

Commission of Inquiry into Certain Allegations
Respecting Business and Financial Dealings
Between Karlheinz Schreiber and
the Right Honourable Brian Mulroney



Commission d'enquête concernant les allégations
au sujet des transactions financières et
commerciales entre Karlheinz Schreiber et
le très honorable Brian Mulroney

**Hearing for Standing and
Funding**

**Audience relative au statut de
partie intéressée et au
financement**

Commissioner

L=Honorable juge /
The Honourable Justice
Jeffrey James Oliphant

Commissaire

Held at:

Bytown Pavillion
Victoria Hall
111 Sussex Drive
Ottawa, Ontario

Thursday, October 2, 2008

Tenue à :

pavillion Bytown
salle Victoria
111, promenade Sussex
Ottawa (Ontario)

le jeudi 2 octobre 2008

APPEARANCES / COMPARUTIONS

Mr. Guy J. Pratte
Mr. Jack Hughes

The Right Honourable Brian Mulroney

Mr. Richard Auger
Mr. Richard Greenspan

Mr. Karlheinz Schreiber

Mr. Paul B. Vickery

Attorney General of Canada

Mr. Robert E. Houston, Q.C.

Mr. Fred Doucet

Me Louis Demers

Le Bloc Québécois

Mr. Michel Savonitto

M. Pierre Gauthier

Mr. Yohan Cherrier

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1 Ottawa, Ontario / Ottawa (Ontario)
2 --- Upon commencing on Thursday, October 2, 2008
3 at 9:30 a.m. / L'audience débute
4 le jeudi 2 octobre 2008 à 9 h 30

5 COMMISSIONER OLIPHANT: Good
6 morning, ladies and gentlemen. Bonjour, mesdames
7 et messieurs. Welcome to the first session of
8 this Inquiry.

9 The purpose of today's hearing is
10 to hear applications for standing and for funding
11 for Part One of the Inquiry.

12 Part One will focus on factual
13 questions relating to business and financial
14 dealings as between Karlheinz Schreiber and the
15 Right Honourable Brian Mulroney, as set out in
16 paragraph (a), sections 1 through 16, of the Terms
17 of Reference.

18 Before we begin to hear the
19 applications for standing and funding, I would
20 like to make some preliminary remarks.

21 My name is Jeff Oliphant. I am a
22 judge of the Court of Queen's Bench of Manitoba,
23 having been on that Court for 23 years, 18 of
24 which I served as Associate Chief Justice.

25 By virtue of Order-in-Council

1 2008-1092, the Government of Canada appointed me
2 to conduct an Inquiry under Part 1 of the
3 Inquiries Act into Certain Allegations Respecting
4 Certain Business and Financial Dealings as Between
5 Karlheinz Schreiber and the Right Honourable Brian
6 Mulroney.

7 Le gouverneur général en conseil
8 m'a chargé de mener une Enquête concernant les
9 allégations au sujet des transactions financières
10 et commerciales entre Karlheinz Schreiber et le
11 Très honorable Brian Mulroney.

12 By virtue of two earlier
13 Orders-in-Council, Dr. David Johnston, the
14 President and Vice-Chancellor of the University of
15 Waterloo, was appointed as a Special Advisor to
16 the Prime Minister to conduct an independent
17 review of certain allegations made about the
18 business and financial dealings as between Messrs.
19 Mulroney and Schreiber and to provide reports to
20 the Prime Minister with his recommendations on the
21 appropriate mandate for a public inquiry into
22 those allegations.

23 Dr. Johnston submitted two
24 reports.

25 Dans ses rapports, Dr Johnston a

1 conclu que la question d'intérêt public dans la
2 présente affaire reste la nécessité d'établir s'il
3 y a eu violation des règles imposées aux
4 titulaires de haute charge publique et si ces
5 règles sont adéquates sous leur forme actuelle.

6 Dr. Johnston a conclu aussi que
7 certaines des allégations ont déjà fait l'objet
8 d'examen ou d'enquête.

9 Dr. Johnston concluded that the
10 public interest issue to which the allegations of
11 financial dealings give rise is the integrity of
12 government and whether there was a breach of
13 existing constraints on the activities of the
14 holders of high government office or, if not,
15 whether there is a need for further constraints on
16 former high office holders after they leave
17 office.

18 He recommended further that the
19 inquiry be a focused inquiry into specific matters
20 of legitimate public interest rather than a
21 further extensive examination of matters already
22 considered by others.

23 The Terms of Reference of this
24 Inquiry reflect the recommendations made by
25 Dr. Johnston in the two reports.

1 The mandate of the Inquiry is
2 fixed by the Terms of Reference. As noted
3 earlier, the Terms of Reference reflect the
4 recommendations of Dr. Johnston that this be a
5 focused Inquiry and incorporate the 17 questions
6 as formulated by Dr. Johnston.

7 Having reviewed the Terms of
8 Reference carefully, I have concluded that this
9 Inquiry is to focus upon the financial and
10 business dealings of Messrs. Mulroney and
11 Schreiber in relation to the Bear Head Project and
12 the payments made to Mr. Mulroney by Mr. Schreiber
13 in 1993 and 1994.

14 This Inquiry will be conducted in
15 two parts.

16 During Part One, I will hear
17 testimony regarding the factual matters raised in
18 the Terms of Reference.

19 Part Two will deal with the policy
20 issues identified in the Terms of Reference.

21 The applications for standing and
22 funding concerning Part Two of the Inquiry will
23 not be dealt with today. They will be heard at a
24 later date.

25 At this time I propose to conduct

1 all hearings in public.

2 Following the Part One and Part
3 Two hearings, I will prepare and submit to
4 government my report. Hopefully, that report will
5 shine a light upon the factual issues that are of
6 interest to both the public and the government and
7 will make useful recommendations regarding the
8 policy issues that have been referred to me.

9 Each public inquiry establishes
10 its own rules. As the Commissioner for this
11 Public Inquiry, I have the authority to set
12 procedures and practices that will be followed by
13 the Inquiry. My goal is to ensure that the
14 process we will follow be fair.

15 Commission counsel have drafted a
16 set of Procedural Rules. Those Draft Procedural
17 Rules appear on the Commission's website.

18 I will invite those parties who
19 are granted standing to make submissions
20 respecting anything in the Draft Rules that they
21 believe should be changed.

22 After receiving comments on the
23 Draft Rules from parties who are granted standing,
24 I will finalize the Rules. The Final Rules will
25 be posted on the Commission's website.

1 Let me briefly say what an inquiry
2 is and what it is not.

3 While this Inquiry has broad
4 powers of subpoena, it is not a court of law. A
5 public inquiry is not a trial.

6 A public inquiry is meant to
7 investigate and report upon matters of substantial
8 public interest.

9 I am not empowered to find anyone
10 guilty of a criminal offence or liable for a civil
11 law matter, nor does my mandate permit me to make
12 any award of damages as may occur in a civil
13 lawsuit.

14 I am committed to conducting this
15 Inquiry independent of government. Having been a
16 judge for some 23 years, I am mindful of the fact
17 that the need for me to be independent of
18 government in my capacity as Commissioner of this
19 Inquiry is as crucial as the requirement that in a
20 democracy the judicial branch must be independent
21 from the executive and legislative branches of
22 government.

23 Judicial independence as well as
24 my being independent from government as
25 Commissioner is for the benefit of the public.

1 I am also committed to conduct
2 this Inquiry in a manner that is seen to be
3 impartial and fair to all concerned. While it is
4 true that this Commission cannot make findings of
5 liability, either civil or criminal, I am
6 sensitive to the fact that it has the capacity to
7 have an adverse impact on reputations. That is
8 why I want to be fair to all who appear before
9 this Commission as parties or as witnesses.

10 That is also why, to the extent
11 possible, I intend Part One of the hearings of
12 this Commission to be open and public. Enabling
13 public access to the hearings of the Inquiry
14 contributes, in my opinion, to both impartiality
15 and fairness.

16 I have assembled an outstanding
17 legal team to assist me with the work of this
18 Commission.

19 Richard Wolson Q.C. of Winnipeg is
20 lead counsel. He is supported by three senior
21 counsel: Nancy Brooks of Ottawa, Evan Roitenberg
22 of Winnipeg and Giuseppe Battista de Montréal.

23 I am pleased to see members of the
24 media here today because not everyone can
25 physically be present to attend the public

1 hearings. It is through the media that most
2 members of the public will learn what is
3 transpiring on a day-to-day basis.

4 Given the nature and importance of
5 these proceedings, during the course of this
6 Inquiry it would be improper for me to speak to
7 the media. Commission counsel will not be
8 granting interviews on any matters under
9 investigation.

10 Any media requests for information
11 are to be directed to the Commission's
12 Communications Consultant, Barry McLoughlin.

13 I can assure members of the media
14 that where appropriate I will do whatever I am
15 able to ensure that you have timely access to all
16 public documents that are filed with and form part
17 of the record of this Commission and to such other
18 information to which you are entitled.

19 In terms of providing the public
20 access to the workings of the Commission, we have
21 established a website. The Commission's website
22 can be found at www.oliphantcommission.ca.

23 Today I will be hearing
24 applications to determine which individuals or
25 organizations will be granted what is known as

1 Standing in Part One of the Inquiry, which will
2 deal, as I have said, with the factual issues.

3 I may grant an applicant one of
4 two types of standing: Party Standing or
5 Intervenor Standing.

6 For Party Standing an applicant
7 must demonstrate that it will be directly and
8 substantially affected by matters to be
9 investigated in Part One of the Inquiry. I can
10 grant either Full or Partial Standing depending on
11 the extent of the applicant's interest.

12 I may grant Intervenor Standing if
13 the applicant satisfies me that it has a genuine
14 concern about issues raised by the factual Inquiry
15 and it has a particular perspective or expertise
16 that may assist me in carrying out my mandate.

17 After I have heard all of the
18 applications for standing, I will give each of the
19 applicants an opportunity to comment upon whether
20 they think any other applicant should or should
21 not be granted standing.

22 Under the Terms of Reference I am
23 authorized to make recommendations that funding be
24 provided in accordance with the terms and
25 conditions approved by Treasury Board. Those

1 terms and conditions have been posted on the
2 Commission website. I will hear today from any
3 applicant who wishes to apply for funding.

4 If I am unable to decide today
5 whether or not standing ought to be granted to any
6 one or more of the applicants, I will reserve my
7 decision and provide to the parties, as soon as
8 possible, a written decision on standing, and, if
9 applicable, on funding.

10 I will ensure that the media and
11 the public will be made aware of any decision on
12 the day it is released. The decisions will be
13 posted on the Commission's website.

14 We will now move to that part of
15 today's proceedings where I will hear from the
16 applicants for standing and for funding.

17 Mr. Wolson.

18 MR. WOLSON: Good morning, sir.
19 We have, as Commission counsel, properly
20 advertised the Inquiry and the procedure to apply
21 for standing and funding.

22 That said, we received eight
23 applications, and some of those would include
24 applications for funding.

25 You have been provided with all of

1 the applications and have had an opportunity to
2 read them and review them.

3 In terms of appearances today, we
4 have appearances by counsel for the Right
5 Honourable Brian Mulroney, Mr. Guy Pratte, and
6 Jack Hughes, who is assisting him.

7 We have Mr. Edward Greenspan and
8 Richard Auger for Karlheinz Schreiber, and
9 Mr. Auger is here today.

10 For the Attorney General of Canada
11 we have Paul Vickery. He is here today.

12 For Mr. Fred Doucet we have
13 Mr. Robert Houston, who is present today.

14 For the Bloc Québécois, counsel is
15 here. I believe it is Mr. Lefebvre.

16 For Mr. Pierre Gauthier, Michel
17 Savonitto is representing him, and he is here
18 today.

19 Mr. Yohan Cherrier is here today,
20 unrepresented.

21 Also, you have an application from
22 a Jonathan Wilde, who is not here today but, of
23 course, has filed an application for standing and
24 for funding.

25 In that you have the material

1 already, you have set a period of time of 15
2 minutes for each applicant to make their
3 submissions today. Of course, they needn't take
4 all of that time. The purposes of the submissions
5 are merely to supplement the materials that have
6 already been filed.

7 In that regard then, I will call
8 on Mr. Guy Pratte.

9 Thank you, sir.

10 COMMISSIONER OLIPHANT: Good
11 morning, Mr. Pratte.

12 I have carefully considered the
13 application for your client, and unless there is
14 something that you wish to say in addition to what
15 appears in the application, I really need not hear
16 any submission from you, sir.

17 PRESENTATION ON BEHALF OF THE RIGHT HONOURABLE
18 BRIAN MULRONEY / PRÉSENTATION AU NOM DU TRÈS
19 HONORABLE BRIAN MULRONEY

20 MR. PRATTE: Good morning,
21 Mr. Commissioner. I can take a cue, and I have
22 nothing to add on behalf of the Right Honourable
23 Brian Mulroney.

24 Thank you, sir.

25 COMMISSIONER OLIPHANT: Thank you.

1 Mr. Auger.

2 PRESENTATION ON BEHALF OF MR. KARLHEINZ
3 SCHREIBER / PRÉSENTATION AU NOM DE M. KARLHEINZ
4 SCHREIBER

5 MR. AUGER: Good morning,
6 Commissioner.

7 COMMISSIONER OLIPHANT: Mr. Auger,
8 I will simply repeat the comments that I made to
9 Mr. Pratte. I have carefully considered the
10 application of your client, Mr. Schreiber, and
11 unless there is something that you wish to add to
12 the application itself, I need not hear any
13 submission.

14 MR. AUGER: Thank you very much,
15 Commissioner.

16 COMMISSIONER OLIPHANT: Thank you.
17 Mr. Vickery.

18 PRESENTATION ON BEHALF OF THE ATTORNEY GENERAL OF
19 CANADA / PRÉSENTATION AU NOM DU PROCUREUR GÉNÉRAL
20 DU CANADA

21 MR. VICKERY: Good morning,
22 Commissioner.

23 COMMISSIONER OLIPHANT:
24 Mr. Vickery, in a similar vein, I have read the
25 application on behalf of the Government of Canada.

1 Unless there is something that you wish to say in
2 addition to what is stated in the application, I
3 need not hear from you this morning, sir.

4 MR. VICKERY: I have nothing to
5 add, Commissioner. Thank you.

6 COMMISSIONER OLIPHANT: Thank you.
7 Good morning, Mr. Houston.

8 PRESENTATION ON BEHALF OF MR. FRED DOUCET /
9 PRÉSENTATION AU NOM DE M. FRED DOUCET

10 MR. HOUSTON: Good morning,
11 Mr. Commissioner.

12 COMMISSIONER OLIPHANT: Mr.
13 Houston, with respect to the application, it is
14 what I might refer to as a double-barrelled
15 application, one for standing and one for funding.

16 With respect to the application
17 for standing, I have no problem with that
18 whatsoever, unless there is something that you
19 wish to add to that aspect of the application.

20 You can, if you want, confine your
21 submission to the application for funding.

22 MR. HOUSTON: May I deal very
23 briefly with the aspect of standing?

24 COMMISSIONER OLIPHANT: Sure.

25 MR. HOUSTON: I would like to talk

1 about one element in the material. It refers to
2 the fact that Mr. Doucet has knowledge of No. 7 in
3 the list of the terms of reference, namely, the
4 source of the funds. He does not. That was a
5 mistake. It was an error, and he is not able to
6 speak to the source of the moneys that Mr.
7 Schreiber gave to the Right Honourable Mr.
8 Mulroney.

9 May I just, very briefly, deal
10 with funding, sir.

11 My client has indicated in the
12 material that he is almost 70 years of age. This
13 particular matter has had a devastating impact
14 upon him personally and financially.

15 He has carried on business, as
16 indicated in the material, as a government
17 consultant for almost 20 years.

18 The publicity that has been
19 generated by this particular controversy, as the
20 press refers to it on a regular basis, has had a
21 profound impact upon him personally and
22 financially.

23 He has health problems, which are
24 briefly noted in the material.

25 COMMISSIONER OLIPHANT: Yes.

1 MR. HOUSTON: I represented his
2 interests when he appeared before the Ethics
3 Committee of the House of Commons. He retained me
4 out of personal funds at that time.

5 One of the difficulties that I
6 have in advising him, sir, as counsel, if I were
7 to be retained privately, is to try to determine
8 for him some reasonable estimate as to the time
9 involved in this matter.

10 The proceedings, obviously, here
11 today will be short, and you have already
12 indicated that we will soon have a determination
13 from you on the question of standing, so we will
14 know who will be before you with standing.

15 Witnesses, I understand, will be
16 identified in the near future, but what I cannot
17 do at this time, on his behalf, is give him any
18 clear indication of how much preparation time
19 would be required, and, in addition, the length of
20 time of the Commission hearings, obviously, is
21 unknown probably to all of us at this point.

22 COMMISSIONER OLIPHANT: I can
23 confirm that, Mr. Houston.

24 MR. HOUSTON: As a consequence,
25 sir, trying to advise a client as to what is

1 involved for him financially is virtually
2 impossible for me to do at this time.

3 He has now, as indicated in the
4 material, some modest pension income. He relies
5 primarily, and will be relying in the future, on
6 his investments, which, unfortunately, like all of
7 us who have any money invested, have been
8 devastated as a consequence of the mess south of
9 the border.

10 He does not know where he stands.

11 He has an integral part to play and is able to
12 assist this Commission, and seeks, in the
13 circumstances, funding from the Commission, sir.

14 Those are all my comments, sir.

15 COMMISSIONER OLIPHANT: Thank you
16 very much, Mr. Houston.

17 Maître Demers?

18 PRÉSENTATION AU NOM DU BLOC QUÉBÉCOIS /
19 PRESENTATION ON BEHALF OF LE BLOC QUÉBÉCOIS

20 Me LEFEBVRE : Monsieur le
21 Commissaire, bonjour. Je m'appelle Jasmin
22 Lefebvre. Je suis un associé de Louis Demers,
23 dont vous avez sans doute le nom dans votre
24 documentation. Je suis avocat à Montréal au sein
25 de l'étude DeGrandpré Chait. Je représente, pour

1 les fins de la présente audience, le Bloc
2 Québécois.

3 Monsieur le Commissaire, on doit,
4 d'abord, aborder, pour les fins de la présentation
5 de ce matin, les deux thématiques en fonction
6 desquelles l'intérêt d'un intervenant doit être
7 déterminé, c'est-à-dire un intérêt réel et/ou une
8 vue ou une expertise particulière pour les fins
9 d'une intervention au sein de la Commission.

10 À titre de parti politique
11 fédéral, le Bloc Québécois a un intérêt réel à
12 participer dans un processus d'examen des
13 agissements d'un ancien premier ministre du Canada
14 puisque, en l'occurrence, cet examen relève
15 clairement de l'intérêt public.

16 Le Bloc a également un intérêt
17 véritable à l'égard de l'examen que fera la
18 Commission des interactions entre les lobbyistes,
19 les membres du gouvernement et les anciens membres
20 du gouvernement. En effet, cette interaction
21 soulève des questions quant aux actes et omissions
22 des gouvernements en cours de mandat.

23 Le Bloc Québécois évolue dans
24 l'arène politique vis-à-vis de ce gouvernement qui
25 agit ou qui omet d'agir en fonction de diverses

1 considérations. C'est là un intérêt important
2 pour les fins de la participation du Bloc.

3 Comme formation politique du
4 Québec qui représente une portion importante de
5 l'électorat du Québec, le Bloc a également un
6 intérêt immédiat et direct à participer à ce
7 processus d'examen des faits et gestes d'un homme
8 politique du Québec de haut rang.

9 Les caractéristiques du Bloc
10 Québecois à titre de formation politique du Québec
11 font en sorte qu'il y a une pertinence, par
12 ailleurs, à cette participation, et qui justifie
13 également un intérêt réel du Bloc à faire partie
14 de l'exercice à titre d'intervenante.

15 Les questions et agissements
16 soumis à votre examen mettent en cause l'intérêt
17 des contribuables du Québec, au même titre que des
18 contribuables canadiens, par ailleurs, puis ces
19 contribuables québécois sont représentés dans une
20 bonne proportion par le Bloc Québécois.

21 L'hypothèse examinée par votre
22 Commission, bien évidemment, c'est celle de la
23 possibilité que l'argent public ait été mal
24 dépensé, n'ait pas été dépensé de la meilleure
25 façon possible, et cette hypothèse sous-tend

1 l'hypothèse également qu'une ristourne ait pu être
2 tirée de cet argent dépensé à mauvais escient par
3 un ancien gouvernement du Canada.

4 Par ailleurs, le volet de
5 l'enquête portant sur la gestion par le Conseil
6 privé de la correspondance destinée au premier
7 ministre comporte également un intérêt
8 significatif et immédiat pour le parti que je
9 représente.

10 Les événements en cause, cette
11 gestion de la correspondance adressée au premier
12 ministre, sont des événements récents. Ils se
13 sont déroulés au cours du mandat du gouvernement
14 sortant. Ces événements entraînent des questions
15 majeures quant au rapport entre le Conseil privé,
16 censé être impartial au plan politique, et le
17 Bureau du premier ministre, qui est un acteur de
18 premier plan de la vie politique, acteur de
19 premier plan vis-à-vis duquel le Bloc Québécois, à
20 titre de parti d'opposition aux Communes,
21 interagit sur une base quotidienne dans les
22 affaires publiques.

23 Dans le cadre de l'examen de ces
24 questions, la contribution du Bloc Québécois comme
25 contrepartie aux membres du Bureau du premier

1 ministre est de nature à s'avérer précieuse
2 puisqu'elle permettra à la Commission d'aller plus
3 facilement au fond des choses sur ces rapports,
4 sur ces interactions entre le Conseil privé et le
5 Bureau du premier ministre. L'expérience pratique
6 du Bloc face aux institutions politiques en place
7 à Ottawa pourra s'avérer d'une aide précieuse pour
8 la Commission.

9 À l'égard de vue ou d'expertise
10 particulière détenue par le Bloc Québécois pour
11 les fins de vos audiences, à notre point de vue,
12 le Bloc dispose d'atouts majeurs et d'une
13 expertise particulière qui justifient que lui soit
14 attribué le statut d'intervenante.

15 Le Bloc est un acteur important
16 depuis un bon moment de la scène politique
17 fédérale et il se trouve à être un tiers par
18 rapport au Parti conservateur, l'ancien parti du
19 premier ministre Mulroney. Le Bloc jouit d'une
20 riche connaissance des rouages des institutions
21 politiques fédérales et il est apte à contribuer à
22 l'enquête sur cette base et sur cette aptitude
23 particulière.

24 Par ailleurs, le Bloc a participé
25 de façon active à l'enquête du Comité permanent

1 sur l'éthique, dont le rapport est à l'origine du
2 mandat que vous détenez. De notre point de vue,
3 il y a une pertinence et une logique à ce qu'il y
4 ait un continuum, une suite entre l'enquête du
5 Comité de l'éthique et la vôtre, qui, dans une
6 certaine mesure, en découle, et comme le Bloc
7 Québécois faisait partie de l'enquête du Comité de
8 l'éthique, sa présence au sein des intervenants
9 dans le cadre de votre Commission est pertinente
10 pour démontrer ce suivi qui s'effectue dans votre
11 processus d'enquête par rapport au processus
12 d'enquête précédant tenu par le Comité de
13 l'éthique.

14 Votre Commission s'inscrit dans la
15 lignée de l'enquête tenue par le Comité de
16 l'éthique. La participation du Bloc, qui a été
17 partie prenante, est de nature à asseoir la
18 légitimité de votre démarche dans l'opinion
19 publique, et ça, c'est quelque chose qui a de
20 l'importance pour toutes les parties impliquées
21 dans cette enquête : la légitimité, la crédibilité
22 de votre enquête à l'égard de l'opinion publique.

23 Finalement, la participation du
24 Bloc Québécois aux travaux de la Commission
25 Gomery, à titre d'intervenant, a démontré la

1 reconnaissance faite par le Commissaire Gomery du
2 fait que le Bloc peut offrir un point de vue utile
3 sur des questions d'administration publique, sur
4 les rôles et obligations des titulaires de charge
5 publique et des parlementaires, et des points de
6 vue pertinents à l'égard des règles qui devaient
7 être appliquées et mises en place concernant la
8 saine gestion des fonds publics.

9 À l'égard de l'intérêt réel et de
10 l'expertise particulière du Bloc Québécois
11 concernant le statut qu'il demande d'agir comme
12 intervenant au sein de votre Commission, c'était
13 l'essentiel de mes représentations.

14 Il y a des représentations que
15 j'aimerais faire également concernant l'aide
16 financière requise par le Bloc pour les fins de sa
17 participation à l'exercice, et j'enchaîne
18 immédiatement.

19 Le critère évoqué dans les règles
20 de votre Commission concernant l'accessibilité à
21 l'aide financière ne peut pas être interprété, à
22 notre point de vue, dans l'absolu. Il ne faut pas
23 qu'il y ait impossibilité absolue, à notre point
24 de vue, de participer à la Commission sans que le
25 financement soit accordé. Je pense qu'il faut

1 relativiser la nécessité d'aide financière en
2 fonction des intérêts et du statut particulier des
3 candidats intervenant.

4 En l'occurrence, le Bloc
5 Québécois, c'est une formation politique qui tire
6 son financement de contributions volontaires de
7 membres, ce qui contribue à la vie démocratique
8 canadienne et ce qui permet au Bloc d'agir en
9 politique canadienne en faisant de la politique.

10 Il se trouve que le rôle
11 d'intervenant au sein de votre Commission n'est
12 pas directement -- certainement pas directement --
13 un rôle politique. C'est un rôle, à la limite,
14 austère et c'est un rôle de contribution à la vie
15 publique qui peut avoir une grande importance dans
16 le cheminement que vous allez suivre.

17 Alors, compte tenu de l'importance
18 de ce rôle-là que recherche le Bloc Québécois par
19 sa demande d'intervention, compte tenu du fait
20 qu'il est pertinent pour ces fins d'être soutenu
21 par les services d'un procureur durant vos
22 audiences, de là la demande formulée par le Bloc
23 Québécois, en fonction de son statut et de ses
24 caractéristiques particulières, pour obtenir, en
25 vertu des règles applicables du Conseil du Trésor,

1 un financement pour les fins de sa présence à
2 titre d'intervenant au sein de la Commission.

3 Je vous remercie.

4 COMMISSAIRE OLIPHANT : Merci.

5 Maître Savonitto, s'il vous plaît.

6 PRÉSENTATION AU NOM DE M. PIERRE GAUTHIER /

7 PRESENTATION ON BEHALF OF MR. PIERRE GAUTHIER

8 Me SAVONITTO : Bonjour, Monsieur
9 le Commissaire. Je représente monsieur Pierre
10 Gauthier qui est ici, présent ce matin. Monsieur
11 Gauthier va lui-même présenter sa demande
12 d'application devant la Commission aux fins de
13 démontrer son statut.

14 Nous l'avons aidé, comme cabinet,
15 à préparer cette demande à ce moment-ci, même s'il
16 n'avait pas les ressources financières pour lui
17 permettre de recourir aux services d'un procureur
18 pour l'aider, mais il avait, néanmoins, besoin
19 d'aide pour ce faire, et il s'adressera, donc,
20 directement à vous à partir des documents que nous
21 avons préparés pour son bénéficiaire.

22 Alors, je laisse monsieur Gauthier
23 présenter sa demande. Merci.

24 COMMISSAIRE OLIPHANT : Merci.

25 Bonjour, Monsieur.

1 M. GAUTHIER : Bonjour, Monsieur.

2 Monsieur le Commissaire, bonjour.

3 Avant de commencer, j'aimerais dire que je suis
4 un peu nerveux et que mon contrôle sur mes
5 émotions est mis à contribution.

6 Quatre éléments m'ont été
7 nécessaires pour traverser pendant 20 ans ma
8 démarche : mon courage, ma ténacité, mon désir
9 irréprouvable d'accomplir quelque chose de valable
10 et ma persévérance.

11 Il me fait donc plaisir de
12 comparaître devant vous pour vous présenter ma
13 demande de statut de partie intéressée de
14 financement.

15 Je n'ai pas l'intention de
16 réitérer en totalité le contenu de l'affidavit que
17 j'ai signé le 23 septembre 2008 au soutien de ma
18 demande de statut, sinon que pour vous dresser les
19 grandes lignes de celui-ci, prenant pour acquis
20 que vous en avez déjà pris connaissance.

21 Je suis comptable agréé et détient
22 une spécialisation en finances. Je vous ai,
23 d'ailleurs, remis mon curriculum vitae.

24 J'ai entrepris, il y a de ça plus
25 de 20 ans, une démarche pour dénoncer publiquement

1 ce qui m'apparaissait alors être un scandale, la
2 privatisation d'Air Canada. Mes démarches ne
3 visaient pas la privatisation comme telle, mais
4 plutôt la façon utilisée pour y parvenir et,
5 notamment, quant aux informations que je
6 qualifiais de fausses ou trompeuses, diffusées au
7 public en général à cette époque.

8 En septembre 1998, je m'expliquais
9 mal l'insistance et surtout l'empressement
10 manifestés par les commissions des valeurs
11 mobilières et les représentants d'Air Canada pour
12 procéder à cette privatisation alors qu'il était
13 manifeste que le projet de prospectus provisoire
14 contenait des informations très questionnables
15 quant au ratio d'endettement de l'entreprise et
16 quant au fonds de pension.

17 Bien qu'il ait été fait mention à
18 cette époque de pressions politiques et
19 temporelles par madame Julie-Luce Farrell,
20 secrétaire de la Commission des Valeurs mobilières
21 de l'Ontario, celle-ci ne suscitait chez moi que
22 peu d'intérêt dans la mesure où je ne possédais
23 alors aucune information me permettant de décoder
24 cette information.

25 Je poursuivrai mes démarches de

1 façon ininterrompue jusqu'en 1995 auprès d'Air
2 Canada, la Commission des Valeurs mobilières du
3 Québec, la Commission des Valeurs mobilières de
4 l'Ontario, le Protecteur du Citoyen du Québec,
5 l'Office national des Transports du Canada, la
6 Commission du Budget de l'Administration du
7 Québec, la Commission des Valeurs mobilières des
8 États-Unis, la SEC, l'Ordre des Comptables agréés
9 du Québec, des élus fédéraux et provinciaux, et
10 divers médias, de façon à dénoncer cette
11 situation.

12 À compter de septembre 1995, toute
13 une série d'événements me fera prendre conscience
14 qu'une des raisons pour lesquelles mes démarches
15 n'ont, finalement, jamais porté fruit dans le
16 dossier d'Air Canada tenait probablement au fait
17 que des hauts titulaires de charge publique
18 avaient des intérêts personnels dans le dossier,
19 lesquels intérêts passaient avant ceux du public
20 en général.

21 En septembre 1995, j'achète la
22 mise à jour du livre « On the Take » de Stevie
23 Cameron. Je fais alors la découverte que monsieur
24 Lucien Bouchard, en 1986, alors ambassadeur en
25 France, a une grande influence dans le dossier

1 d'Airbus. La lecture de certains passages me rend
2 fébrile et m'oblige à m'interroger si le manque de
3 résultat de mes démarches avec le Bloc Québécois
4 et le Parti Québécois ne découlerait pas de ces
5 influences.

6 J'obtiens, le 31 octobre 1996, une
7 copie de la demande d'information adressée aux
8 autorités suisses par M. K. Prost. Un extrait de
9 cette lettre attire plus particulièrement mon
10 attention dans la mesure où il confirme que le 26
11 septembre 1988, Air Canada signait avec Airbus un
12 contrat d'approvisionnement pour 34 appareils
13 après avoir reçu l'approbation du Conseil du
14 Trésor, soit de façon concomitante avec l'émission
15 du visa sur le prospectus provisoire, dont je
16 dénonce les irrégularités depuis maintenant huit
17 ans, et quelques jours avant le déclenchement des
18 élections le 1er octobre 1988. Hier, ça faisait
19 donc 20 ans.

20 J'apprends aussi, en lisant
21 l'affidavit de monsieur Schreiber du 7 novembre
22 2007, que le 27 septembre 1988, ce dernier, par
23 une société qu'il contrôle, Bear Head Industries,
24 signe une entente avec trois ministres
25 conservateurs pour une usine au Cap Breton, le

1 même projet pour lequel des paiements en argent
2 comptant de \$ 225 000 à \$ 300 000 ont été faits à
3 partir de 1993 à monsieur Mulroney.

4 Le fait que la GRC n'a pas
5 découvert l'existence de ces paiements m'invite
6 aussi à la prudence quand j'entends l'affirmation
7 que la question des relations commerciales suivies
8 entre monsieur Schreiber et monsieur Mulroney pour
9 les Airbus a été vidée définitivement.

10 J'apprends aussi, en lisant le
11 livre « On the Take » et en relisant le témoignage
12 de monsieur Pelosi devant le Comité de l'éthique,
13 que des commissions importantes de plusieurs
14 millions doivent être versées par Airbus à
15 monsieur Schreiber ou des sociétés apparentées et
16 qu'une distribution de celles-ci doit s'effectuer
17 au bon vouloir de monsieur Schreiber.

18 J'apprends aussi que l'entente
19 intervenue entre Air Canada et Airbus prévoyait
20 que l'implication du gouvernement conservateur
21 était essentielle à l'existence de cette entente
22 puisque l'on envisageait que celle-ci serait
23 résiliée advenant que les Conservateurs perdent le
24 pouvoir.

25 Suite à ces révélations, je fais

1 le lien avec les pressions politiques et
2 temporelles dénoncées par la représentante de la
3 Commission des Valeurs mobilières de l'Ontario,
4 madame Julie-Luce Farrell, en 1988.

5 J'ai, tel qu'indiqué, dénoncé
6 comme simple citoyen ce qui m'apparaissait alors
7 être inadéquat dans la privatisation d'Air Canada,
8 mais je me rends compte en date de ce jour que mes
9 efforts étaient voués à l'échec puisque d'autres
10 forces s'activaient pour faire en sorte que cette
11 transaction soit complétée, soit-elle au détriment
12 des investisseurs et futurs actionnaires.

13 Je persiste à croire que les
14 pressions politiques exercées pour privatiser Air
15 Canada étaient indispensables, car sans celles-ci,
16 Air Canada n'aurait probablement pas signé le
17 contrat Airbus, et monsieur Schreiber n'aurait pas
18 reçu de somptueuses commissions, lesquelles il
19 aurait, selon le témoignage de son propre
20 comptable, monsieur Pelosi, redistribué à ceux qui
21 auraient contribué à rendre possible une pareille
22 transaction.

23 Mes démarches comme simple citoyen
24 étaient dictées par un souci de transparence et
25 dénué de toute partisanerie politique.

1 Aujourd'hui encore, mes démarches
2 sont dictées par le même souci de transparence et
3 pour m'assurer que soit finalement faite toute la
4 lumière sur les transactions commerciales et
5 financières qui ont eu lieu entre monsieur
6 Mulroney et monsieur Schreiber, lesquelles
7 pourraient remonter, selon ce dernier, jusqu'en
8 1983 selon son affidavit de novembre 2007, ce qui
9 semble aussi plausible si l'on tient compte du
10 fait que le 27 septembre 1988, il signe, pour une
11 société qui lui est apparentée, un contrat avec
12 trois ministres conservateurs.

13 La première question à laquelle la
14 Commission aura à répondre est la suivante :
15 Quelles transactions commerciales et financières
16 ont eu lieu entre monsieur Schreiber et monsieur
17 Mulroney?

18 Cette question est intemporelle
19 selon les mêmes termes du mandat et ferait en
20 sorte que vous n'aurez d'autre choix que de
21 revoir, pour toute la période où monsieur Mulroney
22 a été député ou premier ministre, les relations
23 commerciales suivies qu'il a entretenues avec
24 monsieur Schreiber.

25 Comme simple citoyen ayant été

1 impliqué depuis 1988 dans le dossier de la
2 privatisation d'Air Canada, et accessoirement au
3 contrat d'Airbus, j'ai démontré un intérêt
4 immédiat et important dans les questions qu'aura à
5 débatte cette Commission, ainsi que les enjeux
6 sous-jacents à ces transactions.

7 Il est indispensable que le simple
8 citoyen puisse participer à la présente Commission
9 pour éviter que les travaux de celle-ci ne
10 deviennent l'apanage de quelques individus ayant
11 participé aux événements, et ce, sous prétexte
12 qu'il faudrait éviter tout dérapage et ne pas
13 refaire le travail accompli par d'autres,
14 notamment la GRC, alors qu'il est évident que ces
15 enquêtes n'ont pas fait toute la lumière sur ce
16 dossier.

17 La lecture de mon affidavit
18 démontre que je me suis attaqué aux conséquences
19 possibles des relations commerciales pouvant
20 exister entre des titulaires de haute charge
21 publique et la violation de certaines règles de
22 leur code d'éthique, autre question que la
23 Commission aura à déterminer selon son mandat.

24 Il est indispensable que cette
25 Commission puisse bénéficier de la présence devant

1 elle de certaines parties qui ne sont pas des
2 protagonistes de ces relations commerciales de
3 façon à s'assurer que toute la lumière soit
4 finalement faite.

5 J'ai, à titre de simple citoyen,
6 démontré, sur une période de 20 ans, un intérêt
7 immédiat dans les questions soulevées par le
8 mandat de la Commission et vous soumet humblement
9 que ma participation à cette dernière aura, par
10 mes connaissances et compétences, apporté un
11 élément additionnel quant à la transparence du
12 processus et la crédibilité de celui-ci.

13 Pour l'ensemble de ces motifs, je
14 vous soumetts que ma demande de statut est bien
15 fondée et devrait, donc, être reçue par la
16 Commission.

17 Advenant une telle attribution de
18 statut, je vous saurais gré de faire droit à ma
19 demande de financement, de façon à me permettre de
20 participer aux travaux de celle-ci puisque je n'ai
21 pas les ressources financières pour me permettre
22 une telle implication.

23 Merci, Monsieur le Commissaire.

24 COMMISSAIRE OLIPHANT : Je vous
25 remercie. Merci beaucoup.

1 M. GAUTHIER : Merci.

2 COMMISSIONER OLIPHANT:

3 Mr. Cherrier.

4 PRESENTATION BY MR. YOHAN CHERRIER /

5 PRÉSENTATION PAR MR. CHERRIER

6 MR. CHERRIER: Thank you,

7 Mr. Commissioner.

8 I wish to thank Mr. Gauthier for

9 opening the window for me so well.

10 My presentation here is in
11 association and/or in relation to actions that
12 were taken and ramifications of those decisions
13 pertaining to Air Canada and its privatization and
14 an injustice that was done to women in Canada by
15 virtue of discrimination.

16 I have given the Commission a
17 skeleton of my synopsis, which is only 44 pages
18 long.

19 I wish to advise the Commission
20 that on September 15th I distributed the last
21 portion of that communication to the flight
22 attendant group in Canada. I have roughly 650
23 people on my list. They are in receipt of it.

24 Letters were addressed to the
25 Prime Minister Mr. Harper, Mr. Dion, M. Duceppe,

1 Elizabeth May. They have been made aware of this
2 situation and it has been stagnant, to me, for
3 seven years. I have been fighting since December
4 13th, 2001.

5 COMMISSIONER OLIPHANT: I have
6 read the history of what you have been doing.

7 MR. CHERRIER: I have sent out
8 this letter and I addressed it as well to an
9 independent Air Canada Flight Attendant news
10 information bulletin that is used as a proxy by
11 the union to disseminate information through the
12 flight attendant ranks to its advantage, and
13 interestingly enough, this bulletin is issued
14 usually on a weekly basis, and since I wrote to
15 them and asked them to print all of the materials
16 that I have given this Commission today, and to
17 send them out, I received the following memo on
18 the 21st of September: Air Canada has ordered me
19 to stop writing unauthorized e-mail communication
20 to cabin personnel.

21 "Cease and desist" were the actual
22 words used, as well as the word "dismissal".

23 By the way, they did say that if I
24 let them read it first, and they authorized it,
25 then I could send it out.

1 Needless to say, the materials
2 that I wanted to send to all of the flight
3 attendants did not make their way through to those
4 people.

5 I am here today by virtue, first
6 of all, of the Charter of Rights and Freedoms of
7 the country. I am here by virtue that the
8 Minister of Labour sent me, during the CCAA, to
9 Justice Farley. Justice Farley recommended that I
10 pursue my endeavours, which I did, through the
11 Canadian Human Rights Commission, who gracefully
12 denied to do anything about it, and who sent me to
13 the Federal Court.

14 I went before Justice O'Brien. I
15 went three times. I appealed three times, at my
16 own cost, to Justice O'Brien, who eventually came
17 with a decision which said that my complaint had
18 to be carried forward by way of a grievance
19 through the union.

20 I re-filed my grievance with the
21 union, including the letter from Justice O'Brien,
22 and the union refused to act upon it.

23 I am also here by virtue of a
24 Supreme Court decision that was rendered to Air
25 Canada on January 26, 2006, which basically told

1 Air Canada that the methodology that they used to
2 administer and/or describe what is the term
3 "establishment" in the Charter or in the Human
4 Rights Act would serve to entrench discrimination
5 in collective bargaining.

6 The Supreme Court did not say that
7 it would serve to create, it said that it would
8 serve to entrench, which means that there is
9 already discrimination at Air Canada.

10 Therefore, anything that was
11 transpiring with the privatization of Air Canada
12 has a direct bearing on me, as I have been
13 discriminated as a man, yet my complaint is for
14 women in general.

15 I handed in today, to you, a
16 judgment, because, of course, I continue to
17 pursue, and I hired a lawyer --

18 COMMISSIONER OLIPHANT: Let me
19 just say, in respect of those documents, that I
20 received two documents just before coming into the
21 room this morning. I don't know whether you have
22 distributed them to other counsel.

23 I see that Mr. Pratte indicates
24 that he doesn't have them.

25 MR. CHERRIER: I do have copies,

1 if people want copies.

2 COMMISSIONER OLIPHANT: Okay. But
3 what I received was a final argument, on your
4 behalf, as a defendant in an action in the Small
5 Claims Division of the Superior Court of Ontario,
6 as well as Reasons for Judgment by a deputy judge
7 of the Small Claims Court.

8 I did not -- I want to confess --
9 I did not have time to read these documents before
10 coming in. I am not sure what significance they
11 have in terms of the mandate --

12 MR. CHERRIER: I will try to
13 highlight them as they relate to the
14 discrimination portion, and, of course, the
15 concept that moves forward with this, and I will
16 try to answer the question of Mr. Gauthier, as it
17 relates to employees of Air Canada.

18 COMMISSIONER OLIPHANT: All right.

19 MR. CHERRIER: First of all, the
20 judgment is against me for \$10,000. I have
21 already spent a considerable amount of money
22 trying to move forward on this issue.

23 The judgment award was to a lawyer
24 that I tried to hire to help me move forward on
25 the discrimination aspect.

1 Interestingly enough, in the
2 judge's decision -- and I highlighted it at page 2
3 of that decision:

4 "In June 2004, the defendant
5 and a certain party called
6 Lesley Swann, `a union
7 representative,' met with the
8 plaintiff to get an opinion
9 on the viability of a group
10 flight attendant proceeding
11 and class action suit against
12 their union and/or Air
13 Canada." (As read)

14 I highlighted that particular
15 portion because that particular person is now the
16 president of the union, and if that particular
17 person was an officer of the union at the time,
18 then it was certainly a surprise to me, but she is
19 the president of the union now.

20 What I trust is that this
21 Commission will be able to appropriate all of the
22 materials that I deposited before the Superior
23 Court Small Claims Division, because it also
24 includes all of the materials that I presented
25 before Justice Farley.

1 It also included all of the
2 materials that I presented to the Canadian Human
3 Rights Commission.

4 It also contains all of the
5 materials that I presented to the Superior
6 Court -- to the Federal Court, Judge O'Brien, who
7 was privy to what I was claiming as
8 discrimination.

9 COMMISSIONER OLIPHANT: Mr.
10 Cherrier, could I stop you just for a second --
11 and I want to do this because you are here without
12 counsel. You realize, of course, that you are
13 entitled to be represented by counsel, but I know
14 the difficulties that can come along with that,
15 financial and otherwise perhaps.

16 Could you help me, please, because
17 I have to make a decision on your application for
18 standing -- could you tell me what the issues that
19 you are discussing, and which you raised in your
20 application, have to do with the financial and
21 business dealings as between Mr. Schreiber and Mr.
22 Mulroney?

23 MR. CHERRIER: I am certainly
24 getting to that, sir. It definitely gave a
25 predetermination of what Air Canada felt was its

1 mandate during the time that it was a private
2 company, and I --

3 COMMISSIONER OLIPHANT: Mr.
4 Cherrier, let me say this -- and I don't want to
5 cut you off, and I want to be fair.

6 The mandate of this inquiry is a
7 focused mandate, as I indicated in my opening
8 remarks, and, in my view, relates to the Bear Head
9 Project and the financial dealings and business
10 dealings as between these two gentlemen, which
11 started in June of 1993. Really --

12 MR. CHERRIER: There has been
13 cause and effect by all of those matters, Your
14 Honour. I mean, the Canadian public literally got
15 hosed, and if you will allow me, I will explain,
16 very briefly, how.

17 COMMISSIONER OLIPHANT: Okay.

18 MR. CHERRIER: I will get down to
19 how the whole matter evolved, but I need to make
20 some explanations.

21 COMMISSIONER OLIPHANT: I am not
22 trying to cut you off, I am trying to sort of
23 steer you in the direction that I think would be
24 of assistance to me, in terms of my being able to
25 make a decision on your application, sir.

1 MR. CHERRIER: I thank you, sir.
2 I have a layout that I have laid out for myself to
3 make the exposure.

4 COMMISSIONER OLIPHANT: Okay.
5 Proceed.

6 MR. CHERRIER: Basically, in my
7 arguments -- my final arguments at the Superior
8 Court of Ontario -- and you may have them in front
9 of you -- the most pertinent portion of what I
10 presented to that judge comes in the last two
11 paragraphs, and I will take the opportunity to
12 read them, because they are very important to how
13 our country runs and how our corporations run.

14 "In my opinion, of importance
15 to this Court should be the
16 amendments to the Rules of
17 Professional Conduct arising
18 from the review of the
19 lawyer's role in corporate
20 governance. The amendments
21 describe in detail the steps
22 that lawyers must abide by
23 when confronted with
24 dishonesty, fraud, crime, or
25 illegal conduct. These

1 amendments were approved by
2 convocation by the Law
3 Society on March 25th, 2004.

4 With this in mind, I would
5 request that this Court
6 [give] a thorough review of
7 my affidavit sworn on May
8 1st, 2006, and all its
9 accompanying exhibits, where
10 I have carefully elaborated
11 my case.

12 Should this Court concur
13 with my arguments, then it
14 should be noted that the
15 particular lawyer that I
16 hired is in breach of
17 contract in regard to the
18 retainers that I signed,
19 retainers that include an ink
20 and pen addition that
21 reflects my investments made
22 into the air industry that
23 formed part of my pension
24 strategy." (As read)

25 In there lies where this is all

1 going. It has a lot to do with a lot of people
2 that lost a lot of pensionable income by virtue of
3 questionable -- questionable -- actions by people.

4 I bring to that -- I happened to
5 take out this book. I did not buy it. I wouldn't
6 buy it. It was Robert Milton's testimony to the
7 world of what transpired at Air Canada. I took
8 the time to read it, and when I compare what he
9 writes to my sworn affidavit, I cringe at the
10 obvious absent portions that underscore
11 mismanagement, and I think that the character of
12 this Air Canada description is best summarized
13 directly in the preface of the book, which was
14 written by Robert Milton.

15 It says:

16 "I remember standing in our
17 driveway in Brussels in front
18 of a blue VW 1600, at no more
19 than 10 years old, and asking
20 my dad if he would prefer his
21 VW or a Porsche. He
22 answered, 'I would prefer the
23 Porsche. I would sell it. I
24 would buy a VW 1600 and
25 pocket the cash.' I liked

1 his logic." (As read)
2 Not even 10 pages later, on page
3 22 of this book, which is particularly interesting
4 and should have bearing to this Court --
5 "Bob Perreault, a terrific
6 guy who now runs our Jetz
7 divisions, tells a story that
8 illustrates this point
9 perfectly. Before
10 privatization, Bob managed
11 our Texas base of operations,
12 running DC-9 flights in and
13 out of Dallas/Houston.
14 Economically, this route made
15 no sense, because the
16 passenger revenue on
17 virtually every flight was
18 not enough to cover the cost
19 of putting the plane in the
20 air, yet the route continued
21 to be flown. Why? Because
22 Air Canada had a right to go
23 in and out of Dallas and
24 Houston under Canada's
25 bilateral agreement with the

1 United States, and Air Canada
2 was going to exercise that
3 right."

4 It says later:

5 "One day an order arrived
6 from Montreal for Bob to
7 close shop on that route.
8 Air Canada was suspending its
9 service to Texas. Bob had
10 been proposing the idea for
11 some time, without any luck,
12 so he wondered why the
13 company had suddenly decided
14 to withdraw after all those
15 years of losses on that
16 route.

17 'Because,' the answer came
18 back, 'we are nearing the end
19 of the fiscal year, and a
20 loss has been projected.'

21 Rather than declare a
22 deficit, even a relatively
23 small one, management chose
24 to sell one of the DC-9s,
25 thereby generating enough

1 profit to move the bottom
2 line into the black. With
3 one fewer aircraft, not
4 enough DC-9s would be
5 available to service the
6 Texas route, so the company
7 was pulling up stakes." (As
8 read)

9 What we are talking about here,
10 Your Honour, is taking materials that were donated
11 to a company, selling them to show a profit, and
12 pocketing the money.

13 COMMISSIONER OLIPHANT:

14 Mr. Cherrier, I must have missed something,
15 because I fail to understand what that has to do,
16 sir, with the business and financial dealings as
17 between Messrs. Schreiber and Mulroney.

18 MR. CHERRIER: Well, Messrs.
19 Schreiber and -- we talked earlier exactly of the
20 situation whereby Air Canada was given -- was
21 given -- out of taxpayer money -- out of taxpayer
22 money -- their operation. They were given a clean
23 bill of health. They were given a clean balance
24 sheet in 1988. They owed nothing to anyone.

25 In 1999 they had sold off every

1 asset that they had to maintain a position that
2 was unsustainable, and I, coming from the
3 competing airline, was swallowed up into this
4 mess, and lost --

5 COMMISSIONER OLIPHANT: So you
6 were with Canadian, were you?

7 MR. CHERRIER: I was with
8 CANairlines, sir. I lost -- lost --

9 COMMISSIONER OLIPHANT: Now,
10 Mr. Cherrier, I have actually let you go over the
11 time allotted. Could I ask you to bring your
12 submission to a conclusion, please?

13 MR. CHERRIER: The Canadian public
14 was disadvantaged by not knowing exactly what they
15 were getting into when they allowed the CCAA
16 proceedings to proceed as they did and/or the
17 purchase of Canadian Airlines relative to what Air
18 Canada's financial position was. They never
19 disclosed their financial position, and I,
20 personally, know that there is absolutely no
21 way -- I have conclusive proof that there is
22 absolutely no way that company ever made one dime
23 while it operated as a private operator, from
24 1988, when it was privatized, to 1999.

25 I am aware of a scam that was

1 initiated by certain people within my own union,
2 which served to make them very, very wealthy, and
3 which served to disadvantage women and served to
4 disadvantage the flight attendant group as a
5 whole; and the present of how the acquisition of
6 Canadian occurred, and how Robert Milton became
7 the CEO of Air Canada, as it stood, occurred by
8 virtue of the people that were scamming money,
9 going behind the scenes and subverting my rights
10 via my union, because they made absolutely
11 disastrous decisions.

12 That scam served to affect me and
13 the Canadian public as follows.

14 Every penny that was invested,
15 first of all, when Air Canada was privatized in
16 1988 -- as was mentioned, they were given all of
17 their assets that had already been paid for by the
18 Canadian public -- the aircraft that had been
19 accumulated, the materials, the machinery, the
20 trucks, the loading things -- the best facilities
21 in Canada, all of that was given to Air Canada,
22 including 34 Airbuses, which were gifted by virtue
23 of our taxes.

24 In 11 years -- let me go back --
25 then, when it was privatized -- by the way, they

1 were forgiven a \$4.5 billion loss that was
2 exonerated before they were actually put on the
3 market to sell shares.

4 By virtue of the Air Canada Public
5 Participation Act, Air Canada was a very widely
6 distributed shareholding, because nobody could own
7 more than 10 percent.

8 Literally, who held Air Canada
9 stock? It was held in pension plans. It was held
10 in RRSPs. It was held by mutual fund companies.
11 It was held by insurance companies. It was held,
12 virtually, by every Canadian, and 11 years later,
13 again, they had pissed everything away.
14 Everything.

15 So the Canadian public got hosed
16 not once for taking them out and giving them their
17 livelihood, but by virtue of internal theft within
18 the company, 11 years later shareholders got hosed
19 on top of that.

20 And then we go back in and go to
21 CCAA, and they do it again.

22 What has this cost me, besides
23 seven years of my life trying to prove -- and
24 finally getting a Supreme Court decision, which
25 basically came out and said: Yes, Air Canada has

1 elements within its own policies that are
2 discriminatory against women.

3 I will tell you what it cost me.
4 As it relates to me, personally, I lost \$50,000
5 worth of investments, invested in a good company,
6 which ended up getting swallowed by garbage.

7 My wife and I were heavily
8 invested. It cost me my marriage.

9 I have spent another \$35,000 to be
10 able to stand here today and tell this Commission
11 that I have been through three judges, and they
12 all read it with their hands over their eyes.

13 I have a \$10,000 judgment against
14 me now that I cannot pay. I don't have two dimes
15 to rub together.

16 I lost ownership of my company,
17 representation on the Board of Directors of my
18 company, and an integral role in making sure that
19 my company was honest to its employees and to the
20 Canadian public.

21 I enjoyed 40 percent pay cuts, by
22 virtue of a union that, through their seniority,
23 advantaged themselves at the top, and it all
24 disappeared, and it left me, disadvantaged by
25 virtue of my pay, to have to support them in their

1 retirement.

2 I also lost nine years of
3 seniority.

4 I lost all of these things to
5 protect a small group of men, who took it upon
6 themselves to discriminate against women and, by
7 virtue of collective bargaining, and areas within
8 it which offered them special advantages, they
9 literally robbed their company blind, and now they
10 are asking me, out of my meagre wages, to support
11 what they stole.

12 And the bearing to this -- the
13 bearing of all of this has a lot to do with how
14 Air Canada was privatized. Inevitably, it has
15 cost everybody, notably taxpayers, shareholders --
16 and now I am bringing to the attention of the
17 Oliphant Commission that there has been
18 discrimination of which women have been
19 discriminated, and I am here fighting on behalf of
20 women by myself.

21 COMMISSIONER OLIPHANT: I applaud
22 you for that, sir, but, as you know, I think --
23 and if you don't, I will make you aware now --
24 this is not a court of law. When I sit as a judge
25 of the court on which I serve, my jurisdiction is

1 not limited, it is an inherent jurisdiction that I
2 have.

3 However, when I sit as a
4 commissioner of an inquiry, by virtue of a mandate
5 provided by government, my jurisdiction is limited
6 to the terms of reference that are set forth in
7 the Order-in-Council by which I was appointed.

8 And I have indicated in my opening
9 remarks that, by virtue of the terms of reference
10 that have been fixed, the focus of this inquiry
11 has to be on the business and financial dealings
12 of Messrs. Schreiber and Mulroney that have to do
13 with the Bear Head Project and with business that
14 commenced in June of 1993.

15 MR. CHERRIER: Well, sir, the
16 effects of that, and the ramifications of those
17 dealings certainly, by virtue of the Canadian
18 government and decisions that they took, have
19 served to undermine the rights -- the general
20 rights of Canadians right across this nation, and
21 I sincerely believe that all Canadians have an
22 inherent right to know how they got hosed.

23 COMMISSIONER OLIPHANT: Well, for
24 those who have listened to you today, they might
25 be convinced that that occurred, Mr. Cherrier.

1 Thank you for your submission,
2 sir.

3 MR. CHERRIER: Thank you.

4 COMMISSIONER OLIPHANT:
5 Mr. Wolson.

6 MR. WOLSON: Mr. Commissioner, I
7 know that some counsel may want to respond, but I
8 would suggest that we take the morning break now,
9 and my suggestion would be that we break for about
10 15 minutes.

11 COMMISSIONER OLIPHANT: All right.

12 By my watch it is 10:40. We will come back
13 at 10:55.

14 --- Upon recessing at 10:40 a.m.

15 --- Upon resuming at 11:00 a.m.

16 COMMISSIONER OLIPHANT: I
17 indicated just prior to the adjournment this
18 morning that we would come back at 10:55. I try
19 to be a stickler for time, and it is 11 o'clock.
20 I just wanted to indicate that the reason I took
21 the extra five minutes was to read the documents
22 that were presented to me this morning by
23 Mr. Cherrier, including the argument that he
24 submitted in the Small Claims Court of the
25 Superior Court of Justice of Ontario in the case

1 of Brian Shell vs. Yohan Cherrier, and the Reasons
2 for Judgment in that suit by Deputy Judge Shapiro.

3 With respect to the applications
4 before me, there is an application filed by
5 Jonathan Wilde. It is in the form of a letter. I
6 am advised that Mr. Wilde is not here and never
7 intended to be here. I have considered the letter
8 that forms his application. I am not satisfied
9 that he has a direct and substantial interest in
10 the matters before this Commission and his
11 application for standing is therefore dismissed.

12 With respect to the applications
13 of M. Gauthier and Mr. Cherrier, having considered
14 the documents that were provided to me with
15 respect to those applications and having listened
16 to the submissions of Mr. Gauthier and
17 Mr. Cherrier this morning, while I have
18 considerable sympathy for the positions that each
19 has taken in respect of Air Canada and other
20 matters, I am bound, as I indicated in my opening
21 remarks, by the Terms of Reference that were set
22 in the Order-in-Council appointing me as
23 Commissioner and I am not satisfied that either of
24 those applicants fits within the Terms of
25 Reference. In other words, I am of the view that

1 I do not have jurisdiction to deal with the issues
2 that they have raised and their applications for
3 standing are therefore dismissed.

4 With respect to the application of
5 the Bloc, I will hear from counsel that wish to
6 address me on that.

7 As I indicated at the outset, I am
8 bound by the Terms of Reference. I indicated to
9 counsel for Mr. Mulroney, Mr. Schreiber and for
10 the Attorney General of Canada and that I need not
11 hear submissions from any of them. They fit right
12 within the Terms of Reference and their
13 applications for full standing are all granted.

14 With respect to Mr. Doucet, I will
15 grant full standing, but with respect to the
16 application for funding, I want to reserve on that
17 because, as you know, Mr. Houston, all that I can
18 do respecting funding is to make recommendations
19 and I intend to do that quickly. Mr. Doucet,
20 obviously, ought to have full standing before this
21 Commission and I can indicate that I am very
22 sympathetic to the application for funding but I
23 will be providing my recommendations in writing
24 and that will be done very quickly. Okay? Thank
25 you.

1 Having granted standing to
2 Messrs. Mulroney, Schreiber, the Attorney General
3 of Canada and Mr. Doucet, I now invite counsel for
4 them, perhaps beginning with you, Mr. Pratte, to
5 take advantage of the offer that I made to have
6 you make submissions if you wish in respect of any
7 other application for standing.

8 PRESENTATION ON BEHALF OF THE RIGHT HONOURABLE
9 BRIAN MULRONEY / PRÉSENTATION AU NOM DU TRÈS
10 HONORABLE BRIAN MULRONEY

11 MR. PRATTE: Thank you,
12 Mr. Commissioner. I will only address the
13 application for standing from the Bloc Québécois.

14 COMMISSIONER OLIPHANT: Yes.

15 Me PRATTE : Je devrais dire,
16 d'entrée de jeu, que je comprends la requête comme
17 en étant une pour obtenir le statut d'intervenant
18 et non pas de partie. Si je me trompe, je dirais
19 tout simplement qu'il m'apparaît clair, à la face
20 même de la requête, qu'elle ne serait pas conforme
21 aux exigences pour obtenir le statut de partie.

22 Donc, je limiterai mes très brefs
23 commentaires à la demande du Bloc Québécois
24 d'obtenir le statut d'intervenant.

25 Je note, d'entrée de jeu, que dans

1 vos règles... je vais les lire en anglais pour
2 pratiquer mon anglais.

3 The Rule on intervenor status, as
4 you know, is Rule 12 of the Draft Rules. One has
5 to have a genuine concern about issues raised by
6 the factual inquiry mandate and -- and -- have a
7 particular perspective or expertise. Those are
8 conjunctive. My friend who presented the
9 application for the Bloc said it was and/or. It
10 is not and/or. It has to have two of these
11 elements.

12 Sur la question de l'intérêt réel,
13 je note simplement ce que la jurisprudence... et
14 je vous donnerai un extrait du jugement du
15 Commissaire Gomery, qui cite le juge O'Connor --
16 je ne le lirai pas, mais je vous le donnerai --
17 sur justement la question de l'intérêt d'un parti
18 politique, qu'il ne suffit pas de dire que quelque
19 chose est d'intérêt public pour transformer ça en
20 intérêt juridique ou en intérêt dans une instance.

21 Je dis aussi que, à la lumière de
22 vos commentaires d'entrée de jeu, votre mandat est
23 limité et il ne s'étend certainement pas à faire
24 un examen général des activités des lobbyistes ou
25 des dépenses des deniers publics, en général, et,

1 d'ailleurs, il n'y a aucune preuve que les sommes
2 payées par monsieur Schreiber sont des deniers
3 publics, et cette enquête se distingue, à cet
4 égard-là, très carrément de l'enquête Gomery, qui
5 était une enquête d'un problème systémique au
6 Gouvernement du Canada.

7 Donc, lorsqu'on regarde votre
8 mandat et on s'interroge -- et là, je passe au
9 deuxième critère, Monsieur le Commissaire --
10 est-ce qu'on peut vous donner un éclairage? Do
11 they have an expertise or a particular point of
12 view to contribute as an intervenor?

13 Alors, fondamentalement, dans la
14 Partie 1 de votre mandat... et là, je m'intéresse
15 aux questions qui sont plus directement...
16 affectent monsieur Mulroney, c'est-à-dire les
17 questions 1 à 14.

18 Fondamentalement, il faudra que
19 vous décidiez des faits sur les questions que vous
20 avez énumérées.

21 Le Bloc Québécois n'a aucune
22 connaissance particulière des faits en question
23 qui se sont déroulés en 1993 ou 1994, aucun
24 témoin, rien.

25 Deuxièmement, vous devrez décider

1 dans quelle mesure, lorsque vous aurez statué sur
2 les faits, les règles d'éthique applicables à
3 l'époque ont pu être violées ou respectées, le cas
4 échéant.

5 Ces règles, d'ailleurs, qui ont
6 été édictées par le premier ministre Mulroney, le
7 Bloc Québécois ne fait état d'aucune expertise
8 particulière -- d'ailleurs, il n'existait même
9 pas, je pense, à l'époque où elles ont été
10 promulguées -- ne fait état d'aucune expertise
11 particulière pour vous éclairer quant à
12 l'application de ces règles-là. Du moins, on ne
13 le mentionne nulle part dans leur requête et on
14 n'a aucune représentation ce matin.

15 Donc, si on regarde le critère de
16 l'expertise ou du point de vue particulier sur la
17 tâche particulière que vous avez, le Parti (sic)
18 Québécois... le Bloc Québécois -- pardon, quel
19 lapsus -- ne peut vous aider, et il est certain
20 que la Commission ou les procureurs de la
21 Commission, comme vous avez noté ce matin, sont
22 parfaitement habilités à faire ressortir tous les
23 faits pertinents et toute la jurisprudence dont
24 vous aurez besoin pour appliquer à ces faits-là
25 les règles d'éthique applicables.

1 Donc, je vous soumets
2 respectueusement que selon les critères de vos
3 propres règles, the Draft Rules, le Bloc Québécois
4 n'y répond pas.

5 Je conclus simplement en vous
6 disant, comme le notait le juge O'Connor dans le
7 contexte de l'affaire Walkerton, qu'il faut être
8 prudent et ne pas politiser une commission
9 d'enquête qui, justement comme vous l'avez noté, a
10 été créée et elle doit être tout à fait
11 indépendante, indépendante du gouvernement, et je
12 vous soumets respectueusement aussi, indépendante
13 des partis politiques, et le fait que le Bloc
14 Québécois ait demandé cette enquête, comme le juge
15 O'Connor le note dans son jugement dans l'affaire
16 Walkerton, n'est pas une raison de donner le
17 statut d'intervenant. Dans ce cas-là, dans
18 Walkerton, c'était le NPD qui voulait justifier
19 son rôle du fait qu'ils avaient réclamé une
20 enquête.

21 D'ailleurs, le Bloc Québécois a
22 joué son rôle dans l'arène qui lui appartenait,
23 c'est-à-dire le Comité à l'éthique. Ils ont
24 demandé une enquête indépendante et avec tous les
25 pouvoirs pour faire ressortir la vérité, ce qui

1 fut fait, et vous avez tous les moyens, avec vos
2 procureurs et les parties qui ont un intérêt
3 direct, pour faire ressortir les éléments dont
4 vous aurez besoin.

5 Je veux simplement... si vous
6 regardez les paragraphes, notamment 4 et 5, de la
7 demande du Bloc Québécois, on dit, par exemple :

8 « ...le commissaire voudra
9 sans doute s'assurer... »

10 C'est le paragraphe 4 de la
11 demande du Bloc Québécois.

12 « ...que ceux qui ont réclamé
13 la présente commission soient
14 informés régulièrement des
15 choix qui seront faits par la
16 commission... »

17 Paragraphe 4, les trois dernières
18 lignes, Monsieur le Juge.

19 « ...le commissaire voudra
20 sans doute s'assurer que ceux
21 qui ont réclamé la présente
22 commission [dont le Bloc
23 Québécois] soient informés
24 régulièrement des choix qui
25 seront faits par la

1 commission... »

2 Ils le seront faits, comme tous
3 les membres du public, et vous avez énoncé en
4 début d'audience que les audiences seront
5 publiques, le site web sera là, l'information
6 circulera librement.

7 Paragraphe 5 :

8 « ...elle d[evra] démontrer
9 au public qu'elle a tout mis
10 en oeuvre afin de rejeter
11 l'hypothèse centrale... »

12 C'est le travail de vos
13 procureurs, et desquels vous êtes assisté de façon
14 experte, vous l'avez déjà dit.

15 Alors, pour ces motifs-là, je vous
16 soumets respectueusement, Monsieur le Juge, que le
17 Bloc Québécois n'a pas l'intérêt, ni l'expertise
18 pour vous aider dans la Partie 1, ce qui ne veut
19 pas dire que là où ils pourront jouer un rôle
20 utile, possiblement, dans la Partie 2 lorsque vous
21 aurez statué sur les faits et sur l'application
22 des règles d'éthique, ils ne pourront pas vous
23 être utiles pour justement vous aider à formuler,
24 le cas échéant, des améliorations ou des
25 changements aux règles d'éthique pour l'avenir.

1 Sur cela, je crois qu'à ce moment-là, ils auront
2 peut-être une oreille plus sympathique lorsqu'on y
3 viendra.

4 Merci, Monsieur le Commissaire.

5 COMMISSAIRE OLIPHANT : Je vous
6 remercie, Monsieur.

7 Mr. Auger.

8 PRESENTATION ON BEHALF OF MR. KARLHEINZ
9 SCHREIBER / PRÉSENTATION AU NOM DE M. KARLHEINZ
10 SCHREIBER

11 MR. AUGER: Thank you,
12 Commissioner.

13 Mr. Schreiber takes no position in
14 connection with the application brought by the
15 Bloc. Thank you.

16 COMMISSIONER OLIPHANT: Thank you.

17 Mr. Vickery.

18 PRESENTATION ON BEHALF OF THE ATTORNEY GENERAL OF
19 CANADA / PRÉSENTATION AU NOM DU PROCUREUR GÉNÉRAL
20 DU CANADA

21 MR. VICKERY: Mr. Commissioner,
22 the Attorney General takes no position with regard
23 to the application of the Bloc.

24 Thank you.

25 COMMISSAIRE OLIPHANT: Merci.

1 Mr. Houston.

2 PRESENTATION ON BEHALF OF MR. FRED DOUCET /
3 PRÉSENTATION AU NOM DE M. FRED DOUCET

4 MR. HOUSTON: Mr. Commissioner,
5 Mr. Doucet takes no position.

6 Thank you, sir.

7 --- Pause

8 COMMISSIONER OLIPHANT: Because it
9 is easier, plus facile pour moi de parler anglais,
10 je vais parler anglais maintenant.

11 I am going to reserve my decision
12 in respect of the application of le Bloc
13 Québécois. I will provide a decision en écrit
14 demain ou la semaine prochaine. Merci.

15 I believe --

16 MR. PRATTE: Just before you
17 adjourn --

18 COMMISSIONER OLIPHANT: Yes.

19 MR. PRATTE: -- Mr. Commissioner,
20 perhaps I will hand to the clerk or to Mr. Wolson
21 the decision -- the extract from the decision of
22 Commissioner Gomery which has the excerpt from
23 Justice O'Connor.

24 COMMISSIONER OLIPHANT: All right.
25 I would appreciate that very much.

1 Thanks, Mr. Pratte.

2 Is there anything further for this
3 morning, Mr. Wolson?

4 MR. WOLSON: Mr. Commissioner,
5 though we had set a number of days for this
6 proceeding, as is usually the case in applications
7 of this kind, we are complete. You have a
8 reserve, actually, two issues to deal with and it
9 is time to get on with our work as counsel and we
10 are complete for this morning.

11 COMMISSIONER OLIPHANT: All right.
12 Thank you very much.

13 I wish to thank everyone for
14 participating this morning. I know that there are
15 some disappointed people here today. Let me just
16 say, in respect of the applications that I
17 dismissed, that I am sympathetic to the positions
18 taken by people. Unfortunately, I am just not
19 clothed with the jurisdiction to deal with those
20 issues.

21 Thank you, and we will see you at
22 the next session of this Commission.

23 --- Whereupon the hearing adjourned

24 at 11:15 a.m. / L'audience est ajournée

25 à 11 h 15