

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

Public Hearing

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Jeffrey James Oliphant

Commissaire

Held at:

Bytown Pavillion
Victoria Hall
111 Sussex Drive
Ottawa, Ontario

Tuesday, March 31, 2009

Tenue à :

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

le mardi 31 mars 2009

APPEARANCES / COMPARUTIONS

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1 Ottawa, Ontario / Ottawa (Ontario)
2 --- Upon resuming on Tuesday, March 31, 2009
3 at 1:00 p.m. / L'audience reprend le mardi
4 31 mars 2009 à 13 h 00
5 1172 COMMISSIONER OLIPHANT: Good
6 afternoon.
7 1173 Mr. Roitenberg...
8 1174 MR. ROITENBERG: If we could please
9 have called before the Commission Mrs. Elizabeth
10 Moores.
11 SWORN: ELIZABETH MOORES /
12 ASSERMENTÉE : ELIZABETH MOORES
13 1175 COMMISSIONER OLIPHANT: Mrs. Moores,
14 good afternoon.
15 1176 MRS. MOORES: Good afternoon.
16 1177 COMMISSIONER OLIPHANT: I am sure
17 there are many places that you would rather be than
18 here this afternoon --
19 1178 MRS. MOORES: Yes.
20 1179 COMMISSIONER OLIPHANT: -- but I can
21 assure you, knowing counsel as I do, that you will be
22 treated with respect. If there are any problems, let
23 me know and I will attend to it right away.
24 1180 Okay?
25 1181 MRS. MOORES: Okay. Thank you so

1 much.

2 1182 COMMISSIONER OLIPHANT: Thank you.

3 EXAMINATION: ELIZABETH MOORES BY MR. ROITENBERG /

4 INTERROGATOIRE: ELIZABETH MOORES PAR Me ROITENBERG

5 1183 MR. ROITENBERG: Good afternoon, Mrs.

6 Moores.

7 1184 MRS. MOORES: Good afternoon.

8 1185 MR. ROITENBERG: You were married to

9 Mr. Frank Moores. Is that correct?

10 1186 MRS. MOORES: That's correct.

11 1187 MR. ROITENBERG: And Mr. Moores was a

12 former premier of Newfoundland?

13 1188 MRS. MOORES: And Labrador.

14 1189 MR. ROITENBERG: And Labrador.

15 1190 MRS. MOORES: Yes.

16 1191 MR. ROITENBERG: And he went on to be

17 the President of the Progressive Conservative Party of

18 Canada?

19 1192 MRS. MOORES: Yes.

20 1193 MR. ROITENBERG: And then he became a

21 businessman?

22 1194 MRS. MOORES: Wait a minute. Just go

23 back a bit --

24 1195 MR. ROITENBERG: Yes.

25 1196 MRS. MOORES: -- and give me that

1 question that you had about president.

2 1197 MR. ROITENBERG: Was he the President
3 of the Progressive Conservative Party of Canada?

4 1198 MRS. MOORES: Yes, at one time.

5 1199 MR. ROITENBERG: Yes.

6 1200 MRS. MOORES: He was an MP in Ottawa.

7 1201 MR. ROITENBERG: Yes.

8 1202 MRS. MOORES: Yes, okay.

9 1203 MR. ROITENBERG: He then went into
10 business.

11 1204 MRS. MOORES: No, then he went back
12 home to Newfoundland and became head of the party
13 there, and then premier.

14 1205 MR. ROITENBERG: At some point after
15 he left public life he became a businessman.

16 1206 MRS. MOORES: Oh, yes.

17 1207 MR. ROITENBERG: And he started a
18 company that eventually came to be known as Government
19 Consultants International, or GCI.

20 1208 MRS. MOORES: That's correct.

21 1209 MR. ROITENBERG: My understanding is
22 that for a time you worked at GCI.

23 1210 MRS. MOORES: Yes, I did.

24 1211 MR. ROITENBERG: And you worked in
25 marketing and advertising and public relations there?

1 1212 MRS. MOORES: Public relations, yes.

2 1213 MR. ROITENBERG: Were you, in any
3 operating fashion, part of the operating mind of the
4 company?

5 1214 MRS. MOORES: Not at all.

6 1215 MR. ROITENBERG: Were you listed as a
7 director at any time?

8 1216 MRS. MOORES: Yes, I was.

9 1217 MR. ROITENBERG: But did you take
10 part in the operations or management of the company at
11 all?

12 1218 MRS. MOORES: No.

13 1219 MR. ROITENBERG: Your husband had a
14 personal and professional relationship with the Right
15 Honourable Brian Mulroney.

16 1220 Is that correct?

17 1221 MRS. MOORES: Yes, he did.

18 1222 MR. ROITENBERG: Would you have
19 described them as friends?

20 1223 MRS. MOORES: Yes.

21 1224 MR. ROITENBERG: I understand that
22 they had both a political and a social relationship.

23 1225 MRS. MOORES: That's correct.

24 1226 MR. ROITENBERG: At some point there
25 was a falling out between the two.

1 1227 Is that right?

2 1228 MRS. MOORES: Yes.

3 1229 MR. ROITENBERG: Are you aware of the
4 nature of the falling out?

5 1230 MRS. MOORES: Yes, it was an
6 unfounded rumour.

7 1231 MR. ROITENBERG: An unfounded rumour
8 regarding what, ma'am?

9 1232 MRS. MOORES: Something that my
10 husband was supposed to have said about Mr. Mulroney.
11 It was supposed to have been said in our boardroom at
12 GCI, in front of a whack of CEOs, and the rumour was
13 that Frank had said about Mr. Mulroney that he was a
14 rock star, or he thought he was a rock star, and he --

15 1233 I'm starting to draw a blank.

16 1234 Oh, and he felt that he should
17 resign, both for himself and for the good of the party.

18 1235 MR. ROITENBERG: And this was
19 something, of course, that your husband took issue
20 with, the fact that he had ever said it.

21 1236 MRS. MOORES: Oh, he never said it.

22 1237 MR. ROITENBERG: He never said it.

23 1238 MRS. MOORES: Well, no.

24 1239 MR. ROITENBERG: But this caused a
25 rift in the relationship between the two.

- 1 1240 MRS. MOORES: Well, yes. Mr.
2 Mulroney puts great emphasis on loyalty of friends. He
3 is a loyal friend and he expects his friends to be
4 loyal, and he got that rumour and felt that Frank had
5 been disloyal, I assume. I am assuming there, but I
6 think that's what happened.
- 7 1241 MR. ROITENBERG: At some point in
8 time, years later, they were able, to some degree, to
9 repair their relationship.
- 10 1242 Is that fair?
- 11 1243 MRS. MOORES: They repaired their
12 relationship when Mr. Mulroney found out that Frank was
13 sick. I spoke to him first, and he was very helpful to
14 us with Frank's medical care, getting him into
15 Sloan-Kettering in a timely manner, because we didn't
16 have time to waste.
- 17 1244 But the two men, I think, talked
18 about, maybe, six weeks, two months before Frank died.
19 So all those years there had been no contact.
- 20 1245 MR. ROITENBERG: In terms of other
21 parties before this Commission, were you aware of a
22 relationship between your husband and Karlheinz
23 Schreiber?
- 24 1246 MRS. MOORES: Yes.
- 25 1247 MR. ROITENBERG: They had a business

1 relationship?

2 1248 MRS. MOORES: Yes.

3 1249 MR. ROITENBERG: Was it, as well, a
4 social relationship?

5 1250 MRS. MOORES: Yes.

6 1251 MR. ROITENBERG: My understanding was
7 that Mr. Schreiber had, on occasion, entertained
8 yourself and your husband in Europe.

9 1252 MRS. MOORES: Absolutely.

10 1253 MR. ROITENBERG: And you and your
11 husband had entertained him in Canada?

12 1254 MRS. MOORES: Yes.

13 1255 MR. ROITENBERG: At one point in time
14 GCI started working on an account involving Bear Head
15 Industries.

16 1256 Do you recall this?

17 1257 MRS. MOORES: Yes.

18 1258 MR. ROITENBERG: Do you recall much
19 about that particular account?

20 1259 MRS. MOORES: No, other than what it
21 was all about, and that we were looking after it.

22 1260 MR. ROITENBERG: Do you recall how
23 that account came to be one of GCI's accounts?

24 1261 MRS. MOORES: Mr. Schreiber brought
25 it to us.

1 1262 MR. ROITENBERG: You weren't involved
2 in the project at all?

3 1263 MRS. MOORES: Not at all.

4 1264 MR. ROITENBERG: Did your husband
5 discuss his involvement in the project with you?

6 1265 MRS. MOORES: No.

7 1266 MR. ROITENBERG: We have material
8 before you in a binder, documents in support of your
9 testimony.

10 1267 I am going to ask that this be marked
11 as Exhibit P-4.

12 1268 MR. ROITENBERG: Do you have that
13 binder in front of you ma'am?

14 1269 MRS. MOORES: Yes, I do.

15 1270 COMMISSIONER OLIPHANT: I take it,
16 counsel, that this binder is going in by consent?

17 1271 MR. PRATTE: Yes.

18 1272 COMMISSIONER OLIPHANT: Thank you.
19 1273 Mr. Vickery...?

20 1274 MR. VICKERY: Yes.

21 1275 COMMISSIONER OLIPHANT: Mr.
22 Houston...?

23 1276 MR. HOUSTON: Yes.

24 1277 COMMISSIONER OLIPHANT: Mr. Auger...?

25 1278 MR. AUGER: Yes.

1 1279 COMMISSIONER OLIPHANT: Thank you.
2 1280 Exhibit P-4, then, will be the
3 document binder with respect to Mrs. Moores' evidence.
4 EXHIBIT NO. P-4: Document
5 binder concerning the testimony
6 of Mrs. Elizabeth Moores
7 1281 MR. ROITENBERG: Thank you, Mr.
8 Commissioner.
9 1282 Mrs. Moores, there is some
10 documentation in here regarding a particular bank
11 account. I want to speak to you about that before we
12 go to any particular document.
13 1283 My understanding from you is that you
14 and your husband each had bank accounts in Switzerland.
15 1284 Am I correct?
16 1285 MRS. MOORES: That's correct.
17 1286 MR. ROITENBERG: And the bank account
18 that was yours was a bank account known as Devon.
19 1287 MRS. MOORES: That's correct.
20 1288 MR. ROITENBERG: To your knowledge,
21 why was this bank account nicknamed Devon?
22 1289 MRS. MOORES: Because Frank's
23 father's family came from Devon in England.
24 1290 MR. ROITENBERG: Did you choose the
25 name for the account or did your late husband?

1 1291 MRS. MOORES: He chose it.

2 1292 MR. ROITENBERG: Is it your
3 understanding that this bank account handled a good
4 deal of funds?

5 1293 MRS. MOORES: It didn't handle any
6 funds.

7 1294 MR. ROITENBERG: Can you explain
8 that?

9 1295 MRS. MOORES: It originally held
10 \$500, and through a couple of years of bank fees, it
11 was diminished, and Frank closed it.

12 1296 MR. ROITENBERG: You said that the
13 bank account was your bank account. Were you present
14 when it was opened?

15 1297 MRS. MOORES: No, Frank opened it,
16 and I went back -- I was in Zurich with him, and I went
17 back -- I can't remember, the next day or a couple of
18 days later, and signed the documents that I had to sign
19 to have power of attorney on the account.

20 1298 MR. ROITENBERG: To have power of
21 attorney on the account.

22 1299 MRS. MOORES: Yes.

23 1300 MR. ROITENBERG: Was this an account
24 that you ever utilized?

25 1301 MRS. MOORES: Never.

1 1302 MR. ROITENBERG: Was this an account
2 that you ever made a deposit to?

3 1303 MRS. MOORES: No.

4 1304 MR. ROITENBERG: Was it an account
5 that you ever made a withdrawal from?

6 1305 MRS. MOORES: No, I didn't.

7 1306 MR. ROITENBERG: But you were under
8 the belief that you had access to it?

9 1307 MRS. MOORES: Well, I was sort of
10 under the belief that it was my account. It was just
11 kind of for fun.

12 1308 MR. ROITENBERG: If I could direct
13 you, then, to Tab 4 in the booklet of documents before
14 you, this is a document entitled "Application for the
15 Opening of an Account".

16 1309 MRS. MOORES: Yes.

17 1310 MR. ROITENBERG: Now, you say that
18 you weren't with your late husband when it was opened,
19 but you went back a day or so later to sign certain
20 documents.

21 1311 MRS. MOORES: Exactly.

22 1312 MR. ROITENBERG: If you look at the
23 bottom of this particular document, it says "Place" and
24 "Date".

25 1313 MRS. MOORES: Yes.

1 1314 MR. ROITENBERG: Can you describe
2 what it says above the line where it says "Place" and
3 "Date"?

4 1315 MRS. MOORES: It says "Zurich",
5 "3.2.1986".

6 1316 MR. ROITENBERG: Or February the 3rd,
7 1986.

8 1317 MRS. MOORES: Yes.

9 1318 MR. ROITENBERG: If you look at the
10 top of the document, where it says "Application for the
11 Opening of an Account" --

12 1319 MRS. MOORES: Yes.

13 1320 MR. ROITENBERG: -- it has a date
14 directly underneath that, does it not?

15 1321 MRS. MOORES: Yes.

16 1322 MR. ROITENBERG: And what is that
17 date?

18 1323 MRS. MOORES: I guess it's February
19 4th, '86.

20 1324 There are numbers on either side of
21 it, I'm not sure what they mean.

22 1325 MR. ROITENBERG: Okay. So we have at
23 one place a notation of February 3rd, 1986 --

24 1326 MRS. MOORES: Yes.

25 1327 MR. ROITENBERG: -- and, at another

1 place, February 4th, 1986.

2 1328 MRS. MOORES: Yes.

3 1329 MR. ROITENBERG: A day later.

4 1330 MRS. MOORES: Yes.

5 1331 MR. ROITENBERG: So, as you recall
6 it, you went back to the bank within a day or so to
7 sign certain documents.

8 1332 MRS. MOORES: Yes.

9 1333 MR. ROITENBERG: At Tab 1 of this
10 book of documents there is a newspaper article that
11 appeared in the Edmonton Sun on December the 16th,
12 1995, written by Robert Fife, The Sun, Ottawa Bureau.

13 1334 If you look at the very bottom of the
14 middle column, it reads:

15 "But Beth Moores said yesterday
16 that she had access to the Devon
17 account.

18 'It was his (Frank's) account,
19 which I had signing authority
20 over,' she said in a phone
21 interview from Jupiter, Florida.

22 'The "BM" was Beth Moores, it
23 was never Brian Mulroney.'

24 1335 Is that what that says?

25 1336 MRS. MOORES: Yes.

1 1337 MR. ROITENBERG: Does that accurately
2 depict what you believe you may have said to a reporter
3 back in 1995?

4 1338 MRS. MOORES: Yes.

5 1339 MR. ROITENBERG: So whether the bank
6 account was yours for fun, or simply one that you had
7 access to that was in your husband's name, it's your
8 belief that any reference to "BM" is a reference to
9 you, yourself, and the common name that you go by, Beth
10 Moores.

11 1340 MRS. MOORES: Yes, exactly.

12 1341 MR. ROITENBERG: In your capacity at
13 GCI, or in any other working capacity, did you ever do
14 work for a company called Bitucan Holdings?

15 1342 MRS. MOORES: No.

16 1343 MR. ROITENBERG: Did you have a joint
17 letterhead that you utilized with your late husband,
18 Mr. Frank Moores?

19 1344 MRS. MOORES: We had a couple of
20 joint letterheads.

21 1345 MR. ROITENBERG: I am going to direct
22 you, if I could, to Tab 6 of the book of documents.
23 There appears to be an invoice under the letterhead of
24 "Frank and Beth Moores", an invoice dated November the
25 8th, 1988, to Bitucan Holdings Limited, a company in

1 Calgary, Alberta, for services rendered by Frank D.
2 Moores, on your behalf, \$90,000.

3 1346 I take it that even though it has
4 your name at the top, you were not the person who
5 performed any of these services.

6 1347 MRS. MOORES: No.

7 1348 MR. ROITENBERG: You, at no time, did
8 work for Bitucan Holdings?

9 1349 MRS. MOORES: No.

10 1350 MR. ROITENBERG: And you, at no time,
11 billed anybody for services totalling \$90,000 in
12 November of 1988.

13 1351 MRS. MOORES: That's correct.

14 1352 MR. ROITENBERG: Had you ever seen
15 this document before?

16 1353 MRS. MOORES: No, not until I saw it
17 in this book, when it was delivered to me.

18 1354 MR. ROITENBERG: Would you have any
19 knowledge as to what services had been rendered by
20 Frank Moores on behalf of Bitucan Holdings?

21 1355 MRS. MOORES: I have no idea.

22 1356 MR. ROITENBERG: Do you even know
23 what Bitucan Holdings is?

24 1357 MRS. MOORES: Not really.

25 1358 MR. ROITENBERG: I am not certain,

1 ma'am, if other counsel have questions for you, but if
2 you could wait there, please...

3 1359 MRS. MOORES: Yes.

4 1360 MR. ROITENBERG: Thank you.

5 1361 MR. PRATTE: I have no questions,
6 sir.

7 1362 COMMISSIONER OLIPHANT: Thank you,
8 Mr. Pratte.

9 1363 Mr. Houston...?

10 1364 MR. HOUSTON: Thank you, sir.

11 EXAMINATION: ELIZABETH MOORES BY MR. HOUSTON /
12 INTERROGATOIRE: ELIZABETH MOORES PAR Me HOUSTON

13 1365 MR. HOUSTON: Good afternoon, Mrs.
14 Moores. I am Robert Houston and I am acting on behalf
15 of Fred Doucet. I just have a few questions.
16 1366 Fred Doucet was a friend of your late
17 husband's?

18 1367 MRS. MOORES: Yes.

19 1368 MR. HOUSTON: And they had been
20 friends for many years, I understand, going back to the
21 late seventies.

22 1369 MRS. MOORES: Yes.

23 1370 MR. HOUSTON: And I further
24 understand that their friendship began with politics
25 and got into salmon fishing.

1 1371 MRS. MOORES: Oh, probably.

2 1372 MR. HOUSTON: Your husband was an
3 avid salmon fisherman?

4 1373 MRS. MOORES: Absolutely.

5 1374 MR. HOUSTON: And he had a fishing
6 camp, I understand, on the Grand Cascapedia River in
7 the Gaspé.

8 1375 MRS. MOORES: That's correct.

9 1376 MR. HOUSTON: Did he go there
10 regularly during the summer, often in June?

11 1377 MRS. MOORES: Often in June.

12 1378 MR. HOUSTON: Did you and your
13 husband entertain Mr. Fred Doucet from time to time
14 socially?

15 1379 MRS. MOORES: Oh, yes, but not at the
16 camp. I didn't go --

17 1380 MR. HOUSTON: You didn't go to the
18 camp.

19 1381 MRS. MOORES: No.

20 1382 MR. HOUSTON: That was for the boys,
21 was it?

22 1383 MRS. MOORES: Exactly.

23 1384 MR. HOUSTON: But at your home, here
24 in Ottawa, did you entertain them from time to time?

25 1385 MRS. MOORES: Yes, I think we did.

1 1386 MR. HOUSTON: It has been alleged
2 that there was a significant break in the relationship
3 between Mr. Doucet and your late husband. Is there any
4 substance to that at all, to your knowledge?

5 1387 MRS. MOORES: I have no knowledge of
6 a break between them.

7 1388 MR. HOUSTON: Did they remain, to the
8 best of your knowledge, best friends up until the time
9 your late husband passed away, or at least friends?

10 1389 MRS. MOORES: They were friends, yes.
11 I wouldn't say that they were close personal friends,
12 they were friends.

13 1390 Both he and his wife.

14 1391 MR. HOUSTON: And were you aware, at
15 any time, that there was a break in the relationship
16 and they stopped talking to one another?

17 1392 MRS. MOORES: No, I am not aware of
18 that.

19 1393 MR. HOUSTON: Thank you very much.

20 1394 COMMISSIONER OLIPHANT: Thank you,
21 Mr. Houston.

22 1395 Mr. Auger...?

23 1396 MR. AUGER: I have no questions,
24 Commissioner.

25 EXAMINATION: ELIZABETH MOORES BY COMMISSIONER OLIPHANT

1 / INTERROGATOIRE: ELIZABETH MOORES PAR COMMISSAIRE
2 OLIPHANT

3 1397 COMMISSIONER OLIPHANT: I have one
4 question, if I might, please, Mrs. Moores.

5 1398 MRS. MOORES: Sure.

6 1399 COMMISSIONER OLIPHANT: It has to do
7 with your evidence regarding the break in the
8 friendship of your late husband and Mr. Mulroney, a
9 break you said that appeared to be healed after Frank
10 Moores became ill, and Mr. Mulroney helped get him into
11 Sloan-Kettering, and then there was a discussion prior
12 to Mr. Moores' death.

13 1400 MRS. MOORES: Yes.

14 1401 COMMISSIONER OLIPHANT: And then you
15 made reference to a number of years had gone by before
16 that occurred.

17 1402 MRS. MOORES: Yes.

18 1403 COMMISSIONER OLIPHANT: When did this
19 break in the friendship occur, at what point in time?

20 1404 MRS. MOORES: I can't remember. It
21 was many years before.

22 1405 COMMISSIONER OLIPHANT: When did Mr.
23 Moores pass away?

24 1406 MRS. MOORES: 2005.

25 1407 COMMISSIONER OLIPHANT: 2005.

1 1408 MRS. MOORES: Yes.

2 1409 COMMISSIONER OLIPHANT: And the break
3 took place many years before that?

4 1410 MRS. MOORES: Oh, before that, yes.

5 1411 COMMISSIONER OLIPHANT: And
6 obviously -- I shouldn't say obviously -- apparently it
7 was while Mr. Mulroney was still the Prime Minister of
8 Canada?

9 1412 MRS. MOORES: That's correct.

10 1413 COMMISSIONER OLIPHANT: So it would
11 be sometime between 1984 and 1993.

12 1414 MRS. MOORES: Yes, but I think it
13 would be much later than 1984.

14 1415 COMMISSIONER OLIPHANT: Okay. Can
15 you help me any more than that?

16 1416 MRS. MOORES: I really can't. I
17 really can't remember exactly when it happened.

18 1417 COMMISSIONER OLIPHANT: Okay, that's
19 fine.

20 1418 Is there any reason, counsel, why
21 Mrs. Moores can't be excused at this point?

22 1419 Oh, Mr. Vickery, I'm sorry.

23 1420 MR. VICKERY: That's all right, sir.
24 1421 I do have a few questions.

25 1422 COMMISSIONER OLIPHANT: Fine.

1 EXAMINATION: ELIZABETH MOORES BY MR. VICKERY /
2 INTERROGATOIRE: ELIZABETH MOORES PAR Me VICKERY
3 1423 MR. VICKERY: Mrs. Moores, my name is
4 Paul Vickery. I act for the Attorney General of
5 Canada, and I do have a few questions for you.
6 1424 You indicated that you were employed
7 for a period of time by GCI, your husband's company.
8 1425 MRS. MOORES: Yes.
9 1426 MR. VICKERY: And I would assume
10 that, employed there, you became familiar with the
11 various principals of the company, the various
12 individuals who were involved?
13 1427 MRS. MOORES: Yes.
14 1428 MR. VICKERY: And your husband, I
15 take it, was the Chairman of GCI.
16 1429 Is that correct?
17 1430 MRS. MOORES: Yes.
18 1431 MR. VICKERY: Are you familiar with
19 Gary Ouellet?
20 1432 MRS. MOORES: Yes.
21 1433 MR. VICKERY: What was his position
22 with the company?
23 1434 MRS. MOORES: I can't remember.
24 1435 MR. VICKERY: If I told you that he
25 was, apparently, Vice-Chair and CEO, would that assist

1 your recollection?

2 1436 MRS. MOORES: That could well be.

3 1437 MR. VICKERY: Are you also familiar

4 with Gerald Doucet?

5 1438 MRS. MOORES: Yes, I am.

6 1439 MR. VICKERY: And was Gerald Doucet

7 also a principal of the company?

8 1440 MRS. MOORES: Yes.

9 1441 MR. VICKERY: You have indicated, of

10 course, that you are familiar with Fred Doucet.

11 1442 MRS. MOORES: Yes.

12 1443 MR. VICKERY: And Fred Doucet, as

13 well, was a principal of the company?

14 1444 MRS. MOORES: Of GCI?

15 1445 MR. VICKERY: Yes.

16 1446 MRS. MOORES: No.

17 1447 MR. VICKERY: No?

18 1448 MRS. MOORES: No.

19 1449 MR. VICKERY: I see.

20 1450 Did Fred Doucet have any involvement

21 with GCI, to your knowledge?

22 1451 MRS. MOORES: No.

23 1452 MR. VICKERY: Although Gerald did.

24 1453 MRS. MOORES: Yes, that's correct.

25 1454 MR. VICKERY: Now, you have indicated

1 that you had some knowledge of the fact that GCI was
2 doing work with regard to the Bear Head Project.

3 1455 MRS. MOORES: Yes.

4 1456 MR. VICKERY: Could you tell me, do
5 you know whether, in particular, Gary Ouellet was
6 involved in that project?

7 1457 MRS. MOORES: I really don't
8 remember.

9 1458 I'm sorry, but I really don't.

10 1459 MR. VICKERY: Do you recall whether
11 Gerald Doucet was involved in the project?

12 1460 MRS. MOORES: I don't know.

13 1461 MR. VICKERY: Do you recall whether
14 anyone else at GCI, to your recollection, was involved
15 in the Bear Head Project?

16 1462 MRS. MOORES: I think that Mr. Alford
17 was, and he ended up working for Bear Head.

18 1463 MR. VICKERY: That would be Greg
19 Alford?

20 1464 MRS. MOORES: Yes.

21 1465 MR. VICKERY: And was Greg Alford
22 also a principal of GCI?

23 1466 MRS. MOORES: He was president at one
24 point, but he wasn't a principal, if you mean a
25 partner.

1 1467 MR. VICKERY: I see. He was
2 president, though, of GCI for a period of time?

3 1468 MRS. MOORES: Yes.

4 1469 MR. VICKERY: And he went on to work
5 for the company you said?

6 1470 MRS. MOORES: He went on to work at
7 Thyssen Bear Head, yes.

8 1471 MR. VICKERY: Thyssen Bear Head.

9 1472 MRS. MOORES: Yes.

10 1473 MR. VICKERY: Would that have been in
11 Canada or in the German plant?

12 1474 MRS. MOORES: In Canada, on the Cape
13 Breton project.

14 1475 MR. VICKERY: I see. Now, you have
15 indicated that you were familiar with Mr. Schreiber,
16 and I believe you said his wife?

17 1476 MRS. MOORES: Yes.

18 1477 MR. VICKERY: Did you also have
19 occasion to become acquainted with a Mr. Massmann,
20 Jürgen Massmann?

21 1478 MRS. MOORES: Yes, I have met him.

22 1479 MR. VICKERY: And were you aware of
23 his connection to the Thyssen company?

24 1480 MRS. MOORES: Yes.

25 1481 MR. VICKERY: Do you know what his

1 position with Thyssen was?

2 1482 MRS. MOORES: No, I don't.

3 1483 MR. VICKERY: In what context did you
4 meet Mr. Massmann?

5 1484 MRS. MOORES: In a social way.

6 1485 MR. VICKERY: You have indicated that
7 you were not involved in a business way --

8 1486 MRS. MOORES: Yes.

9 1487 MR. VICKERY: -- with the Bear Head
10 Project. Can you tell me, were you present at any
11 social occasion at which the Bear Head Project was
12 discussed?

13 1488 MRS. MOORES: I could have been, but
14 not that I ever recall.

15 1489 MR. VICKERY: I see. Now, you have
16 spoken to Mr. Roitenberg of the circumstances in which
17 the Swiss Bank Corporation account, which was called
18 Devon, was opened.

19 1490 MRS. MOORES: Yes.

20 1491 MR. VICKERY: Can you tell me, did
21 your husband travel to Zurich specifically to open that
22 account?

23 1492 MRS. MOORES: I don't know.

24 1493 I don't think so, but I don't know.

25 1494 MR. VICKERY: You have indicated that

1 you were in Zurich with him.

2 1495 MRS. MOORES: Yes.

3 1496 MR. VICKERY: Do you have any

4 recollection at all as to the purpose of your trip?

5 1497 MRS. MOORES: No, I don't.

6 1498 MR. VICKERY: Do you recall whether

7 Mr. Schreiber was in attendance during the trip?

8 1499 MRS. MOORES: Yes, I believe so.

9 1500 MR. VICKERY: And do you recall

10 whether Mr. Alford was in attendance during the trip?

11 1501 MRS. MOORES: No, Mr. Alford -- he

12 was never there when I was there.

13 1502 MR. VICKERY: Did you ever meet a Mr.

14 Pelossi?

15 1503 MRS. MOORES: Very briefly.

16 1504 MR. VICKERY: And would it have been

17 during the trip to Zurich that you met him?

18 1505 MRS. MOORES: Probably, yes.

19 1506 I don't think that I ever met him

20 here, I think it was in Germany.

21 1507 MR. VICKERY: In Germany?

22 1508 MRS. MOORES: Yes, I think so.

23 1509 MR. VICKERY: During the Zurich trip

24 you think?

25 1510 MRS. MOORES: That could well be.

1 1511 MR. VICKERY: Now, you have testified
2 that both you and your husband had bank accounts. I
3 take it that the accounts were with the Swiss Bank
4 Corporation at which the Devon account was located.

5 1512 MRS. MOORES: That's correct.

6 1513 MR. VICKERY: Can you tell me, was
7 there a name affixed to your husband's account, as
8 distinct from yours?

9 1514 MRS. MOORES: I don't think so.

10 1515 MR. VICKERY: Could I ask you to
11 refer to Tab 6 of the materials that Mr. Roitenberg
12 provided to you?

13 1516 MRS. MOORES: Yes.
14 1517 Tab 6?

15 1518 MR. VICKERY: I'm sorry, Tab 5.
16 1519 At Tab 5 there appear to be two
17 business cards.

18 1520 First of all, could you tell me, do
19 those come from you or from some other source?

20 1521 MRS. MOORES: No, they don't come
21 from me.

22 1522 MR. VICKERY: There is a reference on
23 the business card of Paul Schnyder to a number, "34117
24 Devon" --

25 1523 MRS. MOORES: Right.

1 1524 MR. VICKERY: -- and I take it that
2 would be the account to which you have referred as the
3 Devon account.

4 1525 MRS. MOORES: I would think so. I
5 can't be sure of the number, but I would think so.

6 1526 MR. VICKERY: And if we look back to
7 Tab 4, the application for the Devon account --

8 1527 MRS. MOORES: Yes.

9 1528 MR. VICKERY: -- we see at the top
10 right-hand corner a reference to a number.

11 1529 MRS. MOORES: Yes, 34117.

12 1530 MR. VICKERY: And that is, indeed,
13 the same number --

14 1531 MRS. MOORES: Yes, it is.

15 1532 MR. VICKERY: -- referenced on the
16 card.

17 1533 MRS. MOORES: Exactly.

18 1534 MR. VICKERY: Above that number is a
19 second number. The number is 34107.

20 1535 MRS. MOORES: Yes.

21 1536 MR. VICKERY: Would that possibly be
22 your husband's account?

23 1537 MRS. MOORES: Yes.

24 1538 MR. VICKERY: Can you tell me, do you
25 remember Mr. Paul Schnyder?

1 1539 MRS. MOORES: I know the name. I
2 guess I met him, I don't know.

3 1540 MR. VICKERY: Is it possible that he
4 was the banking official that you dealt with?

5 1541 MRS. MOORES: Yes, that could well
6 be.

7 1542 MR. VICKERY: You have said that
8 there was only, I believe, \$500 ever in the Devon
9 account. Do you have any knowledge as to what amounts
10 of money were to be found in the other account, the
11 34107 account?

12 1543 MRS. MOORES: No.

13 1544 MR. VICKERY: You indicated that your
14 husband closed the Devon account. Do you know whether
15 he was required to travel to Switzerland to close the
16 account?

17 1545 MRS. MOORES: Oh, I'm sorry, I didn't
18 get what you first said.

19 1546 MR. VICKERY: Oh, I'm sorry, I will
20 repeat it.

21 1547 I believe you testified that Mr.
22 Moores ultimately closed the Devon account.

23 1548 MRS. MOORES: Oh, yes.

24 1549 MR. VICKERY: I was wondering if he
25 had to go to Zurich to do that.

1 1550 MRS. MOORES: I don't remember.

2 1551 MR. VICKERY: Do you know whether you
3 received bank statements on a regular basis?

4 1552 MRS. MOORES: I don't believe so.

5 1553 MR. VICKERY: Now, dealing briefly
6 with the invoice and a copy of the cheque that is at
7 Tab 6, you have indicated that you did have joint
8 letterhead with your husband.

9 1554 MRS. MOORES: Yes.

10 1555 MR. VICKERY: Looking at the
11 relatively poor photocopy here, can you tell me, does
12 that appear to be your letterhead?

13 1556 MRS. MOORES: Yes, it does.

14 1557 MR. VICKERY: You said that you don't
15 really know much about Bitucan. Do you know anything
16 about Bitucan?

17 1558 MRS. MOORES: I do now, because when
18 I was asked about it, I hadn't remembered the name, and
19 a friend of mine -- I am computer illiterate, and a
20 friend of mine went on and Googled it, or whatever you
21 do, and that's when I found out what Bitucan was.

22 1559 MR. VICKERY: And you found out what
23 in that regard?

24 1560 MRS. MOORES: Well, I am not even
25 sure what I found out, but it was obviously a holding

1 company that Mr. Schreiber had something to do with.

2 1561 MR. VICKERY: Do you recall having
3 any discussion with your husband, or anyone else, in or
4 about the time of this account, that is, in the fall of
5 1988, concerning the signing of an Undertaking in
6 Principle with regard to the Bear Head Project?

7 1562 MRS. MOORES: No, I don't remember
8 any of that.

9 1563 MR. VICKERY: The payment that was
10 made, by cheque it appears, from Bitucan Holdings was
11 apparently in the amount of \$90,000. Would that have
12 represented a particularly significant payment to you
13 and your husband at that time?

14 1564 MRS. MOORES: Well, I didn't know the
15 workings of GCI's financials, so I don't know. To me
16 that's a significant amount of money, but that's to me.

17 1565 MR. VICKERY: Do you know of any
18 reason why your husband would have invoiced Bitucan on
19 your joint letterhead, as opposed to through his
20 company, GCI?

21 1566 MRS. MOORES: No, I don't.

22 1567 MR. VICKERY: Could I ask you,
23 lastly, to refer to, I believe, the last document in
24 your binder -- although it may be a separate document.

25 1568 The Registrar is handing you a

1 document.

2 1569 MRS. MOORES: Thank you.

3 1570 MR. VICKERY: If you look at that

4 document, you will see that there is a series of

5 invoices and cheques of Bitucan Holdings contained in

6 the document.

7 1571 MRS. MOORES: Yes.

8 1572 MR. VICKERY: And I would point out

9 to you, firstly, that each of the cheques is dated

10 November 15th, 1988, which is the same date as the

11 cheque made payable to your husband.

12 1573 MRS. MOORES: Yes, I see that.

13 1574 MR. VICKERY: And there appears to

14 be, firstly, an invoice of GCI to Bitucan, dated

15 November 10th, for \$250,000.

16 1575 Do you see that?

17 1576 MRS. MOORES: Right.

18 1577 MR. VICKERY: And a matching cheque

19 from Bitucan?

20 1578 MRS. MOORES: Yes.

21 1579 MR. VICKERY: And on the second page

22 is another copy of the Frank and Beth Moores invoice

23 for \$90,000 --

24 1580 MRS. MOORES: Yes.

25 1581 MR. VICKERY: -- with a matching

1 cheque.

2 1582 MRS. MOORES: Right.

3 1583 MR. VICKERY: And on the third page
4 is an invoice of Lemoine Consultants Inc., in the
5 amount of \$90,000.

6 1584 MRS. MOORES: Right.

7 1585 MR. VICKERY: And a cheque dated
8 November 15th, 1988.

9 1586 MRS. MOORES: Yes.

10 1587 MR. VICKERY: Are you aware as to who
11 was involved with Lemoine Holdings?

12 1588 MRS. MOORES: No.

13 1589 MR. VICKERY: If I suggest to you
14 that it was Gary Ouellet's company, would that assist
15 your recollection at all?

16 1590 MRS. MOORES: I can't remember.

17 1591 MR. VICKERY: Thank you.

18 1592 Turning to the next page, we see that
19 there is an invoice with regard to services rendered by
20 Gerald Doucet, dated November 2nd, 1988.

21 1593 MRS. MOORES: Yes.

22 1594 MR. VICKERY: And a cheque of Bitucan
23 Holdings dated November 15th, 1988, to Doucet and
24 Associates for \$90,000?

25 1595 MRS. MOORES: Right.

1 1596 MR. VICKERY: And then, finally, at
2 the last page we see that there is a cheque of Fred
3 Doucet Consulting International, dated November 2nd,
4 1988, and a matching cheque to that entity for \$90,000,
5 dated November 15th, 1988.

6 1597 MRS. MOORES: Yes.

7 1598 MR. VICKERY: Do you recall any
8 discussion whatsoever with your husband regarding a
9 major event that generated a very significant sum of
10 money from Bitucan Holdings to the various GCI
11 principals, and to GCI itself, in the fall of 1988?

12 1599 MRS. MOORES: No, sir, I do not.

13 1600 MR. VICKERY: Thank you.

14 1601 Mr. Commissioner, I would ask to have
15 this last document marked as the next exhibit. I
16 believe that would be P-5.

17 1602 COMMISSIONER OLIPHANT: Before we do
18 that, I will canvass counsel.

19 1603 Mr. Pratte...?

20 1604 MR. PRATTE: Although we just got it,
21 there is no objection, sir.

22 1605 COMMISSIONER OLIPHANT: Thank you.
23 My friend is very kind.

24 1606 Mr. Houston...?

25 1607 MR. HOUSTON: No objection, sir.

1 1608 COMMISSIONER OLIPHANT: Mr. Auger...?
2 1609 MR. AUGER: No objection.
3 1610 MR. ROITENBERG: No objection.
4 1611 COMMISSIONER OLIPHANT: The
5 documents, then, just referred to by Mr. Vickery in a
6 binder entitled "Documents for Ms Beth Moores'
7 Examination" will be received and marked as Exhibit
8 P-5.
9 EXHIBIT NO. P-5: Binder
10 entitled "Documents for Ms Beth
11 Moores' Examination"
12 1612 MR. VICKERY: Thank you, Mr.
13 Commissioner. Those are my questions for this witness.
14 1613 COMMISSIONER OLIPHANT: Thank you.
15 1614 Thank you, Mrs. Moores.
16 1615 Mr. Roitenberg, is there any reason
17 why -- I don't think I have missed anybody else -- I
18 can't now excuse Mrs. Moores?
19 1616 MR. ROITENBERG: There is no reason,
20 Mr. Commissioner.
21 1617 COMMISSIONER OLIPHANT: Thank you.
22 1618 Mrs. Moores, I want to, on behalf of
23 the Commission, thank you for attending today, and for
24 the evidence that you have given. Your assistance is
25 appreciated very much by me. Thank you.

1 1619 MR. ROITENBERG: Mr. Commissioner,
2 prior to commencing the examination of Mrs. Moores our
3 next witness had not yet arrived. He now has. I am
4 wondering if we could perhaps take ten minutes so that
5 I may speak with him before commencing.

6 1620 COMMISSIONER OLIPHANT: Yes, that's
7 fine.

8 --- Upon recessing at 1:35 p.m. / Reprise à 13 h 35
9 --- Upon resuming at 1:57 p.m. / Reprise à 13 h 57

10 1621 COMMISSIONER OLIPHANT: Mr.
11 Roitenberg...?

12 1622 THE REGISTRAR: Please be seated.
13 Veuillez vous asseoir.

14 1623 COMMISSIONER OLIPHANT: Good
15 afternoon.

16 1624 Counsel...?

17 1625 MR. ROITENBERG: Thank you,
18 Mr. Commissioner.

19 1626 With us now we have Derek Burney. I
20 would ask Mr. Brisson to have Mr. Burney sworn, please.
21 SWORN: DEREK H. BURNEY /
22 ASSERMENTÉ : DEREK H. BURNEY

23 1627 COMMISSIONER OLIPHANT: Welcome,
24 Mr. Burney.

25 1628 MR. BURNEY: Thank you.

1 EXAMINATION: DEREK H. BURNEY BY MR. ROITENBERG /
2 INTERROGATOIRE : DEREK H. BURNEY PAR Me ROITENBERG
3 1629 MR. ROITENBERG: Good afternoon, sir
4 1630 MR. BERNIE: Good afternoon.
5 1631 MR. ROITENBERG: Thank you for being
6 with us today.
7 1632 I understand, sir, that you were the
8 Chief of Staff for the Rt. Hon. Brian Mulroney from
9 February of 1987 to January of 1989.
10 1633 Is that right?
11 1634 MR. BURNEY: That's correct.
12 1635 MR. ROITENBERG: And in total you
13 served approximately 30 years as a public servant.
14 1636 Would that be fair?
15 1637 MR. BURNEY: Yes.
16 1638 MR. ROITENBERG: You had a number of
17 roles with the foreign services prior to becoming Chief
18 of Staff of the Prime Minister's office?
19 1639 MR. BURNEY: And after.
20 1640 MR. ROITENBERG: And after.
21 1641 MR. BURNEY: Yes.
22 1642 MR. ROITENBERG: Including a stint as
23 Canada's Ambassador to the United States.
24 1643 Am I correct?
25 1644 MR. BURNEY: And to Korea

1 before that.

2 1645 MR. ROITENBERG: And to Korea.

3 1646 I understand in early 1987 you
4 received a phone call that in an indirect way brings
5 you here today.

6 --- Laughter / Rires

7 1647 MR. BURNEY: Yes.

8 1648 MR. ROITENBERG: Could you tell the
9 Commissioner about that, please?

10 1649 MR. BURNEY: Well, I received a phone
11 call while I was doing an inspection visit of our
12 Consulate General in Los Angeles and it was the Prime
13 Minister. And without giving you the whole story, the
14 purpose of the phone call was initially to ask me what
15 I thought about the changes which had taken place in
16 the White House the previous weekend where the Chief of
17 Staff had resigned and been replaced. And after
18 offering my opinions on the wisdom of that move, he
19 then said "How would you like to be my Chief of Staff",
20 just like that on the phone.

21 1650 Needless to say, it took me back a
22 bit because my instinct was to say "Well, but I'm not a
23 political person, Prime Minister, I'm a bureaucrat."
24 And his answer was -- I don't know how long you want me
25 to go on with this story, but his answer was "I'm the

1 political person, I need somebody to organize my
2 office. I want to concentrate on the major issues of
3 the day, free trade, tax reform, defence policy. You
4 know these issues, you can help me. I don't want to be
5 distracted any more by tainted tuna."

6 1651 You may not remember the tainted tuna
7 episode, but it was one that was more than a
8 distraction for a while for the government.

9 1652 So to make a long story short, I
10 became the Chief of Staff. I had a Deputy Chief of
11 Staff who was the principal liaison politically with
12 the party as opposed to the government and my time was
13 concentrated on organizing his office.

14 1653 MR. ROITENBERG: I take it to some
15 degree that involved a bit of reorganizing at the
16 outset?

17 1654 MR. BURNEY: Yes, indeed. Being a
18 good bureaucrat I did a study of the office and a
19 report and I presented it to the Prime Minister after
20 about 10 days and I said some of the changes I was
21 recommending were probably not going to be very
22 comfortable for him because it involved people that he
23 was very close to in the first instance and, second,
24 that I was going to apply a degree of control to his
25 time, his message and his focus that he had to be

1 comfortable with otherwise it wouldn't work.

2 1655 He didn't open my little
3 briefing book, he just said "You do whatever you
4 think is necessary to organize that office" and it
5 went from there.

6 1656 MR. ROITENBERG: Beyond organizing
7 the office in an efficient fashion, what would you
8 describe as the key characteristics of the role of
9 Chief of Staff of the Prime Minister's Office?

10 1657 MR. BURNEY: How long have we got?

11 1658 MR. ROITENBERG: I should have said
12 can you briefly --

13 1659 MR. BURNEY: Yes, okay, I will try.

14 1660 COMMISSIONER OLIPHANT: We have
15 until December 31st, but don't take that long, okay.

16 1661 MR. BURNEY: Read my book.

17 --- Laughter / Rires

18 1662 MR. BURNEY: Well, I think the
19 principal task was what he asked me to do, which was to
20 organize his time and his message so that it was
21 concentrated more on the major issues of the day and
22 less on the minor issues of the day. In order to do
23 that, part of the job of the Chief of Staff and the
24 Prime Minister's office more generally is, to be very
25 frank, to keep peace in the family, to try to mould the

1 differing opinions within caucus on various issues, to
2 try to modulate or moderate the conflicting views of
3 ministers on specific issues. In other words, to
4 reduce the burden on the Prime Minister of conflict
5 resolution.

6 1663 The Prime Minister's office at any
7 time is a crisis management office because things are
8 happening that you have no control over and your
9 instincts have to help you get control over issues of
10 the day that you had not contemplated while you are
11 doing the government's agenda at the same time.

12 1664 So I think certainly the principal
13 role that I saw was to give more focus to the
14 operation, give more coherence to what the Prime
15 Minister was trying to achieve with his initiatives,
16 with his messages and with his time, and above all to
17 prevent the PMO from becoming a story in the media,
18 which it had become prior to my arrival. That was part
19 of the job.

20 1665 MR. ROITENBERG: Now, certainly
21 friction within caucus and differences of opinion as
22 they pertain to the Bear Head Project are going to come
23 into play and we will address those in due course, but
24 I want to start off by asking to file a book of
25 documents that you have in front of you. It has 13 or

1 so tabs --

2 1666 MR. BURNEY: Yes.

3 1667 MR. ROITENBERG: -- and I'm going to

4 ask that it be marked as Exhibit P-6.

5 1668 COMMISSIONER OLIPHANT: I take it,

6 counsel, that the book of documents is going by

7 consent.

8 1669 Any objections? All right.

9 1670 The Book of Documents for Mr. Burney,

10 then, will be received and marked as Exhibit P-6.

11 EXHIBIT NO. P-6 Book of

12 Documents in support of

13 Mr. Derek H. Burney's testimony

14 1671 MR. ROITENBERG: Thank you, sir.

15 1672 If I could direct you to Tab 2 in

16 that book of documents, there is a letter from

17 Senator Lowell Murray to your attention, which

18 appears to be some form of reporting on the status of

19 the Bear Head Project.

20 1673 You have had a chance to look at this

21 letter I take it?

22 1674 MR. BURNEY: Yes.

23 1675 MR. ROITENBERG: It speaks, at least

24 in the first letter -- because there are a couple of

25 letters in there -- of the economic development in Cape

1 Breton as a benefit of the Bear Head Project.

2 1676 In fact, at page 2 of the first
3 letter it speaks of the Thyssen proposal as:

4 "...having considerable
5 potential to contribute
6 significantly towards the
7 economic development of the Cape
8 Breton area." (As read)

9 1677 And then it speaks of caution in
10 regard to not wanting to set a precedent or the
11 undesirable precedent that might be set by Thyssen's
12 request for a directed contract for the purchase of
13 certain light armoured vehicle.

14 1678 Would you agree with the
15 characterizations that I have put on those aspects of
16 that letter?

17 1679 MR. BURNEY: Yes. But I would say,
18 if I may, counsel, that my memory of what was going on
19 at that time and my knowledge that I can derive from
20 having examined the documents that you provided are two
21 different things. So I think it's important for you to
22 understand, and for the Commissioner to understand,
23 that the material that you have provided have obviously
24 brought back things to me that my memory had lost over
25 the 21 years. That's the only qualifier I would add.

1 1680 And I don't see that the letter was
2 signed, so I'm not sure whether this is an original
3 that I actually got. There are a lot of draft letters
4 that float around government and that is not a quibble.
5 The substance of the letter makes sense to me.

6 1681 MR. ROITENBERG: No, and that's a
7 fair characterization and one I was going to bring you
8 two with the second letter, which is signed.

9 1682 COMMISSIONER OLIPHANT: Just before
10 you go there -- I'm sorry, Mr. Roitenberg.

11 1683 You have noted that the letter
12 isn't signed.

13 1684 Is there a date on that letter?

14 1685 MR. BURNEY: There is no date on
15 mine, sir.

16 1686 COMMISSIONER OLIPHANT: No.

17 1687 MR. ROITENBERG: There isn't one.

18 1688 COMMISSIONER OLIPHANT: Okay.

19 1689 So you have no idea --

20 1690 MR. BURNEY: No, and I don't know --
21 as I say, often letters are drafted; letters are not
22 always sent.

23 1691 MR. ROITENBERG: As I said, the next
24 letter has an indication on it that it was at one point
25 signed on the front page, although there is no actual

1 signature on the letter itself.

2 1692 I was going to be suggesting to you
3 that the first letter, or at least much of the contents
4 of the first letter, seems to be subsumed into the
5 second letter, leaving one with the impression that the
6 first may have been a draft of the second.

7 1693 MR. BURNEY: Correct

8 1694 MR. ROITENBERG: If you go to the
9 second page of that second letter and into the third
10 page, it appears as if what's being commented on in
11 this letter to you is that a potential course of action
12 would be to put some pressure on Thyssen away from
13 requiring a directed contract and away from focusing on
14 military procurement, while keeping the dialogue open
15 on the project as a whole.

16 1695 MR. BURNEY: Correct.

17 1696 MR. ROITENBERG: I wanted to ask you,
18 where those observations and suggestions consistent
19 with what you saw as a sound manner of dealing with the
20 project at that stage?

21 1697 MR. BURNEY: Yes, I would.

22 1698 MR. ROITENBERG: Is that in essence
23 how you purported to deal with this issue of the Bear
24 Head Project at that stage of the proceedings and how
25 to deal with the company in terms of suggest them away

1 from a directed contract, not agree to a directed
2 contract and keep the dialogue going to see where the
3 project might take you.

4 1699 Would that be fair?

5 1700 MR. BURNEY: Exactly. Because there
6 was a situation in which we had Ministers who were
7 strongly in favour of -- it wasn't really a project as
8 much as it was a concept at the time. So we had
9 ministers who were strongly in favour of it, namely the
10 Minister for ACOA and the minister with political
11 responsibility for Nova Scotia, not surprisingly, and
12 we had a department, the Department of National
13 Defence, that had very strong reservations because at
14 one earlier stage it did look like it was moving
15 towards a directed contract or a commitment to purchase
16 in a manner that was more explicit than the government
17 would have wanted to acknowledge at that time.

18 1701 MR. ROITENBERG: Were there --
19 and you have said there were -- these differences
20 of opinion within caucus as to what to do about
21 this project.

22 1702 Were some of these differences of
23 opinion starting to show themselves along regional
24 lines as well?

25 1703 MR. BURNEY: Well, I guess the answer

1 to that would be yes because there was a strong --
2 there was strong sentiment for it coming from Atlantic
3 Canada. The Minister for ACAO and the Minister
4 Responsible for Nova Scotia were both from Atlantic
5 Canada. The Minister of National Defence was from
6 Ontario and the plant that provided similar equipment
7 and already existed in Canada was in Ontario, so I
8 think it would be fair to assume that the ministers
9 come from regions which they are more apt to defend
10 than not.

11 1704 MR. ROITENBERG: Now, at Tab 4 of
12 this book of documents is a memorandum that says "A
13 Memorandum for Mr. D. Burney" and it was written by a
14 Mr. Elcock who I understand was in the Prime Minister's
15 Office.

16 1705 MR. BURNEY: No, PCO.

17 1706 MR. ROITENBERG: Excuse me, Privy
18 Council Office, yes.

19 1707 MR. BURNEY: Yes.

20 1708 MR. ROITENBERG: It makes mention
21 towards the bottom of page 1:

22 "Although it is not a strictly
23 legal point, you may also want
24 to consider the possible results
25 of a review of the document by

1 the Auditor General." (As read)

2 1709 I can stop there.

3 1710 The document in question is the

4 Understanding in Principle.

5 1711 You agree with that?

6 1712 MR. BURNEY: Yes.

7 1713 MR. ROITENBERG: Okay.

8 1714 MR. BURNEY: Because that's what it

9 says at the outset.

10 "You asked me to review the

11 proposed Understanding in

12 Principle." (As read)

13 1715 MR. ROITENBERG: Yes.

14 "He will also be concerned with

15 the issue of the authority of

16 ministers to enter into the

17 proposed agreement as well,

18 since there is likely no 'audit

19 trail' or an unusual audit trail

20 given the process this proposal

21 has followed." (As read)

22 1716 Now, I stop there.

23 1717 Could you give us some direction on

24 what an audit trail would be within this context?

25 1718 MR. BURNEY: Well, this is coming

1 from the PCO. This is the agency of flashing lights
2 and the government. This is the Prime Minister's
3 department, remember --

4 1719 MR. ROITENBERG: Yes.

5 1720 MR. BURNEY: -- the secretariat to
6 the Cabinet, so I'm assuming Ward Elcock was the
7 legal advisor in the PCO, I'm assuming he's saying by
8 audit trail there is no record of Cabinet discussion,
9 Cabinet Committee discussion of this, and I'm assuming
10 that that's what he's referring to, that there's no
11 record of Cabinet having discussed this and yet it's
12 being cast as a possible commitment that the government
13 is making.

14 1721 MR. ROITENBERG: Okay.

15 1722 MR. BURNEY: That's my interpolation.

16 1723 Sometimes legalese, as you
17 undoubtedly know, can be used to convey many messages.

18 1724 MR. ROITENBERG: Absolutely. If I
19 could put that perhaps in --

20 --- Off microphone / Sans microphone

21 1725 MR. BURNEY: Touché!

22 1726 MR. ROITENBERG: If I could put it
23 in simpler terms, it seems as if there was some
24 concerns being voiced about whether or not this
25 project was following along what they might refer to as

1 due process.

2 1727 MR. BURNEY: I wouldn't go that far
3 perhaps, but I think what I would say to you is part of
4 my job in dealing with matters of this kind was to work
5 very closely with the PCO to ensure that the process we
6 were following, let alone the judgment we were heading
7 towards, did not trip any wires of any kind.

8 1728 So it would not be unnatural for me
9 to refer an Understanding in Principle to the PCO for
10 an opinion, it would not be unnatural for the PCO to
11 refer it to the Department of Justice for an opinion,
12 both of which happened as you know in this case --

13 1729 MR. ROITENBERG: Yes.

14 1730 MR. BURNEY: -- both of which raised
15 flags and both of which flags then were represented in
16 changes that were made to the Understanding.

17 1731 MR. ROITENBERG: So long and the
18 short of it is, this was a check that was being done to
19 determine if any of those people responsible for
20 ensuring compliance with process --

21 1732 MR. BURNEY: Had problems.

22 1733 MR. ROITENBERG: -- whether there
23 were any bells going off

24 1734 MR. BURNEY: Whether they had any
25 problems, exactly.

- 1 1735 MR. ROITENBERG: Okay.
- 2 1736 At Tab 5 is a memorandum to Don
3 McPhail of ACOA from Paul Bernier who was with the ACOA
4 office in Ottawa. It has in here a reference to a
5 request that you made of Paul Tellier who was then the
6 Chief Clerk of the Privy Council, if I'm not mistaken,
7 to proceed in a particular fashion, and that fashion
8 was if the proposed Understanding in Principle had no
9 significant commitment on the part of the government,
10 then the Minister should be signing or, if there
11 weren't legally binding wording in that agreement, that
12 should be altered so that there was no legally binding
13 effect and then the Minister should sign.
- 14 1737 MR. BURNEY: Yes. Right.
- 15 1738 MR. ROITENBERG: Would that be a
16 correct characterization of the request that you recall
17 making of Mr. Tellier?
- 18 1739 MR. BURNEY: I don't recall making
19 the request, but it's certainly consistent with the way
20 I would have operated.
- 21 1740 MR. ROITENBERG: So specifically you
22 don't recall the request, but this would be something
23 that, looking back, would be consistent with the manner
24 in which you were dealing with this issue?
- 25 1741 MR. BURNEY: And other issues, yes.

1 1742 MR. ROITENBERG: Similarly, at Tab 6
2 is a memorandum to Lowell Murray from Mr. McPhail which
3 at page 1 comments on Derek Burney instructing him to
4 modify if necessary the Understanding in Principle
5 pending the legal advice from the Department of Justice
6 so as to ensure no significant commitment on the part
7 of government would arise from the signing of the UIP.

8 1743 Again, that would be consistent with
9 your recall of how you dealt with this, although you
10 don't specifically recall giving those instructions to
11 Mr. McPhail?

12 1744 MR. BURNEY: That's correct.

13 1745 MR. ROITENBERG: On the second page
14 of that document, in the second to last paragraph --
15 again, this is a memo from Mr. McPhail to Senator
16 Murray, it says that:

17 "You should be aware that
18 although this was not the
19 outcome of the July 27th meeting
20 on Thyssen chaired by
21 Mr. Mazankowski, the Privy
22 Council office, for reasons of
23 due process, is urging that the
24 Thyssen initiative be discussed
25 by Cabinet." (As read)

1 1746 So this reverts back to the
2 audit trail --

3 1747 MR. BURNEY: Exactly.

4 1748 MR. ROITENBERG: -- that was
5 mentioned a couple of documents earlier, that there is
6 a process that needs to be followed and if there are
7 concerns that it hasn't been followed, let's make sure
8 it goes back on that correct course.

9 1749 MR. BURNEY: Yes.

10 1750 The only comment I would like to add
11 is, you know, ministers have a say on these things. I
12 don't want to create the impression that ministers
13 blindly follow the direction of the PCO or the PMO.
14 It's not as easy as that.

15 1751 So you have to bear in mind that
16 it's not automatic that if the PMO says this is
17 something that ministers should sign, it doesn't
18 necessarily mean they are going to sign it. It doesn't
19 operate that way.

20 1752 I'm not trying to detract from your
21 line of thinking here, I just want to make sure that I
22 don't give the impression that ministers don't have
23 views of their own, because they did and they do.

24 1753 MR. ROITENBERG: And I'm not
25 suggesting they don't. In fact, this might be an

1 opportune time, if you could, to share with the
2 Commissioner the interplay that would occur in such
3 an instance, if the Prime Minister's office had a view,
4 if the Privy Council office had a view, how that might
5 be shared with the Minister and how some consensus
6 might be reached.

7 1754 MR. BURNEY: Well, it's the joint
8 responsibility -- at least it was when I was in the
9 PMO -- of the PMO and the PCO to operate together on
10 these kinds of things, with the PCO being the master
11 of the process and the PMO presumably the master of
12 the politics.

13 1755 So the blend would be to try to get
14 ministers to come together on an issue.

15 1756 If we were not able to do that in an
16 informal way, with the kind of meetings that were
17 taking place here, before adhering to the correct
18 process, the next option for us at this time in
19 government -- that's the way it operated then that
20 is -- was we had an Operations Committee of Cabinet
21 chaired by the Deputy Prime Minister. This was what I
22 would call a filter, a day-to-day filter that was used
23 primarily to contain individual pet projects by
24 individual ministers but which were not necessarily
25 consistent with the government's overall agenda.

1 1757 So if the informal message didn't
2 achieve the correct result, the next option was to move
3 it to the Operations Committee where those kinds of
4 issues could be resolved with very blunt discussion
5 among ministers.

6 1758 The objective always was to keep the
7 Prime Minister away from these things, to keep him away
8 from having to be involved in conflict resolution. If
9 you think of chess, think of the king.

10 1759 MR. ROITENBERG: Now, I understand
11 from some of the documents that you have looked at --
12 and we will come to some of them in a moment -- that at
13 one point you were called upon to have a meeting
14 between Senator Murray, who was the Minister for ACOA
15 and the Minister of National Defence, at the time
16 Perrin Beatty, to discuss the possibility of having
17 National Defence sign the Understanding in Principle.

18 1760 Is that an uncommon thing, for the
19 Chief of Staff of the Prime Minister's office to take
20 on this mediation type role?

21 1761 MR. BURNEY: Not at all, it
22 was fairly common practice then, I think even more
23 so today.

24 1762 MR. ROITENBERG: Do you recall what
25 the primary concern was of the Ministry of National

1 Defence in terms of entering this agreement?

2 1763 MR. BURNEY: Yes. The one vivid
3 memory I have of that year on this issue -- there were,
4 as I said, many other issues going on, not the least of
5 which was free trade at the time -- and I could be
6 mistaken obviously, but I certainly seem to remember
7 that the Deputy Minister of National Defence had a very
8 strong negative view about the concept and in
9 particular about any form of commitment or binding
10 direction that the Understanding or any other agreement
11 would lay on the Department of National Defence.

12 1764 That was the primary negative in the
13 discussion that I can remember, and I think it's also
14 reflected in something that we haven't come to yet, but
15 which is Mr. Beatty's letter to me -- or to Senator
16 Murray I think it was, underscoring that he has signed
17 this on the understanding that it is exactly what it is
18 and it is not what it is not kind of thing.

19 1765 So most definitely there was concern
20 in the Department of National Defence, for whatever
21 reason, that they not be bound to make a commitment to
22 purchase something that had not yet been produced.

23 1766 MR. ROITENBERG: They didn't want to
24 be bound to a sole source contract.

25 1767 MR. BURNEY: They did not want to be

1 bound to a sole source contract of that kind.

2 1768 It's not unknown for the Department
3 of National Defence to be involved in sole source
4 contracts, we have to make that distinction, but in
5 this case it would have been a sole source contract for
6 equipment that had not yet been built.

7 1769 COMMISSIONER OLIPHANT: I'm sorry,
8 Mr. Roitenberg.

9 1770 Might I ask you, because you are
10 using terminology with which you are familiar and which
11 I am not particularly familiar.

12 1771 Is there a difference between a
13 directed contract and a sole source contract and, if
14 so, what is that difference.

15 1772 MR. BURNEY: I don't really think
16 there is a difference, I think it's the same
17 terminology. It arrives at the same end. I mean it
18 simply means there is no competition.

19 1773 MR. ROITENBERG: Mr. Commissioner, I
20 was going to have Mr. Burney clarify that once I added
21 one further term to determine if amongst the three
22 there was any difference, and that is the
23 recommendation of a preferred bidder to Cabinet.

24 1774 Would that be a similar concept to a
25 sole source contract or a directed contract?

1 1775 MR. BURNEY: Well, I can only answer
2 it in a speculative way, but a preferred bidder would
3 not necessarily be the winning bidder. In other words,
4 it could be a preferred bidder being recommended, then
5 it would depend on what the rationale for the
6 preference was, Canadian content for instance.

7 1776 But that would not be as exclusive in
8 my mind as single source or a directed contract.
9 Single source or directed doesn't allow any wiggle room
10 whatsoever. A preferred recommendation obviously gives
11 a bit of wiggle room.

12 1777 MR. ROITENBERG: The reason I throw
13 that phrase into the mix is because if you go to the
14 next document, Document 7, which is an Aide Memoir from
15 September 16, 1988, and if you go to the third page of
16 the document as it appears in the binder, it
17 characterizes --

18 1778 MR. BURNEY: Somebody was very upset
19 with the version I have, it has lines through it all
20 over the place.

21 --- Laughter / Rires

22 1779 MR. ROITENBERG: We give them as we
23 get them. That's all I can say.

24 1780 MR. BURNEY: This is what you get
25 from your government.

1 1781 MR. ROITENBERG: In the middle of the
2 page it speaks of the September 14th meeting --

3 1782 MR. BURNEY: You're on page 3?

4 1783 MR. ROITENBERG: Yes, sir. Page 3 of
5 the document, I think it is page 5 of the Aide Memoir.

6 1784 MR. BURNEY: Sorry. Okay.

7 1785 MR. ROITENBERG: Right in the middle
8 of the page.

9 1786 MR. BURNEY: September 12th?

10 1787 MR. ROITENBERG: September 12th. It
11 says there was a meeting between Senator Murray with
12 Mr. de Cotret.

13 1788 MR. BURNEY: Yes.

14 1789 MR. ROITENBERG: If you keep going
15 down the page, September 14th --

16 1790 MR. BURNEY: Yes...?

17 1791 MR. ROITENBERG: -- "Mr. Derek Burney
18 chaired a meeting" --

19 1792 MR. BURNEY: Yes.

20 1793 MR. ROITENBERG: -- "attended by
21 Senator Murray and Mr. Beatty."

22 1794 And it sets forth the conditions
23 under which Mr. Beatty agreed to sign the Understanding
24 in Principle --

25 1795 MR. BURNEY: Yes.

1 1796 MR. ROITENBERG: -- which included
2 the ability to recommend a preferred bidder to Cabinet
3 at clause 2.

4 1797 There were three clauses
5 specifically --

6 1798 MR. BURNEY:
7 "... was not limiting his
8 discretion to determine the
9 timing of the LAV project and a
10 recommended preferred bidder to
11 Cabinet." (As read)

12 1799 MR. ROITENBERG: Yes.

13 1800 MR. BURNEY: So I'm not sure the
14 meaning of that.
15 "The Minister of Defence was not
16 limiting his discretion to
17 determine the timing and to
18 recommend..." (As read)

19 1801 So he's not limiting his discretion
20 in either case.

21 1802 MR. ROITENBERG: Yes.

22 1803 MR. BURNEY: Is that how you read it?

23 1804 MR. ROITENBERG: That's how I have
24 read it.

25 1805 MR. BURNEY: Yes, okay.

1 1806 MR. ROITENBERG: Unfortunately my
2 reading won't be determinative. Your reading as you
3 look at that, what do you recall, if anything, of
4 the conditions?

5 1807 MR. BURNEY: I don't recall.

6 1808 MR. ROITENBERG: You don't?

7 1809 MR. BURNEY: I really don't recall.
8 And it looks like very embroidered language which only
9 the PCO could draft.

10 1810 MR. ROITENBERG: But in essence what
11 you do recall and what this might assist you in
12 recalling is that the Ministry of National Defence
13 didn't want to have its hands tied --

14 1811 MR. BURNEY: Exactly.

15 1812 MR. ROITENBERG: -- by this agreement
16 in any way.

17 1813 MR. BURNEY: In terms of time, in
18 terms of quantity, in any way, you're right.

19 1814 MR. ROITENBERG: In terms of even
20 going ahead with the project to purchase LAVs.

21 1815 MR. BURNEY: Exactly. Although I
22 don't know about that. I think, you know, LAVs may
23 have been part of their -- they are never short of a
24 wish list, the Department of National Defence.

25 1816 MR. ROITENBERG: If you look at the

1 first condition:

2 "The company be informed clearly
3 that in signing the UIP the
4 Minister..." (As read)

5 1817 MR. BURNEY: I'm sorry, where are
6 you now?

7 1818 MR. ROITENBERG: The first condition,
8 same paragraph we were reading.

9 1819 MR. BURNEY: Oh!

10 1820 MR. ROITENBERG:
11 "The company be informed clearly
12 that in signing the UIP the
13 Minister of National Defence was
14 not binding the government to
15 proceed with the LAV project."
16 (As read)

17 1821 MR. BURNEY: Well, that's pretty
18 explicit.

19 1822 MR. ROITENBERG: So they didn't want
20 to be bound in any way.

21 1823 MR. BURNEY: I think, if I can
22 elaborate a bit...?

23 1824 MR. ROITENBERG: Sure.

24 1825 MR. BURNEY: You know, the Department
25 of National Defence was in the throes of a major

1 defence policy review at the time. Some may recall
2 that they were contemplating nuclear submarines for
3 Canada, among other things, and it could well be that
4 the Minister's concern about not locking into something
5 like an LAV purchase was because he wanted to wait
6 until the defence policy review had been concluded and
7 gave a broader, you know, frame of reference for
8 equipment purchase.

9 1826 Now, that's pure speculation on my
10 part, but I'm trying to remember there was a major
11 defence policy review under way at that time. That was
12 one of the three topics that the Prime Minister had
13 raised with me when I joined the PMO in 1987. So that
14 could be an extension of that.

15 1827 MR. ROITENBERG: And major purchases
16 such as re-fitting the Armed Forces with new LAV's
17 might be something that might meet the scissors when
18 the budget needs to be reviewed.

19 1828 MR. BURNEY: Yes. Well, when the
20 policy is established which creates the basis for a
21 budget for equipment.

22 1829 MR. ROITENBERG: Now, at Tab 8 we
23 have a letter, and I believe you have made reference to
24 it already, it's a letter to Senator Murray from Perrin
25 Beatty, then Minister of National Defence, which

1 appears to confirm the preconditions as outlined in
2 that Aide Memoir reflecting the September 14th meeting,
3 suggesting, as you put it, that this contract is what
4 it is and shouldn't be construed to be what it is not.

5 1830 MR. BURNEY: Exactly.

6 1831 MR. ROITENBERG: One of the changes
7 that was made to the Understanding in Principle, or the
8 changes that were made to the Understanding in
9 Principle, were to be reflective of the concerns raised
10 by the Minister of National Defence.

11 1832 Is that right?

12 1833 MR. BURNEY: Yes.

13 1834 MR. ROITENBERG: In fact at Tab 10 we
14 see a memorandum and the accompanying letter mentioned
15 in the memorandum, and the letter was forwarded under
16 Senator Murray's hand to Mr. Schreiber on behalf of
17 Bear Head Industries outlining the changes to the
18 agreement and having the agreement as an accompaniment
19 to the letter.

20 1835 Is that fair?

21 1836 MR. BURNEY: Yes.

22 1837 MR. ROITENBERG: And in fact at
23 page 2, paragraph 3 there is emphasis put in this
24 letter, in compliance with the request of Mr. Beatty
25 on behalf of the Ministry of National Defence,

1 emphasizing that the Government of Canada in so signing
2 cannot and does not thereby commit itself to any
3 military or other procurement projects with which you
4 may have a present interest.

5 1838 MR. BURNEY: Exactly.

6 1839 MR. ROITENBERG: So not only is it
7 clear in the Understanding in Principle, it was made
8 clear in the letter that accompanied the Understanding
9 in Principle.

10 1840 MR. BURNEY: Correct.

11 1841 MR. ROITENBERG: In dealing with
12 the Bear Head Project and the manner in which the
13 Understanding in Principle was negotiated and in
14 fact agreed upon, did you perceive anything untoward in
15 the process?

16 1842 MR. BURNEY: No, I did not. Nothing
17 sinister is what I think I said earlier.

18 1843 MR. ROITENBERG: Did you at any time
19 received direction from the Rt. Hon. Brian Mulroney as
20 to how this matter should be handled or dealt with?

21 1844 MR. BURNEY: No, I did not.

22 1845 MR. ROITENBERG: Did you even discuss
23 it with him?

24 1846 MR. BURNEY: I may well have
25 discussed it with him in the course of the summary of,

1 you know, my day's activities or in some context of,
2 you know -- I don't recall it, but I can't say
3 categorically that I never made any reference to it in
4 any discussion with him.

5 1847 Our method of operation, Mr. Mulroney
6 spends a lot of time on the telephone and so a lot of
7 times he would review the events of the day, not in
8 person, but by phone. So it's quite conceivable if I
9 had as many meetings as the record suggests that at
10 some point I may have informed him that I was
11 endeavouring to reconcile the differences among
12 ministers on the project.

13 1848 I just don't remember. And I don't
14 have a record that would tell me that I ever did it,
15 because I assume if there were such a document, a memo
16 from me to him, it would have been found.

17 1849 MR. ROITENBERG: If you would have
18 received explicit or express direction from him, is
19 that something you would recall?

20 1850 MR. BURNEY: Yes, I would think so.
21 He's not very shy.

22 1851 MR. ROITENBERG: Now, if I could for
23 the uninitiated, the interplay between your office, and
24 you being Chief of Staff of the PMO, and the head of
25 the PCO at the time, Mr. Tellier, if you could perhaps

1 enlighten the Commissioner as to how there was a
2 division of labour or how you shared information one to
3 the other?

4 1852 MR. BURNEY: Well, I think it was
5 unique in that you had a bureaucrat on top of the PMO
6 and you had a bureaucrat on top of the PCO, so we had
7 more in common than is usually the case because it was
8 very unusual to have a bureaucrat as the Chief of Staff
9 in the PMO.

10 1853 And Mr. Tellier and I were colleagues
11 before, we were colleagues during and we remain
12 colleagues to this day. He and I served on the
13 Afghanistan panel a year ago.

14 1854 And I would venture to say we
15 established a professional relationship between the PMO
16 and the PCO that helped stabilize the affairs of the
17 government. In other words, I'm a great believer --
18 and I apologize for giving a mini sermon here,
19 Commissioner, but the advice I give to ministers
20 repeatedly is if you learn to work with your senior
21 public servants you will be more successful than if you
22 decide to work against your senior public servants.

23 1855 Well, the same theory applies to my
24 approach to working with the PCO, I had no difficulty
25 working and drawing on the resources of the PCO for

1 intelligence, for advice, for support in any way
2 different than I would have called departments and
3 requested the same degree of support.

4 1856 I didn't see a line between my role
5 as Chief of Staff in the PMO and the role of the
6 bureaucrats in the way that it would normally be seen.
7 So, as I say, the situation was unique.

8 1857 But Mr. Tellier and I met together
9 with the Prime Minister almost on a weekly basis and
10 that was another important way to signal to our
11 respective offices that we were not in competition, we
12 were working together to try to move the government's
13 and the Prime Minister's agenda forward. Symbols and
14 that kind of thing are very important in this city.

15 1858 MR. ROITENBERG: Was there ever a
16 time where you yourself and Mr. Tellier on behalf of
17 PCO had a differing of opinion as to how this matter
18 should be handled?

19 1859 MR. BURNEY: Not that I recall. We
20 had many other differences, but not on this one.

21 1860 MR. ROITENBERG: We have discussed
22 the fact that we had certain ministers in favour of
23 this project, certain ministers against it.

24 1861 I take it you would agree that there
25 were very good and valid political reasons to be on

1 either side of that fence.

2 1862 Would that be fair?

3 1863 MR. BURNEY: Absolutely. I mean you
4 have to remember Atlantic Canada is not exactly where a
5 lot of manufacturing jobs exists, so the notion, the
6 concept that we were going to have something that was
7 going to deliver 500 jobs to Cape Breton -- I guess I
8 should admit that my father was born in Nova Scotia, to
9 the extent that that's relevant --

10 1864 MR. ROITENBERG: All potential biases
11 should be revealed.

12 1865 MR. BURNEY: Yes. Well, it's
13 declared. I know. I know.

14 1866 No, seriously though, regional
15 development, ACOA, I mean this was axiomatic and, you
16 know, this was, don't forget, where the Prime Minister
17 had won his by-election. He won his by-election to
18 come into Parliament in Nova Scotia, so there were a
19 lot of interesting political factors in play.

20 1867 MR. ROITENBERG: You discussed before
21 the manner in which differences were settled amongst
22 caucus members or Cabinet ministers and it's fair to
23 say that the Chief of Staff of the Prime Minister's
24 office had a role to play in mending fences or fissures
25 that might have occurred between members of Cabinet.

- 1 1868 Fair?
- 2 1869 MR. BURNEY: Yes.
- 3 1870 MR. ROITENBERG: Yesterday we heard
4 that your successor, Stanley Hart, may have suggested
5 to then Minister of Defence McKnight that he hold
6 meetings with other Cabinet members or representatives
7 of Bear Head Industries to see if there could be some
8 kind of drawing to a close of the project or some kind
9 of consensus or some kind of mending of the fences.
- 10 1871 Would that have been inconsistent
11 with what you saw as the role of Chief of Staff of the
12 PMO, to give that advice?
- 13 1872 MR. BURNEY: No. I mean I can't
14 speak for Stanley Hart but, as I said earlier, the job
15 of the Chief of Staff is to try to smooth ruffled
16 feathers, tried to keep the ship of state afloat, try
17 to keep conflicts to a minimum, because the last thing
18 you want is for a public display of a disagreement
19 within Cabinet on a sensitive concept or project.
- 20 1873 So the Chief of Staff I think would
21 use whatever resources are at his disposal to try to
22 keep the conflict down, keep it down, keep the
23 temperature down.
- 24 1874 MR. ROITENBERG: Mr. Burney, I thank
25 you so much for joining us today. I think there may be

1 others who have some questions of you.

2 1875 MR. BURNEY: Thank you.

3 1876 MR. ROITENBERG: So if you would wait
4 there, please.

5 1877 COMMISSIONER OLIPHANT: Perhaps,
6 Mr. Pratte, before we begin with your examination of
7 Mr. Burney -- I assume you have some questions -- we
8 will take the afternoon break, 15 minutes. Okay.

9 1878 THE REGISTRAR: All rise. Veuillez
10 vous lever.

11 --- Upon recessing at 2:36 p.m. / Suspension à 14 h 36
12 --- Upon resuming at 2:55 p.m. / Reprise à 14 h 55

13 1879 COMMISSIONER OLIPHANT: Mr. Pratte...
14 EXAMINATION: DEREK H. BURNEY BY MR. PRATTE /
15 INTERROGATOIRE: DEREK H. BURNEY PAR Me PRATTE

16 1880 MR. PRATTE: Good afternoon, Mr.
17 Burney. My name is Guy Pratte and I represent the
18 Right Honourable Brian Mulroney.

19 1881 I only have a few questions for you,
20 and they relate, really, to an aspect that you have
21 only touched on briefly, which is your international
22 experience, if I might call it that.

23 1882 You have told us that you were in the
24 foreign service for some 25 years, or whatever --

25 1883 MR. BURNEY: Thirty.

1 1884 MR. PRATTE: Thirty years, including
2 two stints as ambassador, once, I think, to Korea,
3 before you became chief of staff, and when you left in
4 '89, as Canadian Ambassador to the United States.

5 1885 How long did that last, that stint as
6 U.S. ambassador?

7 1886 MR. BURNEY: Four years.

8 1887 MR. PRATTE: Until the new
9 government, essentially -- until Mr. Mulroney resigned?

10 1888 MR. BURNEY: No, no, it was the
11 entire tour of George Bush, Sr.

12 1889 MR. PRATTE: Now, in that vast
13 experience in the international arena, Mr. Burney, how
14 would you characterize the importance of personal
15 relationships between leaders?

16 1890 MR. BURNEY: Oh, I think it's a very
17 important factor in diplomacy.

18 1891 Again, I refer you to my book.

19 1892 But, seriously, especially in the
20 context of Canada-U.S. relations, I think that
21 Canadians have seen times when the personal
22 relationship has been warm and when it hasn't been so
23 warm, and that obviously doesn't change everything, but
24 it certainly has an effect on the relationship
25 generally.

1 1893 What it really does for diplomats is
2 that it provides access. When the relationship is on a
3 good footing, diplomats have access at the senior
4 levels in Washington. When the relationship is not on
5 a good footing, that access is much more circumscribed.

6 1894 MR. PRATTE: Apart, specifically,
7 from your role as ambassador, or in the foreign service
8 generally, when you were chief of staff for Mr.
9 Mulroney from '87 to '89, was your work also involving
10 trips to foreign countries and accompanying the Prime
11 Minister to meet with various leaders?

12 1895 MR. BURNEY: I actually got to meet
13 the Prime Minister in the first instance in 1984,
14 because he went to Washington within one week of being
15 sworn in as prime minister. At the time, I was dealing
16 with the United States from what was then the
17 Department of External Affairs.

18 1896 I then accompanied him in a similar
19 capacity on a trip to Asia that he made in 1986, and
20 while I was in Washington I served as his sherpa, or
21 senior official, on the G7 summits for three years in a
22 row. So I spent a lot of time with him, with
23 international leaders, particularly, in the countries
24 that we visited together and at the G7 summits.

25 1897 MR. PRATTE: When you were Ambassador

1 to the United States, there was a time around 1980
2 during the Iraq War, in particular --

3 1898 Do you recall that?

4 1899 MR. BURNEY: The Gulf War.

5 1900 MR. PRATTE: The Gulf War, yes.

6 1901 MR. BURNEY: There is a distinction.

7 1902 MR. PRATTE: There is a distinction,
8 indeed. We know that now, anyway.

9 1903 You will recall that the United
10 States' policy at the time was to get United Nations'
11 support around that initiative. Correct?

12 1904 MR. BURNEY: Yes.

13 1905 MR. PRATTE: Do you know whether or
14 not Mr. Mulroney was pressing President Bush at the
15 time to ensure that the United Nations was involved in
16 the initiative that the United States had decided upon?

17 1906 MR. BURNEY: Very much so. I was at
18 a meeting with the Prime Minister and the President in
19 Kennebunkport, where that was exactly the topic, and
20 the Prime Minister was cautioning him against those who
21 were advocating a surgical strike on Iraq, and
22 cautioning him in favour of a UN-supported mandate,
23 because he thought that it would be important to enlist
24 some of the support from our European allies, in
25 particular.

1 1907 So that was very much Mr. Mulroney's
2 view at the time, and it was very much what influenced
3 his decision to commit Canadian troops to the Gulf War.

4 1908 MR. PRATTE: Would you say that, as a
5 general matter, Prime Minister Mulroney wanted to
6 ensure that Canada's reputation and influence at the
7 United Nations was felt, including its reputation as a
8 leader in peacekeeping?

9 1909 MR. BURNEY: Indeed, because at the
10 time we were on the Security Council. Canada was
11 represented at the Security Council for the two years
12 that was at the time of the Gulf War, so certainly the
13 United Nations and Canada's role as a peacekeeper was
14 very much part of Mr. Mulroney's foreign policy
15 priorities, and certainly something that he was very
16 conversant on in meetings with his fellow leaders.

17 1910 MR. PRATTE: In your view, in respect
18 of peacekeeping initiatives, in particular, sponsored
19 by the United Nations, is standardization of equipment
20 that might be used by the various countries, so that
21 they can talk to one another -- or, if it is not the
22 same equipment, but the standardization of that
23 equipment -- is that an important initiative, or an
24 important feature of effective peacekeeping?

25 1911 MR. BURNEY: I think it is certainly

1 an element in moving toward more effective
2 peacekeeping. I guess that financial commitments and
3 standardization of equipment go hand-in-hand.

4 1912 But it's not just the United Nations,
5 standardization is an issue for NATO, as well.

6 1913 It is certainly a critical component
7 of effective peacekeeping, on the one hand, and an
8 effective alliance operation, secondly, as we are
9 witnessing today in Afghanistan.

10 1914 MR. PRATTE: Thank you, sir.

11 1915 COMMISSIONER OLIPHANT: Thank you,
12 Mr. Pratte.

13 1916 MR. HOUSTON: I have no questions,
14 thank you, Mr. Commissioner.

15 1917 COMMISSIONER OLIPHANT: Mr. Houston,
16 thank you.

17 1918 Mr. Vickery, do you have any
18 questions, sir?

19 1919 MR. VICKERY: No, thank you.

20 1920 COMMISSIONER OLIPHANT: No questions.
21 1921 Mr. Auger...?

22 1922 MR. AUGER: No questions.

23 1923 COMMISSIONER OLIPHANT: Thank you.

24 EXAMINATION: DEREK H. BURNEY BY COMMISSIONER
25 OLIPHANT / INTERROGATOIRE: DEREK H. BURNEY PAR

1 COMMISSAIRE OLIPHANT

2 1924 COMMISSIONER OLIPHANT: Just before
3 you leave, Mr. Burney, a couple of questions, if I
4 might.

5 1925 You referred in your evidence, for
6 which I thank you, to differences of opinion that arose
7 on the issue of the Understanding in Principle, and you
8 told me about the joint responsibility of the Prime
9 Minister's Office and the Privy Council Office to
10 operate together in an attempt to get ministers to come
11 together where differences of opinion occurred, and if
12 that didn't result in resolving the problem, the next
13 step was to go to the Operations Committee, chaired by
14 the Deputy Prime Minister.

15 1926 MR. BURNEY: Correct.

16 1927 COMMISSIONER OLIPHANT: Was that Mr.
17 Mazankowski?

18 1928 MR. BURNEY: Yes, it was, sir.

19 1929 COMMISSIONER OLIPHANT: Then you went
20 on to say that one of your objectives was to distance
21 the Prime Minister from conflict resolution himself,
22 and you were asked, you said, to try to get Mr. Murray,
23 now Senator Murray, together with Perrin Beatty to try
24 to resolve the issues that were in effect as between
25 them, and you said that wasn't unusual at all.

1 1930 Do you remember that?

2 1931 MR. BURNEY: Yes.

3 1932 COMMISSIONER OLIPHANT: You also said
4 that you recall that the Minister of National Defence
5 had strong views about the ministry becoming entangled
6 with the UIP if there were going to be commitments.

7 1933 MR. BURNEY: Correct.

8 1934 COMMISSIONER OLIPHANT: Was that
9 Deputy Minister Robert Fowler?

10 1935 MR. BURNEY: Yes, it was.

11 1936 I am pretty sure. I am 99 percent
12 sure.

13 1937 COMMISSIONER OLIPHANT: In respect of
14 the questions that were asked of you by Mr. Pratte, who
15 was talking to you about peacekeeping initiatives, you
16 were giving evidence about your involvement with Prime
17 Minister Mulroney and President George Herbert Bush, at
18 Kennebunkport, involving the United Nations.

19 1938 You don't characterize what was going
20 on there as peacekeeping, do you?

21 1939 MR. BURNEY: It is peacemaking.

22 1940 COMMISSIONER OLIPHANT: Yes, and
23 there is a difference, isn't there?

24 1941 MR. BURNEY: There is a difference,
25 you are right.

1 1942 COMMISSIONER OLIPHANT: What is that
2 difference?

3 1943 MR. BURNEY: The difference between
4 peacekeeping and peacemaking is that peacemaking exists
5 when you have no peace to keep.

6 1944 So, in the case of the Gulf War, the
7 United Nations was authorizing a mission to push Iraq
8 out of Kuwait, and, as you may recall, there was a big
9 debate at the time -- "Why didn't you finish the job
10 and go all the way to Baghdad."

11 1945 COMMISSIONER OLIPHANT: Yes, General
12 Schwarzkopf --

13 1946 MR. BURNEY: Yes.

14 1947 COMMISSIONER OLIPHANT: -- and
15 General Powell had a difference of opinion.

16 1948 MR. BURNEY: Exactly, and President
17 Bush was criticized subsequently for not having
18 completed the job, which his son then tried to do.

19 1949 So it was a different mandate from
20 the normal peacekeeping mandate, where there is a case
21 of strife, but there is an armistice, or, as in the
22 case of Suez, where it goes back to -- we are actually
23 going in there and your soldiers are not involved in
24 combat, they are involved in patrolling and trying to
25 preserve an existing agreement.

1 1950 COMMISSIONER OLIPHANT: Now -- and
2 this is the point I wanted to get to -- despite the
3 fact that we are talking, with respect to the Gulf War,
4 about peacemaking rather than peacekeeping, those
5 things that enhance the ability of different nations to
6 work together, such as equipment that is similar, using
7 9mm firearms, or 7.62 firearms, so that they can work
8 together, that is the same whether it is peacekeeping
9 or peacemaking, is it not?

10 1951 MR. BURNEY: For the most part,
11 although heavy weaponry wouldn't be as much involved
12 in --

13 1952 The real issue, Commissioner, is UN
14 sanction. If the mission is sanctioned by the United
15 Nations, the difference between peacemaking and
16 peacekeeping becomes a little less relevant, frankly.

17 1953 COMMISSIONER OLIPHANT: Right.

18 1954 MR. BURNEY: But, no, you are right,
19 I think that the issue of standardization -- all I was
20 saying was, it's not just an issue for the United
21 Nations, it's an issue for the alliance --

22 1955 COMMISSIONER OLIPHANT: Exactly.

23 1956 MR. BURNEY: -- interoperability. I
24 mean, there was a problem in the Gulf War because the
25 Canadian F-18s couldn't communicate with the American

1 F-18s, which is why we were restricted to a certain
2 function in the Gulf War.

3 1957 These are problems that plague the
4 alliance and undermine the effectiveness of UN
5 operations.

6 1958 COMMISSIONER OLIPHANT: The point
7 being, whether it's peacekeeping or peacemaking, the
8 points that Mr. Pratte was making with you are valid.

9 1959 MR. BURNEY: Exactly.

10 1960 COMMISSIONER OLIPHANT: Okay. Thank
11 you.

12 1961 Does anybody have any questions
13 arising out of the questions that I have just asked?

14 1962 Mr. Roitenberg...?

15 1963 MR. ROITENBERG: No, thank you.

16 1964 COMMISSIONER OLIPHANT: Mr.
17 Pratte...?

18 1965 MR. PRATTE: No, thank you, sir.

19 1966 COMMISSIONER OLIPHANT: Mr.
20 Houston...?

21 1967 MR. HOUSTON: No, sir, thank you.

22 1968 COMMISSIONER OLIPHANT: Mr. Auger...?

23 1969 MR. AUGER: No, thank you.

24 1970 COMMISSIONER OLIPHANT: Mr.
25 Vickery...?

1 1971 MR. VICKERY: No, thank you.

2 1972 COMMISSIONER OLIPHANT: All right.

3 Is there any reason why Mr. Burney cannot be excused at
4 this time, counsel?

5 1973 MR. WOLSON: No reason at all.

6 1974 Thank you, Mr. Burney.

7 1975 COMMISSIONER OLIPHANT: Mr. Burney,
8 thank you very much for coming to be with us today.

9 1976 MR. BURNEY: Thank you.

10 1977 COMMISSIONER OLIPHANT: Good
11 afternoon.

12 1978 MR. WOLSON: Mr. Commissioner, those
13 are the witnesses that we had scheduled for these past
14 two days. As you know, your ruling the other day was
15 that we would reconvene on the 14th of April, at which
16 time, I can tell you, as I said yesterday, I will call
17 Mr. Schreiber to testify.

18 1979 I expect, as I said, his testimony to
19 take some time, and we will proceed on the 14th, if
20 those are your wishes.

21 1980 COMMISSIONER OLIPHANT: Well, that is
22 what we agreed to, and that is what is going to occur.
23 We will adjourn at this time until the 14th.

24 1981 I know that all counsel -- at least I
25 understand that all counsel require more time to

1 prepare for the balance of Part 1 of this inquiry, and
2 I hope that each counsel uses his or her time in a
3 valuable way, and I wish all of you a happy Passover or
4 a happy Easter, as the case may be.

5 1982 Thank you very much.

6 --- Whereupon the hearing adjourned at 3:10 p.m., to
7 resume on Tuesday, April 14, 2009, at 9:30 a.m. /
8 L'audience est ajournée à 15 h 10, pour reprendre
9 le mardi 14 avril 2009 à 9 h 30

10

11 We hereby certify that we have accurately
12 transcribed the foregoing to the best of
13 our skills and abilities.

14

15 Nous certifions que ce qui précède est une
16 transcription exacte et précise au meilleur
17 de nos connaissances et de nos compétences.

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21 _____
Lynda Johansson

Jean Desaulniers

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25 _____
Sue Villeneuve