

1 conclusion that Westray was breaking the Mineral
2 Resources Act by not following approved plans, something
3 that could lead to the loss of the company's mining
4 permit. At the same time Pat Phelan was helping Westray
5 get an amendment to the take-or-pay deal that Westray
6 wanted, but which put the Province at a disadvantage.

7 Also at the same time Pat Phelan was helping Westray
8 get access to coal in the strip mine, the so-called "bulk
9 sample," the 200,000 tonnes Westray needed to meet its
10 production targets.

11 Mr. Mullally, the Deputy Minister, was candid enough
12 to admit in his testimony that it would be fair to
13 conclude the Department gave Westray preferential
14 treatment in order to help the project succeed.

15 We submit, Mr. Commissioner, you should find that
16 the involvement of public officials responsible for
17 regulating the Westray mine in measures intended to
18 promote the success of the mine created a conflict of
19 interest which weakened the regulatory system.

20 The structure of the regulatory system in which
21 Westray operated can be divided into two main areas and
22 both of them have already been mentioned today, the
23 Department of Resources and the Department of Labour.
24 And the evidence shows that both clearly failed.

25 The Nova Scotia Department of Resources failed to