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Public Accounts**

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Department of Transportation and Works  
Humber Valley Paving Ltd. – Project Number 1-12PHP

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Honourable Wade Verge, MHA

## Public Accounts Committee

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Chair: Jim Bennett, MHA

Vice-Chair: Ray Hunter, MHA

Members:

Eli Cross, MHA  
George Murphy, MHA  
Tom Osborne, MHA  
Kevin Parsons, MHA  
Calvin Peach, MHA

Clerk of the Committee: Elizabeth Murphy

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Appearing:

**Office of the Auditor General**

Terry Paddon, Auditor General  
Sandra Russell, Deputy Auditor General  
John Casey, Audit Senior

**Department of Transportation and Works**

Lori Anne Companion, Deputy Minister  
Gary Gosse, Assistant Deputy Minister, Transportation

**Department of Justice and Public Safety**

Todd Stanley, Assistant Deputy Minister, Courts and Legal Services

**Office of the Executive Council**

Julia Mullaley, Clerk  
Scott Barfoot, Director of Strategic Communications (Planning), Executive Council – Communications Branch, former Director of Communications, Transportation and Works  
Milly Brown, Associate Secretary to Cabinet (Communications), Cabinet Secretariat, former Director of Communications, Office of the Premier  
David Jones, former Solicitor, Justice and Public Safety (embedded in Transportation and Works), former Deputy Minister of Transportation and Works  
Paul Noble, former Deputy Minister of Justice and Public Safety

**Also Present**

Kevin O'Brien, MHA, former Minister of Advanced Education and Skills, (by telephone conference call)  
Nick McGrath, MHA, former Minister of Transportation and Works (by telephone conference call)

The Committee met at 9:00 a.m. in the House of Assembly Chamber.

**CHAIR (Bennett):** Good morning, everyone.

I would like to bring this meeting or this hearing to order. We are now being followed by the recording office for Hansard purposes. My name is Jim Bennett. I am the Chair of the Public Accounts Committee. This is a Public Accounts Committee hearing of the Province of Newfoundland and Labrador.

On my left are my colleagues, Committee members. Mr. Hunter is Vice-Chair. Next to him is Mr. Parsons. Next to him is Mr. Peach. Next to him is Mr. Cross. In the next row are Mr. Osborne and Mr. Murphy.

The format that we have today will be a little bit different than usual because we will have two witnesses who will appear by teleconference. There is nothing inappropriate about appearing by teleconference. Two former ministers, Mr. O'Brien and Mr. McGrath, advised that due to other commitments in travel they were not able to be here, but they would be here by teleconference.

We will take the morning part of the session, until the morning break, in the ordinary course, and that will finish around 10:00 a.m. or 10:45 a.m. Immediately after the break at 11:00 o'clock, we will have Mr. O'Brien by teleconference. When we conclude with him, we will take a short lunch break.

At 1:00 p.m., we will go to Mr. McGrath also by teleconference. When we conclude with Mr. McGrath, any questions that Committee members have that they were not able to deal with in the morning portion, they will conclude in the afternoon portion.

Hopefully we will finalize this matter today. These things are not predictable; however, I think that we are well coordinated. If we stay on track, there should be no difficulty in finalizing it today.

The process that we follow is Committee members each have ten minutes, and it alternates between a government member and an Opposition member. They can ask whatever

questions that they wish, as long as they are relevant, not repetitious, and not abusive of any witnesses. In the last four years, we have never had any issue in any event. That is for the witnesses' familiarity.

The procedure that we follow is more inquisitorial, rather than adversarial, so people do not actually get cross-examined like you see on television occasionally in court – we are more like on television than you see in real court. It is remedial because the Committee is looking to find out what, if anything, went wrong and how it can best be remedied for the future. So witnesses are here voluntarily. Nobody is subpoenaed. The House could subpoena somebody if that was required, but everybody is here voluntarily today.

Some witnesses who have been here previously are already sworn, and then there are other witnesses – eight in all – who have yet to be sworn or affirmed, and our Clerk, Ms Murphy, swears the witnesses. So I am going to ask Ms Murphy to swear the witnesses.

While she is doing that, I will keep going in the interest of time.

### Swearing of Witnesses

Mr. Scott Barfoot  
Mr. Meade  
Ms Brown  
Mr. Noble  
Ms Mullaley  
Mr. Jones

**CHAIR:** Thank you, Ms Murphy.

Mr. O'Brien and Mr. McGrath will be sworn or affirmed when they are on the telephone.

When witnesses are answering questions, it is important to identify who you are. Just speak clearly into the mic. The mic does not amplify but it is picked up for Hansard, and by saying your name it makes it much easier for the transcribing people to figure out who said what.

Sometimes we have opening statements; however, in this case, because it is the second half of an ongoing proceeding, we will dispense

with any further opening statements. It would only seem to be repetitious.

I will go to Mr. Osborne, if you would like to begin questions.

**MR. OSBORNE:** Thank you.

My first question is to Mr. Scott Barfoot. We were informed at the previous hearing of the Public Accounts Committee that there was involvement by communications the day following the decision to cancel the contract. Can you tell me what the involvement was by yourself on that day?

**MR. BARFOOT:** I became aware of the decision on April 28.

**MR. OSBORNE:** What was your involvement?

**MR. BARFOOT:** My involvement at that time was I received a media call from CBC. Subsequent to that, I engaged the assistant deputy minister and the deputy minister to develop key messages. At that time, I would have advised the minister as well of the media call that we received. Over the next day, or two days, we developed the messages. The interview with CBC occurred in the afternoon of Tuesday, April 29.

**MR. OSBORNE:** Okay.

So you were not aware. We were advised that communications were made aware the day following the decision.

**MR. BARFOOT:** That is not correct. It was Monday, April 28, when I became aware of the decision.

**MR. OSBORNE:** Okay.

That would have been a month and a half after the fact.

**MR. BARFOOT:** Correct.

**MR. OSBORNE:** Okay.

The documentation and briefing notes that you had prepared at that particular point, did you

also prepare notes for the minister for the House of Assembly?

**MR. BARFOOT:** I would never have prepared briefing notes. I would have prepared key messages for the minister.

The general course of action, Mr. Osborne, would be for me to develop the key messages in collaboration with the assistant deputy minister and the deputy minister in this case. We would have walked through those messages with the minister to prepare him for that first media interview on the afternoon of Tuesday, April 29; but I did not prepare any briefing notes.

**MR. OSBORNE:** Okay.

So you had no prior knowledge, prior to April –

**MR. BARFOOT:** Twenty-eighth.

**MR. OSBORNE:** Twenty-eighth, okay.

Mr. Meade, outside of the Cabinet room you had made two appearances, I believe, on March 13, I believe just outside the Cabinet room to speak with, at that time, Minister McGrath. That is correct?

**MR. MEADE:** That is correct.

**MR. OSBORNE:** Okay.

In the first conversation that you had with Minister McGrath – can you describe that conversation for us?

**MR. MEADE:** The first conversation I would have had with Minister McGrath outside the Cabinet room would have been one which would have occurred after he phoned me the first time, first in the morning, and I would have had a conversation with Gene Coleman of Humber Valley Paving.

After speaking to Gene Coleman, I would have gone downstairs outside the Cabinet room. Cabinet at the time appeared to be about to convene because there was a fair bit of milling around occurring. I had a conversation with the minister where I shared with him the conversation that Gary Gosse and I had had with Humber Valley Paving.

I shared with him the circumstances that had been outlined to us by Humber Valley Paving, that the company had stated they were not in a position to go back to Labrador, that Gene Coleman had a conversation again around the compensation, claims for compensation of the forest fire effects, but in the absence of that they needed to find some way of getting out of the contract, because as Mr. Coleman had stated to us pretty unequivocally, is that they did not see a way for them to be able to go back.

In that conversation, I shared all of that information with the minister in terms of what Humber Valley Paving's position was. I then stated to the minister: So, Minister, in this circumstance you really have two – we are at a fork where you have two options in front of you. One is that we do try and find a way of mutually agreeing to terminate the agreement; or, the other option is to call them in default.

You can do one of two things. We could just wait to see if they go back there. If they do not, then we call them in default; or, we could action that now based on the conversation by saying we could write them and then within five days if they were not to state their intentions of going back we could declare them in default.

The minister's response was clear, that he wanted to work with the company. I would state it is broadly government's perspective that we try to work with industry. In this case, a company that we had known for quite some time, a file that we had known for quite some time, in particular in terms of 1-12. He wanted to work with the company to try to find a mutually agreeable solution to it. He clearly stated that value to me.

With that, I said: Well, Minister, this will require some further analysis. I will need to engage David Jones around the legal analysis of this and what the legal options would be, and what it could look like. He asked me to do that, and to return upstairs and to engage with the appropriate officials to do that.

The other very brief conversation was then around the work that was left to do. I indicated to him, yes, there is, that sixty kilometres would need to be dealt with. I knew there was work in Labrador that was about to be tendered. We had

prepared tenders. I knew what the upcoming work was in Labrador.

I told him the other thing I would look at, in the conversations particularly with Gary Gosse, is what our options were around addressing the sixty kilometres in other work. That was basically the first conversation I had with Minister McGrath outside the Cabinet room.

**MR. OSBORNE:** Okay.

Was it your advice to him, then, to cancel the contract, or was it his request to you?

**MR. MEADE:** No, there was no decision made at that point at all. What I did, again, was presented him the two broad options of we could declare them in default and pursue that avenue, or we could try to find a way of mutually agreeing to terminate the contract. He clearly chose the latter. The value that was placed on that was that he wanted to work with the company. He did not want to be injurious to the company; he wanted to work with the company. That was the value placed on it.

In returning upstairs, that was one of the options we explored. We also still had lengthy conversations about the other options, but no decision had been made at that point. Clearly, the minister placed value around the process at the time of what his desired outcome was to find a mutually agreeable solution.

**MR. OSBORNE:** Okay.

In the Auditor General's report, in reading that, it was believed you had some feeling that this was relayed to the eighth floor and Cabinet Secretariat. That was the reason you had not directly informed them. Is that correct?

**MR. MEADE:** Well, in order to fully give context to that, Minister Osborne, would be to discuss the second conversation I had with the minister. In terms of my belief that this had been discussed with the Premier and with Cabinet, it was a broader context of the second conversation as well.

In terms of the context of the setting, I was outside a Cabinet room not once, but twice, the context being that I had a conversation with my

minister; but I also had a call from another minister, the context being that I had asked some questions around process and sensitivity that were answered. With that, I felt I had enough information that led me to believe that this, in fact, had been discussed in Cabinet and, in particular, discussed with the Premier.

**MR. OSBORNE:** Okay.

Was there anything said that would have given you an indication or the belief that this was discussed with the Premier or at the Cabinet table?

**MR. MEADE:** For the second conversation outside the Cabinet room, which is where there was a full exploration of options and the clear, unequivocal direction was given to proceed with the mutual termination of the contract, in that conversation there were a couple of things that would have led me to believe that, in fact, if it was not discussed, it was being discussed or was about to be discussed in Cabinet.

One would be, again, the context. This is a minister who has been given leave from Cabinet. It is my understanding that he was given leave and my understanding is that he did state to the Premier, Marshall at the time, that he was asking for leave to deal with an issue at HVP.

When we met outside the Cabinet room, following his direction to me – his unequivocal direction – I asked two questions. The first question I said: Okay, now that you have given me direction, do you wish for me to move this up the line? What we would understand, as civil servants, that it means we would prepare notes, we would put it in the system, and that note would go into the system for direction and/or for information. His answer was: No, no, we do not need to do that. Move on it now. We need to move on it today.

The second context that would lead me to believe it was discussed or understood is the political sensitivity. As a deputy minister, on a day-to-day basis we deal with complex decisions; we deal with sensitive decisions. There is a continuum or a spectrum around that. Depending on the thresholds and that, you would make certain decisions and you would follow certain processes.

In this case again, knowing that we had explored legal options that I had given to him and knowing that he had given clear direction, I then asked around the issue of would you like me to put it up the line? I raised the issue of the political sensitivity of Frank Coleman. It was as simple as, I said, Minister, Frank Coleman – I am John Q. Public in this regard; I am hearing that he may be throwing this hat in the ring. We, at this point in time, do not know where Frank Coleman is with this company. We knew that he was previously involved with the company, did not know his status at that point, and I said I am just making you aware of that. He told me not to worry about that.

So when it comes to political sensitivity, in this regard, in this context of speaking to a minister that I had a trustful, respectful relationship with, what I assumed, what I believed was that, okay, they are aware of the political sensitivity and they are digesting the political sensitivity. To this day, that is what I believe.

I do not know if that answers your question, Mr. Osborne, but that is the context that I would have worked in that day.

**CHAIR:** Mr. Hunter.

**MR. HUNTER:** Pass.

**CHAIR:** Mr. Parsons.

**MR. K. PARSONS:** Thank you very much.

Mr. Meade, I would like for you to explain to me the two options again. If they defaulted, what would that mean? How would the process work?

**MR. MEADE:** The process on defaulting is there would have been a couple of sub-options there. One was we would have just waited to see if they did go back. When they did not go back on the date in the contract when they should have resumed work there, we would have then declared them in default. So we would have played a waiting game to see if they, in fact, did go back.

The other option would have been to try to get them to act immediately by putting in writing – I could defer to Gary or to Mr. David Jones on

this, technically how it is done; but, as I recall on bonds, when you are calling them, you do write the contractor and you allow them five days to communicate a remedy. If in five days they do not, then they are declared in default. We would call the bonds. The bonding company would become involved in assessing that situation.

That is how that option would have been exercised.

**MR. K. PARSONS:** Okay.

Normally, when you default on anything like that, what is the time frame on something like that? Is it months, years, or how does that work, do you know? Perhaps (inaudible) –

**MR. MEADE:** It depends. As the Department of Transportation and Works we have had varying experiences around bonding companies, but in the main, they are lengthy processes. Bonding companies take considerable time to conduct their due diligence. Obviously, for them it is a payout. It is somewhat like an insurance plan, so they are going to size up what the claim is. They would want to speak to the contractor. They would have spoken to the department. They would have tried to ascertain what the true liability there would have been.

It was our belief then – and I still hold this now – that in this case, I think it would have been a complicated process. Particularly given the history of the file with the forest fires and whatnot, and knowing that force majeure and other things could have been brought to bear, it was our belief that calling the bonding company would, at the very least, have been a lengthy process and would have taken some time.

So, yes, it does take – they can vary from time to time. There are files in the department that – I understand when I was there as deputy, where we called bonding companies – are still ongoing fourteen, fifteen, sixteen months later.

**MR. K. PARSONS:** Okay.

When you talked about compensation and working with the company, what was the gist of the conversation? Was it they were looking for

more money, or was it – what was the compensation factor they were looking for?

**MR. MEADE:** The conversation around compensation for the forest fires would have been a conversation that had begun months before, and I am sure it has been already testified here by others.

Eugene Coleman made an inquiry to Gary Gosse in February as to whether the department would be open to compensating for the damages that the forest fire cost them, and the figure of \$2 million was used. So, as far back as February of 2014, the company clearly had incurred costs. Knowing the situation up there in terms of the return of liquid asphalt, camps being closed, works removed, it was without a doubt a cost to the company. At the time we discussed it, we saw it as an act of God. We did not see, as a department, getting into compensating Humber Valley Paving for that.

It was my belief at the time that if you had set that precedent there would be many companies, I would think, in Lab West and Labrador in general, that would have been impacted in some way by forest fires. So we made the determination – and the minister would have been a part of that conversation and was aware of it – that we did not think the department was responsible for those costs. That is it.

We did say to Humber Valley Paving feel free to make a claim. If you wish to make a claim you could submit it and we will look at it; though, given that it is an act of God, we do not feel the department is responsible this time. A claim never was made.

**MR. K. PARSONS:** Okay.

When you mentioned about the other tenders that were out then, you had the packages already prepared, or were they being prepared? How close were you on those other tenders that were –?

**MR. MEADE:** We would have had a package prepared. The exact details – I know there was eighty kilometres from Goose to Cartwright, I think there were a couple of other pieces in it, but it was a fairly significant tender that was put together. There was a piece around, I think,

Hamilton River Road as well. That was pretty well ready to roll.

The thing about Labrador is that as a department, Transportation and Works was trying to move to get tenders out early. In Labrador, you have no other choice but to get tenders out early. Your season is so short up there. The mobilization of companies is logistically and financially such a significant part of doing work up there that you have to go out early in order for it to be truly mobilized and to take advantage of the short season.

Tenders in Labrador were some of the first that we would have always issued. This tender for – and I guess it was 7-14, I believe is the number, I stand to be corrected. It was a tender that we would have had ready. The specs would have been done and whatnot. We would have been in the position, within a week or two, to publicly release that tender.

**MR. K. PARSONS:** Okay.

So your conversation with Minister McGrath that morning, when you talked about the other tender that was there, was there a rush? Would there be a – I am saying that it has to get out. When you had the conversation, was it an option you put to Minister McGrath at the time? Was this something that you could say, well, we needed to get this done immediately if we are going to put this on this? How was the discussion with the minister on that?

**MR. MEADE:** When it came to the bundling and the fact that – so when we spoke, I told him that we had looked at how we could deal with sixty kilometres, that there was an opportunity to bundle it with the tender that had been drawn up, that that tender had been drafted, it had been done up, and if we were to bundle we would need to make a decision on it.

The bundling opportunity was there. I stated this to the AG, and it is stated in the AG's report. The decision need not be made that day about the bundling, but certainly, from our view as officials, the bundling opportunity would have had to have been exercised within a week to ten days at the most. If we had gone beyond that, we would have pushed that tender out too late.

With the addition of the sixty kilometres, you just do not tack it on to the tender. You need to go back. We would have asked our folks in Labrador to go back and look at sixty kilometres and how that would have been integrated into that tender. That would take some time. So we knew there would have been some time lost there in any event. Certainly, the bundling window was a relatively short one. As officials, we would have seen it as a week to ten days.

**MR. K. PARSONS:** Okay.

Definitely, doing the bundling would have been a cost-saving factor also, because to say do another tender on the sixty kilometres, like I said, would cost a whole lot more to move in the equipment. Obviously, the bundling thing was done financially. Is that what you were looking at, at the time, saying this is the best option for us?

**MR. MEADE:** I think the value of getting it done in 2014 was clearly a value placed by the minister. In the first conversation, he placed it. It was very clear in the second conversation that he placed a lot of value on that, along with the value of working with the company and not being injurious to the company. That was clear.

From our perspective, we did say that the bundling with 7-14 would, it was hoped, mitigate any risk on cost. That is why we would have suggested that. Without a doubt, and I believe the Auditor General's report in fact, as well, agreed with that analysis, that sixty kilometres in an isolated area of Labrador, the mobilization, demobilization of going to do that, down the road you would clearly pay much more for it.

From the department's experience in knowing the economy, it is a scale that happen with large tenders, and in this case, not only a smaller tender but the geographic location of that tender. Without a doubt, tendering that alone would have cost us substantially more.

**MR. K. PARSONS:** Okay.

You mentioned about working with the company; is that something the department tries to do in some of these cases? What is the normal procedure when you have a company



come to you that is in trouble or have some major issues with a project? How do you –?

**MR. MEADE:** I would suggest to you, as a former Deputy Minister of Innovation, Business and Rural Development, it is government's hope and intention that it works with industry.

In the Department of Transportation and Works, we work with contractors. That is how we do our work. So whether it is on the work side in buildings, whether it is on the roadside with road contractors and road builders – I think there is a general sense in the department that we need to work with industry in many respects, whether that is around the way we do our work, how we do work, when we do work. All of these conversations would have been things we would have regularly with industry.

When it comes to contractual issues, I believe the department has a strong track record in working with contractors again in ensuring that the public interest is met. At the same time, if there are unique circumstances that arise with contractors, that they are analyzed, understood, and that we try to reach a mutual agreement around it.

There are many examples of how the department has done that. One example would be Hurricane Igor. When Hurricane Igor occurred there would have been many contractors that would have been impacted in that part of Newfoundland and Labrador in carrying out their work. We would have worked with them to adjust schedules, to free them up to work with us on emergency basis stuff. That is an example of where you would work with industry.

There are other examples of where we would be sitting down, I would suggest to you, almost on a day-to-day basis in the department. With the size of the department, the volume of contracts that the department has, almost on a day-to-day basis officials in the department are working with industry in the best public interest and in the interest of industry to try to get projects done.

**CHAIR:** Mr. Murphy.

**MR. K. PARSONS:** Can I have just one follow-up question?

In your conversation that morning with Eugene Coleman, did you talk to him about working with him, and what was the conversation?

**MR. MEADE:** The conversation with Gene Coleman, the first conversation that morning with Gene Coleman, would have been one of me gathering facts.

**MR. K. PARSONS:** Okay.

**MR. MEADE:** There was no commitment made by me on what option we would pursue. It was strictly a fact-finding conversation: Eugene, what is the status here; why do you need decisions; what is going on; et cetera, et cetera. I tried to get a clear position from them on where they stood and what they wanted to see as an outcome, but it was fact-finding.

**MR. K. PARSONS:** Okay, thanks.

**CHAIR:** Mr. Murphy.

**MR. MURPHY:** Thank you, Mr. Chair.

Good morning everybody. It is nice to have some of you back.

Mr. Meade, I want to ask you a question around the decision. The decision was on March 13 that they would move on and mutually agreed to terminate. Obviously, there would have to be some form of legal paperwork and everything done that the parties would have signed. When would you have informed the legal people on that?

**MR. MEADE:** The legal consultation and engagement would have occurred as soon as I came upstairs from my first meeting with the minister outside the Cabinet room. So at approximately 9:45-10:00 a.m. I would have come back upstairs.

As I have indicated earlier, I said to the minister I will need to engage David Jones. David Jones was a solicitor. While an employee with the Department of Justice and Public Safety, he was embedded in Transportation and Works. There is a solicitor embedded in Transportation and Works because of the volume of legal work that is undertaken in the department, particularly in the area of contractual law. So when I came

back upstairs, I would have engaged David right away. David and Gary Gosse would have been the two officials I engaged immediately.

**MR. MURPHY:** Okay.

Mr. Jones, I am just wondering about the length of time that it takes to do up one of these decisions. How long did it take you to do up that decision and get that signed?

**MR. JONES:** Mr. Murphy, I could give you an answer in two ways. There were two aspects of what I was involved with. The first was, as Mr. Meade said, when he came upstairs. I received a call – I was in my office – from his secretary asking me to go to his office for a meeting. I did not know what it was about. That is where we discussed the general nature of the contract. I can go into that.

If your question is about how long, once I was instructed or received an instruction to prepare documentation to terminate a contract – is that what you are getting at?

**MR. MURPHY:** Yes.

**MR. JONES:** After meeting with Mr. Meade and Mr. Gosse, and giving him advice on process and what could be done and what the options were for termination of a contract in that particular circumstance, Mr. Meade went downstairs. I understand he had a further meeting with Minister McGrath. He came upstairs. That would have been around 12:00 o'clock or so. That is my memory. He provided Mr. Gosse and I with advice that a decision had been made to terminate that contract by mutual agreement and asked us to do whatever we could to get that done as quickly as possible in that particular instance.

I pointed out to Mr. Meade that we had done this before. Mr. Gosse and I had done this before. The department had done it before. In the previous year, in September 2013, there was an instance with a company Penney Paving Limited in Labrador where we cancelled a contract by mutual agreement. In that particular instance, Mr. Murphy, my memory is that the contract was cancelled at the department's request. It related, in part, to a dispute as to the performance of that company.

Within six or seven months of doing that, we had gone through that process before. The process that was used was an exchange of letters with the company setting out the fact that we wish to terminate the contract by mutual agreement.

When Mr. Meade gave that instruction, in his presence and Mr. Gosse's, we agreed that – we talked about that particular precedent – Gary Gosse would take the first crack at drafting that letter based upon that precedent. He went away to do that. My memory is that he produced a very short draft of a letter, which basically said: By mutual agreement, the parties agree to terminate this contract as of such-and-such a date to release Humber Valley Paving from its Performance Bond and its Labour and Materials Bond.

I looked at that and said to Mr. Gosse I did not think that was adequate. I thought there needed to be some narrative added as to the reasons why this was being done because this story had to be – at least, in some sense, in my humble estimation – put there. So I said: Gary, look, given the timeliness of this request, I will go to your office with you. It was around lunchtime, so my impression was about 1:00 o'clock. He and I worked on the scripting of that language. I basically dictated it to him, Mr. Murphy. He typed it on his computer. I would say by 1:30 p.m. or 1:45 p.m. we had a draft of that particular language generated, which we reviewed.

My memory is he then went off to talk to Mr. Meade. My understanding, though I was not there, but from what Mr. Gosse told me when he came back, was that Mr. Meade had asked him why all the narrative was there and he pointed out what I just did to you.

**MR. MURPHY:** Yes.

**MR. JONES:** I understand it was accepted and acceptable. Later that day, Mr. Gosse, I believe with Mr. Meade's assent and instruction, was authorized to sign and send that letter, which is on the public record, to Eugene Coleman of Humber Valley Paving. I would say, in fairness, it took about an hour-and-a-half to prepare the letter that actually effected the termination.

**MR. MURPHY:** So these things can happen fairly quickly?

**MR. JONES:** Yes, Sir.

**MR. MURPHY:** Okay.

Mr. Meade, back to you, you know then at this particular time that you have a decision to terminate the contract. Obviously, there were going to have to be key messages and everything like that which were going to be done up because the decision was made.

Is there any reason why Mr. Barfoot, for example, was not informed? He says in his testimony here this morning he was not informed until April 28, but the decision was made on March 13. It was quite a space of time here.

**MR. MEADE:** Communications staff is not necessarily aware of every decision that is made in the department. Communications staff is normally engaged when there is a sense that the issue will be dealt with in the public domain of some type. That could be the House, it could be in the media, or it could be whatever.

There are many times when communications staff – and I would suggest to you, particularly in a department of the size of Transportation and Works – will get an inquiry or will hear about an issue that they know nothing about, and they will then go and collect that information.

Not every decision would have necessarily the ‘proactiveness’ of a communications plan around it. I would suggest to you that, for me, the issue here was we found a legal remedy in mutually terminating the agreement. Mr. Jones has just testified that we had done something similar to it months earlier. The legal options were clear. The minister had clear authority.

For me, if there was a communications issue around this, it would have been the political sensitivity of it. Again, as per my earlier testimony, I felt that given the circumstances, the context of being outside the Cabinet room, the questions I had asked of the minister, that the political sensitivity was – that the people who needed to be aware of it, Cabinet, the Premier, and others who were in the room, were aware of

the political sensitivity. Not only were they aware of it, they had digested it. To me, that would have also included they would be aware of any potential communications issues that would arise from it.

**MR. MURPHY:** Okay.

The reason why I am asking is because the later project involved the bundling. Who would have been the communications staff, for example, to put out the tender for Project 7-14? Project 7-14 was done up and released on April 19, if I have my timing right. Who were the staff people who would have done up that tender and put that tender out?

**MR. MEADE:** Tendering documents are issued through the tendering division and the communications staff is not normally involved in that.

**MR. MURPHY:** Communications staff does not handle the tendering, put the tendering out, for example, putting it in the paper or whatever is done?

**MR. MEADE:** No. There is a tendering division that their sole responsibility is the development, dissemination, and collecting of tenders.

**MR. MURPHY:** Okay.

So Mr. Barfoot would not have been informed of that tender being reissued?

**MR. MEADE:** No.

**MR. MURPHY:** So he did not know anything about it?

**MR. MEADE:** Not necessarily, no.

**MR. MURPHY:** A question to you, Mr. Barfoot: Do you feel that – well, not necessarily do you feel, but you have no hands on when it comes to the issuing of tenders, that sort of thing?

**MR. BARFOOT:** To build off Brent’s point, once the Tendering and Contracts Division finalizes the tenders and is on the verge of putting them in the newspapers, communications

would be given a heads-up, at which point in time we would trigger our own communications activities, which normally would be like a news release for a smaller tender. For larger tenders, the transportation division might give us more of a heads-up to say FYI, Scott; this is coming within the next couple of weeks. We may plan a larger announcement to give some more public attention to the tendering process kick-starting for a particular piece of work.

**MR. MURPHY:** Okay.

Mr. Meade, the process of informing the powers that be – you had two meetings now with Mr. McGrath and the decision was made. The message then, obviously, went up the chain of command here. I would be assuming that Ms Mullaley would have been informed, the Clerk of the Council at the time.

**MR. MEADE:** I am not sure I understand your question. So your question is –

**MR. MURPHY:** Well, I am just trying to understand when the decision was made, Mr. McGrath made the decision to make the move to mutually agree to terminate the contract and obviously this would have gone up – well, I guess you could say that the decision could have been talked about at the Cabinet table. That we do not know, but obviously things were moving here and a further decision had to be made and further steps have to be taken to inform the powers that be, I guess, or inform the public whatever is going to happen here. Was the Clerk informed?

**MR. MEADE:** The Clerk was not informed on March 13, no. Again, the reason is the context that I have already explained. So, in this case, as a deputy minister, we on a day-to-day basis are part of decisions, with our ministers largely, that are complex and politically sensitive. There are thresholds that we would be working with in terms of how and when we would make those decisions.

In this particular case, given the circumstances of me having a call from one minister and an interaction with my own minister, the fact that I was having the conversations outside the Cabinet room – and, again, because I asked those questions of: Do we need to, or should we

move this up the line, and are you aware of the political sensitivity and the responses I received? I was of the belief that this issue had been not only understood in Cabinet but had been discussed, or would be discussed.

So, in terms of informing the Clerk, you inform the Clerk because you need to have the authority, you need to seek authority. In this case, the minister had clear authority. The minister had clear authority to make this decision. He unequivocally exercised that authority. So I need not to do that.

The second would be you would go to the Clerk if you wished to inform the Premier. Because of the circumstances of that day, that I have just stated, it was my belief that the Premier was aware of this decision; not only aware, part of it because it was my belief that it was discussed in Cabinet. That is as simple as that.

So, no, I did not notify the Clerk on March 13.

**MR. MURPHY:** Okay.

**CHAIR:** Mr. Peach.

**MR. PEACH:** I just have a couple of questions. Good morning everybody.

I was just reading through it, and while you were speaking I was wondering when the department made the decision to agree to mutually terminate the – termination with Humber Valley Paving. Was this done by lawyers or was it done by DOT and Eugene Coleman, or who made that decision?

**MR. MEADE:** I am sorry, Mr. Peach, the question again is?

**MR. PEACH:** When you agreed to make a mutual termination with Humber Valley Paving – when you made the agreement, who made the agreement? Was it the lawyers for the company and DOT, or was it between Eugene Coleman and DOT?

**MR. MEADE:** The letter, which is on public record as was drafted, is already testified by David Jones and Gary Gosse with my direction and consent in terms of the content of the letter. So we would have drafted the termination letter.

**MR. PEACH:** So that would have been made by the department, the minister and officials, right?

**MR. MEADE:** Yes, the letter was entirely drafted by David Jones and Gary Gosse.

**MR. PEACH:** Okay.

**MR. MEADE:** Then that would have been submitted to Humber Valley Paving for them to countersign.

**MR. PEACH:** Okay, thanks.

There were some discussions in the last meeting that we had around the overrun costs for the company. What was the reaction when DOT went back to the company and said: Look, we are not going to uphold to this cost. We do not feel we are responsible. What was their reaction to that?

**MR. MEADE:** Well, they obviously were – I would think – disappointed, but you need to speak to the company in terms of how they felt about it. Obviously, they continued to pursue it. They did, obviously, incur losses.

I guess the thing for us is, what still leaves me wondering is why they did not submit a claim. When we went back and stated to them that we felt an act of God would not be the responsibility of the department, obviously, they would be disappointed if they had inquired into whether we would be open to that, but that would be it.

On the day of the thirteenth, the decision was raised again. We said: Gene, we can go down that road but you know we have already been down it before. It is something that we felt was an act of God and the department was not responsible.

**MR. PEACH:** Just going back to my first question, just for clarity. You said you drafted the letter. I think the content of my question was, in the discussions, to come to that point when the letter was drafted, who did the negotiations with regard to the agreement? Was it yourself and Gene Coleman, or was it the lawyers from the department?

**MR. MEADE:** Thank you for clarifying. I understand your question now with clarity. Thank you.

The negotiation, if you will, the discussions on March 13 occurred between Gene Coleman, myself, and Gary Gosse. Gary Gosse would have been present with me for the first phone call with Gene Coleman, and he was present with me for the second phone call with Gene Coleman.

The second phone call was when we would have had the general tenets of our agreement laid out. That is where I would have laid out to Mr. Coleman that we can find a way of mutually agreeing, but these would be the terms and conditions. The terms of conditions being you cannot file any claims against us, et cetera, et cetera, et cetera. We would want to keep the warranty in place and whatnot. That would have been done between Gary Gosse and I, and Gene Coleman.

**MR. PEACH:** Okay.

I have one other question here. The option of assigning the contracts for Project 1-12 to a third party; was this done by the department or was this done through Gene Coleman and the third party?

**MR. MEADE:** What is the contract number you have quoted, Mr. Peach?

**MR. PEACH:** One to twelve, that was the contract for the completion of the contract, I guess. It says there Project 1-12.

**MR. MEADE:** Okay, I am sorry. So 1-12 is the contract that we are talking about here, and your question is –?

**MR. PEACH:** It says there, “The option of assigning the contract for Project 1-12 to a third party contractor for completion. While this would be a business-to-business arrangement outside the control of the Department, there is no evidence that HVP was asked if this is an option they could pursue.” I am just wondering if they did the negotiating with the third party to get this contract finished.

**MR. MEADE:** The assignment is a business-to-business deal. As we know, the record now shows that they did have another contract with us at the time, 55-13. Subsequent to 1-12 being mutually terminated, they did come back after and seek that to be assigned.

Assignment is initiated by the company. A company comes forward. Transportation and Works has facilitated assignment of contracts before, but it is done through companies. Companies will come forward and say we would like to assign this contract to company A.

In this particular case, assignment was not raised by Humber Valley Paving. So, again, it would be initiated – we did not initiate it. Our analysis would be that it would be a very difficult piece to assign. Given its isolation, given the percentage of work that had already been complete, over 60 per cent of it, that it was not viable. We did not see how it would be viable as an assignment in any event. So assignment was not pursued as an option.

**MR. PEACH:** So it didn't happen?

**MR. MEADE:** Assignment of 1-12 did not happen, no.

**MR. PEACH:** Okay.

**MR. MEADE:** Project 1-12 was mutually terminated.

**MR. PEACH:** It was not work that was subcontracted out or anything, was it?

**MR. MEADE:** No.

**MR. PEACH:** Okay.

That is all I had, Mr. Chair.

**CHAIR:** Thank you.

Mr. Osborne.

**MR. OSBORNE:** Mr. Meade, you have testified that it was your belief that Cabinet and the Premier knew of what was happening with Humber Valley Paving. This is important, because a deputy minister, as you know, is appointed by the Premier and is responsible to

report to the Premier and to Executive Council. In this particular case, you did not report to the Premier, you did not report to Executive Council. That was because you say you believed it was discussed inside of Cabinet.

Was it just a belief or was there more than just a belief? Was there any verbal indication by then Minister McGrath that this would have been discussed inside the Cabinet room, that other ministers were aware of it, or that the Premier was aware of this?

**MR. MEADE:** Again, the spectrum of complex, sensitive decisions – and as a deputy minister, we work with ministers. The Premier is the first minister. He creates a Cabinet. He creates ministers. He then works with the Clerk in the appointing of deputy ministers who will work with those ministers. When we are given issues or decisions to make, we create options. We create fearless advice for our ministers. They give direction. If it is within their authority, they give direction, and we then loyally implement those.

In this particular case, options were presented. They were all legally sound and they would have been rational options in my belief. The minister placed value around certain things and then led to making an unequivocal decision and then directing us to pursue that. He had the authority to do that.

My respectful and trusted relationship on March 13 was with Nick McGrath. As a deputy minister, my respectful and trusted relationship was with my minister, twice: once on the margins of Cabinet; the second time on him taking leave from Cabinet, again with my understanding that the Premier knew he had leave to deal with an HVP issue. My exploration with him of those options, his unequivocal direction, his response to my two questions around do I need to move this up the line, no; the political sensitivity, do not worry about it; I felt that I had enough information given to me that this was clearly understood, being digested, and processed in that Cabinet room.

That is the way that they unfolded. That is the assumption I made. That is where it is, Mr. Osborne.

**MR. OSBORNE:** Okay.

This is important in getting to the nucleus of – because this was a very politically sensitive issue, as you have outlined. I mean, I understand that you had a trusted and respectful relationship with Minister McGrath, but your obligation was to report to Cabinet Secretariat. Is that a correct statement?

**MR. MEADE:** I do not know if I would use the word obligation. We go to Cabinet Secretariat, to the Clerk – again, back to my earlier point – if we feel we need authority, we do not have authority, we are seeking authority; and secondly, in particular, because you want to raise something with the Premier. That is when you would engage the Clerk. In my experience, you would call the Clerk to raise a matter that you feel is important for the Premier's office to be aware of – either to be aware of, or to seek direction on.

In this case, again, what I have already stated, it was my belief that the Premier was aware of the decision and was part of it. I mean, obviously, Mr. Osborne, hindsight is 20/20, and the perversity of this situation is that it was so politically sensitive that to this day I cannot fathom the fact it was not discussed in Cabinet. If I had my time back – I mean, obviously in hindsight, 20/20, if I knew then what I know now, I would have known that the Premier was not in the loop and I would have clearly made contact with the Clerk; but, because it was my belief that the Premier was not only aware but was digesting and part of the discussion, again, in Cabinet and again back to the responses that Minister McGrath would have given me, I felt that I exercised the best judgement I could that day with the information I had, and therefore would not have seen the need to go any further than what my minister was clearly directing me to do.

**MR. OSBORNE:** Okay.

I once sat at the Cabinet table. I know that the deputy is appointed by the Premier and reports to the Clerk of Executive Council, correct?

**MR. MEADE:** In our system, as I have stated, the Premier does appoint deputy ministers – they are Lieutenant Governor in Council

appointments. He or she appoints ministers. Deputy ministers, in our system that has evolved over time, work with ministers. Ministers are agents of the Premier, in many respects, and it is through ministers that it is reported back into the Cabinet system.

I would suggest to you that having respectful trust relationships with ministers is also a critical element of this, and the way our system has evolved is that deputy ministers do report to and work for ministers. Again, in the context of this, I had the belief, based on the respectful trust relationship I had with Minister McGrath, and again, back to the context and environment of the margins of Cabinet and all of that, and a second minister calling me, that the minister had carried out his responsibility and had made the Premier aware.

**MR. OSBORNE:** So you had no responsibility or obligation to report to the Clerk of Executive Council or to the Premier on a very politically sensitive issue. Is that what you are saying?

**MR. MEADE:** That is not what I am saying. I am saying I would if I knew that the Premier was not aware of it. In this case, because I was working with the minister and, again, in the context of the Cabinet meeting, I thought that political checklist, if I shall put it that way, was being carried out and done.

**MR. OSBORNE:** Okay.

Was it just an assumption or was there more than an assumption for you to believe that the Premier and Cabinet were aware? We are now being told or led to believe that this was not discussed inside of Cabinet.

I find that difficult to believe as well. I mean, a minister excuses himself from Cabinet to discuss a very politically sensitive issue literally on the day before the former head of Humber Valley Paving was about to become the head of government – the head of the PC Party and ultimately the head of government, the Premier of the Province. So this was a very politically sensitive issue. I find it difficult to believe myself that it was not discussed inside of Cabinet.

Did you operate on an assumption that it was discussed inside of Cabinet and that the minister had informed other ministers and the Premier, or was there more than just an assumption?

**MR. MEADE:** I would have made an assumption that it was discussed in Cabinet largely around two things; one is because it was happening around Cabinet. The minister had leave from Cabinet. From my understanding, he was given leave to deal with an issue at HVP. The second would be the questions that I asked him, following his direction.

My questions were intended to get at two things. Okay, so now you have given direction. He had authority to give that direction. That was clear. His direction was unequivocal.

I asked two questions; the first is, okay, now that you have given me direction and made a decision, would you like to move this up the line? Which would have been move it up the line, contact the Clerk, submit a note, whatever form that would be. The response was no, fine, proceed, which leads me to believe that he would have, as a minister, understood the process and said no, that has been done. That has been dealt with.

The second would have been the political sensitivity, which as a deputy, we work in the political arena and we identify from time to time political sensitivities. I think it is our responsibility to make ministers aware of them, of those political sensitivities, and to ensure that those political sensitivities are being digested and processed and that is what our responsibility would be. Again, based on that second question and the response, it was obvious to me that he felt that it was.

**MR. OSBORNE:** Okay.

It was obvious to you that the minister felt that this was politically sensitive, or understood that this was politically sensitive. I am trying to wrap my head around your understanding of your role. Is your first responsibility to your minister, or to report to the Premier or the Clerk of Executive Council when something as politically sensitive as this decision is about to unfold?

**MR. MEADE:** My responsibility is to the minister that I was serving, in a respectful relationship, who gave me direction. That said, I still feel I exercised my due diligence in asking him the two questions of do I need to move this up the line; should we move this up the line. The second of okay, you are aware there is a heightened political sensitivity around this, I have raised the awareness of it; given the response, it was obvious to me that not only was he aware of it, that they seemed to be processing that. That is what I feel my responsibility is.

Again, Mr. Osborne, it is because the minister is also responsible to the Premier, in this case making the assumption that it was being discussed in Cabinet, that I did not need to question him to say based on those conversations around where – I assumed, based on those conversations – as I have said, obviously, hindsight is 20/20. Knowing what I know now, I would have done things differently; but, at the time, based on the information, the way I drew it out, the questions I asked, I felt I made a judgement call that was the best I could make in that situation.

Obviously again, knowing what I know now, would I do things differently, knowing that the Premier did not know – I mean, if I had any inkling the Premier did not know – any inkling – clearly, I would have pursued other things, including contacting the Clerk.

**CHAIR:** Mr. Cross.

**MR. CROSS:** Just a couple of questions that I need to sort of follow up on. We understand all the context of the meetings and decisions, and who made, who called, and who assumed. There are many assumptions here and we may never know everything that happened because we cannot repeat everything.

Most of what the public is concerned about was the expenditure of the money. The people I still talk to still have a perception that by releasing the bond and cancelling the contract, we gave Humber Valley \$20 million. Now, I would like again just to put out – and probably from Mr. Meade's point of view, the question was sort of asked in previous times – what actually was paid to Humber Valley? What did we relieve them



of? What is the full deal on the breadth of this contract?

**MR. MEADE:** Humber Valley Paving – and I would leave, if need be, to Mr. Gosse in particular to speak to the details. My recollection is that they did approximately 60 per cent to 61 per cent of the work and they were paid for 60 per cent to 61 per cent of the work. I think it was approximately \$11 million they were paid. Humber Valley Paving would have been paid for what they did. That is it.

In mutually terminating the contract what we would have done is there would have been two bonds that would have been released; the Performance Bond would have been released. That would have been our concern because a Performance Bond is to ensure that the work is carried out. The second is the Labour and Materials Bond would have been released.

So you are right, while there was some public discourse that suggested there was money moving around and all of that, it is not in fact the case. What would have occurred is in cancelling the contract – and we had lengthy discussions about this. When we were looking at the mutual termination, the bonds go with the contract. If you mutually terminate a contract, the bonds as well go. I do not know if that answers your question, Mr. Cross.

**MR. CROSS:** Okay.

In connection to that – and we asked many questions the last time around to Mr. Gosse about the benefit of the decision of time that was made at that time with mobilization and bringing in extra crews. The fact that the bundling was there, then the apparent decision had to be made close to that time or else you would have lost that ability to bundle and do these other things.

That I guess in a question: Are there any other options that could have been considered, other than what we have seen and what was presented here?

**MR. MEADE:** No, I think the Auditor General's report lays out the four options, of which we looked at – three of them would have been discussed. Really, your options here are those that are articulated in the AG's report:

either assignment; declare default; look into some type of compensation process; or to mutually terminate. Those are really your options.

**MR. CROSS:** Okay.

With that in place, and these are the options, these are the directions that need to be taken at that point in time, there was one other question that was presented to hon. Minister Brazil from our Committee after. The question is there; there was no evidence in two occasions – I think the Auditor General said there was no documentary evidence of any influence here. So, we are here, we look back, and the question is: Are you aware or did you feel there was any undue influence on the minister to make that decision at that time, or it was clearly his decision, simple?

**MR. MEADE:** I have no evidence of undue influence in terms of the legal interpretation or definition of undue influence. I was not aware of any undue influence, no.

**MR. CROSS:** Okay.

**CHAIR:** Mr. Murphy.

**MR. MURPHY:** Thank you, Mr. Chair.

Mr. Meade, you mentioned on the morning of that there were two meetings. The first meeting was initially over – w, well, in the Cabinet sitting somewhere, people milling about. At the first meeting around 9:45 a.m. the discussion happened around the problems with the contract and the options were going to be talked about. Did anything else happen there that might have given you the hint that Mr. McGrath was going to be talking about this around the Cabinet table and that he would come back to you with an answer as regards to what sort of decision might come out of Cabinet?

**MR. MEADE:** No, there would not have been any comments or discussion that would have led me to that. The only thing that was clear to me was the urgency of us doing the work which, again, would feed into the context of Cabinet is convening, Cabinet is meeting today, and he wanted some urgency in us to do some further analysis. So that would be the extent of it.

**MR. MURPHY:** So Mr. McGrath knew that there was an issue and he was asking you to deal with it?

**MR. MEADE:** Yes.

**MR. MURPHY:** Okay.

He did express the urgency of the matter?

**MR. MEADE:** Yes, he expressed the urgency, because the first contact with Minister McGrath on March 13 was at approximately 8:45 o'clock when he phoned me.

**MR. MURPHY:** Yes.

**MR. MEADE:** It was clear then that he was aware of an issue with HVP, wanted us to investigate that, and to do it in an expedient manner. Which then, of course, the sequence being we did call Eugene. I went to see the minister on the margins of Cabinet as it was convening. Then the next time I would have seen the minister was a little bit later in the morning when I would have laid out more fully the options.

**MR. MURPHY:** So that was after the 9:45 o'clock meeting?

**MR. MEADE:** I had two meetings with the minister.

**MR. MURPHY:** Right; outside of the phone call, of course.

**MR. MEADE:** Outside of the phone call.

**MR. MURPHY:** Okay.

So at the second meeting, how much time was between the first and second meeting?

**MR. MEADE:** If I recall, it was probably a couple of hours.

**MR. MURPHY:** Okay. So there would have been time for a discussion, possibly, to have occurred around the Cabinet table at that particular time?

**MR. MEADE:** I suppose so, yes.

**MR. MURPHY:** Okay. So the minister came out then the second time.

**MR. MEADE:** Yes.

**MR. MURPHY:** You met the second time. Was the Cabinet meeting still going on?

**MR. MEADE:** Yes, it was.

**MR. MURPHY:** It was still going on?

**MR. MEADE:** Yes. He had leave from Cabinet.

**MR. MURPHY:** So this was the second time now that he had leave from the Cabinet table?

**MR. MEADE:** The first time, I do not believe Cabinet was technically convened. I think it was about to convene the first time.

**MR. MURPHY:** Okay.

**MR. MEADE:** I do not think they had actually begun their Cabinet meeting.

**MR. MURPHY:** Okay. So there were other Cabinet ministers milling about and –

**MR. MEADE:** Yes.

**MR. MURPHY:** – obviously, possibly some communications staff or constituency assistants or whoever, besides Cabinet people.

**MR. MEADE:** I cannot recall exactly who was around, but I believe at that point Cabinet was commencing at 10:00 o'clock and this would have been ten or fifteen minutes before. Usually for Cabinet, they may have a bit of breakfast or something beforehand. So they were kind of milling.

**MR. MURPHY:** Okay.

**MR. MEADE:** I remember the milling. I remember that it was obvious that Cabinet was about to convene.

**MR. MURPHY:** Okay.

So the second time then he comes out, the Cabinet meeting is still ongoing. What did he tell you?

**MR. MEADE:** The second time was when I would have had some further discussions, obviously, with Gary Gosse and with David Jones. We had more clearly laid out the options, which is what I did. So I reiterated the options; reiterated again the option that we could declare them in default and whatnot.

That said, the values that he placed clearly on the conversation of, work with the company to ensure that we could see if the sixty kilometres could be done in 2014, led me to more fully explain that option to him of what that could look like. So I would have explained how mutual termination could occur. Our view was that if we were to do it, we would try to hold us harmless from any other claims they could make, knowing this was a file that we had known for quite some time and that there had been conversations about wanting to be compensated for losses, that we would build that in.

I spoke to him about the bundling with the other tender 7-14 and that we felt that was a way of, at the very least, minimizing the costs here. By doing so, we create the economies of scale. At that time we had hoped it would mean that we could get it done in 2014.

That is when he would have given his unequivocal direction of that is the option he wished to pursue. That is when that would have occurred. That is also the time when I would have asked those two questions that we have spoken about.

**MR. MURPHY:** Did he mention at that particular time at the second meeting when – obviously they had to talk about the options. He talked about the options before the second meeting?

**MR. MEADE:** He would have been aware between the first and second meeting out – he would have been aware. At the first meeting, he was aware of broadly the two options of declare them in default, or try and find a way of mutually agreeing to terminating the contract.

**MR. MURPHY:** After the first meeting, he did not render a decision to you on the options.

**MR. MEADE:** No, he placed value on them, though.

**MR. MURPHY:** Right.

**MR. MEADE:** Right.

**MR. MURPHY:** It was after the second meeting, so he obviously had time to discuss it with his counterparts around Cabinet if that option was there. We still do not know if that happened, but he came back and he rendered a decision to you then to go ahead and mutually terminate the contract.

**MR. MEADE:** That is right.

**MR. MURPHY:** Okay.

Before the Cabinet meeting started, did you see who was there? Which ministers were there? Obviously a Cabinet meeting is going to be the full Cabinet and Premier.

**MR. MEADE:** I honestly cannot recall, Mr. Murphy, who had been there.

**MR. MURPHY:** Okay.

**MR. MEADE:** I just remember they were milling; they were starting to convene.

**MR. MURPHY:** Okay.

So now the decision has been made by the minister. What direction did he give to you outside of the known process now? Obviously the decision to go ahead involved drawing up the legal paperwork and everything. What time of the day was it that you informed them to get that done? That was around 12:00 o'clock. Am I right on that? It was around (inaudible).

**MR. MEADE:** After he had given the direction and stated he wanted it to proceed that day – because that would have been really, I guess, the third point. It would have been a point of do you want to send a blind – political sensitivity. The third point is do you want this done today, and the answer being yes, I would have gone back upstairs and I would have convened Gary

Gosse and David Jones again. That is when I said to them the minister's direction is clear. This is the option we are going to pursue.

David, you have suggested the letters, the format. I asked for you to please, start drafting that; between the both of you to start drafting that letter. Gary and I then called Gene Coleman and stated to him: Gene, further to our discussion this morning, we have had some discussions internally with the minister. We are prepared to consider mutual termination of this contract with the following conditions – and the conditions would have been what is stated in the letter – not that you cannot come after us for claims on the forest fire, et cetera, et cetera.

Gene expressed an openness and said, that sounds reasonable but I would like to see it in writing, obviously. We said we were working on drafting something up, and that is where that conversation ended up. So, then later that afternoon, as Mr. Jones has already testified, the letter would have been drafted, I would have reviewed it, and then it would have been sent out just after 4:00 o'clock. It would have been sent by Gary.

**MR. MURPHY:** Okay. So you did not have any communications staff review that letter or anything like that?

**MR. MEADE:** No, and communications staff normally would not review contractual work, not work that David Jones would be doing.

**MR. MURPHY:** Okay, but at 12:00 o'clock we knew – I think that was the time Mr. Jones mentioned earlier, that the decision was made to write up the letter. I think the process started around 12:00 o'clock. Am I right on that?

**MR. MEADE:** Yes, approximately, yes.

**MR. MURPHY:** Okay.

At that particular point in time we have what could be an issue, and was a politically sensitive issue, that the message had to get out to Cabinet or the Premier or somebody, that this issue was probably going to be coming up. This, to me, would be borderline crisis in communications. I think it could be that you would have a crisis situation here on your hands or the potential of.

Were there any communications people who would have been informed then about the potential of messaging that has to come out from that? That would have been done by Mr. Barfoot?

**MR. BARFOOT:** As I indicated earlier, and as Brent pointed out, communications people are engaged by departmental officials and senior executive on some matters, but they use it at their discretion. At this particular time I was not engaged until April 28 in response to a CBC media query that we received.

To provide you a little bit of a context as to what our next steps were from that, myself and the ADM and the deputy minister, and later with Mr. Jones, just to make sure that everything was correct from his perspective, developed key messages and questions and answers, and we started the process of briefing the minister and preparing him for an interview, which we knew would generate attention.

CBC came by our offices on Tuesday afternoon; that would be April 29. We did a fairly lengthy interview; it was about an hour. The story – sorry, I apologize; a CBC reporter followed back up with me again on April 30, which was the Wednesday, looking for a little bit more information, just to fact check to clarify some things, which we provided fairly quickly, and the story aired on Wednesday, April 30.

The minister went onto a call-in radio program that evening as well. The process of communicating the decision happened in response to the CBC media query at the end of April.

**CHAIR:** Mr. Hunter.

Mr. Parsons.

**MR. K. PARSONS:** Mr. Meade, I just want to go back to your conversations with Minister McGrath that morning. At any time did he indicate that the Premier was aware?

**MR. MEADE:** Not explicitly, no.

**MR. K. PARSONS:** Did he say that this was discussed in Cabinet and –

**MR. MEADE:** No, not explicitly, other than again what I have already testified in that I understood he had leave from Cabinet. Again, the context being that he was in Cabinet; he was in and out of Cabinet.

**MR. K. PARSONS:** Have you gone to the Cabinet room any other time ever to have a conversation with a minister?

**MR. MEADE:** Yes, many times.

**MR. K. PARSONS:** That is the normal procedure that when you need to speak to the minister not only in your department but, say, in other departments you could assume that the deputy minister would probably go down and have a conversation or –

**MR. MEADE:** Yes. I would suggest to you that it is common practice that ministers would from time to time call their senior officials outside the Cabinet room to discuss any number of matters.

**MR. K. PARSONS:** Okay, so that is something that normally happens. It is not something that is new that all of a sudden you get up from the Cabinet table and everyone is saying where are you going to; it is something that is commonly done.

**MR. MEADE:** I cannot comment on the protocol or practice in the Cabinet room for ministers, but it is my understanding that ministers do frequently take leave. My understanding is, in respect to the Premier as Chair of that meeting and as Premier, that they would seek that leave and receive permission for that leave from the Premier in order to leave the room.

**MR. K. PARSONS:** So there is no way of knowing if Minister McGrath got up and actually said he is going out to talk to you about Humber Valley Paving. It is just that just you assumed that, right?

**MR. MEADE:** No, I did not assume that. I have asked Minister McGrath explicitly, pointedly, when he left the room was the Premier aware of the purpose for his leave. He has advised me that he told then Premier

Marshall that he was seeking leave to deal with a matter with Humber Valley Paving.

**MR. K. PARSONS:** Okay.

That is all I have.

**CHAIR:** That was very short. So maybe we will go to Mr. Peach.

**MR. PEACH:** I have no questions right now.

**CHAIR:** Mr. Cross.

Mr. Murphy.

**MR. MURPHY:** I think Mr. Osborne –

**CHAIR:** Sorry about that. You are right.

Mr. Osborne.

**MR. OSBORNE:** I am just going to harp on this a little longer, Mr. Meade, and then I will move on to another line of questioning.

In the Auditor General's report, one of the findings there: as the head of the department, the deputy minister is responsible for ensuring the appropriate information is forwarded to the Clerk of Executive Council who would then provide it to the Premier's office for information or decision, as the case may be.

One of the recommendations is: "Departments should ensure that normal protocols are followed when dealing with sensitive matters. Deputy Ministers should not assume that a Minister will convey sensitive information in a timely manner."

We do know that it is a responsibility of the deputy to ensure that this is brought up. I know in the previous Public Accounts meeting of September 9, in a question to the current deputy minister I said, "A deputy minister is appointed by the Premier and answers to the Clerk of Executive Council. The normal course of action for a deputy minister – because what happened here was exceptional. The normal course of action would be for a deputy to inform the Clerk of Executive Council, especially with a situation as sensitive as this ... .

“Just knowing how the process is supposed to work and the obligation – Ms Companion, you are now deputy minister, so you are aware of that obligation to report to the Clerk of Executive Council.” Her response was: “Absolutely.”

I then went on to say, “I am finding it difficult to rationalize why a deputy minister who is obligated to report to the Clerk of Executive Council, who had informed the minister that this was a sensitive issue” – as you did – “the deputy minister knew this was a sensitive issue. Obviously, the minister knew it was a sensitive issue; yet, the deputy did not inform the Clerk of Executive Council or the Premier’s office. Ultimately, the deputy is responsible to the Clerk of Executive Council and to the Premier. On something so sensitive, why would that integral piece of the puzzle be missing?”

The response from the current deputy, “The only thing I can offer is if the deputy minister would have thought that the Premier’s office or the Clerk had been involved in the discussion or had been informed by the minister. In our normal course of business, deputy ministers definitely advise the Clerk of sensitive issues that need to be brought to the attention of the Premier’s office.”

Mr. Meade, I just want to go back. I need to understand for myself and I think the people of the Province need to understand as well. Was this simply an assumption, or did you have more concrete information to indicate that this issue was being discussed at the Cabinet table?

**MR. MEADE:** Mr. Osborne, I testified on this question and it is very similar to your earlier question. Again, it was based on the context and the conversation that I had with Minister McGrath on March 13. The context again being that it was outside the Cabinet meeting, that he had leave from Cabinet as I understand, with the understanding of the Premier to deal with an issue on HVP, and that he exercise his authority.

There is no doubt that Minister McGrath had authority to exercise this. In response to my two questions around whether we should move this up the line and the political sensitivity of this, his response was one that led me to believe that this was dealt with, yes.

**MR. OSBORNE:** You are aware, Mr. Meade, that Mr. Coleman was about to become the Leader of the Progressive Conservative Party, were you?

**MR. MEADE:** Yes and again, that was the second point I made to the minister. My recollection of the way I put it to him was: Minister, I am John Q. Public, like everybody else, and hearing that Frank Coleman may be throwing his hat into the ring in elected official capacity. I said: We do not know where Frank Coleman is with this company right now.

He was a president at some point. Whether he still is, we do not know. We are dealing with Gene. I just want to make you aware that we have not looked at where Frank Coleman is on this, but you need to be aware that we have highlighted that as an issue obviously. So yes, I was very aware.

**MR. OSBORNE:** Okay.

This decision was obviously made with a great deal of haste. It was literally from the morning that the issue had come to your attention, I think it was 8:45 in the morning you received the call from Minister McGrath. Is that correct?

**MR. MEADE:** That is correct.

**MR. OSBORNE:** Okay.

So just before Cabinet, he had asked you to come outside the Cabinet room to discuss the issue with him. Then he had called you later that morning – if memory serves me correctly, it was shortly after 11:00 or thereabouts that you were called to come back to the Cabinet room again.

**MR. MEADE:** Yes.

**MR. OSBORNE:** Again, I understand your position because I find it very difficult to believe that this would not have been discussed inside the Cabinet room, especially with the minister having been excused from the Cabinet room to discuss this very issue on the eve of Mr. Coleman becoming acclaimed as the – or putting his name in the race to become the Leader of the Progressive Conservative Party.

I guess with the decision made so quickly, in less than four hours to cancel the contract, I understand that there was no paperwork. The normal course of action are decision notes or briefing notes that weigh the pros and cons of a decision of this magnitude, especially a very politically sensitive issue. I understand there were no briefing notes that morning because of the haste. There were no decision notes, but there was no paper trail for a full month-and-a-half later. Why?

**MR. MEADE:** There would have been a paper trail. The paper trail on the file would have been the mutual termination letter. That is the way it would have been exercised on March 13.

**MR. OSBORNE:** That was a letter directly to Humber Valley Paving.

**MR. MEADE:** Right.

**MR. OSBORNE:** Within the structure of government, the ordinary course of business would be decision notes, briefing notes, evaluations. Is that correct?

**MR. MEADE:** Ideally, yes, you would normally do that, and I know that my colleague who testified last time said that those are the tools that we use. In this case, there would have been no decision notes sent after the thirteenth because the decision was made, so that would not have been necessary to send a decision note. There was no information note sent because you would send information notes with the understanding that you are trying to make the Premier's office, in particular, aware of an issue. Again, it was my belief that the Premier's office was not only aware, they were processing and part of the discussion.

The third point I would make is I am aware of those tools because I, in fact, asked the minister if he wanted me to generate one. By asking would you like this to be moved up the line, would you like me to put something together, and the answer being no; that, from where I sit, is recognition that I understand the processes that you could undertake, but I also understand that the minister exercises authority.

**MR. OSBORNE:** So for a full month-and-a-half there is nothing on paper until there was a

briefing note prepared for the Premier's office a month-and-a-half later?

**MR. MEADE:** The first note would have been developed on April 28.

**MR. OSBORNE:** Okay.

I have a question for Milly Brown. When did you become aware of this issue?

**MS BROWN:** I became aware of it on April 29.

**MR. OSBORNE:** That is the first time there was any discussion, whether in writing or verbally, that you had become aware of this issue?

**MS BROWN:** That is correct.

**MR. OSBORNE:** Okay.

So within the department – actually, I want to go back for a second, you received a call at 8:45 a.m. from Minister McGrath. Can you tell me what was discussed, what he had raised, and your responses in that particular phone call?

**MR. MEADE:** The 8:45 a.m. call was one where Minister McGrath contacted me and the conversation went along the lines of: Brent, are you hearing anything about Humber Valley Paving? I said: In what context, Minister? He said: Well, they want out of the contract in Labrador.

I said: Well, Minister, I am not aware of that. As you know, we have had issues with this file and as you know, they have made representation to the department that we should consider claims, though they have never submitted them; but I am not aware of any conversations or desire for them to get out of that contract. So that is the first I have heard of that.

He said: Well, it is my understanding they want to. I said: Well, Minister, in order for me to get to this, we need to get to the company, obviously. So would you like for me to contact the company and to talk through this with the company? He said: Please. I said: Does this need to be dealt with today, because my calendar that morning actually had me out of the office? He said: Yes, I want it dealt with immediately. I

said: Okay. So I had to clear my calendar and that is when I said: Okay, we will get Eugene on the phone and we will try and see what is going on here.

That is when I subsequently would have gotten Gary Gosse to come in and both of us would have called Gene Coleman.

**MR. OSBORNE:** Okay.

A little more than a half hour later you received a call from Minister O'Brien. Can you let us know what Minister O'Brien had said to you and your response back to him?

**MR. MEADE:** The call from Minister O'Brien came and Minister O'Brien said: Brent, are you aware of Humber Valley Paving and some issues with their contract? I said: I am, Minister O'Brien; and, in fact, I am dealing with my minister on it, I have already spoken to my minister on it, and we are looking at it. He said: Good, good, good, thank you very much. That was basically the extent of the conversation.

**MR. OSBORNE:** It is somewhat unusual for a deputy of one department to receive a call from a minister of another department and delve into an issue. Is that correct?

**MR. MEADE:** Normally, they would do it through ministers, yes, and I raised it with my minister when I saw him that, just so you know, I received a call from Minister O'Brien on this. Minister O'Brien is a minister, I will say this, that when he was in government as a minister frequently called deputies. He was one of those ministers who did that, and would call on particular files.

In Transportation and Works I know we had a couple of schools on the go out in Central, out in Gander area, that he would frequently call us directly on. In the main, yes, it is usually ministers work through ministers in those conversations. In this case – I cannot speak for Minister O'Brien – I will say I did find it a bit odd that he would call me on a file that I could not, at that point in time, in all honesty make a connection to him on.

I know subsequently he has testified that he called because of his role in Fire and Emergency

Services, but on that day that was not apparent to me. The conversation was pretty well as long as I just cited. It was: Are you aware of HVP and their contract issues? I said: Yes, I am speaking to the minister. Good, good, thank you very much.

**MR. OSBORNE:** Okay.

There was no mention of the fires in Labrador at that time?

**MR. MEADE:** Not in the conversation I had with Minister O'Brien, no, he did not –

**MR. OSBORNE:** No concern raised?

**MR. MEADE:** His intent for the call was not clear to me, nor was it stated.

**MR. OSBORNE:** Okay.

**CHAIR:** We should go to a government member. Does any government member have questions?

Mr. Parsons.

**MR. K. PARSONS:** Mr. Meade, though, the conversation with Mr. O'Brien, so he just picked up the phone and called you? What time of day was that?

**MR. MEADE:** He called me around 9:45 a.m. or so, I believe.

**MR. K. PARSONS:** So that was before the Cabinet meeting?

**MR. MEADE:** Yes, it was before Cabinet.

**MR. K. PARSONS:** Okay, all right.

His concern was just what was on the go with Humber Valley Paving.

**MR. MEADE:** Yes, basically, Mr. Parsons, the conversation was almost word for word the way I just put it, as I recall it.

**MR. K. PARSONS:** Okay, and it was before the Cabinet meeting?



**MR. MEADE:** It was before Cabinet, I do know that.

**MR. K. PARSONS:** Okay, thank you.

That is all I have.

**CHAIR:** Mr. Cross.

**MR. CROSS:** Was that also before you met with the minister outside of Cabinet, because you met before the Cabinet convened?

**MR. MEADE:** Yes, it was.

**MR. CROSS:** Okay.

**CHAIR:** Mr. Peach.

**MR. PEACH:** With Minister O'Brien, have you ever received any calls from him before on other matters?

**MR. MEADE:** Oh yes, many times.

**MR. PEACH:** So it is not uncommon for him to do that?

**MR. MEADE:** No. As I stated, it is not uncommon for Minister O'Brien to call deputies to have queries about projects or files of interest to him.

**MR. PEACH:** Okay.

**CHAIR:** Mr. Murphy.

**MR. MURPHY:** I was just wondering about the time. You mentioned –

**CHAIR:** Yes, we are running the clock a little bit to make sure we get as much in as we can.

**MR. MURPHY:** All right, okay.

**CHAIR:** We will have time to have a very short break.

**MR. MURPHY:** All right.

A question, I guess over to Ms Brown, if I can ask you about the process. When you found out about the issues that were ongoing, on what date was that again?

**MS BROWN:** It was April 29.

**MR. MURPHY:** It was on April 29. Your job at that particular time was what?

**MS BROWN:** I was Director of Communications in the Premier's office.

**MR. MURPHY:** In the Premier's office. Who was it that informed you at that particular time that there was an issue?

**MS BROWN:** I found out through a decision note that had come through Cabinet Secretariat.

**MR. MURPHY:** There was a decision note done at that particular time?

**MS BROWN:** Yes, that day.

**MR. MURPHY:** Okay.

When the decision note came down about this, were there any other people that you – you obviously had to get some people involved in the message handling. Can you tell us what happened in that particular sequence of events?

**MS BROWN:** Well, what happened was I would have read the note. I chatted with the then Premier about it. I realized at that time that the department was involved because the Premier had engaged the minister and the deputy. So I knew the department would have been dealing with key messages at that point.

**MR. MURPHY:** How were you informed of the issue? You were briefed by the Premier or –?

**MS BROWN:** Through the decision note.

**MR. MURPHY:** Through the decision note, in that way.

**MS BROWN:** Correct.

**MR. MURPHY:** Were you aware of this issue –

**MS BROWN:** Not a decision note, I am sorry. What is the correct – it was an information note.

**MR. MURPHY:** An information note, okay.

**MS BROWN:** Yes.

**MR. MURPHY:** The information note was done up by who?

**MS BROWN:** It would have been the one Mr. Meade has referred to that they developed on Tuesday, the twenty-eighth.

**MR. MURPHY:** Okay. So people would have known about this before.

When you received that decision note, obviously, you had to get together with communications people to talk about the issue. There was no sign of anything that was happening before, for those thirty-seven odd days, that might have made you aware there was an impending issue around this from March 13?

**MS BROWN:** Absolutely nothing.

**MR. MURPHY:** Absolutely nothing. It was silence in the building from that?

**MS BROWN:** I had no idea.

**MR. MURPHY:** Okay.

So you have this issue on your hands. Who was there when you developed the key messaging for that?

**MS BROWN:** Well, I would not have developed the key messaging. That would have been done at the departmental level. Mr. Barfoot would have done that.

**MR. MURPHY:** From then on there, did Mr. Barfoot inform you of the decisions that would be made as regards to that when it came to the decision of what the key messaging would have been?

**MS BROWN:** We would have had a meeting the following morning. Let me just check who was there. I believe it was Minister McGrath and Mr. Meade.

**MR. MURPHY:** Okay.

**MS BROWN:** At that point we were really gathering information, trying to get the details. I knew Mr. Barfoot was already developing key messages. In fact, the minister had done an

interview, so I knew there were key messages already developed.

**MR. MURPHY:** Okay.

Did you know the interview was going to be happening before you had the information note?

**MS BROWN:** I did not.

**MR. MURPHY:** Okay. I am just trying to think here now, putting things together here.

Mr. Meade, I want to come back to you as regards to – the information obviously was being passed around within the department and a month and a half has gone by before any communications people have found out. Can you quantify that as to the reason why thirty-seven days would have passed by without anybody in communications being informed that they might have a job to do on their hands?

**MR. MEADE:** Well again, as I have stated previously, communications staff are engaged. Either they will get an inquiry and come to the departmental staff or executive to seek information, or in some instances we will create communication plans around things.

In this particular case, knowing that sensitivity from my perspective was largely a political one, and with the understanding that the political sensitivity was acknowledged, had been processed in Cabinet and with the Premier's understanding – that was what I believed at that time – I saw, at that point, no need to engage with communications in that period. There would be other decisions.

I do not believe we would have engaged communications when we mutually terminated the contract in Happy Valley-Goose Bay, for example. I do not believe we did. There might have been a subsequent media call around it that we would have, but it was one where a decision was made. Not every decision in the department would necessarily have the communications staff directly involved right away.

**MR. MURPHY:** Okay.

So a month and a half has gone by before anybody has found out, but you have a potential

crisis that is on your hands. I do not understand why it would have been passed over – not passed over, have communications people involved. Maybe you can help me out here when it comes to that, as to the reason why we do not have any communications people involved for thirty-seven odd days. I am still having trouble quantifying that, because we have a tender that has gone out under 7-14 and communications people obviously have to put together the tender messages.

So we have the breaking of a contract – the mutual termination of the contract, I should say, that has happened here and not a single question has arisen from any of the communications people. Did anybody ask why, at that particular time, this particular piece of the contract from Humber Valley Paving was lumped in suddenly with 7-14?

**MR. MEADE:** No, not that I am aware of.

**MR. MURPHY:** Do you see what I am saying? People were in the know that part of the contract was not fulfilled and something had happened along the way, and not a single question arose from anybody as regards to how come the bundling was happening. Somebody had to type up the tender or something to send it out to the media to get it published.

**MR. MEADE:** Right, but the understanding being, of course, this would have been us doing our business.

**MR. MURPHY:** Yes.

**MR. MEADE:** We entered into a contract, we mutually terminated a contract. We took a piece of it and put it into a tender. We just carried on and did our business, as we would around roadwork.

Really, for us, I do not think in that point in time we would have seen any communication issues around that type of thing. Again, yes, there would have been a political sensitivity around a political race, quite frankly, that – it was a party political race. So I could characterize this as – this was not a departmental issue. This was a political issue, clearly a political issue. I carried out my due diligence in making them aware of it in saying, do you see this, I understood they

processed it; but, from a communications perspective, I would not have engaged Scott Barfoot to say you need to do a comp plan because there is a political process unfolding out there that we are not so sure about what his role is in this.

If I could speak frankly to that, I mean that is where I would have sat on it. So I think for us, we just carried on. We carried on with the contractual work we had to do. When it became apparent the media had heard about this and were going to pursue it, that is when we would have engaged communications.

**MR. MURPHY:** Did you or any of your staff receive any orders to the fact that this was political and to stay away from it?

**MR. MEADE:** No.

**MR. MURPHY:** No.

**MR. MEADE:** There was no conscientious decision not to communicate. There was not a conversation where we were saying we are not to communicate this, no.

**MR. MURPHY:** Okay, all right.

So we have what happened, happened, obviously. We have had two meetings with the minister, and the minister is solid in his decision. He has decided that this was going to happen, to proceed with the mutual agreement to terminate. It is your belief that there was no way around it, that this had to be discussed at the Cabinet table. It was your belief that it was brought up, obviously. I am right in that assumption?

**MR. MEADE:** Yes.

**MR. MURPHY:** Okay.

So people knew and they still did not develop any kind of a communications plan around that particular issue, around the political sensitivities. So we are left to ask the minister, I guess, the next round of questions on that.

**MR. MEADE:** Yes. I mean as a bureaucracy, we would not have witnessed that. Again, back to the assumption that the Premier's office was aware and the Premier was aware of the

decision. I would assume that if they felt there were political sensitivities there, they were going to figure out how they were going to manage those from a communications perspective.

**MR. MURPHY:** How did Mr. McGrath tell you? You said you made the assumption that it was all being dealt with, so there was no need then at that particular time to do up a decision note. Did he say, I had a chat with everybody around the Cabinet table and it is all being looked after? What exactly did he say?

**MR. MEADE:** No, I do not recall him being as explicit as that. I just know that in asking the question, his response was, no, that is necessary, proceed to work on terminating this today.

**MR. MURPHY:** Okay. So it is not necessarily the fact then that everybody knew. It was the fact that he had made this decision and he was sticking by it. That was at the first meeting or at the second?

**MR. MEADE:** The second.

**MR. MURPHY:** That was at the second meeting, okay.

**CHAIR:** Mr. Murphy, we should go to a government member, and then we will take a very short break. Mr. O'Brien will call in at 11:00 o'clock.

**MR. PEACH:** I just have one question. I guess one can assume that this being an election year and one can assume that Frank Coleman is running for the Premier's office.

You mentioned earlier the length of time in between things that happened. I guess it is a normal process for DOT to eliminate contracts or deal with different people on contracts and not have to go public with a lot of these things.

In your statement earlier you had said that until the media got involved you did not have to go to your communications people to make statements. That is pretty much a normal thing, isn't it? Because lots of things go on within DOT that nobody hears about, with regard to contracts. A contract comes out, it is awarded, there is a statement made by DOT, and that is about it. So it is pretty much a common thing.

If this did not happen with Frank Coleman, and this being an election year right now, I do not think all of us would have been here really; but, because of Frank Coleman, I guess the media were the ones who really dug into this and got things rolling on this, DOT ended up in the situation they ended up in publicly and politically.

I just want to ask, it is a common thing for DOT to make these kinds of decisions and just carry on with the day-to-day operations, isn't it?

**MR. MEADE:** It is. As I stated earlier, there are hundreds of contracts in play at any given point in Transportation and Works from my time there, and almost on a daily basis. Again, it is one of the reasons why there is a solicitor from Justice and Public Safety embedded in the department. Contractual law is a big part of the work that a solicitor would be doing. Contractual agreements are being drawn up, they are being amended or whatnot. You are correct; they are not always publicly communicated.

That said, I do acknowledge the recommendation of the Auditor General. The Auditor General has clearly recommended in the case of cancelling contracts, that that should be publicly communicated. I acknowledge and accept that recommendation.

**CHAIR:** We will take our morning break. It is a little later than I thought, but I think we covered a fair bit of ground.

Mr. O'Brien will be calling in at 11:00 a.m. So if people could be back here just a minute or two after that.

Thank you.

### Recess

**CHAIR:** Good morning.

**MR. O'BRIEN:** It is I, Sir.

**CHAIR:** Yes, this is Mr. O'Brien calling; this is Jim Bennett, the Chair.

Now, you are familiar with this process. As you know, we need to have you administer the oath first. You probably have it with you.

**MR. O'BRIEN:** Yes.

**CHAIR:** Did you want to read it out?

**MR. O'BRIEN:** Jim, if you can actually read it and I will repeat it, because I could not open the attachment.

**CHAIR:** Okay.

Do you swear or affirm?

**MR. O'BRIEN:** Swear.

**CHAIR:** Okay.

I, Kevin O'Brien –

**MR. O'BRIEN:** I, Kevin O'Brien –

**CHAIR:** – do solemnly swear –

**MR. O'BRIEN:** – do solemnly swear –

**CHAIR:** – that the evidence I shall give –

**MR. O'BRIEN:** – the evidence that I am about to give –

**CHAIR:** – on this examination shall be the truth, the whole truth, and nothing but the truth, so help me God.

**MR. O'BRIEN:** – on this examination will be the truth, only the truth, so help me God.

**CHAIR:** Thank you.

Mr. O'Brien, we alternate with questioners and they have approximately ten minutes each.

**MR. O'BRIEN:** Yes.

**CHAIR:** We are sitting in the Chamber right now. I cannot say everybody is looking at you because you are on the telephone, but everybody is listening to you.

**MR. O'BRIEN:** Absolutely.

**CHAIR:** Tom Osborne is going to start first and then we will alternate with George Murphy and, occasionally, some government members may want to have some questions.

**MR. O'BRIEN:** Sure.

**CHAIR:** Mr. Osborne.

**MR. OSBORNE:** Good day, Mr. O'Brien. How are you?

**MR. O'BRIEN:** Good morning, Tom. How are you?

**MR. OSBORNE:** Good, boy, good.

You had contacted the deputy minister by telephone I guess about a half hour after Mr. McGrath had contacted him. What was the purpose of your call to the deputy minister on the morning of March 13?

**MR. O'BRIEN:** The purpose of the call was two-fold I guess. I had two issues within my district that I needed to talk to the deputy and, as a matter of fact, I will answer the question the same way I answered it to Terry Paddon. My call to the deputy minister was no different than the many calls that Terry Paddon got from me as an MHA and as a minister in regard to issues within the Department of Finance.

The two issues that I had to talk to the deputy or someone in the department with was, number one, the flooding for a constituent of mine on the corner of McGee and Gander Bay Road, or Cooper Blvd now I think; and the other one was when the work was going to start on the Trans-Canada Highway, east of Gander, from the Cooper Blvd intersection on the Trans-Canada Highway, east and inclusive of the top of – just before the park actually I think.

Anyway I wanted to see when that work was going to start because I was getting some calls concerning that. As a side issue, I asked if there were any issues with Humber Valley Paving. He indicated that there were issues with the work that had happened in Labrador and the minister was dealing with it. That was the end of the call.

**MR. OSBORNE:** Okay.

We had questioned Deputy Minister Meade just prior to your call actually. I think his recollection was somewhat different than yours just now, Kevin. He indicated that you had

called and asked if he was aware that Humber Valley wanted out of the contract. Can you clarify that?

**MR. O'BRIEN:** Well, I heard in the grapevine – I was not the Minister of Transportation and Works and I might very well have said that because I was listening to people, including yourselves, because you all knew that I was gathering names for Mr. Coleman in regard to his nomination papers. So I probably did ask if there were any issues with Humber Valley Paving.

**MR. OSBORNE:** Okay.

Now you later testified that the purpose of your call was because of your role as Fire and Emergency Services.

**MR. O'BRIEN:** No, the call was not because, it was a curiosity question. I was the Minister of Fire and Emergency Services when we had to make a decision up in Lab West in regard to the fires and safety issues surrounding that. There were some concerns in regard to the impact that may have on the economy and all that kind of good stuff when we made that decision. So it is only just a curiosity question, really.

**MR. OSBORNE:** Okay.

You indicated that you were gathering names for Mr. Coleman and I think that was public knowledge. Is that how you found out there were issues with Humber Valley Paving and them wanting to get out of the contract?

**MR. O'BRIEN:** No, absolutely not. As a matter of fact, I heard it in the House of Assembly.

**MR. OSBORNE:** Okay.

You heard in the House of Assembly?

**MR. O'BRIEN:** I think so, from colleagues. I cannot remember exactly. There was chatter on the go between colleagues, yourselves across the House or whatever it may be.

I cannot recall exactly who said what to be quite honest with you, Tom. There were some questions in regard to Mr. Coleman and if he

was going to run or not. People were speculating, I guess, if we want to put it that way. That had no concern of mine; I was just gathering names. That was all that was to it.

**MR. OSBORNE:** Okay.

I know from our perspective – and Mr. Murphy can speak for himself – we were not aware until April that the contract had been cancelled. The chatter would not have come from us on the fact that they wanted out of the contract for sure.

**MR. O'BRIEN:** Oh – listen, I did not know that they wanted out of the contract. That is not what I indicated, Tom, to be quite honest with you. All I knew was that people were saying that there were issues up in Labrador and it was a curiosity question on my part, being the minister responsible at the time that shut down any movement up there. That is all. I want to be clear on that.

**MR. OSBORNE:** Okay.

The morning that you contacted Deputy Minister Meade, did you indicate to him or ask him if he was aware that Humber Valley had issues with their contract?

**MR. O'BRIEN:** I had heard, yes, absolutely. I said to Mr. Meade: Are there any issues with Humber Valley Paving in regard to the Labrador contract? It was a curiosity question because of Fire and Emergency Services. He indicated there was, that the minister was dealing with it, and that was the end of the call.

**MR. OSBORNE:** Okay.

So you were not aware when you made the call to Deputy Minister Meade that Humber Valley wanted out of the contract?

**MR. O'BRIEN:** No. All I heard, I did not know – I want to be very clear on this, Tom. I did not know. All I was asking was were there any issues. He indicated there were issues with the contract. Other than that, I did not know what was being done about it. Neither did I care, for that matter.

**MR. OSBORNE:** Okay.

You asked if there were issues but you did not pursue it further or did not care what the issues were.

**MR. O'BRIEN:** No, absolutely. It was not my department. I was not the minister so no decisions that would be made or any of the transactions or whatever made in Transportation and Works would have any bearing on me. I would not have any bearing on it.

**MR. OSBORNE:** Okay.

Did you have any discussions with Nick McGrath on March 13 about Humber Valley Paving?

**MR. O'BRIEN:** No.

**MR. OSBORNE:** Okay.

Was there any discussion with other Cabinet colleagues or inside of the Cabinet room, not necessarily a part of the Cabinet meeting but not excluding that, about Humber Valley Paving?

**MR. O'BRIEN:** None.

**MR. OSBORNE:** Okay.

So Mr. Coleman was about to enter the race the very next day, March 14. Was there any discussion about Mr. Coleman with Cabinet colleagues on the morning of March 13?

**MR. O'BRIEN:** None.

**MR. OSBORNE:** The issue of Mr. Coleman was not talked about in quiet corners or in chatter at all on the morning of March 13?

**MR. O'BRIEN:** Not that I am aware of, Tom. I mean, quiet corners are quiet corners I suppose, but there are not quiet corners in Cabinet. You sit at your seat and you deal with the agenda at hand.

**MR. OSBORNE:** Yes. There are often side discussions, both outside in the waiting area and inside the Cabinet room, prior to a meeting starting.

**MR. O'BRIEN:** I would not be aware of any.

**MR. OSBORNE:** Okay.

So there was no discussion at all of the potential candidates or the fact that the deadline was drawing very close to closing and Mr. Coleman was about to announce?

**MR. O'BRIEN:** Say that again for me, Tom.

**MR. OSBORNE:** There were no discussions at all about the fact that the nomination process for the Progressive Conservative Party leadership was about to close or of Mr. Coleman's potential candidacy, him announcing the next day?

**MR. O'BRIEN:** At Cabinet you mean?

**MR. OSBORNE:** Yes, with Cabinet colleagues.

**MR. O'BRIEN:** No, absolutely not.

**MR. OSBORNE:** Okay.

So you were soliciting support for him but the discussion never came up?

**MR. O'BRIEN:** No. That was at my free will.

**MR. OSBORNE:** Okay.

There was no discussion at all about Humber Valley Paving and the fact that there were contract issues either informally with Cabinet colleagues or formally as part of the Cabinet meeting?

**MR. O'BRIEN:** None.

**MR. OSBORNE:** Okay.

When did you become aware that the contract was cancelled?

**MR. O'BRIEN:** I would not be able to put a date on it, maybe the same time as you.

**MR. OSBORNE:** So you were not aware until April.

**MR. O'BRIEN:** No, not to my knowledge. It would not be for me because that is not my department.

**MR. OSBORNE:** The twenty-ninth or thirtieth, somewhere in that range, I think is when I became aware of –

**MR. O'BRIEN:** It would probably be the same time as yourself. I do not know; maybe after you Tom. It is not something I kept an eye on, to be honest with you.

**MR. OSBORNE:** Okay.

Are you willing to agree to the release of your transcripts of your testimony with the Auditor General?

**MR. O'BRIEN:** Sure.

**MR. OSBORNE:** Okay.

Thank you.

**CHAIR:** Mr. Murphy.

**MR. MURPHY:** Good morning, Mr. O'Brien.

**MR. O'BRIEN:** Good morning there, Mr. Murphy.

**MR. MURPHY:** How are you? Good?

**MR. O'BRIEN:** Not bad at all.

**MR. MURPHY:** Good.

Just a couple of questions I guess. Mr. O'Brien, you said you did not have any discussions on March 13 about the Humber Valley Paving contract. Am I right?

**MR. O'BRIEN:** What is March 13? You are going to have to – I do not know the dates, right.

**MR. MURPHY:** That is when you called the deputy minister and asked about the Humber Valley Paving issue.

**MR. O'BRIEN:** That was only just a side issue, a curiosity question after the other two that I had in hand for my district.

**MR. MURPHY:** There was a Cabinet meeting that morning. Am I correct?

**MR. O'BRIEN:** There was, yes.

**MR. MURPHY:** But you phoned the deputy minister before the Cabinet meeting?

**MR. O'BRIEN:** Yes, normally I do. I try to get my work in early in the morning. I am in early in the morning.

**MR. MURPHY:** Okay.

So that particular part of your work, and even though it was outside your purview, that could not wait for the minister at the Cabinet level?

**MR. O'BRIEN:** No, you are assuming – wait now, George. You are assuming I phoned only on the Humber Valley Paving issue, I did not. That was not the nature of the call. The nature of the call from me was the two issues in my district, and then as a side issue I asked if there were any issues with Humber Valley Paving. I was told, yes, there was in regard to the tender and the minister was dealing with it. That was the end of the call.

**MR. MURPHY:** Why would you have had concerns around Humber Valley Paving when you made the call?

**MR. O'BRIEN:** Because I was the Minister of Fire and Emergency Services at the time that the contracts were held up, and I was curious to the impact that might have had on any of the contractors up there.

**MR. MURPHY:** Did Humber Valley Paving discuss with you any problems with the contract because of the fires in Labrador at the time?

**MR. O'BRIEN:** No.

**MR. MURPHY:** So how did you become aware there was a problem of the fires in Labrador?

**MR. O'BRIEN:** I just heard my people talking in the industry and colleagues.

**MR. MURPHY:** You heard from colleagues before March 13 that there were issues because you did not make the phone call until the morning of March 13.

**MR. O'BRIEN:** Yes, I was hearing it probably way back, to be quite honest with you, George.



Probably maybe even in late fall, because it was in the construction.

**MR. MURPHY:** Okay.

**MR. O'BRIEN:** I am connected to the construction world. I heard there were issues with contracts up in Labrador.

**MR. MURPHY:** Okay.

**MR. O'BRIEN:** It was just a curiosity question.

**MR. MURPHY:** Okay, but it was not your department. Obviously beforehand, you must have talked to the minister on this issue?

**MR. O'BRIEN:** No, I did not. No.

**MR. MURPHY:** Previous to March 13 you never?

**MR. O'BRIEN:** No, I did not.

**MR. MURPHY:** You never discussed it with Humber Valley Paving, but still you knew about it?

**MR. O'BRIEN:** Yes, sure I did. I heard it from the industry, the same way as you heard.

**MR. MURPHY:** Well, no, I did not hear it from the industry. I heard it in the House or heard it on the news when it first came up.

**MR. O'BRIEN:** Well, I was connected to the industry being the Minister of Municipal Affairs.

**MR. MURPHY:** Humber Valley Paving did not discuss this issue with you?

**MR. O'BRIEN:** No, they did not.

**MR. MURPHY:** Transportation and Works never discussed this issue with you previous to that, even though you had a concern?

**MR. O'BRIEN:** No.

**MR. MURPHY:** I do not understand the concern. If it was still a matter for the Department of Transportation, why would you have had a concern under even Fire and Emergency Services? What was the potential

for Fire and Emergency Services to have been involved in this?

**MR. O'BRIEN:** Well, they were not. Like I just said to you, and I will say again, it was a curiosity question in regard to me being the Minister of Fire and Emergency Services at the time. It was no concern for me, nor was it a concern for Fire and Emergency Services. It was a pure curiosity question.

**MR. MURPHY:** So in your curiosity you asked about Humber Valley Paving?

**MR. O'BRIEN:** Yes.

**MR. MURPHY:** I do not understand. You see I am trying to establish that – I am trying to ask you the question, the reason why you would be concerned over the contract with Humber Valley Paving if it was not your position?

**MR. O'BRIEN:** Well, it was well known I was gathering names for Mr. Coleman, and I guess he was connected to Humber Valley Paving. So it was a curiosity question, really.

**MR. MURPHY:** So, you were –

**MR. O'BRIEN:** That is all I can say to you, George, to be quite honest with you, because I had no involvement into it whatsoever in regard to the letting of the contract. I was not the Minister of Transportation and Works. I was the Minister Responsible for Fire and Emergency Services when that horrific fire was ongoing. I was trying to deal with it and I had to make certain decisions.

**MR. MURPHY:** What decisions would those have been that you would have had to make?

**MR. O'BRIEN:** Closing down the roads, no traffic going through.

**MR. MURPHY:** Right.

**MR. O'BRIEN:** All that kind of good stuff that goes with the advice of officials.

**MR. MURPHY:** Okay.

At any particular time did Humber Valley Paving discuss with you the possibility that they

would be looking for remediation or losses because of the fires in Labrador?

**MR. O'BRIEN:** No.

**MR. MURPHY:** So none of that came up?

**MR. O'BRIEN:** None, no.

**MR. MURPHY:** You were working on the political campaign gathering signatures for Mr. Coleman, and no discussions happened about issues with the contract?

**MR. O'BRIEN:** No, absolutely not.

**MR. MURPHY:** At no particular time?

**MR. O'BRIEN:** At no time.

**MR. MURPHY:** I am still curious about the link between the industry, even knowing that there were problems, how word of that would have gotten to you as regards to the problems that Humber Valley Paving was having up in Labrador.

**MR. O'BRIEN:** I would not be able to enlighten you. It is just that I heard it on the grapevine. Like things happen in regard to rumours, but I never gave it any thought. Then when I was hearing it, I just asked a question. I was told that there was and it was being dealt with, and that was the end of the discussion. I would not have any influence or any discussion in regard to anything ongoing in Transportation and Works. I was not the minister.

**MR. MURPHY:** So previous to March 13, you had been hearing rumours about this in the grapevine.

**MR. O'BRIEN:** I heard it in the grapevine, yes, absolutely.

**MR. MURPHY:** About how much time before March 13?

**MR. O'BRIEN:** Oh, I would not know. I thought I heard about it in the late fall.

**MR. MURPHY:** So you heard it well before March 13?

**MR. O'BRIEN:** Yes.

**MR. MURPHY:** You heard it in the fall, so that would be –

**MR. O'BRIEN:** Yes.

**MR. MURPHY:** – four or five months.

**MR. O'BRIEN:** It could be. I would not be able to say right now, George, to be quite honest with you, because I did not mark it. It did not really mean anything to me, to be quite honest with you.

**MR. MURPHY:** If it did not mean anything to you, why would you have asked the question?

**MR. O'BRIEN:** In the previous four or five or six days or so I was hearing that there were issues with Humber Valley Paving. I was gathering names, so as a curiosity question, because Mr. Coleman was running and I was gathering names for him. Other than that, it did not matter to me.

**MR. MURPHY:** You heard about the issues in the fall?

**MR. O'BRIEN:** Yes.

**MR. MURPHY:** Now this is March and you called the deputy minister.

**MR. O'BRIEN:** Yes.

**MR. MURPHY:** You did not have one conversation with Nick McGrath, the minister at the time, over what was happening with Humber Valley?

**MR. O'BRIEN:** No, I would not, because I did not have any participation in it. I am not the minister.

**MR. MURPHY:** That is right and that is probably one point, but my point is you have heard about this now for four months, from the fall until March, and you did not ask Minister McGrath once about if there was an issue with Humber Valley Paving?

**MR. O'BRIEN:** No.

**MR. MURPHY:** Yet, you heard there were problems all throughout –

**MR. O'BRIEN:** No, I did not hear it all throughout. I heard in probably late fall maybe there were issues with regard to contracts not getting finished or whatever it was in Labrador – big deal. I have heard tons of things in regard to tenders on schools, whatever it may be. That is it. You just hear it on it the grapevine. Other than that, I had no concern. That is a concern for the department, not me.

**MR. MURPHY:** My point is that if you heard concerns out there in the marketplace or through your grapevine that there were issues with Humber Valley Paving, you did not inform the minister at the time that there were possible issues with Humber Valley Paving?

**MR. O'BRIEN:** No, I do not because I would assume they would know.

**MR. MURPHY:** If you heard a concern through the industry that there was a problem, potentially, with Humber Valley Paving and you did not inform the minister of that?

**MR. O'BRIEN:** No, I had no reason to do so.

**MR. MURPHY:** You had reason to call the deputy minister on the morning of March 13 and say: Have you heard anything about Humber Valley Paving? So you waited –

**MR. O'BRIEN:** Back to that again, George. I did not call in regard to Humber Valley Paving. I called on my two issues with my district. It was a curiosity question at the end of the conversation and that was the end of it.

**MR. MURPHY:** You did not have that curiosity question four months previous in the fall when you first heard the rumors.

**MR. O'BRIEN:** No, I did not because there was no reason why. These kinds of things happen, not on a daily basis, but they happen periodically in regard to business with government; you just do not pay attention to it. It just so happens that I was dealing with gathering names and it was a curiosity question.

**MR. MURPHY:** There was a potential here for the loss of government of probably \$20 million in taxpayers' money and you did not see any concern to inform the minister at that time that there were these rumors out there and to check them out. There was nothing discussed?

**MR. O'BRIEN:** George, listen here now, to be quite honest with you, I would not have two clues in regard to what that tender or what that contract entailed. The simple reason is I am not an official of the Transportation and Works, nor was I the minister. So I would not have any idea what kind of an impact that would have or not have.

**MR. MURPHY:** You heard the –

**MR. O'BRIEN:** I want to be clear with that.

**MR. MURPHY:** Yes, but you heard the rumour out there.

**MR. O'BRIEN:** Yes, I just heard the rumour. It is simple. It is very simple, George.

It is very simple. I heard a rumour that there were issues with contracts, not specifically Humber Valley Paving, in regard to the paving that was happening up in Labrador during the time that I was Minister of Fire and Emergency Services. That was the end of the story. I have no detail to it. As a matter of fact, at that particular time, I did not know if there were two or three contractors actually. It is no concern to me.

**MR. MURPHY:** It was not any concern to you that taxpayers' money was possibly at risk and you did not inform the minister up until then?

**MR. O'BRIEN:** George, I just said to you that is a process within Transportation and Works. I would not have any kind of an idea what kind of a negative impact that would have on anybody – anybody.

**CHAIR:** We should move back to Mr. Osborne now.

**MR. MURPHY:** Okay.

**CHAIR:** Every ten minutes we change the questioners, Mr. O'Brien.

**MR. O'BRIEN:** Yes.

**MR. OSBORNE:** Okay.

Kevin, when we had questioned Deputy Minister Meade he had indicated that the conversation he had with you that morning was very brief and outlined the entirety of the conversation. The two issues that you raised were not brought up as part of that conversation by Deputy Minister Meade.

There is a bit of a discrepancy in his recollection of that phone call and your recollection of that phone call. Did you discuss anything to do with Fire and Emergency Services?

**MR. O'BRIEN:** No.

**MR. OSBORNE:** Okay.

**MR. O'BRIEN:** No, I asked him to check on my two issues, and that was very brief. He might not be able to remember it, I do not know. I had some concerns with the flooding down on the corner of Magee for a resident, also the work that was supposed to happen on the Trans-Canada Highway that a stop-work order was put on the summer previous, and then I asked the question. That was the end of the conversation. The conversation was no more than a minute.

**MR. OSBORNE:** Okay.

When the Auditor General had questioned you back some time ago about this issue, he had determined that you had inquired with the deputy minister as to whether or not he was aware of what was happening with Humber Valley Paving. It seemed like it was more than just a curiosity question.

**MR. O'BRIEN:** It might seem to you, Tom, but it was to me because I had no information whatsoever. I had no detail to the contract itself; I had no detail in regard to what work was done or not done. I did not have anything, period. So, from my perspective, it was a curiosity question –

**MR. OSBORNE:** Okay.

**MR. O'BRIEN:** – and that is all I can say to you. I cannot say anything else, because I had

no participation whatsoever in the everyday operations of Transportation and Works.

**MR. OSBORNE:** Okay.

What exactly did you mean when you had inquired as to whether or not the deputy was aware of what was happening with Humber Valley Paving?

**MR. O'BRIEN:** No, I did not say that either. I did not say was he aware, I asked a specific question, really. I said: Is there anything going on with Humber Valley Paving and contracts in Labrador? He said: Yes, the minister and the department would deal with it, and that was the end of the conversation.

**MR. OSBORNE:** Okay.

So your call to the deputy minister a half hour after Nick McGrath's call was purely coincidental?

**MR. O'BRIEN:** That is it. I was making the call anyway.

**MR. OSBORNE:** So there was no connection, it was not regarding the fact that they wanted out of the contract?

**MR. O'BRIEN:** No –

**MR. OSBORNE:** It was not regarding –

**MR. O'BRIEN:** – did not know.

**MR. OSBORNE:** Okay.

**MR. O'BRIEN:** I would not have any detail on that whatsoever.

**MR. OSBORNE:** Just a question for the Auditor General: Do you recall your discussions with Mr. O'Brien and what the nature of that call to that deputy minister was about?

**MR. PADDON:** I would have to check back into the transcripts, but Minister O'Brien – or Mr. O'Brien, the minister at the time – did talk about constituency issues, a couple of issues that he had intended to discuss with the deputy as well as the Humber Valley issue. I do not recall his indication at the time that he did talk about

those constituency issues. There is a certainly an indication that he did talk about the Humber Valley issue.

**MR. OSBORNE:** Okay.

**MR. PADDON:** He indicated to me that he had intended to raise constituency issues.

**MR. OSBORNE:** Okay.

The Humber Valley issue, do you recall the details of your questioning with Mr. O'Brien as to the context of the Humber Valley discussion?

**MR. PADDON:** I am not quite sure what you mean about the context.

**MR. OSBORNE:** In the Auditor General's report there was certainly an indication that the phone call by Minister O'Brien was somehow connected or related to what was happening with Humber Valley Paving and –

**MR. PADDON:** Based on the interviews that we conducted, it was clear that Minister O'Brien at the time had contacted the deputy on the morning of the thirteenth, and the issue that was raised was the issue around what was happening with Humber Valley, or Humber Valley itself.

When you speak to a number of people about a recollection of the specifics of a conversation, you are going to get varying recollections and the wording is going to be somewhat different. So you try to piece it together as best you can, but there was a clear indication that he had spoken to the deputy asking about the Humber Valley contract in Labrador.

**MR. OSBORNE:** Okay.

Was it your belief or understanding at the time that it was related to the cancelling of the contract with Humber Valley Paving?

**MR. PADDON:** No. Minister O'Brien at the time did not indicate anything about cancelling the contract; not in his relaying to me of his discussion with the deputy.

**MR. OSBORNE:** Okay.

Thank you.

**CHAIR:** Any more questions?

**MR. O'BRIEN:** Tom, I was not a party to that conversation. I could not hear it.

**MR. MURPHY:** The conversation with Mr. Paddon just then?

**MR. O'BRIEN:** Yes.

**MR. MURPHY:** Okay. So we have a technology issue here.

**CHAIR:** I do not know if it is a technology issue as much as Mr. Paddon is away from the microphone of the telephone and he does not speak very loud. I do not know, maybe Mr. Paddon could recap what his question and answer was.

I am sorry?

**MR. PADDON:** (Inaudible).

**CHAIR:** You could sit here, if you want to sit here and just recap.

**MR. PADDON:** I can, yes.

**CHAIR:** Or we could read it back for you, but I do not think we have the transcription yet, it is too soon.

We arranged for the questioners to be alongside of the microphone but we did not arrange for the answerers, other than yourself, to be alongside of the microphone.

**MR. PADDON:** Mr. O'Brien, can you hear me now?

**MR. O'BRIEN:** I can, Terry.

**MR. PADDON:** Okay.

Maybe I will just try to recap what I said in response to Mr. Osborne's question. The nature of the question was my recollection of my interview with you and your indication of what the nature of the phone call was on the morning of March 13.

**MR. O'BRIEN:** Correct.

**MR. PADDON:** My recollection, and I would have to go back to the transcripts to get the exact details, but you did indicate you had intended to call the deputy related to constituency issues and the issue of Humber Valley. I do not recall that you indicated you spoke to the deputy about the constituency issues, but you did indicate you had spoken about the Humber Valley issue.

Then Mr. Osborne had inquired about the context around, I guess, the comments on Humber Valley, and specifically wondered if you had inquired about cancellation of the contract. My response was, I do not recall you had indicated anything about cancellation of the contract per se, but just around Humber Valley and work in Labrador – words to that effect.

**MR. O'BRIEN:** Terry, are you still there?

**MR. PADDON:** Yes.

**MR. O'BRIEN:** Just to jog your memory, I guess. As a matter of fact, I answered your question like this. I said: Terry, it is no different than all the calls you got from me as an MHA and minister when you were a deputy minister.

**MR. PADDON:** Yes, I recall that.

**MR. O'BRIEN:** Absolutely.

**CHAIR:** Any more questions?

**MR. MURPHY:** Is it my turn?

**CHAIR:** Yes.

Mr. Murphy.

**MR. MURPHY:** Okay, thank you very much.

Mr. O'Brien, I want to come back to what was happening on the morning of March 13. You had called the deputy minister and the deputy minister said that was all being handled. You heard it through the grapevine before, but you did not see fit to inform the Minister of Transportation at the time, Mr. McGrath, that this was ongoing. Now you are in a Cabinet meeting session on the morning of March 13, did you chat with the minister on the issue then of what you had been hearing out on the street?

**MR. O'BRIEN:** I had no reason to, because I was told by the deputy minister that it was being dealt with by the department and the minister – end of story. He was aware of it. So I did not have any reason to have a conversation with the minister at that time.

**MR. MURPHY:** This never came up before?

**MR. O'BRIEN:** I answered that question before, George, no.

**MR. MURPHY:** Did Mr. McGrath talk about this issue around the Cabinet table?

**MR. O'BRIEN:** No.

**MR. MURPHY:** It was not brought up in the morning?

**MR. O'BRIEN:** No.

**MR. MURPHY:** So he handled everything on his own?

**MR. O'BRIEN:** Absolutely. It is like a minister does. I was a minister for ten years and I ran my department. I did not talk about my department in Cabinet. I dealt with the issues at hand, and any of the policy issues or whatever it may be. I always did it. So I assume every minister does the same.

**MR. MURPHY:** Has any other Cabinet minister phoned you with any potential issues they might have heard out there so that you could address them beforehand at the potential of thwarting a crisis?

**MR. O'BRIEN:** Say that again?

**MR. MURPHY:** At the potential of thwarting a crisis or preventing a crisis from becoming a full-blown incident of some kind that you would have to deal with, has any Cabinet minister ever phoned you to inform you there may be issues of some constraints that may be needed by your department or actions needed by your department to address an issue?

**MR. O'BRIEN:** No.

**MR. MURPHY:** Would you expect that if a minister heard something out there they would

inform you that they have heard something out there so that you could address it in the meantime?

**MR. O'BRIEN:** I would not be able to speak to – that is pure speculation, George. Each individual is different. You are trying to get me to speculate on somebody else's mindset.

**MR. MURPHY:** No, I am just trying to figure out the process, what happens inside Cabinet, because I would expect that there would be –

**MR. O'BRIEN:** Well, run again and find out. We do not discuss those kinds of things. We discuss our agenda.

**MR. MURPHY:** How do you handle something in a crisis? There is obviously some protocol in place between ministers that you would be able to be informed of a particular issue should an issue arise, should there not?

**MR. O'BRIEN:** I have never had a crisis, to be quite honest with you.

**MR. MURPHY:** Igor was not a crisis?

**MR. O'BRIEN:** Say that again?

**MR. MURPHY:** Hurricane Igor was a crisis at the time. Did you have a plan in place for that?

**MR. O'BRIEN:** I did not become the minister until after.

**MR. MURPHY:** Yes, but you were Minister of Municipal Affairs.

**MR. O'BRIEN:** Then I brought forward papers in regard to helping municipalities deal with the damage.

**MR. MURPHY:** Exactly, so you had a plan –

**MR. O'BRIEN:** That is part of the process. That is on the agenda.

**CHAIR:** Mr. Murphy, I think it is important not to go too far from Humber Valley Paving.

**MR. MURPHY:** Yes, okay. I will digress. Maybe I have drifted a little bit too far.

I want to come back to the Cabinet table level on the protocols that were involved on how Cabinet ministers would inform each other of situations.

**MR. O'BRIEN:** There is no protocol, George.

**MR. MURPHY:** There is no protocol.

**MR. O'BRIEN:** I asked a curiosity question. Mostly, when I phoned other departments it was on my own matters in regard to my own district. Ministers run their own departments.

**MR. MURPHY:** Okay.

So just to clarify, there were no discussions before March 13 with the minister or anybody over the possibility of potential problems with Humber Valley Paving beforehand?

**MR. O'BRIEN:** No.

**MR. MURPHY:** Okay.

I have no further questions, I do not think, at this time.

**CHAIR:** Mr. Osborne.

**MR. OSBORNE:** Kevin, I know it is quite common in the Cabinet room when a political discussion is about to take place, that you ask the Clerk and other officials to leave the Cabinet room. Did that happen on March 13?

**MR. O'BRIEN:** I would not be able to recall, to be quite honest with you. That was something that happened from time to time, but on that particular morning I do not recall to be honest with you.

The one thing I will say, where I am pretty clear – or not pretty clear, really clear – there was no discussion about Humber Valley with or without the Clerk and officials.

**MR. OSBORNE:** Okay.

One of the findings which we are still trying to get to the bottom of, or two of the findings from the Auditor General's report, we have not been able to satisfy ourselves why two ministers within half an hour independently contacted the Deputy Minister of Transportation and Works to

inquire about the status of Humber Valley Paving on the morning of March 13, 2014.

“We have not been able to satisfy ourselves why the process to come to an arrangement with HVP to terminate the contract related to Project 1-12 had to be concluded the day before nominations closed for the leadership of the Progressive Conservative Party of Newfoundland and Labrador.”

Do you want to make any comments on those?

**MR. O'BRIEN:** Well, I mean, it is coincidence, Tom. That is all I can say to you; it is pure coincidence. I got caught up in an issue here on pure coincidence. If I was not gathering names for Frank Coleman, I probably would not have mentioned it, but I would have made the call regardless on my two issues for my district. Because I was, it was a curiosity question and pure coincidence.

**MR. OSBORNE:** Okay.

If you had not have been making calls and collecting names for Frank Coleman, you would not have raised the issue?

**MR. O'BRIEN:** I probably would not have, no. I probably would not have. I would not have had any interest in it to be quite honest with you because ministers – as you know, because you were a minister – deal with your issues in your department and you run your department. It is not for me to run another department. I have enough on my own hands to run Municipal Affairs and Fire and Emergency Services.

**MR. OSBORNE:** Okay.

So the only reason you asked about Humber Valley Paving was because of the fact you were involved with the Coleman campaign?

**MR. O'BRIEN:** Yes, curiosity – it did not matter to me. I was gathering names and that is all I was; it was just pure coincidence.

**MR. OSBORNE:** Okay.

Because you were gathering names for the Coleman campaign, you inquired as to the status of the Humber Valley Paving contract?

**MR. O'BRIEN:** On curiosity, just as a curiosity question, pure.

**MR. OSBORNE:** Okay.

If you were not involved with the campaign, you would not have bothered to ask that?

**MR. O'BRIEN:** I probably would not have, no.

**MR. OSBORNE:** Okay, thank you.

**CHAIR:** Mr. Murphy, do you have any questions? I think we are sort of running out of things for Mr. O'Brien to tell us, so I think we need to sort of –

**MR. MURPHY:** No, I think I am good. The only thing that bothers me still is the fact that the minister was not informed previously that the rumour was out there, and I still have a concern about that.

Mr. O'Brien, this is major political news, particularly for the people of Labrador when it comes to the discussion of the highway and it was out there and it was constantly being talked about and when is that highway going to be done, when are we going to have pavement. Everybody in Labrador is concerned with it. When you hear that a contractor can potentially be in trouble in fulfilling a contract that involves major political news, this was not discussed around the Cabinet table?

**MR. O'BRIEN:** Not to my knowledge, no. That would be an issue within Transportation and Works. They deal with tenders, George. Once the tender is let, it is done and handled by the department and officials. It does not come to that level.

**MR. MURPHY:** What I am getting at is that the road itself was a political issue – still is a political issue – and it was not discussed around the Cabinet table?

**MR. O'BRIEN:** No, not in that term. No, absolutely not. It was never discussed because as I said, it is an issue for Labrador and it is an issue for the department to deal with. Ministers deal with those kinds of issues or whatever it may be on a daily basis, big or small. It is in the normal operation of the department itself.



**MR. MURPHY:** The political impact is unmistakable here, but it still never came up with the minister in spite of –

**MR. O'BRIEN:** No, no.

**MR. MURPHY:** I have no other questions.

**CHAIR:** Do any government members have any questions for Mr. O'Brien?

I think the Committee has no more questions for you. Thank you very much for calling in. I appreciate it.

**MR. O'BRIEN:** Thank you.

**CHAIR:** Yes.

**MR. O'BRIEN:** All right.

**CHAIR:** So we –

**MR. K. PARSONS:** Can we ask a couple of questions now before we conclude, because there are a couple of things that just came that time and I would like to ask a question.

**CHAIR:** Questions of?

**MR. K. PARSONS:** Concerning what we are talking about, but seeing that we were talking about – I know that –

**CHAIR:** We are back at 1:00 o'clock with Mr. McGrath.

**MR. K. PARSONS:** Yes, but can I ask a question, because I would like to know this question and it is important because I think we can –

**CHAIR:** Go ahead.

**MR. K. PARSONS:** We have the eight minutes.

Mr. Meade, you assume that there was a discussion at the Cabinet table that morning; that was part of your assumption of the reason why you did what you did, right?

I would like to ask Ms Mullaley, who was at the Cabinet table that morning, if there was any

discussion on the termination of the Humber Valley Paving contract?

**MS MULLALEY:** There was definitely no discussion on the contract at all while I was in the room. I may have been out of the room for a very short period of time, but the fact that I was out of the room I can say and probably ask my colleague Milly, who would have been in the room for the full time, whether there was any discussion. There definitely was no discussion in the room at all.

**MR. K. PARSONS:** Okay, Ms Brown, I would like to ask you the same question.

**MS BROWN:** There was absolutely no discussion in Cabinet that day around this matter.

**MR. K. PARSONS:** Okay, thank you very much.

**CHAIR:** Any members have any quick questions, otherwise we will come back at 1:00 o'clock?

**MR. OSBORNE:** I do, Mr. Chair, if it is my turn.

A question for Julia Mullaley – I had asked Mr. O'Brien, based on the fact that oftentimes if there is a political discussion, government officials will be asked to leave the room. At any point on March 13 during that Cabinet meeting were officials asked to leave the room to allow for political discussion?

**MS MULLALEY:** I cannot specifically recall if I had been asked that day. I do know there are a lot of items on the agenda. I do know the Cabinet meeting was only two hours. I cannot specifically recall if I had left the room, but again I do know if I had left, Milly Brown would have been in the room at all times.

**MR. OSBORNE:** Okay.

I will ask Milly Brown the same question. On March 13, at any point were officials, the Clerk and so on, asked to leave the room to allow for a political discussion?

**MS BROWN:** Again I would have to give the same answer; I do not recall specifically if they were asked to leave the room on that particular day.

Would you like me to comment on whether there was a discussion around Humber Valley Paving?

**MR. OSBORNE:** If you would, yes.

**MS BROWN:** There was no discussion around Humber Valley Paving in Cabinet that day.

**MR. OSBORNE:** Okay.

**CHAIR:** We are due back at 1:00 o'clock for Mr. McGrath. I think we will take the midday break now. If you are unfamiliar with the building, there is a cafeteria straight downstairs, but I think everybody is familiar with the building.

### Recess

**CHAIR:** The format that we follow is that each member has ten minutes to ask you questions and then we alternate to another member.

**MR. MCGRATH:** Okay.

**CHAIR:** It is relatively straightforward.

Mr. Osborne will begin the questioning and then it will go to Mr. Murphy. Some government members may have questions, but we simply alternate back and forth.

**MR. MCGRATH:** No problem.

**CHAIR:** Mr. Osborne, if you would like to begin.

**MR. OSBORNE:** Okay.

Good day, Nick. How are you?

**MR. MCGRATH:** I am good, Tom. How are you?

**MR. OSBORNE:** Good, thanks.

Nick, how did you find out that there were issues with the Humber Valley Paving contract?

**MR. MCGRATH:** I am going to give you a little bit of background. I went into the department as minister in October. In early- to mid-November – I do not have a date, but early- to mid-November Mr. Gene Coleman called me to introduce himself to me. We had a conversation concerning the Humber Valley Paving contract and the forest fires.

Basically, what he was introducing himself for and looking for was compensation of losses to Humber Valley Paving due to the forest fires, mostly with liquid asphalt and employee remittances where he had to pay staff for either being stuck on the project or not being able to get to the project; therefore, their costs had escalated. We had a conversation about that in mid-November.

In December, near Christmas, I was flying back to Labrador West and I was approached by a gentleman in the airport terminal who introduced himself to me as Eugene Coleman. We had never met face to face. So he introduced himself to me. Again, we had a verbal conversation concerning Humber Valley Paving and he asked me had I considered it. I said to him then, as I had in the conversation before, I cannot see where government would be responsible; however, if you want to touch base with the officials, we can have a look at it.

Then, in February, he called me again to see what by status was on it. I said: As I stated to you back in December during our conversation, I do not see where government is responsible for this and there is really nothing we can do.

Then, in March, I was hearing rumblings from constituents, as well as people around the building, that Humber Valley Paving would not be going back in to finish the sixty kilometres. That is when I asked my deputy minister to check with Gene Coleman to see what the status on that actually was.

**MR. OSBORNE:** Okay.

So did you receive a call from anybody on the evening of the twelfth or the morning of the thirteenth?

**MR. MCGRATH:** Did I receive a call? No.

**MR. OSBORNE:** Okay.

So you had contacted your deputy at 8:45 on the morning of the thirteenth to indicate that there were issues with the contract with Humber Valley Paving?

**MR. MCGRATH:** I contacted my deputy to tell him that I was hearing rumblings that they had made a decision not to finish the job and I wanted to have that clarified.

**MR. OSBORNE:** Okay.

That same day you had a Cabinet meeting?

**MR. MCGRATH:** Yes.

**MR. OSBORNE:** The following day was the close of nominations for the leadership for the Progressive Conservative Party?

**MR. MCGRATH:** Correct.

**MR. OSBORNE:** Was it just coincidental that you had chosen the morning of the thirteenth to contact your deputy to inquire about the contract? Obviously, if you had heard rumblings the previous day you would have contacted him that day; 8:45 in the morning was a little early to hear rumblings. What prompted you to call on that particular day?

**MR. MCGRATH:** It was that morning that I was hearing the rumblings. I had heard rumblings for about two months, but nothing concrete. It was on the morning of March 13 as I was coming into the building that I was approached and told that they heard Humber Valley Paving would not be completing the contract.

I made nothing of that until I went to my office and then asked my deputy minister: You should probably give Gene Coleman a call. This is what I am hearing and if this is the case. I think it needs to be said that on March 12 there were two other tenders on the Wednesday – Wednesday afternoon there were two other tenders for work on the Trans-Labrador Highway that were sent to *The Telegram* to go out to tender.

When I heard those rumblings on Thursday morning, upon advice, I said: I am going to have to pull back those other two tenders because there is no way, knowing the vicinity of the sixty kilometres, which is in the middle of nowhere, that I am going to be able to get that work completed, unless I can tie it in to those other two tenders.

**MR. OSBORNE:** So, the fact that the contract was cancelled on the thirteenth and the close of the nominations for the Progressive Conservative Party was on the fourteenth and you were supporting Frank Coleman in his bid for the leadership, would you say there was any connection between the fact that the contract was cancelled on the thirteenth, the fact that you were supporting Frank Coleman, and the fact that nominations were closing on the fourteenth?

**MR. MCGRATH:** First of all, I have never said I was supporting Frank Coleman; you are assuming that. Secondly, I was thinking of the tenders only, and the fact that the nomination was closing on the fourteenth had absolutely nothing to do with my actions.

**MR. OSBORNE:** Okay.

Who were supporting for the leadership of the PC Party?

**MR. MCGRATH:** I do not think that is relevant to this at all, and I think that is personal information.

**MR. OSBORNE:** So the conversation you had with the deputy minister on the morning of the thirteenth, can you tell us what the conversation was?

**MR. MCGRATH:** Basically, the conversation I had, as I said, going back to the background of conversations that I had with Gene Coleman – and then there were different business people within Labrador who dealt with Humber Valley Paving that in general conversations I had with them in February. Then when I heard the rumblings on March 13, as I was entering the building around 7:30 or 8:00 that morning, I had some concerns because I knew of the vicinity of this sixty kilometres.

So the basic conversation I had with the deputy minister at the time, I asked Mr. Meade to try to clarify some of these rumblings that I was hearing. The easiest way to do that would be to contact Gene Coleman, who was President of the Humber Valley Paving Corporation, and ask him is there any validity to these rumblings, that I had some concerns.

**MR. OSBORNE:** Why was there such an urgency to cancel the contract? I mean it was less than four hours from the time you contacted your deputy at 8:45 a.m. to the time the decision was made to cancel the contract. Why was there such urgency on March 13 to cancel that contract?

**MR. MCGRATH:** The urgency was not so much on March 13. The urgency was my pulling back two other tenders and trying to turn it into one tender so that it would not cost extra money to have this work done. That was the major concern there.

**MR. OSBORNE:** Okay.

That extra work did cost over \$1.5 million. Is that correct?

**MR. MCGRATH:** Well, if you were to put all of the facts together, by pulling back the other two tenders – we had allotted \$30 million for one of the tenders. We had allotted \$2.7 million for the second tender. We had \$7.2 million left from the \$19 million because, remember, Humber Valley Paving was only paid for work they had completed.

So we had \$7.2 million left on our 1-12 contract. We had \$2.7 million allotted for another tender that was being released, and we had \$30 million allotted for a third tender. What I wanted to do was to be able to take all three tenders, turn them into one, realizing that it would cost extra money if we had to go to tender with the sixty kilometres again.

So we, in fact, pulled back the two tenders. Then we put all three into one tender, which gave us \$39.9 million. We awarded that contract for \$38 million, which left us with \$1.9 million; but, if I were to follow what you are saying, when you broke down all three of the contracts individually again, it did cost an extra

\$1.5 million to get the sixty kilometres done, thus the reason I was so worried and concerned to bring the other two tenders back, so that we would not actually cost the taxpayer an extra \$1.5 million.

**MR. OSBORNE:** It did in fact, over and above what the Humber Valley contract was. The total amount paid for the extra sixty kilometres. It was over \$1.5 million. Isn't that correct?

**MR. MCGRATH:** On the sixty kilometres, but by putting the three contracts together we came in with – for what was allotted for the three, it made a difference of \$1.9 million savings. That includes the \$1.5 million extra that you are saying it cost.

**MR. OSBORNE:** I wish my accountant could come up with numbers like you.

The tender that was cancelled with Humber Valley Paving, I just want to go back to that for a second. You had asked your deputy to meet you outside the Cabinet room on the morning of the thirteenth, just prior to Cabinet starting. That is correct?

**MR. MCGRATH:** Correct.

**MR. OSBORNE:** Okay.

What was the conversation you had with your deputy at that point?

**MR. MCGRATH:** Again, as I just stated, the conversation I had then is that I heard strong rumblings when I came into the building this morning. I have been hearing these for a while, but I heard rumblings today that they have made a decision not to continue with the contract, and because we had sent out those other two tenders to *The Telegram* the night before, I would like to get some clearance on this because we may have to pull back those two tenders. I asked to call Gene Coleman to clarify whether or not they would be finishing the project.

**MR. OSBORNE:** The second time you had contacted your deputy and asked him to come to the Cabinet room, what was the conversation that had taken place at that time?

**MR. MCGRATH:** Well, in the first conversation the deputy left and said I will try to get as much information as I can. He was going to make a phone call to Gene Coleman, and then he was going to talk with the senior officials within the department to find out what is the best route that we can go. Let's us figure out the best way we can deal with this.

**CHAIR:** Mr. Osborne, we should go to Mr. Murphy now.

We alternate, Mr. McGrath, with approximately ten minutes per member. So Mr. Murphy is going to ask you some questions now.

**MR. MCGRATH:** Okay.

**MR. MURPHY:** Good afternoon, Sir.

**MR. MCGRATH:** Good day, Sir.

**MR. MURPHY:** How are you?

**MR. MCGRATH:** I am good. How are you?

**MR. MURPHY:** Not bad for an old fellow.

Thanks for your presence here at the Public Accounts today. I have a few questions for you on the whole nature of the contract.

**MR. MCGRATH:** George, just before I go on, I apologize for not being there in person. At the last Public Accounts meeting I was not invited and that was the reason I was not there. The reason I am not there in person today is because I could not get flights. Other than that, I certainly would have been there.

**MR. MURPHY:** Yes, okay. Well, we accept that and we appreciate your presence now. It is too bad you were not asked beforehand because this probably would have all been over with. We would not have had to have this day had we had you upfront. So thank you for your presence in that regard.

I want to come back to when you heard rumblings that there were issues with Humber Valley Paving. You had a meeting with Eugene at the airport, I think, it was. Your first meeting, was it?

**MR. MCGRATH:** I am sorry, I got cut off there. There was a beep.

**MR. MURPHY:** Your first meeting, you mentioned you had a very informal meeting at the airport. You mentioned Eugene – I believe it was – that you met at the airport, right?

**MR. MCGRATH:** Yes, that was the first time I met him face to face, but he had called me first when I was appointed as Minister of Transportation and Works. He had called me and introduced himself as Gene Coleman. He wanted to have a candid discussion with me because they had finished the construction work that season. I think it was maybe late September. So it was mid-November or late November before they actually had a chance to review their books, I guess, and that was the way the conversation went. He was concerned that Humber Valley Paving was losing a fair amount of money on the contract and was wondering if there something we could do to alleviate those losses.

**MR. MURPHY:** Did he give you an estimate at that particular time of how much these losses could be?

**MR. MCGRATH:** I really cannot remember. I am going to say he did but I cannot remember the numbers, therefore I do not want to give you a number.

**MR. MURPHY:** Okay.

So at this particular time, this would have been up to November, right?

**MR. MCGRATH:** That is correct.

**MR. MURPHY:** Okay.

We are into the November time frame now. So we go November, December, January, February, and March when the deal came down. In that intervening space, did you have a conversation with anybody around the Cabinet table that there could be a potential issue with Humber Valley Paving?

**MR. MCGRATH:** No.

**MR. MURPHY:** No issue like that was brought up around the Cabinet table?

**MR. MCGRATH:** No.

**MR. MURPHY:** The reason why I would ask is because I would figure that a lot of your own constituents would have been probably asking about the issues with the road and how best to deal with it.

**MR. MCGRATH:** You are correct in saying that, yes.

**MR. MURPHY:** So, you did not get any advice from Cabinet on exactly how this should be handled?

**MR. MCGRATH:** No, I did not. I actually had conversations with my senior staff within the department and also with the lawyer designated to the Department of Transportation and Works that I was hearing rumblings and that I had concerns, but we never, ever had any reason to assume they would not be finishing the contract. That was never part of a conversation.

**MR. MURPHY:** Okay, so you knew upwards, though, within four months from November until March that this issue was happening. Did you action any items for your deputy minister to undertake to check out and see what the issues were, or who did you contact to advise them to get on the program of finding out what the issues were?

**MR. MCGRATH:** Well, no, because I have to clarify it and make sure you understand exactly what happened.

**MR. MURPHY:** Okay.

**MR. MCGRATH:** When I was approached in November, again in December, and then in February it was because a private company was having some difficulties with a particular contract –

**MR. MURPHY:** Right.

**MR. MCGRATH:** – but there was never, ever any indication in any of those verbal conversations given that they were not going to complete the contract.

**MR. MURPHY:** Yes.

**MR. MCGRATH:** They felt that they should be compensated for losses that they had received due to circumstances outside of government's control.

**MR. MURPHY:** Okay.

Dou did not feel the need to get in contact with Humber Valley yourself over those issues because there were none that were readily apparent?

**MR. MCGRATH:** No, and I had never been given an indication during the conversations that they were going to walk away from the contract.

**MR. MURPHY:** Okay.

The advice then to the deputy minister at that time – well, there was nothing there to tell him, was it?

**MR. MCGRATH:** Exactly.

**MR. MURPHY:** Okay.

You said as well at the same time that on the morning of the thirteenth you had the meeting with the deputy minister at that particular time in the hallways of Cabinet – where the Cabinet meeting was. Am I right?

**MR. MCGRATH:** Yes.

**MR. MURPHY:** I am sorry; I crossed over you there that time, I think.

**CHAIR:** He said yes.

**MR. MURPHY:** All right, he said yes.

The first meeting happened, the deputy minister was given action items to check out, he comes back, he takes you outside the Cabinet meeting again, and you tell him what?

**MR. MCGRATH:** Well, he informed me of the conversation he had with Gene Coleman at that time. Mr. Coleman made it explicitly clear that they felt it was in the best interest of their company that they would not be able – due to the loss in revenue with this project, it was in the

best interest of their company that they would not be able to go back and finish the sixty kilometres. They had made that decision. They would like to be able to negotiate with government, if at all possible, to reach a mutual understanding, but they were prepared to walk away from the contract, should an understanding or a mutual termination not be agreed upon.

**MR. MURPHY:** Okay.

So you had a program – a very important, I would argue, quotation marks – a very important road building program that was happening in Labrador. It was a very important ongoing political issue, and of course a matter of public support from residents of Labrador – a very important transportation issue for the Province even. When you went back in, after making the decision to the deputy minister to undertake the direction that you gave them to mutually terminate the contract, when you went back into the Cabinet meeting did you inform Cabinet at that particular time?

**MR. MCGRATH:** No, I did not because there was a Cabinet meeting in progress and due to confidentiality that I am sworn to, there is protocol in Cabinet that I would not interrupt a Cabinet meeting like that.

**MR. MURPHY:** Is there any particular item or place on the agenda where you could place an emergency item for discussion?

**MR. MCGRATH:** No, there was not.

**MR. MURPHY:** There is no area in a Cabinet procedure or Cabinet protocol that would command a place where you could talk about an emergency item that may arise?

**MR. MCGRATH:** I think you could, but I did not, so I accept that responsibility.

**MR. MURPHY:** Why didn't you?

**MR. MCGRATH:** I did not see the relevance at the time, to be quite honest.

**MR. MURPHY:** I am just thinking that you have a fellow Labradorian who is also in Cabinet too at the time and the road, I guess, you could say in this particular case is an economic

lifeline for some of his constituents too. Did you inform any other members of Cabinet, even outside of the Cabinet meeting, before March 13 that there were issues?

**MR. MCGRATH:** I am not sure what your question was there. You said I had a fellow colleague in Cabinet. I am not –

**MR. MURPHY:** I think Keith Russell might have been a member of Cabinet at the time. So was he there?

**MR. MCGRATH:** No, he was not. He was not a member of Cabinet at the time.

**MR. MURPHY:** He was not, all right; but he was a colleague of yours who had particular issues in Labrador too that this would have affected. You did not have a chat with him about that?

**MR. MCGRATH:** No, I did not.

**MR. MURPHY:** Okay.

So there was nothing else outside Cabinet?

**MR. MCGRATH:** No. Keith Russell would have no reason to have been near there that day.

**MR. MURPHY:** No.

**MR. MCGRATH:** I certainly do not want to implement Minister Russell here where –

**MR. MURPHY:** No.

**MR. MCGRATH:** – he had nothing to do with this.

**MR. MURPHY:** No, nor I, but I am just wondering about the conversation, the importance of the project itself in the context of a very important road building program, why that would not have been a matter of discussion around the Cabinet table that day – even on an emergency basis?

**MR. MCGRATH:** I guess I just never thought of that, to be quite honest with you. I was thinking of the issue itself, and my role as a minister, my responsibilities, and I took them very seriously.

**MR. MURPHY:** When the whole issue came up from Humber Valley Paving in your discussions with Eugene about the possibility of government making a claim because of the forest fires and the lost asphalt, what have you, did you have a conversation with the Minister Responsible for Fire and Emergency Services at the time over the nature of the fires?

**MR. MCGRATH:** No, I did not. I did not have the conversation with Gene Coleman, just to clarify that.

**MR. MURPHY:** Okay.

**MR. MCGRATH:** The conversation over any compensation on March 13 was between the lawyer and senior officials within the department.

**MR. MURPHY:** Okay.

**MR. MCGRATH:** Not with me.

**MR. MURPHY:** Okay.

I am curious too as regards to why Mr. O'Brien at the same time – did Mr. O'Brien mention at any particular time during the Cabinet meeting that there was an issue there with Humber Valley Paving, that he was hearing rumblings over issues with Humber Valley Paving, even before the Cabinet meeting?

**MR. MCGRATH:** Not to me, no.

**MR. MURPHY:** Not to you. Did he mention it to anybody else?

**MR. MCGRATH:** Not to my knowledge, no, he certainly did not. Minister O'Brien, just again for clarification, he was on one end of the Cabinet table and I was on the far other end. He did not speak up and make any comments to it, no.

**MR. MURPHY:** He did not place it on the agenda for discussion or anything like that?

**MR. MCGRATH:** No, he did not.

**MR. MURPHY:** Or the possibility of a claim coming from Humber Valley Paving did not come up?

**MR. MCGRATH:** Not to my knowledge, no.

**MR. MURPHY:** An extra investiture of taxpayers' money to cover off losses did not come up?

**MR. MCGRATH:** Pardon me?

**MR. MURPHY:** The extra investiture of funding to cover the losses of Humber Valley Paving, I should say – that taxpayers' money would have to be spent to cover it off – did not come up around the Cabinet table?

**MR. MCGRATH:** No.

**MR. MURPHY:** Okay.

**CHAIR:** We should move to Mr. Osborne again.

**MR. MURPHY:** Sure.

**MR. OSBORNE:** Nick, you mentioned that Humber Valley could not return to Labrador, but you also mentioned compensation, and the Auditor General's report did indicate that Eugene Coleman said they were not in a position to return to Labrador in the spring of 2014 to complete Project 1-12 in the absence of some form of compensation. Without compensation they wish to seek a mutual termination of the contract.

Did you pursue the avenue of compensation at all to ensure that they did return to Labrador?

**MR. MCGRATH:** It was one of the considerations during the determination. There were different factors laid on the table as to what options we had and that was one option, that we could pay the extra and have them go back.

**MR. OSBORNE:** Okay. Yet, the decision to cancel the contract happened in less than four hours.

There was no information requested or received from Humber Valley Paving to validate the claim that they could not afford to return to Labrador or to support any claim of compensation. How do you justify making the decision to cancel the contract so hastily without a full evaluation?



**MR. MCGRATH:** I do not consider it hastily if you came to a mutual agreement. As I said, part of the agreement was that Humber Valley Paving would be only paid for the work they had completed, and an independent engineering firm made that determination. So they were paid \$11.8 million minus \$1.18 million, which was kept in a mechanics' lien holdback.

We had \$7.2 million left. Part of the mutual agreement was that we could – I should not say the mutual agreement, but part of where we were going with the \$7.2 million, if we tied that in with the other two contracts, we could make this work, and that was our concern.

So I need to make it very clear to the general public, that of the \$19 million contract, the \$19 million was spent on the work that was done. Humber Valley Paving was being paid for the work they did, and the \$7.2 million is being paid to the new tender or contractor for the work they would complete.

**MR. OSBORNE:** Okay.

Back to the question that I had asked; there was no information requested or received from Humber Valley Paving to validate their claim. Ordinarily, the process in a department would be to have briefing notes or decision notes, information notes prepared. There was no time for that. The decision was made very quickly. There was no paper trail because the decision was made very quickly. There was no information requested or received from Humber Valley Paving because the decision was made very quickly.

One of the findings of the Auditor General's report was the fact that there was not sufficient time allotted to make a properly informed decision here. How do you justify making that decision in less than four hours without the proper information notes, briefing notes, or information even from Humber Valley Paving?

**MR. MCGRATH:** I think my major concern here was getting the three contracts put together so that we could move forward. Once we mutually agreed upon that, I did not see an issue.

**MR. OSBORNE:** Okay.

In a previous Public Accounts Committee I did ask about the normal process for termination of contracts and whether or not bonds are released as part of that. I know Frank Coleman had publicly stated that he did benefit from the release of those bonds.

What I am asking at this particular point, Nick, is normal protocol was not followed here as it would have been with the cancellation of other contracts. This was a situation where normal protocol was not handled. It was not a normal contract. It was not a normal situation. It was politically sensitive. The former head of Humber Valley Paving was about to become the head of the Progressive Conservative Party. It was not a normal process. There was a great deal of leniency provided in this particular situation. Why?

**MR. MCGRATH:** I really cannot answer that question because I do not agree with what you are saying. My concern was getting the job done to the best of my ability as minister at the time. There was no motive whatsoever to do any favours for anybody.

**MR. OSBORNE:** Okay.

You do not agree with which part of my comment? The part that this was done hastily, which is not normal within the Department of Transportation and Works?

**MR. MCGRATH:** Again, I can only go by all of the senior officials and the lawyers that were involved. They came to a mutual agreement. Once that mutual agreement was there, I do not see why we would sit back and prolong the situation. We had reached an agreement. To me, it was in the best interest of the people of Labrador to get a contract completed. That was where my head was.

**MR. OSBORNE:** That mutual agreement and the work that the lawyer did – and correct me if I am wrong, I will question the lawyer as well based on the response, but the lawyer acted based on the request from you as minister. The deputy minister acted based on a request from you as minister. You had the authority to say: No, cancel the contract and get it done today. That is what you did. So they prepared the mutual agreement based on your request.

I cannot see how you can flip this over and say the lawyer prepared the agreement, everything was above board. It was based on your request that these particular actions were taken. Is it or is it not correct?

**MR. MCGRATH:** It is correct, but I would like to clarify that you are emphasizing that it be done today. The emphasis was not that it be done today. During part of the conversation, they asked me: How soon do you want this done? I said: Let's get it done as soon as we can.

If it could have been done in one day, I have no issues with that; provided everything was done legal, and it certainly was done legal. There was nothing untoward here whatsoever.

**MR. OSBORNE:** Okay.

At 9:45 a.m. the deputy minister met with you outside the Cabinet room. The Cabinet meeting was scheduled to commence at 10:00 o'clock. He provided you with two options. One was finding a mutual way to terminate the contract. The other was to default and proceed with the performance bond.

The deputy minister indicated that some analysis needed to be done. The indication from you was a preference to work with the company towards a mutual termination of the contract that would not be injurious to the company. Is that correct?

**MR. MCGRATH:** My comment during the whole conversation, and I will take fully responsibility, but in the conversation – and I cannot give you verbatim what I said, but part of the conversation would have been: I would like to be able to do this without doing any damage to the company or to the people of the Province, because the last thing you want to do is force a company to go into bankruptcy. So that was the way the conversation went.

When the wording is put in the context that it was written, it sounds much more damaging, but I accept responsibility for that.

**MR. OSBORNE:** Okay.

There was a criteria of inflicting the least – and I am reading this from the Auditor General's

report, “... inflicting the least amount of harm on HVP and its employees would require some knowledge of the current financial or operational position of HVP. There is no evidence that the Department sought any documentation regarding HVP's current position.”

It was determined that you wanted to ensure that there was the least amount of harm on Humber Valley Paving and its employees –

**MR. MCGRATH:** As well as the Province.

**MR. OSBORNE:** As well as the Province, so you say, but calling the Performance Bond would have provided better protection for the Province, in my opinion. The Performance Bond would have ensured that work was done. It would have been injurious to Humber Valley Paving, but it would have ensured that the Province was protected and it would have saved the Province money.

The decision that you made to not cause harm to Humber Valley Paving completely excluded all of the companies that dealt with Humber Valley Paving. There was no focus on any of the other companies and making sure that there was no harm to them. In fact, it was a full month-and-a-half before the public became aware that this contract was cancelled. Meaning that companies that dealt with Humber Valley Paving and were gearing up to continue work with them in the spring and companies that thought that they were going to continue to deal with Humber Valley Paving were completely caught off guard.

So, you put a great deal of focus on protecting Humber Valley Paving, but none of the other companies. There was no public information provided. There was no communication of this decision to the general public. How do you explain that?

**MR. MCGRATH:** I do not think I put emphasis on protecting Humber Valley Paving; I think my emphasis was on getting the job done.

**MR. OSBORNE:** Okay.

Right out of the Auditor General's report: “Minister McGrath indicated to his Deputy Minister some urgency to complete any analysis

that day. This would have played a critical role in the speed of the assessment by Department officials of the impact of HVP not returning to Labrador in 2014 and would have been a major contributing factor why no documentation was available from the evaluation process of March 13, 2014.”

Ensuring that the project would be completed on budget, protecting the taxpayers’ of the Province as well – the Auditor General said, “This, in our view, should have been the primary consideration in the evaluation process” – protecting the taxpayers – “and ensures that the interests of taxpayers are placed ahead of HVP and political commitments.”

There was a sense of urgency placed on the decision that day. The decision was made, but it was not in the best interests of the taxpayers of the Province, or any of the other companies that dealt with Humber Valley Paving. There was great consideration to protecting Humber Valley Paving, but no communication publicly with anybody else for a month-and-a-half.

Why was there no communication? Why was this not publicly communicated once the decision was made?

**MR. MCGRATH:** Again, on the day, March 13, my major concern was getting the job done and hopefully to get it done within our budget. Knowing we had \$7.2 million left on the \$19 million contract, I wanted to get it done at the best price we could.

We knew, I guess, coming up that it would cost extra money if we had to retender, and that was the urgency with the other two tenders – and I again go back to those two tenders. You made a comment and you read from the Auditor General’s report that I was trying to protect Humber Valley Paving and their employees, but my comment is that I was trying to protect the taxpayers to spend as little as possible, knowing full well that we had to retender this job, and what would be the best way to do it.

**MR. OSBORNE:** That is only two potential outcomes. The third potential outcome was calling the Performance Bond, which would have ensured that the taxpayers were protected.

**MR. MCGRATH:** Upon the advice that I was given, we felt that when you call in on a bond – the bond is merely an insurance policy, and insurance companies are set up to try to be the least-cost to their customer. So you could be in court – and this was one of the things that we had to look at. Humber Valley Paving was willing to take that chance. That was part of the conversation that they were willing to a chance that they felt they were not responsible for the extra costs due to forest fires.

We did not feel comfortable that by calling in the Performance Bond – and you could be in court for five years and you cannot complete that job until that is settled. So we did not feel that was the best route to go.

**CHAIR:** Mr. Murphy.

**MR. OSBORNE:** Okay.

**MR. MURPHY:** If he is still on certain train of thought here, he can carry on for a couple of more minutes.

**CHAIR:** Okay.

**MR. OSBORNE:** Did you ever have a conversation with Frank Coleman?

**MR. MCGRATH:** No – well, that is not – could you elaborate on that question, please?

**MR. OSBORNE:** At any time, did you ever have a conversation with Frank Coleman?

**MR. MCGRATH:** In my life, yes.

**MR. OSBORNE:** Okay.

Did you have a conversation with Frank Coleman while you were Minister of Transportation and Works?

**MR. MCGRATH:** Yes.

**MR. OSBORNE:** Did you have a conversation with Frank Coleman about his intentions to seek the leadership of the Progressive Conservative Party?

**MR. MCGRATH:** No, I never met Frank Coleman until mid-May of – I have to correct

that. I never, ever met Frank Coleman during this whole process, before March 13 – never, ever did.

**MR. OSBORNE:** Okay, but did you have a conversation with Frank Coleman while you were Minister of Transportation and Works about his intentions to seek the leadership of the Progressive Conservative Party?

**MR. MCGRATH:** I will say yes I did, after the termination of this contract.

**MR. OSBORNE:** Okay.

Did you have any conversation with Frank Coleman as Minister of Transportation and Works prior to the cancellation of this contract?

**MR. MCGRATH:** No, definitely not. I never met the man in my life.

**MR. OSBORNE:** There is more than meeting. Did you have a conversation over the phone?

**MR. MCGRATH:** No, I did not. I never had any conversation of any kind with Frank Coleman before the termination of this contract.

**MR. OSBORNE:** Okay.

You obviously had conversations with Eugene Coleman prior to the termination of the contract.

**MR. MCGRATH:** Yes. I am on record of sharing that with you.

**MR. OSBORNE:** Okay.

Did the fact that Frank Coleman was about to become the Leader of the Progressive Conservative Party play any role in your decision to cancel this contract?

**MR. MCGRATH:** None whatsoever.

**MR. OSBORNE:** So the fact that the contract was cancelled the day prior to Frank Coleman – the close of nominations for the PC Party was purely coincidental?

**MR. MCGRATH:** Yes, purely coincidental.

**MR. OSBORNE:** Okay.

**MR. MCGRATH:** The two had nothing to do with one another.

**CHAIR:** Mr. Murphy.

**MR. MURPHY:** Thank you, Mr. Chair.

Mr. McGrath, why did you feel it not prudent to inform Cabinet that there was an issue?

**MR. MCGRATH:** I did not feel that it was ‘unprudent’; I just did not do it. I had a job as the minister and in many, many conversations that I have had with different Premiers, with different senior officials, with colleagues around the Cabinet table or caucus, I had accepted responsibilities as the minister and I felt that I was within the realm of my responsibilities and duties as the minister here. It just did not seem important to me at the time.

**MR. MURPHY:** It did not seem important to you at the time.

**MR. MCGRATH:** That is correct.

**MR. MURPHY:** A decision that could have political implications was not important at the time?

**MR. MCGRATH:** I was not seeing it as having political implications. I was seeing it as getting a job done and get it done in the best form possible.

**MR. MURPHY:** Okay, but still even getting the job done, what was the rush that it had to be done on that particular day in question, to have the release of contracts done, to have another tendered issued, to roll over the contract and have that piece added into another contract?

**MR. MCGRATH:** Again, I go back to the other two contracts. We had sent tenders out the evening before March 13, on March 12. We had sent two tenders out for public, and I needed to know, am I going to be able to pull back these tenders. I would have to have a reason to pull them back, and that was the road I was going down.

If I cannot be guaranteed that HVP is not going to finish this contract – if they are saying, yes, we are walking away from this contract, well

then I need to get those other two contracts back so I can turn three tenders into one to make it feasible to get the sixty kilometres completed, and that was the rationale of my decision.

**MR. MURPHY:** Those contracts were let out on what day?

**MR. MCGRATH:** They were sent out on the evening of March 12, so I was very pushed to get them pulled back.

**MR. MURPHY:** March 13, I am just trying to remember what day of the week it was?

**MR. MCGRATH:** Thursday.

**MR. MURPHY:** Thursday – so on Wednesday you had that done.

The decision when you came out of the Cabinet meeting, when Mr. Meade, I guess you could say, called you out the second time and you gave him the decision to go ahead with termination of the contract and you said as soon as possible. Am I right?

**MR. MCGRATH:** Quite possibly, I did not record my conversation, but part of the conversation – and again, I cannot tell you verbatim what I said – was let us get this done as soon as possible. Let us get it done. As long as we are following everything we need to follow – and we did. There was a mutual agreement between the contractor and the department and we were both content with that agreement, so we went from there. In actual – remember now, this was not signed off until March 21.

**MR. MURPHY:** Okay.

Mr. Meade, can I ask you a question about that? Can I ask you about your interpretation about Mr. McGrath's comments when he came out and gave you direction?

This will only take (inaudible).

**CHAIR:** Now, the example we had before is that Mr. O'Brien could not hear the other person, so I am going to ask Mr. Meade if would come forward. Mr. McGrath, that is so you can hear his response.

**MR. MCGRATH:** Sure.

**MR. MEADE:** So I would suggest to you that the language that Minister McGrath has used is similar to the language that I have testified to. That it is do it as soon as possible; get it done. That would have been the tenure and tone of the direction.

**MR. MURPHY:** Okay.

So up to that time that your analysis was done, there was yourself that would have been doing the analysis of the best options that were possible in order to get the other contract fulfilled too, at the same time, with the least amount of financial damage (inaudible).

**MR. MEADE:** That would have all been part of the options that we would have presented in that second meeting outside of Cabinet, yes.

**MR. MURPHY:** Okay.

So you are at ease with that and Mr. McGrath was at ease with the process that was followed?

**MR. MEADE:** In terms of the fact that I was able to present viable options to the minister –

**MR. MURPHY:** Yes.

**MR. MEADE:** – and explore those pros and cons and then him to be able to deliberate and give me direction on it?

**MR. MURPHY:** Yes.

**MR. MEADE:** Yes.

**MR. MURPHY:** Okay, that is fine.

Thank you.

**CHAIR:** Thank you, Mr. McGrath. We just had Mr. Meade come forward so he could be near the microphone so you could hear him.

Mr. Murphy is going to resume his questioning, I think.

**MR. MURPHY:** Yes.

I want to come back around to why you feel that Cabinet should not have been informed about this, knowing that it was an important political promise by government to have the road completed in a certain length of time. Mr. McGrath, I am just wondering if you can address that.

**MR. MCGRATH:** I am not sure I understand what you are saying. I am not saying that Cabinet should not have known about it. I guess the decision that I made at that time was in my experience as a Cabinet minister, the procedure that I followed, I had great faith in the civil servants that I was working with, with the advice I was being given by my senior officials, and I did not bring it to Cabinet.

In hindsight, I think I should have, had I known what this was going to turn into; but, at the time, I felt that we were handling it the way it needed to be handled.

**MR. MURPHY:** Why no decision document do you feel?

**MR. MCGRATH:** It was not a matter of the decision document. It was a matter of the – again, I go back to the two tenders that we had to pull back that were released on Wednesday evening. I knew, knowing the geography and demographics of these sixty kilometres, which was in the middle of nowhere, that it would be extremely expensive if I could not put that in with another contract.

One of the stipulations that I sat with the senior officials to get in the new tender was that the sixty kilometres would be finished first. So you need to understand the geography and the demographics, and that does not excuse me not bringing it to Cabinet. Again, I take full responsibility for that.

**MR. MURPHY:** Whose responsibility would it have been to be doing up a decision document for that? Under protocol, would it have been your decision to ask somebody else to do up that decision document, or would that have been an automatic thing?

**MR. MCGRATH:** It is not an automatic thing; and, again, I will take full responsibility. Mr. Meade did say that morning, do you think we

should do decision notes. I said I will give it some thought and I decided it was not necessary because of the way things were going, that Humber Valley Paving was not looking for any extras here. We needed to get a job done, and I made that decision. Again, I accept full responsibility.

**MR. MURPHY:** Okay.

So you did not hear anything from Mr. Meade after asking a second time around whether a decision document should have been drawn up?

**MR. MCGRATH:** Not that I recall, but I know he did suggest it originally and I chose against that. I accept full responsibility.

**MR. MURPHY:** Okay.

**MR. MCGRATH:** With the information I was provided, I felt it was progressing the way it should progress, that there was no harm intended to anybody, and certainly nothing untoward.

**MR. MURPHY:** Yes, and I guess in hindsight it would be 20/20.

**MR. MCGRATH:** It always is.

**MR. MURPHY:** Yes.

I want to come back again, there was no decision document done up. How did you address this with Cabinet? Was it at the time when the CBC news story broke that your Cabinet colleagues actually found out that this was an issue?

**MR. MCGRATH:** That is correct.

**MR. MURPHY:** So they went thirty-seven-plus days without knowing there was an issue here.

**MR. MCGRATH:** Yes, this was a departmental decision that was made by a minister, and it was business as usual for us.

**MR. MURPHY:** Okay.

Again, because of your colleagues who were serving in the House of Assembly at the same time in your party did not know there were issues that were ongoing here at the same time.

**MR. MCGRATH:** I felt through the process we had addressed the issues.

**MR. MURPHY:** Okay, all right.

I do not have any other questions at this particular time.

**CHAIR:** Mr. Peach has a question. Mr. Peach, would you like to come forward here?

Mr. McGrath, Mr. Peach is coming forward to sit at the table here to make him closer to the microphone so he can ask you some questions.

**MR. MCGRATH:** Sure.

**CHAIR:** Go ahead, Mr. Peach.

**MR. PEACH:** Good day, Nick.

**MR. MCGRATH:** Hi, how are you, Calvin?

**MR. PEACH:** Not too bad.

I just have one question here, listening to the conversation between Mr. Murphy and Mr. Osborne. The incident that happened with Humber Valley Paving with regard to the minister going to the Cabinet room and discussing it in the Cabinet room and also the way that it was handled, was this case handled any different than any other case that you would have with DOT and making a decision as a minister?

**MR. MCGRATH:** Not really. After this was turned into what it is today, I certainly had many, many conversations with my deputy minister and senior officials in the department, communications, as well as legal counsel within the department. We researched, to the best of our knowledge – and I certainly stand corrected if I am wrong on this. To the best of my knowledge, there was only ever one other case where a Performance Bond was called in. That, to this day, is still not settled. So we looked at that option and felt it was in the best interest to move in the direction we did. That decision was laid in my lap. So I take full responsibility for the decision that was made.

**MR. PEACH:** Yes. I guess my question was with regard to the way things were handled by

the minister. Questions were asked, did you bring it to the Cabinet, and things like that. You made the decision here as the minister. Is that anything abnormal to what you have done in the past or any minister would have done in the past in making the decision on terminating a contract, or any contract for that matter I guess?

**MR. MCGRATH:** Not to my knowledge, Calvin, because, again, as the minister it was within – and the Auditor General made the comment that I did not make any decisions that were outside of my jurisdiction. I felt the decision I was making was in the best interest of the people of Newfoundland and Labrador and in the best interest of the project. So I was not outside of my jurisdiction as a minister to make the decision I made.

I really cannot comment as to whether it was abnormal because in the three years that I was a minister I made many, many decisions within the different departments I was in, that I did not go to Cabinet to ask for approval of that decision.

**MR. PEACH:** Yes. I guess my question was probably worded wrong. What I was getting at is that you, as a minister, or whoever was minister at that time or would have been minister at that time, it is normal procedure that has happened and would have happened in any case with regard to dealing with an issue like this that came up in DOT. Is that right?

**MR. MCGRATH:** Yes. If the minister at the time, I can only speak for myself and my understanding of being a minister, is that if you feel you can find a solution as the minister within your department – again, these departments and all the departments I was in, and the Department of Transportation and Works being no different, they have the expertise within the department, and that is what I took advantage of. I felt I was making the right decision –

**MR. PEACH:** Yes, thanks, Nick.

**MR. MCGRATH:** – and it is not out of the ordinary.

**MR. PEACH:** Thanks a lot.

**MR. MCGRATH:** Thank you, Calvin.

**CHAIR:** Mr. Osborne.

**MR. OSBORNE:** That actually prompted a couple of more thoughts on my behalf.

Nick, “The evaluation of the decision to mutually agree to cancel the contract related to Project 1-12 was concluded during the morning of March 13, 2014 and was not appropriately documented. The urgency to conclude an agreement on March 13, 2014 resulted in an evaluation that, with the benefit of more time, may have more fully considered all options available to the Department.”

Would you agree that having more time to evaluate is normal protocol within the department, or is it normal protocol to make a decision very quickly as you did?

**MR. MCGRATH:** I am not sure I agree with either. In this particular case there were two other tenders that were out that had to be taken into consideration here, the geography of the sixty kilometres, the fact that the contractor had made a decision that they were walking away. I think all of that has to be taken into consideration, and in this case it was all taken into consideration.

**MR. OSBORNE:** Okay.

The Auditor General did not feel – and I am not putting words in his mouth – he can intervene. If I am incorrect, but I do not think the Auditor General felt all things were considered and there was adequate time to consider all things. I am basing that on the findings of the Auditor General’s report.

One of the other findings of the report was that we have not been able to satisfy ourselves why two ministers within a half an hour independently contacted the Deputy Minister of Transportation and Works to inquire about the status of Humber Valley Paving on the morning of March 13, 2014. Was there any discussion with Mr. O’Brien prior to your call and his call to the deputy minister?

**MR. MCGRATH:** Between myself and Mr. O’Brien?

**MR. OSBORNE:** Yes.

**MR. MCGRATH:** No, there was not.

**MR. OSBORNE:** Was there any discussion between yourself and Minister O’Brien on the day of March 13 relating to the Humber Valley Paving contract?

**MR. MCGRATH:** No, there was not. Because I was between Cabinet, and I distinctly remember that day that we worked late into the evening after Cabinet with my senior officials. There was no conversation there.

**MR. OSBORNE:** Okay.

One of the other findings from the Auditor General, “We have not been able to satisfy ourselves why the process to come to an arrangement with HVP to terminate the contract related to Project 1-12 had to be concluded the day before nominations closed for the leadership of the Progressive Conservative Party of Newfoundland and Labrador.”

Was there any relationship at all – and I know I have asked this, but I will ask it in a different way: Was there any relationship at all to the cancelling of the contract and the PC leadership process?

**MR. MCGRATH:** Absolutely not.

**MR. OSBORNE:** So you are saying that it was just merely coincidental that one happened the day before the other.

**MR. MCGRATH:** I am saying that one had absolutely nothing to do with the other. There was no political reasoning for what I did. I was doing what I thought was in the best interest of the Province of Newfoundland and Labrador on a particular project in my role and my jurisdiction as the minister at the time.

**MR. OSBORNE:** Okay.

One of the cornerstones of the government that you are a part of was that they had constantly said they believed in transparency and openness, but the Auditor General had found there was a lack of transparency in the communication of the decision to terminate the contract and that led to



the potential to impact the ability of subcontractors and suppliers in the Province. What would be your response to that finding?

**MR. MCGRATH:** Again, one of the reasons that we kept the \$1.18 million mechanics' lien holdback is that we knew if we mutually terminated the contract – and that was discussed and made clear to me by Mr. Jones, the solicitor – that automatically when a contract is terminated, the bonds are also terminated. That was the rationale of the \$1.18 million mechanics' lien holdback. Although the process is a little different, it still protects any vendors who would be owed money on this particular project. So I felt that was covered.

**MR. OSBORNE:** Okay.

What about the issue of transparency in the communication of the decision?

**MR. MCGRATH:** Again, when you look at all of the demographics of the particular project that we are discussing, I saw the urgency tying it into the other two tenders that had been released. If there was, as the Auditor General indicates he felt there was a lack of transparency, I accept full responsibility for that.

**MR. OSBORNE:** Okay.

There was no documentation prepared on March 13, 2014 to support the decision to terminate the contract and there was no documentation prepared for a full month-and-a-half afterwards. How would respond to that?

**MR. MCGRATH:** Again, I was not part of the discussion and negotiation between Humber Valley Paving and the senior officials within the Department of Transportation, but once they came to an agreement there was documentation, a legal document, that outlined the conditions of the mutual termination. That was done on March 13 and then presented to Humber Valley Paving.

Any negotiations that I have been involved with, if you have two parties that are sitting down and they are negotiating a contract or a termination of a contract or any deal of any kind, once they reach a suitable agreement between both parties, then you draw up an agreement on that and that

agreement was the agreement of termination. That was documented on March 13.

**MR. OSBORNE:** Okay.

The awarding of contracts and so on, would that generally go through the Cabinet process?

**MR. MCGRATH:** Some do, yes.

**MR. OSBORNE:** Okay.

What about the termination of a contract, would that go through the Cabinet process?

**MR. MCGRATH:** It may at times and it may not at times.

**MR. OSBORNE:** In a particular situation like this – Cabinet claimed they had no indication of this, the Premier's office claimed they had no indication of this until late April, which was several weeks after the contract was cancelled. Would this have been the normal case to exclude Cabinet or the Premier's office from?

**MR. MCGRATH:** As an appointed minister, you are given responsibilities that you make decisions within the department, within your jurisdiction. I do not feel I made any decisions outside of my jurisdiction as the minister. The Auditor General stated that in his report; therefore, it was business as usual for me.

**MR. OSBORNE:** You certainly had the jurisdiction to make the decision, but we both know that decisions to award contracts, decisions to appoint people to boards, decisions to cancel contracts, oftentimes land at the Cabinet table. This one with the circumstances around it and the sensitivity around it, do you believe that this was justifiable in excluding this from the process of bringing it to the Cabinet table?

**MR. MCGRATH:** That is a two-tier question. First of all, I do not feel I excluded it purposely for the sake of excluding it. Secondly, a lot of the sensitivities that you talk of being around this particular case were not sensitivities that stood out to me. I did not even consider them. I was not looking at any political repercussions or gains at the time.

**MR. OSBORNE:** Okay.

So did you state an urgency to deal with this matter on March 13 to your deputy minister?

**MR. MCGRATH:** My deputy minister – and not just the deputy minister in Transportation and Works, but in all of my departments that I served as a minister over three years, I think my deputy ministers would testify that I had a sense of urgency to get jobs completed as quickly and timely as possible. So, this was no different.

**MR. OSBORNE:** Okay, but I do not know of any other contract. I mean, there may be others that we just do not know about, Nick, but I do not know of any other contract in your department that was dealt in such a way that this one was. I guess I will go back to the question: Did you indicate to your deputy minister on March 13 the urgency to deal with this particular contract?

**MR. MCGRATH:** Basically, part of our conversation, as I stated before, was let's get it done. He questioned the urgency, and I said, as soon as possible. I am not sure that is the exact words, but I saw no reason to prolong this, and the urgency that I did indicate was around the other two tenders.

I will continue to go back to the other two tenders – is it necessary that we pull back these other two tenders? Knowing the demographics, knowing the geography, knowing the financial implications, we knew it was not a good idea to have this sixty kilometres left out there on a tender by itself.

**MR. OSBORNE:** Okay.

The deputy minister had asked you if you wanted this moved up the line, and you had indicated no. Can you tell us why?

**MR. MCGRATH:** I cannot say for sure that I said no; I just said I will worry about that. I will take care of that. Let's see where we are at with this. That was part of the first conversation, I think. At the time, again – and I take full responsibility for it – I did not see the urgency, I guess, or the necessity of having briefing notes and everything written on this, knowing the urgency on the other two tenders.

**MR. OSBORNE:** Okay.

Did you or did you not indicate to your deputy that you did not want it moved up the line?

**MR. MCGRATH:** I cannot say that verbatim I said I do not want it moved up the line; I think the conversation may have went that I will take care of that.

**MR. OSBORNE:** Okay, so by you –

**MR. MCGRATH:** Again, I cannot say those are words that I used, but I certainly indicated that I would take care of it.

**MR. OSBORNE:** Okay.

Did you indicate to your deputy that you were going to inform others in Cabinet and/or the Premier?

**MR. MCGRATH:** No, but I also did not indicate that I was not, just to clarify that.

**MR. OSBORNE:** Okay.

**CHAIR:** We should go to Mr. Murphy, and before we do, we have had Mr. McGrath on the line for a little over an hour and I am wondering if I could get some indication from members how much longer we will need to keep asking him because –

**MR. MURPHY:** I have only have about two or three questions.

**CHAIR:** – we seem to be covering the same ground that we have been covering for a while.

Mr. Murphy.

**MR. MURPHY:** Did you have anything else on this in the interim, Tom?

**MR. OSBORNE:** Yes, just a couple of questions and then I can conclude.

**MR. MURPHY:** Yes, you can go and then I will finish it up.

**MR. OSBORNE:** Yes.

Nick, I guess this is an important point because the deputy does have a duty to report to Cabinet Secretariat, the Clerk of Executive Council to be more precise, on an issue like this, especially where it is a sensitive issue. It is my understanding from your deputy who testified earlier that he had an indication from you that you did not want it moved up the line. I would like to have a better understanding, a more clear understanding, of exactly what transpired in that conversation.

**MR. MCGRATH:** Well, again, I do not remember that conversation completely. I do remember the deputy minister talking about should we prepare briefing notes and stuff, and I felt it was not necessary. You get the research done as to what our options are and I will take care of that.

**MR. OSBORNE:** Okay.

Was there an indication given to you that the deputy should not pursue his normal course of duty in informing the Clerk of Executive Council?

**MR. MCGRATH:** No.

**MR. OSBORNE:** Okay.

One final question and I think I will conclude on that. You were removed from Cabinet because of this entire situation and what had happened here. I know that is obviously very difficult to deal with and to accept.

Do you believe that was the proper decision? Do you believe you acted fully in good faith here, or was it the right decision to have removed you at that particular time?

**CHAIR:** Mr. Osborne, I am not sure that in this type of hearing that is the proper question. That becomes more of a political question than a factual question.

**MR. OSBORNE:** Okay.

I will try to remove the politics from it. Do you feel that the mistakes you made were justified – do you believe you made any mistakes here? Did those mistakes – how do I do this without

being overly political. Do you believe you made any major mistakes on this particular file?

**MR. MCGRATH:** At the time I felt I was acting in the best interest of the taxpayers of Newfoundland and Labrador, the people of Newfoundland and Labrador, and certainly within my responsibilities as a minister of the Crown. In hindsight, I probably would have taken a different route knowing the outcome of what had happened.

I think it needs to be made explicitly clear that the decisions I made at the time I thought, so help me God, were in the best interests for the people of Newfoundland and Labrador, with no political gains whatsoever.

**MR. OSBORNE:** Okay, thank you.

**CHAIR:** Mr. Murphy.

**MR. MURPHY:** Just a final couple of questions, Mr. McGrath. Do you remember tender 7-14?

**MR. MCGRATH:** No, I do not.

**MR. MURPHY:** I believe 7-14 was the number around the bundling of the contracts?

**MR. MCGRATH:** Yes, okay.

**MR. MURPHY:** How much was that contract for, can you tell me?

**MR. MCGRATH:** Go ahead, sorry.

**MR. MURPHY:** Do you happen to know the dollar amount that that contract was worked up for after?

**MR. MCGRATH:** I do not know exactly the amount, but I can give you a breakdown of the estimates that we were working with – and that is the way tenders work, of course.

**MR. MURPHY:** Yes.

**MR. MCGRATH:** So, the first part, the eighty kilometres on the south side of the bridge between Happy Valley-Goose Bay and the Cartwright Junction we have an estimated cost of \$30 million; work being done on the

Hamilton River Road in Happy Valley-Goose Bay and areas around that, there was an estimate of \$2.7 million; and the third was the remainder of the \$19 million contract, which was \$7.2 million. So those are the numbers, to the best of my knowledge or remembrance.

**MR. MURPHY:** The 7-14 was the redrawing of the contract that was issued on March 12, when you took back that other contract, right?

**MR. MCGRATH:** Well, March 12 we had sent out two tenders.

**MR. MURPHY:** Right.

**MR. MCGRATH:** One for the eighty kilometres, the other one was for the work in Happy Valley-Goose Bay –

**MR. MURPHY:** Right.

**MR. MCGRATH:** – and the third one was the sixty kilometres.

**MR. MURPHY:** My point is, those contracts of March 12, they were all bundled in together to form 7-14, right?

**MR. MCGRATH:** That is correct.

**MR. MURPHY:** Okay.

Was that talked around the Cabinet table?

**MR. MCGRATH:** No.

**MR. MURPHY:** That was just tendered – that was a multi-million dollar contract that was not discussed around the Cabinet table?

**MR. MCGRATH:** That is correct, yes.

**MR. MURPHY:** How would that decision have been made by the department in spending that money? Was that a budget allocation? I am just trying to figure out the –

**MR. MCGRATH:** Yes, it would be. I have to be careful how I answer this, because again, I have taken an oath of confidentiality when I was Cabinet. Just to try and clarify it, what Cabinet does is they approve certain amounts to different departments –

**MR. MURPHY:** Right.

**MR. MCGRATH:** – and then it is the responsibility of the departments how they allocate those funds.

**MR. MURPHY:** Right.

**MR. MCGRATH:** So this would have been approved as a budgetary item within Cabinet, and then it is up to the department where it goes. Now, during the budgetary process there are definite conversations as to how money is spent within the departments, and we did not go outside of that realm in bundling these contracts.

**MR. MURPHY:** Okay, but a discussion about the progress of a contract or anything like that would not be discussed around a Cabinet table?

**MR. MCGRATH:** Not to my recollection, no.

**MR. MURPHY:** It has never happened? Nobody has talked about, well, this here seems to be going all right, and just letting everybody know that it seems like this tender is on schedule. Nothing like that would have happened around the Cabinet table?

**MR. MCGRATH:** Again, Mr. Murphy, I need to be careful here because I have been sworn to confidentiality. The question you are asking to me may be – I am not sure if irrelevant is the right word, but I really do not see what it has to do with this Public Accounts.

**MR. MURPHY:** Well, the simple fact is that we have had a \$20 million contract that we have had issues with that was not talked around the Cabinet table, but we have another contract under 7-14 that was discussed around the Cabinet table. That is the fact that I am trying to establish here. Would that be true?

**MR. MCGRATH:** So I guess I need to correct you because I do not think that this 7-14 was discussed around the Cabinet table when I was there.

**MR. MURPHY:** Okay.

**CHAIR:** Mr. McGrath, Public Accounts is a Committee of the House and we would not expect you to betray any Cabinet confidences. It

would be inappropriate for us to insist that you tell us anything that happened inside the Cabinet room.

**MR. MCGRATH:** Thank you very much.

**MR. MURPHY:** Yes, I am just trying to establish a reason for the protocol, procedures, and everything that may happen around the Cabinet table too because a lot of procedures were not filled in the whole aspect of this. We did not have a decision note.

**MR. MCGRATH:** I guess I want you to clarify. Did I understand you correctly that you said contract 7-14 was discussed around the Cabinet table?

**MR. MURPHY:** No, that is what I am wondering. I am trying to establish the fact – would a contract like that or the progress of a contract, construction of a project like that, or construction of a road, would that have been discussed around the Cabinet table?

**MR. MCGRATH:** Again I refrain from answering that. I refrain from answering it because I am nervous about Cabinet confidentiality. You are being very vague with your question.

**MR. MURPHY:** Well, no, my question I feel is simple. When you are around the Cabinet table – I am not asking you to disclose any secrets here. It would be nice to open up that door.

What I am asking about is that sitting around the Cabinet table, after a contract has been awarded, taxpayers' money is being spent, would anybody around that Cabinet table, for example, ask you at the Cabinet-table level on the progress of a contract, how it is going, that sort of thing? I think that is pretty simple and within the realm of questions.

**CHAIR:** Mr. Murphy, I think that you have to look to the relevancy of the question. I think we need to focus our attention on the Auditor General's report and the findings coming out of the Humber Valley Paving contract in Labrador.

**MR. MURPHY:** Yes.

**CHAIR:** I think that you are getting further afield than relevance would allow. What do we get if we get the answer, whatever the answer is? How does that help us deliver our recommendations or report?

I think we are moving into being less relevant. Maybe I will ask you to either find a way to make it relevant to what the Auditor General's report was or move on to a different line of questioning.

**MR. MURPHY:** I guess he is not going to answer that one? We are kind of left up in the air on that one.

I am trying to establish if there was a discussion that happened around 7:14 o'clock that there probably was a discussion happening afterwards on 1-12.

**CHAIR:** The Auditor General said that Mr. McGrath acted within his discretion as a minister.

**MR. MURPHY:** Yes.

**CHAIR:** So having that finding already that he acted completely within his discretion as a minister, I think the questions can relate to his ministerial discretion but I do not think we can reach into the Cabinet room.

**MR. MURPHY:** Yes, okay.

I have no other questions.

**CHAIR:** Does any government members have a question?

**AN HON. MEMBER:** No.

**CHAIR:** Mr. McGrath, I do not think we have any more questions for you. Sometimes we permit witnesses, if they would like to clear up anything, if they want to clarify anything so we are not left in doubt. We do not need to have you stay on the line any longer, whatever is your preference.

**MR. MCGRATH:** I can stay on the line if you think it is beneficial. I have no problem.

**CHAIR:** No, thank you.

The timer says about one hour and twenty, right now, you have been on the telephone. We appreciate your attendance.

**MR. MCGRATH:** Okay.

Again, I apologize for not being able to be there in person. I apologize for not being at the first Public Accounts meeting, but I was not invited and I did not know I was expected to be there. Had I been able to get a flight for this one, I certainly would have been there in person. I hope I was informative enough here on the phone.

**CHAIR:** Okay.

Thank you, Mr. McGrath.

**MR. MCGRATH:** Have a great day.

**CHAIR:** We could take our afternoon break and come back.

If members have any more questions of the witnesses we have here that might have not been asked, although I suspect we may be running out of things to ask. We could resume back here in about fifteen minutes and see where we go from there.

**AN HON. MEMBER:** (Inaudible).

**CHAIR:** Unless we have just a few questions, we could finish up now and not have a break.

**MR. PEACH:** I think we can carry on. I do not know about everybody else. I have an appointment at 4:00 p.m.

**CHAIR:** Okay. If anybody needs to be excused for a minute, if they need to just step outside. Otherwise, if that is the consensus, and I agree, we should keep moving and clue up instead of fifteen or twenty minutes and resuming and going until maybe 4:00 p.m.

Mr. Parsons.

**MR. K. PARSONS:** Okay, I just have a couple of questions.

Mr. Meade, I would like to ask you a question first. I am trying to figure out the protocols of

how things were supposed to be done. I just listened to Mr. McGrath, and I know on the morning you got a phone call from the minister. He came down and you went and did your thing and you went back to Mr. Jones and Mr. Gosse and all that procedure was put in place.

Normally what would happen, under certain circumstances you would contact the Executive Council and inform them of the decisions if you did not know the Premier or Cabinet – can you just explain a little bit of that to me? I am just trying to figure out the procedure here that is normally done.

**MR. MEADE:** As I have mentioned earlier, you would normally generate options for your minister. You would conduct analysis around that. You would present that to your minister, and your minister may give you some direction. It may be an iterative process, he may say, well, this is some of the values I place on this, or I would like to pursue this road, could you please do more work.

That was kind of along the lines of what happened here. If you recall my testimony earlier about the values being placed on working with the company and the time, and as Minister McGrath has testified as well. Then, once you present options to a minister, or as I have often stated, once you give that fearless advice and they give you direction, you then implement. In this case, and as in many cases, it would be within the minister's authority to give that direction.

In cases where you need authority, or in cases where you feel the Premier's office needs to have an input or to be informed of it, you would construct notes. That has been earlier testified by my colleague. The tools are decision notes, if you need a decision. So say you need authority, you would create a decision note. If you are simply informing them of a decision that was made, you would create an information note, and you would submit that. So that would be the normal process that would occur.

**MR. K. PARSONS:** Because you assumed this was discussed – and we have already determined that it was not discussed in Cabinet. Because you assumed it was discussed at Cabinet that

was the reason why you never contacted the Executive Council, correct?

**MR. MEADE:** There would be two reasons why I would not have contacted Executive Council, as I have stated earlier. One is the context of the discussions that were held, the minister leaving Cabinet, et cetera, et cetera, which I have already testified; and the second is, and former Minister McGrath just spoke to this, I asked him, would you like for us to draft a briefing note? His response was, as he testified – if I recall hearing it now and as I recall it that day – there is no need to do that, I will take care of that.

I have testified already that my language was: do you want me to move it up the line? We are talking about the same thing. We are talking about, as I have just earlier explained, the protocol of creating a note and putting it in the system. I am reporting to a minister, a position of respect and trust with the minister who has authority to make this direction. I asked him, would you like for me to create that process, that note, and move it up the line? His response was, no, I will take care of that. There is no need to do that. That was the response from then Minister McGrath.

**MR. K. PARSONS:** Okay, all right.

Ms Mullaley, the normal protocol on something like this is that if there is something on the go in the department, then it is something that the Premier should be notified about. Can you just explain that to me?

**MS MULLALEY:** Absolutely. There is certainly a requirement – for both Premiers and ministers – for any significant developments that are happening, to be informed of those, and for a number of good reasons. From that perspective – and it can happen in many ways, formal ways. There is a note process that we follow in Cabinet Secretariat. So it can be either a decision note, in which a minister is advancing a note with a recommendation and seeking a decision, and/or there is an information note, which is just providing information on a particular issue. We get those every day.

I can often also get a call from a deputy just indicating something is happening. It may be in

the media that I am alerted to, that I will have some discussion with the Premier's office on as well. Then I may say at that time, I think you need to put a note in the system on that.

Generally, the notes come two ways. We can either direct them to come into the system, or as Brent said, deputies can also advance them into the system. The Premier's office as well can ask for a note to be put into the system.

**MR. K. PARSONS:** When you found out about this decision, how did the Premier find out about it?

**MS MULLALEY:** My understanding, from my own personal perspective, the first time I ever became aware of this issue is on April 29 when there was an information note put in the system by the Department of Transportation and Works and to Cabinet Secretariat. I read that note, and obviously as I started to read it I understood the sensitivities of that note.

At the time, we had called the department because the events in the note were of course around the March 13 date and earlier than that in the February date, so they were a little dated. What our question was, when we called over to the department, what is precipitating this note coming in now? What is happening? Why is it here? It is a pretty significant issue, sensitivity wise.

That is when I learned that the Premier had met someone in an airport on that weekend. I believe it was another contractor, but I cannot confirm that, who had indicated this issue had occurred. With that, when he came back into town he called over to the department and the minister – there was actually a meeting that occurred on April 28. I was not in that one. The twenty-ninth was when I had first known of the issue. Then we had meetings following that. So on the thirtieth, we would have had another meeting with the department in the Premier's office as well.

**MR. K. PARSONS:** Can I ask you what the reaction of the Premier was at that time?

**MS MULLALEY:** Yes. From my perspective, he was quite upset. He did call me into his office. He wanted to know if I had known about

this. Is there any way I would have known? No, I did not know. Should you have known? Yes, I should have known. You should have known. I should have known. This is a pretty significant issue.

Then I guess, to be quite frank, what he said to me was: How could this happen? How in the world would a minister have an authority to make a decision like this? In which we had a lot of discussion around what goes to Cabinet and what does not go to Cabinet and talked about of course, there are mandates in departments and the delivery of programs and services.

This decision by the minister – and I think it is recognized by everyone here, that there was no issue on the legal authority of the decision; it was around the sensitivity of the decision. In those cases, when it is a huge decision and there are sensitives, they normally would come to Cabinet. In this case, it did not.

So the Premier was quite upset and really could not understand how something of this nature could not come into Cabinet.

**MR. K. PARSONS:** Thank you very much.

**CHAIR:** Any other members have questions?

Well, if we have no more questions – any questions that I may have had have been cleared up by the two former ministers, by them telephoning. So ordinarily, when we are at a point of concluding, we ask the Auditor General if he sees any areas we could cover, should have covered, or to give us his view.

**MR. PADDON:** No, I think between the two days that the questioning has been comprehensive and has covered the broad range of the report. I think Ms Mullaley just sort of summed it up quite well in that this, I guess in my view, is not necessarily a question around what ultimately the decision was; but, it is around the process around the decision, the timing, and the sensitivity that went with it. I think that, in my view, probably should have driven a different sort of heightened level of awareness.

Other than that, you did not have the benefit of all the witnesses who I spoke with to question,

but I think, generally speaking, the breadth of the questions here probably got to the nub of the issues.

**CHAIR:** Also, when we begin, we give – in the case of a department – the deputy minister or the lead person who appears – in this case, Ms Companion – an opportunity to provide us with sort of an opening explanatory statement, so we also like to come back to you and ask if you have anything to say or any observations.

**MS COMPANION:** The department is pleased to have participated in the Public Accounts process, and we feel confident that we have implemented the recommendations of the Auditor General fully.

**CHAIR:** I am advised by our Clerk, Ms Murphy, that we need a motion for the minutes for yesterday's meeting.

Moved by Mr. Peach; seconded by Mr. Murphy.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Approved.

On motion, minutes adopted as circulated.

**CHAIR:** I think that we are finished.

Thank you for coming. I think it has been a relatively long day, but a useful day, I believe.

On motion, the Committee adjourned.