  When you consider the cost of  
4       scrubbers versus -- and the cost of operating versus  
5       reducing sulphur in other ways, I think there would have  
6       been some deal made.  But it certainly wouldn't be the  
7       kind of deal that they expected, you know.  An \$85  
8       million loan guarantee was just too rich, just too rich.

9       Q.     There's one other --

10      A.     For a little province.

11      Q.     There's one other that I must admit I drew from all  
12      of these memos, going through it, and that was that not  
13      only were you seriously beginning to explore a deal with  
14      Westray directly, but there seemed to be an imbalance in  
15      negotiating tactics, if not positions here, that Westray  
16      was beginning to say, "Hey, here's some more things we  
17      can get."  And there didn't seem to be a very firm line  
18      being drawn by the Province.  Can you respond to that  
19      impression that I gather from these memos?

20      A.     Well, I really didn't think that -- I thought in the  
21      end there would be a deal made.  You know, we had  
22      assurances.  We had letters saying that it was going to  
23      be done.  We had assurances from Elmer.  We had  
24      assurances from Harry Rogers, so I really thought the  
25      deal would be made.  So I wasn't overly concerned about

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1 that.

2 Q. Well, let me take you to the next --

3 A. And the deal was made.

4 Q. Let me take you to the next memo. It's one that  
5 comes, I think, two days later or three days later. One  
6 day later. Over on page 58, another memo from Mr.  
7 Phillips. And he says, "Don Cameron called this  
8 afternoon at 3:10 to tell me he's obtained an Order-in-  
9 Council extending the interim loan agreement."

10 A. Uh-huh.

11 Q. He asks about getting it in writing, and your staff  
12 had all gone for the day.

13 And then paragraph 3: "Don also said that he was  
14 speaking to Harry Rogers today. Harry Rogers told Don  
15 that the deal is done and will be approved this Thursday.  
16 Don has obtained the approval of the Premier and his  
17 other Cabinet colleagues that if the Federal deal is not  
18 done this Thursday, the Province will negotiate with  
19 Westray."

20 A. I don't know if that's true or not. I really can't  
21 say.

22 Q. Well, would he be making that up?

23 A. Umm?

24 Q. Would he have been making that up?

25 A. I really can't say that Cabinet made a final

MR. CAMERON, EXAM. BY MR. MERRICK

1 decision and the Premier made a final decision to go  
2 ahead with the deal on his own. I really can't recall us  
3 ever getting to that point. I don't know. Maybe we were  
4 going to go with some more effort to see what kind of  
5 deal we can negotiate. I don't know. But, you know,  
6 this is a long time ago.

7 Q. At some point, did the Provincial Cabinet say,  
8 "We're prepared to negotiate a deal with Westray  
9 ourselves"?

10 A. Well, there was certainly lots of talk about what  
11 would happen if they shut down this project halfway  
12 through. I mean, we were pretty committed to the -- the  
13 plant was designed for high ash coal--low sulphur. It  
14 was being built, under construction. So you know, I  
15 think there was a pretty strong feeling that, "Look, we  
16 have a right to reduce environmental hazard in that area.  
17 We're not going to double it as these guys want us to."  
18 And I think there was a lot of people that would say,  
19 "Yeah, we'll look at the cost of putting a scrubber there  
20 if it's possible. We'll look at the cost of burning low  
21 sulphur coal. I think some people even thought about  
22 taking low sulphur coal in.

23 Q. But my question to you was: At some point in time  
24 through here, can you recall if Cabinet actually took the  
25 position that they were prepared or the Province was

MR. CAMERON, EXAM. BY MR. MERRICK

1 prepared to do a deal with Westray directly?

2 A. I really, honestly can't tell you that I could say  
3 "yes" to that, that we took a Cabinet decision we were  
4 going to do a Provincial deal. I really can't say that.  
5 I know we discussed it, but to take a final decision we  
6 were going to do it or maybe we said, "Well, we'll look  
7 at what kind of a deal we can come up with." I don't  
8 know. But to make a final decision we were going to do a  
9 deal regardless, I think that was wrong.

10 Maybe this is saying that we're going to negotiate  
11 to see what kind of deal we can get, and compare that to  
12 what else. I don't know.

13 You see, the fact is that all of us wanted to make  
14 sure that DEVCO sales held. I mean, people say that oh,  
15 we wanted to harm DEVCO. The bottom line is there was a  
16 lot of people employed at DEVCO, and there was no wish to  
17 destroy another industry.

18 So the Cabinet wasn't there jumping up and down  
19 saying, "Well, let's do something that's going to harm  
20 DEVCO."

21 The fact is that originally it wasn't going to touch  
22 DEVCO. It wasn't going to harm them a bit.

23 But it just that it evolved into that very nasty and  
24 protracted and very political kind of debate. And when  
25 it gets that way, people then react to that.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Whose fault was that?

2 A. Well, whose fault was it? I would think that when  
3 people put in a document going to the Federal Cabinet  
4 that it's going to cost them \$290 million because it's  
5 going to displacement, when there wasn't one tonne  
6 displaced, they were actually going to gain 200,000  
7 tonnes. Or say that there's nothing wrong with burning  
8 high-sulphur coal at a plant in Trenton when we know  
9 there was a real problem. Or say that we're going to  
10 start a trade war when DEVCO is already -- I would say  
11 that those people should take a little bit of the blame  
12 for getting the negotiations off track. Wouldn't you?

13 Q. Okay, let's come to the next --

14 COMMISSIONER Mr. Merrick, before you go off this one, I  
15 was struck by the paragraph four in this memo. And when  
16 you look at the deal that was negotiated, you know, that,  
17 to me, is at least bizarre. And I wonder if Mr. Cameron  
18 -- it says, "I stressed to Don that as far as Westray is  
19 concerned, the 85-percent loan guarantee is non-  
20 negotiable because to date we have already conceded too  
21 much." What did they concede?

22 A. I can't answer for Gerald Phillips, but I suspect  
23 what he was talking about was that when they applied  
24 under the -- is it A.E.P. I think it was, there was a  
25 program that said you are entitled to loan guarantees and

MR. CAMERON, EXAM. BY MR. MERRICK

1 interest buydowns of this much. Well, what the Federal  
2 Government did, and rightly so, I think it was right,  
3 they negotiated them down from what the program said, the  
4 maximum amount the program said.

5 COMMISSIONER That's what he would mean by the  
6 concession?

7 A. I would think, I don't know. I mean, maybe you  
8 should ask him when he's here. But I would think that he  
9 was -- thought they went too far down. I would think if  
10 they gave him the total program, it would be too much.  
11 So, you know, it seemed like a reasonable part of the  
12 negotiation to me.

13 COMMISSIONER Okay, it just seemed in the context of the  
14 total deal, it seemed rather bizarre to say that they  
15 conceded so much. Anyway, Mr. Merrick, I'm sorry to have  
16 interrupted you.

17 MR. MERRICK No, that's --

18 A. And Commissioner, maybe I can make one more comment.  
19 I think that it would be worthwhile to look at other  
20 deals made at that time, so you get a sense of, you know,  
21 how rich this deal really was. People say this was a  
22 very rich deal, and I really think it would be useful for  
23 the Commission to look at other deals made at that same  
24 period of time, and say, provincially, was this a rich  
25 deal? I think it will stick out and you'll say, gee,

MR. CAMERON, EXAM. BY MR. MERRICK

1 most people did a lot better than that.

2 And I think if you look at some of the Federal --

3 COMMISSIONER Certainly Mr. Rogers didn't feel it was a  
4 rich deal.

5 A. No, I didn't realize that. So I guess what I'm  
6 saying is that they might have been saying, "Gee, we  
7 didn't get a real good deal in the Province and the Feds  
8 whacked us way down to the -- almost the minimum," and so  
9 that probably is the comment he's making there. But I  
10 think when you compare them to other deals, it's not  
11 really a -- it's not out of line with -- at that time.

12 COMMISSIONER I -- my reaction to a lot of these memos,  
13 there's a lot of window dressing in them, but that's --

14 MR. MERRICK Just --

15 COMMISSIONER Anyway --

16 MR. MERRICK -- one interesting point, Mr. Cameron,  
17 that struck me. We've seen where the Feds purportedly  
18 negotiated very toughly with Westray and got them down so  
19 that, as Mr. Phillips put it, he's conc -- they've  
20 conceded so much. In reality, they were being denied  
21 everything they were looking for.

22 A. Um-hmm.

23 Q. And the Feds sort of cranked them down notch by  
24 notch by notch. I haven't seen anywhere where the  
25 Province attempted to crank them down.

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Well, that's not true at all.

2 Q. Well, can you show me where you back them off any  
3 request that they made to you?

4 A. I think the fact that we charged them eleven and  
5 seven and three-quarter percent interest, and, again, I  
6 hope you will now take the time to go and look what we  
7 charged other people, and you see that that was a very  
8 high rate compared to most people. That most people got  
9 interest forgiveness or interest reduction. I would say  
10 that -- I remember clearly the company coming to me and  
11 saying, "We don't want to pay any interest on this \$12  
12 million loan."

13 And I remember time and time and time again the  
14 company coming and saying, "Elizabeth Cuddihy is just too  
15 hard to deal with." And I said, "Well, I've told you  
16 many times that we want the project, but it's got to be a  
17 good deal. And you're going to have to negotiate with  
18 those officials and so you go back and negotiate."

19 And so I think that to say that we didn't get a good  
20 deal I would urge you to look at other deals given to  
21 other companies, and then I think you won't be able to  
22 make that statement after that.

23 The fact that we were buying the coal then, low  
24 sulphur coal, for less money than we were buying high-  
25 sulphur coal at the Trenton Plant, again, would indicate

MR. CAMERON, EXAM. BY MR. MERRICK

1 that it wasn't a gift to them. I mean, they were pretty  
2 upset when they found out that we were actually paying  
3 them less for the low sulphur coal than the high sulphur  
4 coal from DEVCO. So I think the negotiations were done  
5 very well by Provincial officials, and it was a good  
6 financial deal for that time.

7 And I just again urge you to look at other deals  
8 made and you'll have to come to the same conclusion.

9 Q. Let me just stay with this for a second because I  
10 want, in fairness, your position on it. I'm concerned  
11 not so much with what the final terms may ultimately wind  
12 up being, but the approach that is taken in arriving at  
13 those final terms. And I've asked you who -- we've  
14 clearly seen were the Feds were negotiating, back and  
15 forth, hammering down, down, down, down, trying to get it  
16 as low as they possibly could. I got the impression they  
17 still didn't get it as low as they wanted, but they got  
18 it as low as they could. And I'm looking to see -- and  
19 it struck me that that was the proper approach for a  
20 public body that is being asked for public funds.

21 A. Um-hmm --

22 Q. And I'm look --

23 A. -- within reason.

24 Q. And I'm looking for the same approach on the part of  
25 our province.

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Well, I --

2 Q. Now you've told me -- just let me finish my  
3 question. You've told me that yes, you did bargain with  
4 them on interest. They wanted it interest free; you  
5 bargained an interest rate. A current prevailing  
6 interest rate.

7 A. Um-hmm.

8 Q. What other terms were bargained with them?

9 A. Well, I didn't bargain with them on interest, I  
10 said, "You have to deal with our officials." But I think  
11 if you look at the length of time that our officials  
12 negotiated with them, there were some pretty tough and  
13 long and protracted negotiations. They weren't talking  
14 about the weather during those times. It was the terms  
15 of that deal. So I think our officials did a very, very  
16 good job.

17 And, again, look at other ones they've done and say  
18 if -- finally, after months and months of negotiating  
19 with them if they didn't come up with a good deal  
20 compared to all the rest done at the same time.

21 Q. But you were the --

22 A. That would be the test.

23 Q. You were the Minister responsible. Tell me from  
24 your recollection where else the Province achieved any  
25 improvement on bargaining specific terms. We've got the

MR. CAMERON, EXAM. BY MR. MERRICK

1 interest rate.

2 A. I wasn't in, on a daily basis, on the negotiations,  
3 but what were they negotiating all those months?

4 Q. I don't know, you tell me; you were the Minister.

5 A. Well, I wasn't there. I wasn't in those  
6 negotiations. The deal, all the conditions of the deal,  
7 and, surely, you must have that, we could take it out and  
8 read it, and then maybe I could tell you, but I don't  
9 know if that would serve any value or not. But, you  
10 know, they didn't negotiate for all those months that the  
11 interest rate be 11.75 percent. But that was clearly one  
12 thing the company came back to me and said, "You know,  
13 that's too high." And my approach was, "No. You make  
14 the deal with the officials."

15 Q. All right, that's all you can tell me today?

16 A. Well, yeah.

17 Q. All right. Let me -- just before I move of that  
18 memo, the Commissioner was right, paragraph four was the  
19 other thing we should have looked at. I take it -- do  
20 you recall at that point Westray making its position  
21 clear that the 85 percent loan guarantee was non-  
22 negotiable?

23 A. Yeah, I believe that Gerald took that stand. I  
24 don't know on that day or not, but he took that stand.

25 Q. So you knew that they weren't going to negotiate

MR. CAMERON, EXAM. BY MR. MERRICK

1 that?

2 A. Yeah, and I told him it was too rich for our blood.

3 Q. All right, let's go over to the next document, which  
4 is page 60. This would be about three days later. And  
5 it's a memo again by Mr. Phillips. He says he  
6 "...received a telephone call from Marjorie of Don  
7 Cameron's office regarding a date and time for a meeting  
8 in relation to negotiating the terms of an agreement  
9 between Westray and the Province. Tentative date and  
10 time for the meeting is Thursday, April the 5th." That's  
11 two days on.

12 In fact, if you flip over to page 8 -- or the second  
13 page, paragraph 8, you'll see his comment there: "Don is  
14 very keen to finalize an agreement. The meeting on  
15 Thursday afternoon is very good timing because if the  
16 Federal Government has not finalized their deal, Don has  
17 assured me that he is prepared to sign an agreement  
18 between Westray and the Province by week's end."

19 A. No, I don't believe that. I think Gerald is -- that  
20 may be his --

21 Q. Making it up?

22 A. That -- no, that may be his -- after the meeting,  
23 that's what he got out of the meeting. People see  
24 different things different times, so -- but I --

25 Q. Well --

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. First of all, I wouldn't be able to sign the  
2 agreement in that short of time. I'd have to get the  
3 Cabinet and -- and I couldn't sign it without Cabinet  
4 approval.

5 Q. In any event, it's your office -- I take it that you  
6 agree that it was your office calling to set a time and a  
7 date for a meeting, and the time or date was set just two  
8 days' hence?

9 A. Yes, and I'm --

10 Q. It sounds like a certain amount of --

11 A. -- I'm sure that --

12 Q. -- pushing to get on with it?

13 A. I'm sure that they were pushing for a meeting, so we  
14 found a date we could meet.

15 Q. And it's your -- is it your position that you gave  
16 him no -- nothing at all by which he could conclude that  
17 you were keen to finalize an agreement and that if the  
18 Feds didn't come through, that you were prepared to sign  
19 an agreement by week's end?

20 A. I -- that wasn't my understanding, no.

21 Q. All right.

22 A. I was keen to have -- to resolve the issue with the  
23 Federal Government and go the normal route. But we  
24 certainly were looking at going alone and seeing if it  
25 was possible financially.

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. We see in paragraph three that you, Mr. Merriam,  
2 Marvyn Robar and Elizabeth Cuddihy would be in  
3 attendance. So you would be involved in negotiating  
4 these terms, or at least that meeting.

5 Paragraph five, he says: "One of the first items on  
6 the agenda is the loan guarantee. Don would like to  
7 discuss the risk involved. I know internally,  
8 particularly with Tom Merriam, it is felt that the loan  
9 guarantee is too risky and the Province would have too  
10 much at stake.

11 I have explained to Don that Westray would have more  
12 at stake than the Province because the Province would  
13 have first call on the assets before Westray. We will  
14 have to fully explain how the risks can be shared. This  
15 is..."

16 A. What page are you on now?

17 Q. This is page 60.

18 A. Okay.

19 Q. The first page of that memo. This is Westray  
20 explaining to a lender, seeking to take security, how to  
21 share the risks.

22 We then come to paragraph six: "When we have  
23 explained the loan guarantee to their satisfaction,  
24 finalizing a deal with the Province will be discussed  
25 with the same terms and conditions that have been

MR. CAMERON, EXAM. BY MR. MERRICK

1 discussed previously. These terms and conditions are: A  
2 guarantee for the additional 400,000 tonnes of coal to  
3 Point Tupper at a price of 28 cents per tonne higher than  
4 our present price; a higher price will offset out  
5 transportation costs; a guarantee for the \$12 million  
6 loan; a loan guarantee of 85 percent on the 100 million;  
7 and a \$10 million dollar interest-free loan."

8 So he seems to be setting out the strategy here that  
9 they would overcome Mr. Merriam's concern that this loan  
10 guarantee was too risky by talking about sharing the  
11 risks. And once they had satisfied you on that, they  
12 were then going to go on and structure, negotiate this  
13 deal that would have included 400,000 tonnes to Point  
14 Tupper and an additional \$10 million interest-free loan.  
15 Now either Mr. Phillips was --

16 A. Well, read number seven now.

17 Q. Yes, okay. "I would like to point out that Don  
18 feels an additional loan, interest free, would be out of  
19 the question. I did not provide my comments in this  
20 regard. I did tell him that we would have to discuss  
21 this."

22 Now either Phillips is dreaming or it seems that he  
23 has gathered the impression that he can overcome the  
24 departmental resistance to the 85-percent loan guarantee  
25 and may now be able to negotiate additional packages. Do

MR. CAMERON, EXAM. BY MR. MERRICK

1 you see where I'm getting that from this memo?

2 A. It's all part of negotiations. That's what I call  
3 it.

4 Q. I'm going to suggest to you that he must have  
5 gathered that belief that he could negotiate that with  
6 you because you were so committed to this project that  
7 you might well accede to those terms. What do you say to  
8 that?

9 A. I'd say to that what I told them, that we wanted  
10 this project but we were going to get a good deal for the  
11 Province of Nova Scotia. And just because we wanted the  
12 project, don't get confused about it.

13 Q. This would have --

14 COMMISSIONER Mr. Merrick, there's one third alternative  
15 in interpreting these things that I'm going to mention,  
16 and that is the possibility that maybe Mr. Phillips was  
17 just trying to impress upon his superiors his great  
18 negotiating skills. Because these are internal  
19 memoranda?

20 MR. MERRICK Yes.

21 COMMISSIONER Yeah. That's just a point that crossed my  
22 mind.

23 MR. MERRICK Yes.

24 A. Commissioner, I wouldn't want you to misunderstand.  
25 Clearly, it was a discussion about doing --

MR. CAMERON, EXAM. BY MR. MERRICK

1 COMMISSIONER Oh, sure.

2 A. -- a deal --

3 COMMISSIONER Yeah.

4 A. -- if the Federal Government completely, completely  
5 just said no.

6 COMMISSIONER I understand that.

7 A. Because we were down the road then. We had a power  
8 plant under construction and -- so, clearly, there was  
9 negotiations.

10 COMMISSIONER Oh, yeah, I understand that.

11 A. But the loan guarantee was too rich for my blood,  
12 and I thought to ask for additional loan, interest free,  
13 was something we just -- we couldn't accept.

14 COMMISSIONER Okay.

15 A. And I still hoped at that time that we would get  
16 people to come to their senses and see the importance of  
17 having both coal mines going. And I expect that,  
18 hopefully, if they were successful, by now they probably  
19 would be blending coal and they'd be both some better.  
20 So -- but to -- I don't want you to misunderstand there  
21 weren't negotiations or --

22 COMMISSIONER No, no, no, no.

23 A. -- talks going on about this. But I can't put my  
24 mind inside Gerald's head, what he was thinking either.

25 MR. MERRICK All right.

MR. CAMERON, EXAM. BY MR. MERRICK

1 COMMISSIONER I'm sorry, Mr. Merrick.

2 MR. MERRICK Let me pick up from there. We know at  
3 this point, or very shortly after this, that the Federal  
4 financing package does come through.

5 And, as far as I'm aware, I think this memo that  
6 we've just looked at from Mr. Phillips is, I think, the  
7 last one that discusses this straight Provincial deal.  
8 Let me ask you this.

9 I assume at this point, where a meeting has been set  
10 up in two days' time in Toronto to be attended by you to  
11 talk about a provincial deal with Westray, it was at  
12 least a distinct possibility, was it, on whatever terms?

13 A. Come again on that?

14 Q. I assume that by this point, the fact that a meeting  
15 had been set up in Toronto that was going to be attended  
16 by you, that your office called to set up, that a direct  
17 Provincial/Westray deal was, at least at that stage, a  
18 distinct possibility?

19 A. Well, I would say that we'd want to see what kind of  
20 a deal that we could negotiate, but I don't know if it  
21 would be a distinct possibility or not, but we'd want to  
22 see -- where was this meeting going to be held?

23 Q. Apparently, Toronto, I believe.

24 A. Where do you see that?

25 Q. Well, I don't see that, I'm --

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. Well, I see, "Subject: Meeting in Halifax."

2 Q. Yeah, well, you may be right, wherever this meeting  
3 was to be.

4 A. Well, the memo says, "Meeting in Halifax."  
5 "Subject: Meeting in Halifax." I don't recall going to  
6 Toronto to negotiate anything.

7 Q. You may be right. That may be a mistake on my part.  
8 I'm not concerned about where the meeting was. I'm just -  
9 - it struck me that --

10 A. Well, I don't think we were that serious to go to  
11 Toronto, I guess that's my point. On this issue.

12 Q. All right. Now give me just a moment here while I  
13 review a memo to see if we've got everything out of there  
14 that --

15 Oh, yes. Okay. If you can flip over to the next  
16 page which is 66 -- or -- it's not the next page, but  
17 it's a few pages on. We come back to that memorandum  
18 from Nancy Ripley-Hood, and we've looked at that already.

19 I just want to clarify a few other ancillary points  
20 that show up in there. On page 67, which is the first  
21 page of the memo, the last bullet down on the page says:  
22 "F comes back." Now "F", according to the code which  
23 appears on the previous page, appears to be ACOA or Elmer  
24 MacKay.

25 A. "F"?

MR. CAMERON, EXAM. BY MR. MERRICK

1 Q. Or "Federal Government." According to our code it  
2 refers to ACOA/Elmer, et cetera. "F comes back saying  
3 that the only way a project is viable is if it procures  
4 975,000 tonnes for 90 days over a year and sells the  
5 same. Further, F will only get involved if no more than  
6 700,000 per year is sold to Nova Scotia Power  
7 Corporation, and there is no displacement of DEVCO's  
8 product or workforce." Do you know if that was the terms  
9 or the sort of conditions laid down by either ACOA, Mr.  
10 MacKay, or some aspect of the Federal Government?

11 A. That was -- those were the terms laid down by the  
12 Federal Department.

13 Q. All right. But --

14 A. She's a little bit off base here when she says: "No  
15 more than 700,000 tonnes a year is sold to NSPC." You  
16 can read two or three things into that. What she's  
17 really saying is they didn't want any coal sold to other  
18 than Trenton, period. When you look at the letters  
19 they've written, the first letter said just -- on Cape  
20 Breton Island.

21 And the second letter said, "All power plants except  
22 Trenton would have to burn DEVCO coal." So the fact is  
23 that after the Westville strip mine closed down, that  
24 would change to 800,000.

25 But we would not be allowed to sell Pictou County

MR. CAMERON, EXAM. BY MR. MERRICK

1 coal anywhere else. We would not be able to blend coal  
2 anywhere else except Trenton.

3 Q. All right. Thank you. Just before I leave that  
4 first page, in that first bullet, we've talked about this  
5 part of it before, where it says: "Don Cameron was and is  
6 convinced this is a good deal even though TM and the rest  
7 of the staff are dubious at best." Were your -- were the  
8 members of your Department dubious or hesitant about the  
9 Westray deal?

10 A. I think they were concerned about the take-or-pay.  
11 No one seemed to understand the take-or-pay. And -- just  
12 no one ever did one before and they didn't understand it.  
13 So I don't think they were dubious at all about loan, but  
14 they were dubious about the take-or-pay.

15 Q. Did they ever -- did they maintain that dubiousness  
16 right through the piece or did they ever come on board?

17 A. I don't know. You'd have to ask them that. But I -  
18 - when it became a political issue, it was always  
19 swirling around, I think people wanted to be very, very  
20 cautious then and very careful, and they'd rather not  
21 have been involved. It just -- it grew, it kept getting  
22 worse. The political swirl around kept getting worse.  
23 And it was very difficult then. And then, I think the  
24 public servants then are very cautious, and I don't blame  
25 them, I'd be cautious too. It's appropriate action to

MR. CAMERON, EXAM. BY MR. MERRICK

1 take. So they really look at things then when you get  
2 this political aura around it. And they didn't  
3 understand the take-or-pay and they --

4 I thought it was a great deal to be able to have it  
5 worded in such a way that it wouldn't cost anything. And  
6 if we wanted to change it and all of a sudden some  
7 agreement was reached that we would have to reduce  
8 sulphur by half in the Province of Nova Scotia down to  
9 80,000 tonnes from 160,000 tonnes, we'd have this coal,  
10 and we'd look like we were pretty smart. Because it was  
11 a much, much, much less expensive way to deal with the  
12 issue. And so you'd blend the coal. So it gave us  
13 options. And if we didn't want it, if we changed our  
14 mind, then they had to pay us all the money back.

15 So I didn't see anything wrong with the deal, but I  
16 guess they didn't understand it that way.

17 Q. Just talking about that for a moment, if you turn to  
18 page 69, she's doing this note to Mr. Laffin, the Deputy.  
19 At the very top of the page she says, "Things to be aware  
20 of: (1) DC thinks that Province won't be obligated under  
21 take-or-pay because `All it has to do is end the  
22 obligation for 100,000 from NC,'" which I assume is  
23 Novaco.

24 MR. TRAVES "Chisholm."

25 MR. MERRICK And then -- yes, you're right. And it

MR. CAMERON, EXAM. BY MR. MERRICK

1 says, "Chisholm."

2 A. Well, we weren't trying to end Chisholm's contract.

3 In fact, I helped get Chisholm's contract put in place --

4 MR. MERRICK Well --

5 A. -- years earlier.

6 Q. -- just explain that to me. Do you know --

7 A. Nova Construction.

8 Q. Do you know what she's talking about?

9 A. Nova Construction had a contract to supply 100,000  
10 tonnes of coal to the plant from this Westville strip  
11 mine. And I lobbied long and hard to get that contract  
12 because they were -- before that they were just taking --  
13 as-they-need basis.

14 And Mr. Chisholm wanted to build a wash plant and he  
15 felt that he couldn't build a wash plant on the basis  
16 that the Power Corporation taking the coal just when they  
17 wanted to. So PICORD, and there was quite a lobby in  
18 Pictou County to help Nova Construction get a permanent  
19 contract, and that contract was the 100,000 tonnes a  
20 year. And, of course the Westville strip mine had a life  
21 to it. I mean, that's it. When it's over, it's over.  
22 And they knew that.

23 And so the Power Corporation said, "Well, when  
24 that's done, we will take 100,000 tonnes from Curragh."  
25 But we certainly weren't trying to stop that contract.

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1 That's false to say that. I mean, I told you before it  
2 would be when the strip mine ended.

3 Q. Yes. So that's the strip mine they were talking  
4 about or that she's talking about here?

5 A. Uh-huh.

6 Q. All right.

7 A. And that's where he was getting the coal from, in  
8 Westville.

9 Q. And was she -- I take it then that she's partly  
10 correct in assuming that the Province could partially  
11 satisfy the take-or-pay agreement, if it had to, by  
12 replacing the 100,000 tonnes --

13 A. No, no.

14 Q. -- when the strip mine was stopped?

15 A. When the strip mine was stopped --

16 Q. Yes.

17 A. -- but not before. I've always said that. I said  
18 it this morning. When the strip mine stopped, were we to  
19 get the coal? Now he had another strip mine in Cape  
20 Breton and he was supplying coal there, and that would  
21 continue.

22 Q. So was that a thought that you had had, that if you  
23 had to as a sort of last resort under a take-or-pay  
24 agreement, that when the strip mine stopped, you could at  
25 least absorb 100,000 tonnes of that coal?

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1 A. It wasn't my thought. It was the Power  
2 Corporation's thought. They said, "When this contract  
3 ends and the strip mine is done, we want to buy  
4 additional coal. We will buy that coal from you."

5 Q. But she's linking it to how you felt that there  
6 would be no ultimate financial consequences to the  
7 Province.

8 A. Well, again --

9 Q. Is she correct on that?

10 A. She doesn't quite understand and I'm not criticizing  
11 her. She doesn't really understand what I was saying. I  
12 was saying, of the 275,000 tonnes --

13 Q. I follow you.

14 A. -- when the strip mine closes, and it will close  
15 someday, the Power Corporation are ready in the contract  
16 that they negotiated, that I wasn't part of, said, "We  
17 want to buy an additional 100,000 tonnes." But I don't  
18 want anyone to think that we were going to cancel the  
19 contract in Westville so we could give these guys an  
20 additional 100,000 tonnes, not at all. That was never  
21 discussed.

22 Q. Just go down. I understand that, thank you. Go  
23 down to point two on her page 69. She says, "Our staff,  
24 having done an economic and engineering analysis, have  
25 concluded that if no one entered the take-or-pay, the

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1 rate of return to Cliff Frame and terms of financing are  
2 such that this is the best deal Cliff Frame will ever get  
3 anywhere and that any threat to pull out should be firmly  
4 ignored." Were you aware of staff having done that  
5 survey which indicated that, without the take-or-pay  
6 agreement, this was still a very good deal for Westray?

7 A. That's exactly what -- that's exactly what the  
8 Federal authorities were saying in that document, that  
9 Cabinet document. They were saying that they were going  
10 to make so much money, they don't need any assistance at  
11 all. So I suspect she probably got it from that.

12 Q. Well, she talks about "Our staff having done an  
13 economic and engineering analysis..."

14 A. Well, I haven't seen it, but I mean that was -- that  
15 statement was made before. I don't know --

16 Q. Were you aware that your staff had the view --

17 A. That wasn't my staff.

18 Q. You're right. That was the other department.

19 A. Uh-huh.

20 Q. Were you aware that they had the view that --

21 A. No, I wasn't. But I was clearly aware that the  
22 Federal Government was making this statement. And, of  
23 course, history has proven that to be wrong, too. They  
24 didn't have any excess money at all. They were running  
25 out of money.

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1 Q. Yes, as it --

2 A. Yeah.

3 Q. -- as they turned out the way they did.

4 A. Well, then I guess they didn't analyze it quite  
5 right, did they?

6 Q. Now let me ask you about the next page of her  
7 memorandum, page 70. She talks there about Novaco as a  
8 vehicle for the take-or-pay agreement.

9 A. Uh-huh.

10 Q. And she says, "If Novaco was to enter take-or-pay,"  
11 I think it's "we, i.e. Minister, would have a conflict of  
12 interest. MCR now agrees with this." Can you tell me  
13 what it is that she was referring to?

14 A. What Minister?

15 Q. Well, I assume that it would be her Minister. Are  
16 you aware of an opinion from MCR that would have  
17 confirmed that? MCR was retained by your Department?

18 A. When you speak about "MCR," now what is it? What  
19 is --

20 Q. MCR?

21 A. What's the code? Yeah. This is the law firm we  
22 talked about? I guess so.

23 Q. Yes. In fact, on the first page of her memo at page  
24 66 where's she got her code --

25 A. Joe MacDonald, okay.

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1 Q. -- Joe MacDonald.

2 A. Uh-huh. I don't know what conflict she's speaking  
3 about.

4 Q. Did anybody ever advise you of that?

5 A. I don't recall, if they have.

6 Q. You don't recall any advice or discussions with Mr.  
7 MacDonald or his firm about that?

8 A. No, I do recall the discussion that no -- no one  
9 wanted to be responsible for the take-or-pay, and I just  
10 figured that was a lot to do with the political swirl,  
11 more than anything else. I understood that.

12 Q. Okay. Just let me finish off one point on -- one  
13 point on the take-or-pay, and it was something we briefly  
14 alluded to a few minutes -- earlier today, but I just  
15 wanted to put the support to it. And that was on the  
16 calculations that were being done by staff as to what the  
17 cost of the take-or-pay agreement might be --

18 A. Uh-huh.

19 Q. -- if, in fact, it was ever exercised and enforced.  
20 Can you turn to page 93 of that same tab?

21 A. Of the same tab.

22 Q. Yeah.

23 A. Uh-huh.

24 Q. Do you have it? That's a memo from Mr. MacNeil to  
25 Mr. McInnis. It's enclosing a note for the purpose of

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1 inclusion in financial statements.

2 A. Yeah.

3 Q. And if you turn to page 94, I assume that's the note  
4 that they're talking about?

5 A. Yeah.

6 Q. And I assume they are merely putting a dollar figure  
7 on this contingent liability for the purposes of  
8 accounting. And the amount that they have set out on the  
9 bottom of the page was 14,203,750. And I just want to  
10 take you to one other reference --

11 A. Less an allowance for direct variable operating  
12 cost?

13 Q. Pardon me? Yes.

14 A. Yeah.

15 Q. So that's the number that you would have recalled  
16 being kicked around in those days as well, I take it?

17 A. Well, it's there.

18 Q. Okay. One more point to finish off Point Tupper and  
19 we can move to a new topic. Can you turn to page 72,  
20 still under --

21 A. Of course, when you read this, you understand that  
22 number didn't take any consideration for any sales of the  
23 power -- the extra 100,000 --

24 Q. Yes.

25 A. -- to the Power Corp -- so this was absolute

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1 maximum. And, again, I didn't agree with their formula  
2 how they got the world price, so -- but it was a matter -  
3 - accounting requirement, so it really didn't make any  
4 difference.

5 Q. And that was the maximum potential --

6 A. And that's what they said.

7 Q. Yeah, all right.

8 A. That was required for accounting purposes.

9 Q. Let's go to page 72. This one more memo from Mr.  
10 Phillips, but this time in June of 1990. And, again,  
11 he's referring to a conversation with you, and the only  
12 thing I'm interested in -- perhaps I'll take you to the  
13 second-last paragraph first because it talks about that  
14 interest rate that you've told us about. And he's  
15 noting, "Don held firm that he does want the interest to  
16 be kept current on the \$12-million loan." He reports the  
17 fact he was trying to talk the Province into a deferral  
18 of that interest. He feels the Province has given  
19 significantly on this point and that because they are  
20 prepared to give the \$12-million loan advance  
21 immediately..." et cetera. You were holding firm at that  
22 point.

23 Let me just take you to -- oh, yes, next paragraph,  
24 "I stressed to Don that later on we would have to review  
25 all our loan requirements and that there could be a

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1 possibility we would have to ask for a deferment of these  
2 interest payments. Don said we would worry about that  
3 when the time comes."

4 It's the next paragraph I'm interested in. "I also  
5 suggested that we still need to pursue the possibilities  
6 of selling coal to Point Tupper. If we can sell more  
7 coal in the early years, it will offset having to pay the  
8 Province their interest payments. Don is committed to  
9 using Westray's coal at Point Tupper; however, he has to  
10 convince his other colleagues of that because it is  
11 presently a very hot political issue."

12 This is June of 1990. Do I -- is he accurate that  
13 it was your objective, even after the Federal financing  
14 went through, to be able to use Westray coal at Point  
15 Tupper?

16 A. If we could use some Westray at Point Tupper to  
17 alleviate some of the pollution problems there, I didn't  
18 see anything wrong. I still believed that we should be  
19 blending coal, and I still do today.

20 Q. All right. Now let me move on to another topic and  
21 that was the fact that Westray -- as you know, under the  
22 Mineral Resources Act, a new piece of legislation came  
23 into effect in 1991. I think it was effective as of  
24 about March of 1991. Is that ringing a bell with you?

25 A. Yeah, I'm just wondering, Commissioner, if I can

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1 make a quick comment to you? It looks like we're through  
2 the --

3 COMMISSIONER Yeah.

4 A. -- through the financial dealing with the Federal  
5 Government. We had finally got it approved. I just want  
6 to make the point to you that you see the long and  
7 protracted and difficult time it took to get that all  
8 done. And one must wonder now if it was done in a  
9 reasonable time, the effect it would have had on the  
10 mine, and the fact that we never would have been in the  
11 Southwest section, and all that we talked about this  
12 morning --

13 COMMISSIONER Well, you alluded --

14 A. -- put it --

15 COMMISSIONER -- to that in your statement, yes.

16 A. But after spending so much time on this, I just  
17 thought it was important for us to realize that all this  
18 debate that we went through and for months and months and  
19 months, the final result was that we ended up in the  
20 Southwest section. The mine wasn't developed as the  
21 original plan, and I think it's --

22 I think we can all realize now it would have been  
23 better if people sat down as reasonable people and  
24 negotiated a deal and got on with the job. I think we  
25 would have had people still working there today, and it

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1 would have been good for the province.

2 COMMISSIONER Well, it's in the record, Mr. Cameron, and  
3 certainly I will deal with it in the preparation of my  
4 report. Thank you.

5 A. Thank you.

6 MR. MERRICK Perhaps, in fairness to you, though, we  
7 should put to you the position that Mr. Rogers gave us,  
8 and that was to the effect that it was his view of  
9 Curragh that they were so convinced that they had  
10 sufficient support from you and others, that they refused  
11 to negotiate and were intransigent [sic] right up to the  
12 last minute when they were afraid that their political  
13 support might be starting to erode and that that was the  
14 cause for the delay. Do you want to respond to that?

15 A. Mr. Merrick, if you -- if you would read that  
16 document that -- I think it's right here, and you read  
17 through that, and if you can tell me that it was a fair  
18 assessment to put to the Federal Government, well, then I  
19 won't argue with you any more. If you can really read  
20 this, all this material that the Federal authorities put  
21 to the Federal Government and told and convinced yourself  
22 that that was fair and accurate and it didn't have a  
23 major role in holding up this project, then I won't argue  
24 with you, and I will say there's nothing else I can do.

25 There would be some negotiation. There's no

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1 question about it. I've never met a company yet that  
2 doesn't want the world. What you have to do is you start  
3 at what the program is -- will provide, and then you can  
4 negotiate down. And I don't say that that would be  
5 quick, but it certainly wouldn't have been over this  
6 period of time.

7 But you read that tonight and you tell me if that  
8 was a fair assessment. If that was fair and reasonable  
9 trying to do a deal with people, to misrepresent in so  
10 many areas, this package. And that's what held up the  
11 project going ahead. And this project would have been  
12 developed in a much, much different manner; much, much  
13 different manner if we -- if we all were able to be  
14 civilized and sat down and negotiated a proper deal. And  
15 it truly did have an effect on that mine.

16 And I think that the Commissioner would want to look  
17 at everything that had an effect on the mine. This had a  
18 major effect on the mine that those tunnels were changed  
19 into the Southwest section. That was a major decision  
20 and, in the end, showed major repercussions because of  
21 it.

22 Q. One difficulty I have, Mr. Cameron, is that as I  
23 listened to Mr. Rogers' evidence, it seemed to me, and it  
24 may just be because I'm not familiar with all the  
25 evidence, but it seemed to me that he was corroborated to

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1 some extent in that I have not seen in any of the  
2 documents any change in the position of Curragh in what  
3 they were seeking from the Federal Government in support  
4 until the very last when they finally began to agree to  
5 the reductions that the Federal Government was proposing  
6 to them. And it seemed to corroborate his evidence that  
7 they were intransigent [sic] for quite some period of  
8 time.

9 A. I don't think that, in fact, there was a lot of  
10 negotiation going on. I think what was going on was the  
11 argument over what was in this paper here. Arguments  
12 like, "If you're going to displace 300,000 tonnes of coal  
13 at Trenton, of DEVCO's coal, it's going to cost \$290  
14 million and you, Feds, you're going to have to come up  
15 with \$150 million of cash to make up for part of that  
16 loss."

17 And we were saying, "Please be fair now. We're  
18 going to displace 300,000 tonnes, but you know that we  
19 made a commitment of a half a billion dollars to build  
20 the plant and it's under construction. The planning is  
21 underway and it's going to -- it will purchase 500,000  
22 tonnes of DEVCO coal. And we're doing it because we  
23 realize that it's very difficult to do anything with the  
24 coal from the Prince Mine. It's very high in sulphur and  
25 you can't wash it to improve it. And to give DEVCO a

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1 long-term future, we think that as more stringent rules  
2 come along, that the Prince coal was going to be very,  
3 very difficult to sell. So we will make this financial  
4 commitment to you, DEVCO, but please don't misrepresent  
5 that and say that we're actually going to take away  
6 production from DEVCO when we're making that half-a-  
7 billion-dollar commitment and we're going to end up with  
8 200,000 tonnes more a year in purchase."

9 I think those are the kinds of things that just  
10 drove everyone around the bend.

11 Q. Let me interject at this point on --

12 A. And, you know, Curragh really wasn't involved in  
13 those negotiations at all.

14 Q. Let me interject at this point on one of the broader  
15 questions that I did want to address with you that seems  
16 to me may be in the background. If, in fact, the  
17 negotiations between the three parties, Feds, Province  
18 and Westray, whether you call them negotiations, or  
19 stand-off or whatever, had an effect on that mine, can we  
20 not conclude from that, that that is an illustration of  
21 how the injection of too much politics into an issue can  
22 truly affect the merits or the outcome?

23 And I would like your opinion on this from your  
24 perspective because you've sat in positions that few of  
25 us have.

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1           Is Westray an example of where too much political  
2 injection is detrimental and causes harm, ultimately?

3           A.    I would have to understand what you mean by  
4 "political injection."  If you're saying that people that  
5 are elected, are elected politicians, that they have --  
6 were involved too much in this issue, I would like to  
7 address that.  If you're saying just the political aura  
8 that it takes on, then that's a different situation.

9           Politics can kill a project.  I remember when I was  
10 in Opposition, we killed a cruise ship proposal that the  
11 Government did at that time.  We just talked about it  
12 every day.  We made fun of it; we hammered it.  Well, the  
13 cruise ship industry is a big industry today.  The fact  
14 that Nova Scotia was going to do it back then, maybe they  
15 were just a little bit ahead of their time.

16           I think about the Clairtone plant up here at  
17 Stellarton.  It became a very, very political issue.  And  
18 it was talked about all the time.  Well, these people,  
19 they thought that coloured TVs was the future.  And  
20 because all the political nonsense was going around it,  
21 we wouldn't support that concept.  Well, dear knows where  
22 we would be today if we had the courage to do that.  So  
23 politics on its own can kill -- can kill.

24           Now if you're asking about elected people getting  
25 involved in projects, you're judged on that.  You know, I

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1 look at the Trenton plant not far from here, and I got  
2 involved in that. And we stuck our neck out and gave  
3 them guarantees. And if Premier Regan, former Premier  
4 Regan didn't get involved in that, there would be 1200  
5 men not employed today. So, yes, there was political  
6 involvement in it.

7 Amherst Aerospace, we made a deal -- I made a bad  
8 deal. And, you know, it was to try to create jobs up  
9 there, but we made political decisions in terms of saying  
10 we're going to do that. It wasn't a good business deal.  
11 And after that, I called Ken Rowe up and said, "Go up."  
12 I personally called him. Well, today, there's a new  
13 plant there and people are employed.

14 And Sydney Steel, it was at the end of the line. It  
15 was at the end of the line. There was no one in Cabinet,  
16 except the Premier, that would continue to support that.  
17 People just couldn't -- when we were looking for health  
18 care and education, they just couldn't see there was  
19 going to be any support any more for Sydney Steel. And I  
20 became Minister. I got on the Board. I worked very,  
21 very closely with the Steelworkers Union, which I might  
22 say, acted in a very responsible manner, took some very  
23 difficult decisions, and it's still going. And I still  
24 believe it can be viable.

25 But if you want to look at a project that I put my

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1 hands on most of all, I got involved in directly, it  
2 would be Sydney Steel. I was down there half the time  
3 with those guys trying to make decisions and get the  
4 thing turned around so it could survive. So people are  
5 being employed today.

6 So, you know, if we're going to judge people,  
7 elected people, and say, "You should never, ever get  
8 involved in any project," -- you know, Frank McKenna, my  
9 friend in New Brunswick who I admire a great deal, and  
10 he's done a great job, he won an award for being economic  
11 developer of the year in Canada. And he has two people  
12 from the Department of Industry sitting in his Premier's  
13 office. That's how direct he is.

14 So I hope that people understand that this is what's  
15 expected on you. You are expected to go out and drum up  
16 industry and create jobs or people will have a say at the  
17 -- at election time.

18 Another thing is that if you don't like what a civil  
19 servant does, there's no way for the voter to pass  
20 judgement on that. So I think that the leadership should  
21 come from politicians. And there's nothing evil or  
22 sinister about the fact that because you happen to get  
23 elected by the people that somehow you're not allowed to  
24 be involved in trying to promote the economy in your  
25 province. It is demanded of you.

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1 Q. Let me pursue this with you just for a moment.  
2 Somebody made the point, I think, yesterday, that  
3 complaints of safety violations at Westray that were  
4 surfacing somehow lost their proper perspective, I guess,  
5 because they were becoming politicized by the debate that  
6 was being generated by a variety of people in this  
7 province, and that, therefore, they became political  
8 issues as opposed to safety issues any more at Westray.  
9 And perhaps, in a sense, lost their warning ability that  
10 way.

11 And you yourself have said that possibly the delay  
12 that was encountered here may have been a factor in this  
13 whole thing. So you've given us an example of where the  
14 system works the way it's supposed to work, and has  
15 worked with good results. And we see examples where  
16 perhaps it causes harm, considerable harm at times.

17 How do we draw the line? How do we balance it? Do  
18 we take the good with the bad? Do we have projects that  
19 sometimes work and sometimes we injure people? Or is  
20 there some guideline here, some line that you shouldn't  
21 cross?

22 A. Well, I've never met anyone elected in any -- from  
23 any party in the Legislature in my 20 years that would  
24 support a project if they thought someone was going to be  
25 injured or killed in it.

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1 Q. Agreed.

2 A. I mean, you just don't -- you get elected to help  
3 people, not to hurt them. But we certainly don't leave  
4 that impression as politicians. And politics has gone --  
5 continued to move downward in that effect. Instead of  
6 criticizing someone's policy, we want to destroy their  
7 credibility. And that's very evident today, not only in  
8 this country, but in the country I'm living in now. So,  
9 clearly, politics has taken a turn downward.

10 But the delay clearly has affected the development  
11 of the mine. But I -- the delay didn't in any way,  
12 shape, or form affect the safety inspections or anything  
13 like that. I can't make that kind of a connection.

14 In fact, because of the political smell that's been  
15 around this because of the Opposition, if anything, I  
16 would think that civil servants would be a little more  
17 cautious. And I can't see trying to make the connection  
18 between that. I -- after spending 20 years in public  
19 life, it's a little upsetting, you know, to have people  
20 to say, and continue to say over and over and over and  
21 over again, "The inspectors didn't do their jobs because  
22 there was interference by Don Cameron's government."

23 And I wish all of you would just reflect for a  
24 second and think about this. Those inspectors were under  
25 tremendous pressure. Tremendous pressure. The press

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1 would almost beg them -- beg them to say, "Yeah, I felt  
2 political pressure." All those people come up here,  
3 whether it was the inspectors or the regulators, and they  
4 put their hand on the Bible and they promised to tell the  
5 truth. The easiest thing in the world for them to do --  
6 they would have been heroes. All they had to do was say,  
7 "Yeah, I felt..." they wouldn't have to say, "Don Cameron  
8 called me." All they'd have to say is, "Yeah, I felt  
9 political pressure." But they put their hand on the  
10 Bible and they told the truth, and they were crucified  
11 and criticized for it.

12 You know, we have to be willing to listen to what  
13 the truth really is. And I know that because of the  
14 political aura this has taken, that people are not  
15 willing. They enjoy the comfort of opinion, and we don't  
16 want to have the discomfort of thought.

17 And that's the troubling thing about this whole  
18 issue. To spend 20 years of your life, in public life,  
19 and to have someone say that about you with not one ounce  
20 of shred of evidence by anyone. And everyone has stood  
21 here and they said, "No, we were not interfered in any  
22 way at all." You know, I'm troubled by a political  
23 system that does that.

24 Commissioner, I want to make a good example of this,  
25 because I think it's a really important point, and I

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1 think it's something our province should address because  
2 it's where we're going to go as a Province.

3 You and I both know Allan J. very, very well. And  
4 you know he spent a lot of his grown life serving the  
5 public. And he -- I may not agree with every penny he  
6 spent and where he spent it, but I don't think any  
7 political party would disagree with his commitment to  
8 social justice and his commitment to the people in Nova  
9 Scotia, and especially in the area he came from.

10 You know, if it wasn't for him, we wouldn't have  
11 DEVCO. In all of those years when they needed another  
12 200 million or 100 million or 300 million or 400 million,  
13 he got it. And believe me, there was all kinds of  
14 pressure in Ottawa not to give it. And believe me, there  
15 was Cabinets that -- no one in Cabinet wanted to do it.  
16 But he had that kind of clout. He was able to get it.

17 Well, in 1979, about 12 years prior to this  
18 explosion, there was a methane explosion there, and 12  
19 people lost their lives. And I looked at what people  
20 said then. I looked at what politicians said then. I  
21 look at what the press said then. And you and I would be  
22 outraged if anyone suggests that because Allan J. worked  
23 hard for the people of his area and was able to get money  
24 to start a coal mine, and continue the mine, open new  
25 mines, that somehow inspectors didn't do their jobs, and

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1 they were afraid to do their jobs because it was a --  
2 because of political support. Why would we say that?  
3 But yet, we're saying it.

4 And some people may say, "Well, Don, that's a  
5 different time -- that's a different time. That's now --  
6 that's then, this is now."

7 You know, I read the paper last week and I just -- I  
8 was just shocked. I thought, "Here it is all over again."  
9 There was a public outcry. There was tremendous pressure  
10 on elected people in Nova Scotia to change the business  
11 plan for DEVCO so they wouldn't have to lay off as many  
12 people. And, you know, they went to Ottawa, they put  
13 pressure on them. They changed the business plan now.  
14 They didn't lay off as many people.

15 I read Saturday, the Premier of our province said,  
16 "I called the Prime Minister twice about DEVCO." Well,  
17 surely, no one is -- and I think they're doing their job  
18 doing that. But surely no one would suggest now if  
19 anyone gets hurt or killed at DEVCO that somehow Dave  
20 Dingwall and Premier Savage and all these people that  
21 support it had something to do -- because they supported  
22 it, now we're not concerned about safety.

23 And somehow this theme, this myth, has gathered  
24 around the Westray thing, and it's very, very troubling  
25 that -- and the worst thing of all is for the families.

MR. CAMERON, EXAM. BY MR. MERRICK

1 They don't know what to believe. And they're hurt and  
2 angry and bitter because they've listened to all this  
3 stuff for four years, and they hear it over and over and  
4 over and over again.

5 But I just ask you: Would that be fair to do it to  
6 Allan J.? Would it be fair to do it to the people now if  
7 anything happens at DEVCO? Can they guarantee that no  
8 one will ever get hurt or injured or killed at DEVCO from  
9 now on? Are we going to make a political issue when we  
10 get industry in trouble? I hope not.

11 COMMISSIONER I think your point is well taken, Mr.  
12 Cameron. Certainly it's on the record now where you want  
13 it, and it will be dealt with. I'm not going to -- at  
14 this time I'm not going to respond to your question  
15 because I'm not here to answer questions, but I certainly  
16 have -- I'll certainly take that under considerable  
17 consideration, certainly. Okay?

18 A. And, Commissioner, I would like, if I'm not allowed  
19 in public, I would like a written statement about the  
20 safety of workers in this Province and where we're going.  
21 Because, again, I have some very, very serious concerns  
22 with what I'm hearing. And, as a Nova Scotian, I want  
23 very much to -- so if we don't have time, I would like to  
24 write to you and point out some things about --

25 COMMISSIONER I'm prepared to accept --

MR. CAMERON, EXAM. BY MR. MERRICK

1 A. -- the safety of the --

2 COMMISSIONER -- anything from any interested party, Mr.  
3 Cameron.

4 A. -- and the direction in the future.

5 COMMISSIONER Yeah, yeah. Thank you.

6 MR. MERRICK Actually, Mr. Cameron, I anticipate you  
7 and I will have an opportunity yet to discuss those  
8 points verbally as well.

9 A. Okay.

10 Q. So you can reflect on them overnight and be prepared  
11 to talk to us about them.

12 But let me finish off the point that you were making  
13 because I think this is -- this may be a very important  
14 point.

15 Let's use Westray as a case, because that is the  
16 topic before us. And on this business of sometimes we  
17 destroy, with the injection of politics, what we try to  
18 do, and sometimes we create. What should we have done  
19 different with Westray?

20 Now you have said to us there should have been a  
21 spirit of cooperation, provincially and federally. But  
22 can -- I'm sure you've thought about this, in fact, I  
23 warned you that I would ask you questions like this. How  
24 should it have been done differently than it was?

25 A. Oh, with hindsight, it's -- you know, you always

MR. CAMERON, EXAM. BY MR. MERRICK

1 have perfect vision. Hindsight, I wish I'd never heard  
2 of it. That would be the simplest thing. And in terms  
3 of Trenton, we would have to look at that pollution  
4 problem, because there is a pollution problem there.  
5 There's no doubt about it. I mean, that's why they're  
6 buying low sulphur coal now for it, and that's why  
7 they're looking at other issues. Maybe we would take low  
8 sulphur coal in. You know, if there's a big reduction in  
9 the sulphur emissions, the standard, we may have to take  
10 more low sulphur coal in and blend it with ours and blend  
11 some of ours and sell it to other places. You know,  
12 there's a whole lot of options we should look at.

13 It's the pressure, though, I think to try to meet  
14 that contract that troubles me the most. You know, they  
15 had a contract to sell coal to the Power Corporation in  
16 mid-1991, and, you know, I wish we suggested to them,  
17 "Look, just buy some, take some in. You know, develop  
18 the mine the way you intend to develop. Don't rush,  
19 because if you rush, things always happen." I wish I had  
20 enough foresight then to say, "No, you know..."

21 Q. Wouldn't that --

22 A. "...take coal in."

23 Q. Wouldn't that have caused you some political  
24 embarrassment?

25 A. Well, I really don't care about political

MR. CAMERON, EXAM. BY MR. MERRICK

1       embarrassment. I look at the hurt that's been caused to  
2       the people in this Province over this issue, and a little  
3       bit of political embarrassment wouldn't have been very  
4       hard to take if we could have avoided the kind of hurt  
5       that's going on and still going on.

6       Q.     In hindsight?

7       A.     Yeah. Hindsight is always perfect, though, isn't  
8       it?

9       Q.     What else should have been done differently in  
10      relation to Westray, from your view?

11      A.     Well, I mean, clearly, the negotiations were just --  
12      it was just a disaster, and I think that had -- that had  
13      a major effect. We should have had the courage to allow  
14      the strip mine to go ahead when they wanted to. We  
15      should have recognized that what they needed was to  
16      supply that contract and, again, they would have closed --  
17      -- they committed to close the Southwest section. And if  
18      we, as a government, allowed that strip mine to go ahead,  
19      I believe 26 men would be alive today.

20      Q.     Why didn't we?

21      A.     Why didn't we do it? Politics again. You didn't --

22      Q.     This is --

23      A.     -- want to talk about politics earlier, but that's  
24      the hard, cold facts.

25      Q.     This is the thing that's troubling is that this is a

MR. CAMERON, EXAM. BY MR. MERRICK

1 story that seems to have politics very deeply buried in  
2 it.

3 A. Well, it's a swirl, you know. We had a strip -- we  
4 had two other strip mines open at the very same time.  
5 One -- two in Cape Breton. One at Evans and the other  
6 one down -- I think it was Brogan, and there was no  
7 problem. But whenever the decision was to try to open  
8 this up to start using that as coal, close the Southwest  
9 section off, go back to the original plan and drive your  
10 tunnels north as far as you're going to go and retreat  
11 mine back, blend the coal, it was like we were, you know,  
12 some kind of evil demons, and everyone yelled and  
13 screamed and hollered.

14 And I told Terry Donohoe, who was Minister of  
15 Environment at the time, I said, "Terry, we're not even  
16 going to discuss this in Cabinet," because I was Premier  
17 at that time. "We will not discuss this in Cabinet. We  
18 will -- I want you to go to your officials and do what is  
19 right."

20 And those officials were able to approve two other  
21 strip mines. In fact, one was larger than this one. And  
22 my understanding that officials said, and I'm sure you  
23 can get the records, there was really no reason a strip  
24 mine shouldn't go ahead. They took the bulk sample out.  
25 They took some caution. They had the rock-lined ditches.

MR. CAMERON, EXAM. BY MR. MERRICK

1 They had chain link fences. They had settling ponds.

2 They were even sweeping the street. They said, "It's run  
3 well and the bulk sample -- and there's really no reason  
4 it shouldn't go ahead."

5 Another colleague said it wouldn't be good politics  
6 and sent information over and the Department really had  
7 no choice but to say it has to go into a full  
8 environmental assessment. And we were afraid because of  
9 all the opposition in the House and there's -- and all  
10 the allegations, we were afraid to go ahead. And, you  
11 know, today that strip mine is operating now.

12 Q. Was --

13 A. Under the very same conditions it would have  
14 operated then.

15 Q. Was the company under pressure to produce?

16 A. I think it's only normal the company wanted to  
17 fulfil that contract. I mean, that's -- I would feel  
18 pressure if I had a contract and if, you know, if you  
19 don't supply it, you don't have money.

20 So, you know, hopefully you'll ask the company that,  
21 but I'd be surprised if they didn't feel pressure to --  
22 you know, I think they felt the pressure to go into the  
23 Southwest section to produce coal because of that delay.  
24 I mean, I'm convinced that's the reason. The only  
25 reason. They may not tell you that, but I'm convinced

MR. CAMERON, EXAM. BY MR. MERRICK

1 that's the reason.

2 And, you know, when I look at that and I look at the  
3 heartache that it has caused so many people, you know,  
4 why on earth wasn't that project allowed just to develop  
5 in a normal fashion? Why?

6 Q. Are you talking about Westray as a project itself?

7 A. Yeah.

8 Q. Yes.

9 A. Just let it develop in a normal fashion.

10 Q. Because it wasn't, was it?

11 A. Well, it did -- once you add this political  
12 dimension to it, then it's not any more.

13 Q. Yeah, that's right.

14 A. Once you do that, it's not. And I don't think it  
15 was the politicians that actually started this. I mean,  
16 all the evidence that I can see is that officials in the  
17 Department, the Federal department, decided they were  
18 going to stop this. They brang [sic] DEVCO in.

19 Q. You keep blaming --

20 A. They --

21 Q. -- everybody else. I mean --

22 A. No -- well --

23 Q. -- wasn't this a case of everybody making it a  
24 political issue?

25 A. No. Look, was I out campaign -- are those my press

MR. CAMERON, EXAM. BY MR. MERRICK

1 releases I read to you this morning? Who was making this  
2 a campaign? This started before the election in 1988,  
3 though, Mr. Merrick. All I'm telling you is that I think  
4 what happened was, they took DEVCO in and said, "Look,  
5 we'd better stop this." DEVCO went to the politicians,  
6 which is normal. That's exactly what you do. Companies  
7 come to me all the time if they hear something. They use  
8 their elected people. They elect them; they expect  
9 results. Then it becomes an issue outside the House.  
10 After the '88 election it just became a non -- ongoing  
11 issue and it just kept building. It was just politics,  
12 politics, politics. And it hurts. It hurts a project.

13 Q. Yes.

14 A. People get afraid of it.

15 Q. That we've learned, haven't we? The injection of  
16 politics in so it begins to distort a project really  
17 hurts?

18 A. Yes, it does, but you can do that with any project.

19 Q. Yes, I accept that.

20 A. I could do that with DEVCO --

21 Q. But that --

22 A. -- today, couldn't I?

23 Q. This has been a very tragic, graphic demonstration  
24 of that, hasn't it?

25 A. Yes. And I've always said we're far, far too

MR. CAMERON, EXAM. BY MR. MERRICK

1 political in this province. It doesn't serve us well.

2 Q. Yes.

3 A. People don't like you because you're Liberal or  
4 Conservative or NDP.

5 Q. Yes.

6 A. That's just as bad as not liking you because you're  
7 Catholic or Protestant, or you're black or white. It's  
8 the same kind of thinking, and it doesn't serve us well.

9 Q. No, it doesn't, and this has been an illustration.  
10 Mr. Commissioner, that may be an appropriate break point.

11 COMMISSIONER Okay, we'll adjourn until 9:30 in the  
12 morning. Just before we leave --

13 MR. MERRICK Yes, just so that parties and counsel  
14 know, we've rescheduled Senator Buchanan for Thursday  
15 morning, assuming that we are through with Mr. Cameron,  
16 or as soon as Mr. Cameron is complete. So be prepared  
17 for Senator Buchanan on Thursday.

18 COMMISSIONER His committee Chairman let him off the  
19 hook.

20 INQUIRY ADJOURNED (TIME: 4:29 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.

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Margaret E. Graham

DATED this 28th day of May, 1996, at Stellarton, Nova Scotia.