CJC
CCM

Canadian
Judicial Council

Conseil canadien
de la magistrature

Ruling of the Inquiry Committee concerning the Hon. Lori Douglas with respect to the motion to disqualify all members of the Inquiry Committee on the basis of alleged reasonable apprehension of bias

20 August 2012

Décision du Comité d'enquête au sujet de l'hon. Lori Douglas concernant la demande en récusation de tous les membres du Comité d'enquête en raison d'une allégation de crainte raisonnable de partialité

(v. originale en anglais)

le 20 août 2012

RULING ON THE MOTION TO DISQUALIFY ALL MEMBERS

OF THE INQUIRY COMMITTEE

ON THE BASIS OF ALLEGED REASONABLE APPREHENSION OF BIAS

I. Introduction

[1] On July 26, 2012, counsel for Associate Chief Justice Douglas (Judge's Counsel) made a motion to disqualify all members of this Inquiry Committee on the basis of reasonable apprehension of bias. The apprehension of bias was said to arise on the basis that counsel to the Committee, George Macintosh, Q.C. (Committee Counsel), asked two witnesses, Michael Sinclair, former managing partner of the Judge's former law firm, and Jack King, spouse of the Judge, a number of questions relating to their evidence. The essence of the claim was that the fact and manner of Committee Counsel's questioning of both witnesses created a reasonable apprehension of bias on the part of members of the Committee. The theory asserted was that through this questioning, it appeared that we had prejudged the matter before us, which is not over yet.

[2] On July 27, 2012, we dismissed that motion. In order that all parties would have a general understanding of the way in which we approached this matter, we elected to make some comments that day. In doing so, we confirmed that the reasons offered therein for the dismissal were those of each member of this Committee, each of whom had individually considered the motion. We also expressly reserved the right to amplify our reasons for declining to recuse ourselves. These are our comprehensive reasons.

II. The Legal Nature of a Reasonable Apprehension of Bias

[3] Impartiality is key to the judicial process and is presumed. The presumption is that judges will decide a case on its evidence, applying the law as best they can and without fear or favour. As was noted in *R v S(RD)* [1997] 3 SCR 484 at para. 32, this presumption of impartiality carries considerable weight and the law will not lightly invoke the possibility of bias in a judge:

> This is because judges "are assumed to be [people] of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances".... Thus, reviewing courts have been hesitant to make a finding of bias or to perceive a reasonable apprehension of bias on the part of a judge, in the absence of convincing evidence to that effect.

The presumption of impartiality applies with equal force to members of an inquiry committee established under s. 63 of the *Judges Act*.

[4] The classic test is what a reasonable observer would think, who is fully informed and has thought the matter through, not an observer with a suspicious mind or a mind too sensitive: *Wewaykum Indian Band v. Canada* 2003 SCC 45, [2003] 2 SCR 259. The question is whether the

judge's mind is closed or strongly resistant to persuasion and cannot be swayed by reasonable argument or evidence as assessed by that reasonable observer. This test is an objective one. An observer who is fair-minded and informed reserves judgment until he or she has seen and fully understood both sides of the argument and takes the trouble to inform himself or herself on all matters that are relevant and put them into their overall context before passing judgment: *Helow v. Home Secretary* [2008] UKHL 62 at paras. 2-3.

[5] Or to put it the way that the Supreme Court did in *Wewaykum*, *supra*, at para. 60:

> [T]he apprehension of bias must be a **reasonable one**, held by **reasonable and right minded** persons**, applying themselves** to the question and obtaining thereon the **required information**... [T]hat test is "what would an informed person, viewing the matter **realistically and practically** – and having **thought the matter through** – conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly. [Emphasis added.]

As illustrated by the added emphasis, the many qualifications within the test make it clear that a reasonable apprehension of bias was never intended to be founded on speculation. In light of the presumption of impartiality, it takes strong grounds to make out a reasonable apprehension of bias on grounds of prejudgment.

[6] This is particularly so where the body in question is an inquiry and not a trial court. Reasonable apprehension of bias applies to administrative tribunals, courts and inquiries. But the scope and stringency of what is – or is not – permissible conduct by a particular body within the umbrella of this general test will vary based on a number of factors. Context is everything. The informed, reasonable observer must be aware of the nature, role and function of an inquiry and how it differs from a trial (see *S(RD)*, *supra*, at para. 32), the mandate of the members of the inquiry, the aim of the proceedings and the evidence given and questions asked of a particular witness and the rationale for the further questioning, including the potential relevance of that evidence to factual and legal issues in the inquiry. In other words, the reasonable apprehension of bias standard must be applied flexibly having regard to the context, that is all relevant considerations.

[7] The Supreme Court emphasized this very point in *Weywakum*, *supra*, at para. 77:

> In *Man O'War Station Ltd. v. Auckland City Council (Judgment No. 1)*, [2002] 3 N.Z.L.R. 577, [2002] UKPC 28, at par. 11, Lord Steyn stated that "This is a corner of the law in which the context, and the particular circumstances, are of supreme importance." As a result, it cannot be addressed through peremptory rules, and contrary to what was submitted during oral argument, there are no "textbook" instances. Whether the facts ... point to financial or personal interest of the decision-maker ... or expression of views and activities, they

> must be addressed carefully in light of the entire context. There are no shortcuts.

[8] Before considering the distinctions between an inquiry and a trial process and the effects of those distinctions on the central issue before us, that is the authority of presiding members of an inquiry to question witnesses, we turn first to the role of a trial judge.

III. Permissible Limits for Intervention in the Trial Process

[9] Even in a trial, a judge is not precluded, in appropriate cases, from questioning witnesses. In *Brouillard v. The Queen* [1985] 1 SCR 39, the Supreme Court explored the issue of limits on judicial intervention in the trial process. It made the point that the limits of allowable conduct are not absolute but relative to the facts and circumstances of the particular trial within which they are to be observed.

[10] The Court identified permissible circumstances in which a trial judge may intervene in questioning a witness at paras. 19 - 23. They can be summarized as follows:

(a) to clarify an obscure answer;
(b) to elucidate an unclear answer;
(c) to resolve a misunderstanding by a witness;
(d) to deal with matters which the trial judge considers have not been sufficiently cleared up;
(e) to deal with questions which the trial judge himself thinks ought to have been put;
(f) to remedy an omission of counsel;
(g) to deal with a situation where the trial judge is of the opinion that the witness is not trying to help the court; and
(h) to deal with a situation where the witness is trying to avoid testifying.

[11] This list allows a trial judge a wide latitude, depending on the facts and particular circumstances, to intervene in the evidence gathering process: see also *R. v. Valley* (1986) 26 CCC (3d) 207 (Ont CA) at para. 53 where Martin JA stated that a judge: "... may question witnesses to clear up ambiguities, explore some matter which the answers of a witness have left vague or, indeed, he may put questions which should have been put to bring out some relevant matter, but which have been omitted"; *Metis Child, Family & Community Services v. M. (A.J.)*, 2008 MBCA 30, 225 Man R (2d) 261 where the Court of Appeal stressed that there are necessarily situations, such as the one before it involving a dispute over custody of a child, where the court "should do what [it] reasonably can to see to it that [its] decision will be based on the most relevant and helpful information available"; and *R. v. M. (W.F.)* (1995) 169 AR 222 where the Court of Appeal indicated at para. 10 that: "Trial judges ... need not choose to be mute mannequins in the hands of counsel.... [I]t is no error for trial judges ... to speak out and direct counsel's attention to the real issues that have to be decided in the case".

[12] But a trial judge's intervention in the trial process is not unlimited; it is constrained in scope,

duration, timing and manner. Every alleged departure during a trial from the accepted standards of judicial conduct must be examined with respect to its effect on the fairness of the trial.

IV. Distinction Between a Trial and an Inquiry

[13] As we stressed in our May 15th Ruling, an inquiry is not a trial. And *vice versa*. A trial involves a judge adjudicating a dispute between the parties before the court. The conduct of the case lies in the hands of the counsel. A trial judge possesses no independent investigative function; the process is adversarial. Subject to certain narrowly defined exceptions, it is the responsibility of the parties alone to present the evidence that they choose to put before the court. An inquiry is inherently different from a trial. By definition, an inquiry, simply stated, is an investigation of the evidence to determine what has happened. The process is inquisitorial. Those charged with carrying out an inquiry possess broad investigative powers for this purpose. A fundamental distinction between a trial and an inquiry is this. An inquiry involves an active search for the truth by those charged with conducting the inquiry. It is a search that they are bound to pursue within the parameters of the inquiry. That includes not ignoring either obvious lines of investigation or obvious lines of questioning of witnesses.

[14] This distinction between a trial and inquiry is well understood. As noted by the Federal Court of Appeal in *Beno v Canada* [1997] 2 FC 527:

> A public inquiry is not equivalent to a civil or criminal trial.... In a trial, the judge sits as an adjudicator, and it is the responsibility of the parties alone to present the evidence. In an inquiry, the commissioners are endowed with wide-ranging investigative powers to fulfill their investigative mandate....

As a result, the Court reversed a finding of bias against an inquiry commissioner, stating that it was "clearly wrong" for the judge of first instance to equate the commissioner to a judge on the basis that both exercise "trial like functions".

[15] There is another critical difference between a trial and an inquiry. As the Supreme Court pointed out in *Brouillard, supra*, at para. 18, citing *Jones v. National Coal Board* [1957] 2 All ER 155 (CA), a judge sits to hear and determine the issues raised by the parties, not to conduct an investigation or examination on behalf of society at large. However, by contrast, a public inquiry exists for the very purpose of conducting an investigation or examination on behalf of society at large. That larger societal interest is also at play in inquiries under the *Judges Act*.

[16] That this is so can be seen by the decision of the Supreme Court in *Ruffo v. Conseil de la magistrature* [1995] 4 SCR 267. There, Justice Gonthier, for the majority, discussed the role of a *Comité d'enquête* under the Quebec *Courts of Justice Act* which is analogous to an inquiry committee under the *Judges Act*. He stressed that the *Comite's* role related primarily "to the judiciary rather than the judge affected by the sanction". More to the point, he described the nature of an inquiry into judicial conduct in these terms at para. 72:

> ... the debate that occurs before it does not resemble litigation in an adversarial proceeding; *rather, it is intended to be the expression of purely investigative functions marked by an active search for the truth.*
>
> In light of this, the actual conduct of the case is the responsibility not of the parties but of the *Comité* itself. [Emphasis added]

This unequivocal conclusion by the Supreme Court is fundamental to the role of this Committee and to this Ruling.

[17] From a practical perspective, what all this means is that the degree of intervention acceptable in an inquiry is greater than would be considered appropriate for a trial judge. That said, the degree and nature of the intervention must still comply with the principle of fairness. However, in assessing what is fair in a given situation, consideration must, as noted earlier, be given to the context. As Létourneau JA explained in *Gagliano v. Canada (Commission of Inquiry into the Sponsorship Program and Advertising Activities)* 2011 FCA 217, 336 DLR (4th) 216, at para. 23:

> Suspicions, information, speculations, beliefs, doubts, reasonable grounds to believe, extrapolations and confirmations, to name but a few of the stages investigators go through, are part of their everyday experience. That is why the nature and complexity of inquiries and the properties of their attendant powers mean that a Commissioner's inquisitorial process cannot be held to the same standard of bias as is applied to the adversarial process ....

[18] In our May 15th Ruling at paras. 40 and 42, we reiterated the import of *Ruffo, supra*:

> An inquiry is an inquisitorial process that requires the inquiry committee to conduct an active search for the relevant evidence as well as to assess it, and to make findings in its final report....
>
> ... in an inquiry under the *Judges Act*, the inquiry committee is ultimately responsible for the collection and presentation of the evidence for the benefit of the Council and the public, while providing a fair opportunity for affected parties to participate.

[19] We also emphasized that members of an inquiry committee are entitled to take a proactive role in questioning witnesses (at para. 43). We acknowledged that inquiry committee members usually choose to play a more passive role in the expectation that independent counsel will ask the difficult questions that need to be asked (at paras. 43-44). But we did not then address, as we are now required to do, a related issue. What are the role and responsibilities of an inquiry committee where the questioning of a witness by counsel, including independent counsel, leaves unanswered,

or indeed, unasked, questions that the inquiry committee considers must be explored and resolved in discharge of its obligations under the *Judges Act*? Thus, we must now delve deeper into that issue.

V. Role and Responsibilities of an Inquiry Committee under the *Judges Act*

A. Canadian Judicial Council and Judicial Conduct

[20] Before exploring the role of an inquiry committee, it is important to situate this issue in its larger historical and social context. We do not intend to review in detail Canada's history on the subject of complaints against judges. It is sufficient to point out that the Canadian Judicial Council was created by the enactment of the *Judges Act*, S.C. 1970, c. 16. This legislation assigned to the Council the statutory responsibility for dealing with complaints against judges. The *Judges Act* is unequivocal in establishing that the process for assessing the conduct of a judge is to be in the nature of an inquiry: s. 63. If it should be determined that a complaint against a judge should proceed to an inquiry, that inquiry committee is empowered to compel such testimony and other evidence that "it deems requisite to the full investigation into the matter into which it is inquiring": s. 63(4). Parliament did not choose the inquiry process through inadvertence. Its decision to authorize an inquiry committee to conduct an inquiry into the conduct of a judge must be given its full meaning: *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2011 SCC 53, [2011] 3 SCR 471 at para. 38.

[21] The principal purpose of an inquiry constituted under the *Judges Act* is to serve the public interest by maintaining public confidence in the administration of justice. In order to preserve judicial independence, s. 99(1) of the *Constitution Act, 1867* guarantees one of the core elements of judicial independence for superior court judges, namely security of tenure. Judicial independence exists not for the benefit of judges but for the service of the public. This does not mean that a judge may never be removed from office. But the circumstances in which this may validly occur are necessarily extremely limited. Consequently, there is a pronounced public interest not only in the process that allows for this possibility but also in preserving its integrity and legitimacy.

[22] The Canadian Constitution and the *Judges Act* invest complete trust in the judiciary to, in effect, investigate itself via the Council and determine whether a member of the judiciary is unfit to hold that position. While it then falls to Parliament to act, or not, on the opinion of the Council, it remains the duty of the Council to live up to the unique responsibility given to it under our constitutional democracy. The Council, and the inquiry committees in its service, can do no less.

[23] Upholding this public trust is accomplished through a full and transparent investigation into the conduct of a judge who is the subject of an inquiry for the purpose of determining whether a recommendation should be made to remove that judge from office. The fundamental responsibility and corresponding authority for conducting that inquiry under s. 63(3) of the *Judges Act* lies with the inquiry committee appointed for this purpose. That is apparent from s. 63(4) and from the very nature of an "inquiry". Where a superior court judge is involved, no one else in Canada is empowered to do this. To truly fulfil the purpose of s. 99(1) of the *Constitution Act, 1867*, someone must be. This is a strong mandate and weighty responsibility.

B. Inquiry Committee's Right to Question Witnesses Directly and Through Its Counsel

[24] Turning to the core issue underlying the bias claim, in conducting an inquiry, does an inquiry committee under the *Judges Act* have the right to question witnesses directly and through its counsel? We have concluded that the answer to this question is yes on both counts.

1. Why An Inquiry Committee has the Right and Duty to Question Witnesses

[25] An inquiry committee not only has a right to ask questions of a witness but a duty. We offer five reasons for this conclusion. Before addressing each in turn, it is important to stress that our comments are not directed to any one of the four witnesses who have testified to date before this inquiry nor to their evidence. The comments made are ones of general application.

[26] First, the relevant legislative framework contemplates this right and duty on the part of an inquiry committee. By the terms of the *Judges Act* itself, an inquiry committee is expected to conduct a "full investigation of the matter into which it is inquiring": s. 63(4)(a). The word "full" is a significant adjective, connoting a complete and entire investigation. When Parliament uses a word so specifically, it must be given meaning, not ignored: Ruth Sullivan, *Sullivan on the Construction of Statutes*, 5th ed. (Markham, Ontario: LexisNexis Canada Inc., 2008) at p. 210, citing *R v Proulx*, 2000 SCC 5, [2000] 1 SCR 61 at para. 28. Therefore, as part of that "full investigation", the inquiry committee and each of its members individually are duty bound to do a complete and entire investigation and corresponding report, meaning that they must (a) ensure that all relevant evidence is explored; and (b) understand and appreciate fully that evidence and its significance.

[27] On the former point of ensuring relevant evidence is explored, the *Policy on Inquiry Committees* (*Policy*) provides that "an [i]nquiry [c]ommittee has complete responsibility for, and control over, the scope and depth of its inquiry into the conduct of a judge." This being so, that necessarily includes the inquiry committee's also controlling the scope and depth of the evidence given in the inquiry. It is true that the *Policy* provides that at the outset and over the course of the inquiry, an inquiry committee relies heavily on independent counsel to ensure that all relevant evidence is gathered, marshalled, presented and tested. However, the operative words are "relies heavily", not exclusively, and the very next sentence in the *Policy* makes it clear that independent counsel does not have exclusive authority over any of these areas, stating:

> But [an inquiry committee] does not "abandon" its own responsibility to such counsel since the Canadian Judicial Council relies upon the [inquiry committee] for a complete report. One of the key functions of the [inquiry committee] is to make findings of fact.

[28] An inquiry committee's right to question witnesses in fulfilment of its mandate is reinforced elsewhere in the *Policy*. After providing that an inquiry committee can add to the allegations against a judge or request independent counsel to explore further issues and present additional evidence, the *Policy* states: "The [inquiry committee] may also *act on its own* to explore additional issues."

[Emphasis added.] This too reinforces the broad investigative rights given to an inquiry committee under both the *Judges Act* and all relevant Council *Policies*.

[29] On the latter point of understanding and appreciating the evidence and its significance, if any member of an inquiry committee is uncertain about the content of testimony of a witness, the inquiry committee is certainly entitled to seek clarification of that evidence. It could not be otherwise.

[30] Indeed, even if there were some conflict on this issue between the *Judges Act* and the *Policies*, the latter would be required to yield to the former. If our constitutional inheritance as reflected in s. 99 and in the preamble to the *Constitution Act 1867*, and in the *Act of Settlement 1701* which was carried forward thereby, is to be given due obedience, as it must, the language of s. 63 of the *Judges Act* cannot be read down in any manner. Thus, the adjectival documents, consisting of the Canadian Judicial Council *Inquiries and Investigations By-laws* (*By-laws*) and *Policies*, including *Policy on Inquiry Committees* and *Policy on Independent Counsel*, cannot detract from this reality. They exist to support the fundamental role of the inquiry committee. Even the *By-laws*, which have the force of law, cannot be interpreted in a manner that undermines the role of an inquiry committee under the *Judges Act*. That role accords to an inquiry committee the obligation to conduct an inquiry and the discretion to do so in the manner it considers necessary to fulfill its investigative mandate.

[31] As pointed out in *Ruffo, supra*, a legislature or Parliament sets the framework for inquiries such as this. No one has challenged the constitutionality of the legislation governing this inquiry. Thus, this Committee must comply with it.

[32] Second, the right on the part of an inquiry committee to question witnesses is inherent in, and an indispensable and integral part of, the inquiry process itself. In *The Law of Public Inquiries in Canada*, (Toronto: Thomson Reuters Canada Limited, 2010) at 138, Simon Ruel emphasized the right of those conducting inquiries to question witnesses in fulfilling their role:

> [B]y virtue of their inquisitorial roles, commissions of inquiry may be called to intervene directly, actively and substantially in the course of the hearings, for example, by directing the lines of inquiry and questioning witnesses, to clarify inconsistencies, to distinguish relevant from irrelevant evidence or to maintain order. The extent of such interventions would not be acceptable in the judicial context.

[33] A similar point was made in *Gagliano*, *supra*, at paras. 20-21 and 23 (see also *Beno v. Canada*, *supra*, at para. 27):

> There is a world of difference in terms of significant impacts between a commission of inquiry and an adjudicative tribunal....
>
> By definition, commissions of inquiry investigate rather than adjudicate.... It must not be forgotten that the commissioners chairing

> such commissions do not have evidence establishing the facts, causes and circumstances of the events being investigated. It is the very role of commissioners to seek out that evidence and then analyze it.
>
> Good investigators, just like fine bloodhounds, are driven by suspicions which they seek to confirm ... or to dispel ....

[34] Third, the existence of this right and duty is essential to preserving the integrity of the inquiry process under the *Judges Act*. The inquiry committee is required by s. 65(1) to submit a report to the Council, which, in turn, must submit a report to the Minister. That is part of the necessary checks and balances between the judicial and executive branches of government. Each must keep its respectful distance from the other but remain in dialogue. The scope of the inquiry committee's report is addressed in s. 8(1) of the *By-laws* which provides that:

> The [inquiry committee] shall submit a report to the Council setting out its findings and its conclusions in respect of whether or not a recommendation should be made for the removal of the judge from office.

[35] Importantly, that duty to report applies whether or not the Council, having heard from the inquiry committee, chooses under s. 65(2) of the *Judges Act* to "recommend that the judge be removed from office". The intent of s. 65 read as a whole is manifest. The Council is effectively mandated to give reasons for any recommendation that is made to the Minister. The Council must rely heavily on the report of the inquiry committee in order to fulfil its own corresponding responsibility. That is why the reasons in the report of the inquiry committee are of fundamental importance.

[36] Reasons are required to meet three functional objectives, two of which are paramount in this context – intelligibility and accountability. The Council, the Minister, the judge in question, the judiciary at large and the public must be able to understand the reasons for specific findings and a consequential recommendation whether or not they agree with them. The reasons must show that the inquiry was complete and fair. Whether a judge is ultimately vindicated or implicated, the reasons should demonstrate that the proceedings were not skewed nor relevant evidence bypassed or touched upon superficially. Thus, an inquiry committee should not ignore or avoid obvious, common sense and practical questions that any reasonable person would expect to have asked and answered. Nor should it appear that the overall process itself was insufficient, let alone neglectful or not taken seriously. That has not happened here – and it cannot happen here. An ultimate report that meets the intelligibility and accountability obligations will also satisfy the high standard essential to maintaining public trust and confidence in the judiciary.

[37] Fourth, the right on the part of an inquiry committee to question witnesses remains an important safety valve in the inquiry process. Ideally, everything would be crystal clear following the examination and questioning of a witness by all parties. But that is not always the case. And certainly, the risks are greater where an inquiry involves significant conflicts in evidence based on

competing or contradictory versions of events. Clarification of a witness's evidence may be required for several purposes so that the inquiry committee fully understands and appreciates the significance of all aspects of relevant evidence. Ordinarily, that would be undertaken once all counsel have completed their questioning of the witness. It should also be stressed that intervention to clarify the facts, or for that matter, the issues, is not automatically favourable to one side only.

[38] In using the word "clarification", we do not do so as a term of art but as a shorthand way of describing a number of instances in which further questioning of a witness would be warranted. By clarification, we mean exploring and resolving: (1) apparent inconsistencies in a witness's evidence; (2) incompleteness of evidence; (3) what a witness's final evidence was on a specific point; (4) apparent incomprehensibility of a witness's evidence; (5) the strength or weakness of the evidence to the satisfaction of the inquiry committee; and (6) whether what the inquiry heard and understood was, in fact, what the witness said and intended to say. This is particularly so when the witness uses a word in a manner that appears to have special meaning to the witness, but is not a commonly understood meaning of the word. In turn, a witness has the opportunity to explain what he or she meant if the line of questioning reveals an apparent lack of understanding by the inquiry committee on a specific point. Viewed from this perspective, an inquiry committee's decision to seek that further clarification, including amplification of the evidence, is not a breach of an inquiry committee's responsibility but rather an affirmation of it. Moreover, an inquiry committee is not restricted in seeking "clarification" by any minimalist sense of that word. It must seek the truth in a proactive and vigorous manner, subject only to the principle of fairness.

[39] Fifth, the duty to ensure that the search for the truth has been a complete one rests ultimately and entirely with the inquiry committee. Its right to question witnesses is essential in accomplishing that objective. The perspective of any of the counsel on the inquiry cannot impede the inquiry committee's performance of its duty and what it determines to be necessary in the search for the truth. Counsel are not responsible for the outcome of the inquiry. The inquiry committee is.

[40] We cannot ignore the fact that all counsel, including independent counsel, will necessarily have a perception of the scope of relevance, of the credibility and reliability of evidence, and of the extent and limits of admissibility, privileges and privacy. The "case" they present – the witnesses they call, the questions they ask, and the evidence they elicit – will therefore be constructs based on those perceptions. All counsel before this inquiry have acted with the integrity and energy which are to be expected. But the public has every reason to expect that this Committee will do its duty under the *Judges Act* and retain responsibility for all aspects of the inquiry.

[41] It comes down to this. It cannot advance the constitutionally essential statutory purpose for an inquiry committee to sit impassively and blindly accept all the evidence that passes before it without critical thought. Evidence that is unclear should be clarified or else its role and value as evidence largely ceases to exist. Relevant evidence that has not been explored should be or else the truth-seeking function of the inquiry is diminished or worse yet, thwarted. An inquiry is not a game of linguistic hide and seek – as trials sometimes are – where the object of some witnesses may be to conceal the real meaning of the spoken word or what the witnesses have said or done in the past in the hope that members of the inquiry committee are deflected from finding out where the truth

lies. At its core, an inquiry committee retains a responsibility to search for the truth. It is performing a vital fact-finding function. In doing so, it cannot be constrained or limited by the search counsel have undertaken. Otherwise, that would make the search for the truth the counsel's search and not that of the inquiry committee.

[42] In an inquiry, unlike a trial, counsel are not in exclusive control of the search areas or the intensity of the search. In a trial, the counsel may legitimately agree between them to limit the areas and scope of the search. In an inquiry, counsel participate and use their own search lights to go as far as they choose to go. But they cannot limit the inquiry committee's search. Counsel do not direct this search; the inquiry committee does. And in doing so, the inquiry committee may be required to use its own search light. In other words, in conducting an investigative inquiry, the inquiry committee must be continuously engaged in the evidence that is put before it. When necessary, it must also become engaged with potentially relevant evidence that has not been put before it or adequately explored, in its opinion.

[43] The detailed reasons in our Ruling dated May 15, 2012 elaborated on the role of an inquiry committee and that of independent counsel. The role of both independent counsel and counsel to an inquiry committee is to assist the inquiry committee in fulfilling its responsibilities. Within this entire process, there is no basis for independent counsel imposing restrictions on the manner in which an inquiry committee considers it necessary to conduct its hearings in the search for the truth. Subject always to the principle of fairness, no counsel can seek such restrictions.

2. Why an Inquiry Committee May Ask Questions Through Its Counsel

[44] When an inquiry committee decides, after a particular witness has been examined by all counsel, that it requires clarification, including amplification, of that witness's evidence, we have concluded that it is open to the inquiry committee to have its own counsel undertake that questioning. Four reasons exist for this conclusion.

[45] First, the existing legislative regime implicitly allows for this possibility where circumstances so warrant. The *Policy on Inquiry Committees* states that subject to the provisions of the *Judges Act* and *By-laws*, the inquiry remains master of its own procedure. It is true that this *Policy* contemplates that counsel to the inquiry committee does not participate in the hearings. However, this is not an absolute prohibition. This *Policy* must be interpreted in accordance with all other relevant Council *Policies* and subject to the overriding provisions in the *By-laws*. In this regard, s. 4 of the *By-law*s provides that an inquiry committee may engage legal counsel to "provide advice and other assistance to it". The type of assistance is not circumscribed and may include, in an appropriate case, being directed to ask questions in certain zones of inquiry in a comprehensive and coordinated manner on behalf of an inquiry committee.

[46] In our May 15th Ruling at para. 57, we stated that the role of independent counsel was created by the Council in an attempt "to establish a process that would not only meet the legal threshold of fairness but would also go further by establishing a paragon of both perceived fairness to the judge and public confidence in its process." The rationale for bifurcating the roles of independent counsel

and committee counsel was an attempt to dissociate an inquiry committee from the aggressive advocacy that might be required in relation to some witnesses. However, this laudable objective is not an end in itself disconnected from the circumstances in a particular inquiry. The "end" is for the inquiry committee to fulfill its fundamental role under the *Judges Act*. If that requires an inquiry committee directly or through its counsel to engage in strong questioning of a witness, then this necessity must prevail over any perception of the moment. The reality is that the search for the truth is frequently arduous. Were it otherwise, there would be no need for inquiries. The corresponding reality is that witnesses at an inquiry must sometimes face rigorous questioning by those tasked with the duty to inquire.

[47] Further, the principle of fairness does not require the bifurcation of the roles of counsel described above. The creation of "independent counsel" was not necessary to satisfy that principle. In *Ruffo, supra,* the Supreme Court had no concern about counsel to the inquiry committee conducting all of the questioning on its behalf. There is no legal impediment to an inquiry committee authorizing its counsel to question a witness and supplement the contribution of independent counsel when necessary to fulfil the inquiry committee's overriding mandate and responsibility under the *Judges Act*.

[48] Second, in cases where, as here, fundamental facts are in dispute, clarification of evidence may be required on a number of points. This is particularly so where the evidence involves a credibility contest, conflicting versions of events, uncorroborated evidence and dated evidence that goes back years in time. In circumstances such as this, sound reasons exist for involving counsel to an inquiry committee in clarifying a witness's evidence. This should be contrasted with other inquiries conducted under the *Judges Act* where there was no need for counsel to an inquiry committee to question witnesses. For example, in the *Cosgrove Inquiry*, there was, as is frequently the case in complaints against judges, extensive documentary evidence in the form of detailed transcripts, rulings and a prior decision of an appeal court. The problems created for an independent counsel in testing credibility in the absence of such documentation were discussed by this Committee in paras. 36-39 of the Chapman Standing Ruling. Although those comments were framed in the specific context of Mr. Chapman's credibility and that of the Judge, similar considerations apply regarding other witnesses, including her husband, Mr. King.

[49] Where an inquiry committee requires clarification of evidence of a witness, Independent Counsel suggested that it could, as one option, ask independent counsel to put the questions it wanted answered to the witness. In our view, this would be inappropriate.

[50] The most important consideration weighing against this is an overriding policy one. As Independent Counsel has reminded us, he must remain separate and independent from the Committee. The Council *Policy on Independent Counsel* expressly contemplates that independent counsel will act at "arms length" from both the Council and an inquiry committee. Therefore, to ask him to pursue a line of questioning with a witness after he has already completed his questioning of that witness – to be the instrument, so to speak, of the Committee itself and its inquiry – could, in fact, compromise his independence or, at the very least, be perceived to compromise his independence.

[51] We acknowledge that there are circumstances in which an inquiry committee might properly direct an independent counsel to pursue another line of questioning. The *Policy* states that:

> The [inquiry committee] may also direct the [independent counsel] to explore additional issues and present additional evidence.

[52] However, a distinction should properly be drawn between inviting an independent counsel to explore what is a new issue and present the evidence related thereto (an option left open under the *Policy*) and inviting independent counsel to "do-over" the examination of a witness that has been completed because of evidence the inquiry committee then wishes explored. The former is permissible should the inquiry committee elect to take that route; the latter raises the concerns we have identified about compromising the independence or perceived independence of independent counsel.

[53] Practical considerations too make this latter alternative unrealistic. Effective questioning of witnesses requires a structure or pattern in order to ensure that all aspects are covered and that, with some flexibility, the sequence of questions follows a general path or direction. It also contemplates changing direction when required in the course of questioning to explore issues or answers in greater depth. Once questioning has been completed, it would often be difficult for a questioner to be required to pursue a different course that could be inconsistent with the pattern already completed by the questioner.

[54] More fundamentally, the manner of giving instructions would also be difficult in these circumstances. An independent counsel is not a mind reader. Thus, he or she will not know what it is that the inquiry committee wishes explored further. The inquiry committee may wish to pursue a specific line of questioning that independent counsel believes he or she has completed to the best of their ability or that independent counsel considers problematic for some reason. Indeed, the mere fact that certain questions of concern to an inquiry committee have not already been asked by independent counsel speaks for itself. Further, communicating instructions to independent counsel should be done in the presence of opposing counsel. This would raise in turn a host of other practical issues.

[55] Finally, when an inquiry committee requires clarification of the evidence of a witness other than on some narrow point, the inquiry committee is not in a position to outline to independent counsel each and every question that could usefully be asked. After all, the purpose of the further questioning is to explore certain aspects of the evidence. An inquiry committee does not – and should not – have its mind made up on any evidentiary points when it seeks clarification of a witness's evidence. Nor does an inquiry committee have any idea what the answers to the questioning may be. Therefore, it is in no position to provide anyone with a complete list of questions to be posed.

[56] For these reasons, it is not functionally effective to have independent counsel pursue lines of questioning of concern to an inquiry committee. This could lead the inquiry committee to do what

it ought not to do. That is to make independent counsel the instrument of the inquiry committee itself.

[57] Third, allowing counsel to an inquiry committee to seek clarification of a witness's evidence where necessary serves as a final safety net in the search for the truth. In other words, this option may need to be relied on by an inquiry committee where the efforts of an independent counsel fall short of enabling an inquiry committee to properly discharge its obligations. While independent counsel is subject to certain directions from an inquiry committee, which are provided in an open and transparent manner, the reality is that no one provides instructions to independent counsel on an ongoing basis.

[58] Fourth, permitting required clarification questioning to be done by counsel to an inquiry committee rather than the inquiry committee members themselves enhances the fairness of the proceedings. Independent Counsel accepts that it would be permissible for inquiry committee members to ask any follow-up questions themselves, but not counsel to the inquiry committee. However, by definition, that is no different than counsel to the inquiry committee asking since, for this purpose, he or she represents the inquiry committee.

[59] Both Independent Counsel and Judge's Counsel also suggested that it would be inappropriate for counsel to an inquiry committee to ask questions because if a ruling were required on admissibility, the inquiry committee would have to rule on the questions of its own counsel who is supposed to be advising the inquiry committee. It was claimed that this would put such counsel and the inquiry committee in an untenable position. We do not agree.

[60] If a member of the inquiry committee asked a question and the witness or another counsel objected, the inquiry committee would also have to rule on the validity of its own question. In fact, there is an advantage to having any further questions asked by counsel to the inquiry committee rather than insisting that any such questioning be done personally by a member of the inquiry committee. While counsel to the inquiry committee's doing so is effectively the action of the inquiry committee, the performance of that function by counsel to the inquiry committee is then subject to the right of objection by other counsel and to a transparent form of objective supervision by the inquiry committee. The alternative of questions coming directly from the inquiry committee would likewise be subject to objection and ruling, but we see no improvement in the process. Indeed, the process of objection by either independent counsel or judge's counsel is facilitated, as it was in this very case, by the questioning being that of counsel to the inquiry committee rather than the inquiry committee itself. That is because the inquiry committee necessarily, as it did here, delegates to counsel for the inquiry committee merely the zones of inquiry and not the specific form, arrangement or manner of questioning or follow-up questioning. Therefore, the inquiry committee remains in a position to reflect on any questions or topics that are objected to, and to rule accordingly.

[61] It makes considerable sense to proceed in this manner especially with evidence that may be, or has become in its evolution, highly relevant to the inquiry. Questioning can be done by an inquiry committee directly and efficiently if the matter is simple and the zones of questioning limited. But

we are unable to see how the ability of an independent counsel or judge's counsel to fully exercise their right to object or intercede is impeded or barred simply because counsel for an inquiry committee explores particular areas of questioning requiring clarification, including amplification. That an inquiry committee requests counsel to an inquiry committee to ask questions of some witnesses but not others does not mean that the inquiry committee is exhibiting bias. It simply means that a particular witness's evidence in the inquiry committee's view generates more questions than others. That is something that would happen in any hearing and, indeed, trial.

C. Summary of Conclusions

[62] In summary:

(a) In conducting an inquiry under the *Judges Act*, an inquiry committee is engaged in an active search for the truth;

(b) The process is an inquisitorial and investigative one. Thus, fairness is not determined simply by an analogy to what is permissible in the trial context. The permissible degree of intervention in an inquiry by those conducting the inquiry is greater than in a trial;

(c) An inquiry committee has the right and duty to question witnesses directly or indirectly through its counsel should it determine that further questioning is appropriate or necessary for clarification, including amplification, of evidence;

(d) That questioning should ordinarily await the completion of questioning by all counsel. If the inquiry committee elects to ask questions directly or through its counsel, other counsel should in turn be given the opportunity to ask any questions arising therefrom;

(e) The authority on the part of an inquiry committee to question witnesses is inherent in the inquiry process and contemplated under the applicable statutory regime. That includes asking obvious, probing, difficult or challenging questions.

(f) What is inherent in the inquiry process or permitted by legislation cannot be bias nor can it create a reasonable apprehension of bias in the mind of a reasonable observer; and

(g) While the degree and nature of the intervention must be guided by the principle of fairness, in assessing what is fair, consideration must be given to the applicable context. That will include the nature of the inquiry process, the circumstances of the particular inquiry, the scope of the issues in question, the questions asked and answers that have already been given by

> a witness, the rationale for the further questioning and the degree to which that witness's evidence may be relevant to outstanding factual or legal issues engaged by the inquiry.

[63] For these reasons, we do not accept that counsel to an inquiry committee's asking questions in zones of inquiry directed by the inquiry committee is necessarily improper or that it necessarily indicates from that fact alone a bias or is inconsistent with the inquiry process as contemplated by the *Judges Act*, *By-laws* and *Policies*.

VI. Questioning of Mr. King

A. Rationale for the Questioning

[64] Against this backdrop of the role and responsibilities of an inquiry committee, we now turn to the main concern expressed by counsel on the recusal motion, namely Committee Counsel's examination of Mr. King. For purposes of this Ruling, we will concentrate on the role of Committee Counsel in questioning this witness.

[65] We begin with this. We were unsure about aspects of Mr. King's evidence and believed that they had to be clarified. In the Committee's view, there were a number of matters which required follow-up with Mr. King.

[66] Our desire for clarification arose for several reasons. First, certain questions that Mr. King had been asked had not been fully answered. Second, Mr. King used certain words to describe events, the meaning of which was unclear to the Committee. Third, Mr. King's evidence on certain points appeared to be inconsistent, improbable or incomprehensible. In these circumstances, the Committee felt it was necessary to explore some of his answers further with a view to clarifying these matters and also thereby testing the strengths and weaknesses of the evidence.

[67] The issue is whether the nature of the questions that were asked by Committee Counsel on the Committee's behalf and the manner in which they were asked would appear, to a reasonably informed bystander, to indicate that the Committee, in having these lines of questioning pursued, created a reasonable apprehension of bias on the Committee's part.

B. Scope of Questions Asked by Committee Counsel

[68] In assessing this issue, it is important to identify the subject matter and purpose of the questions that were posed. They can be categorized as follows:

(a) obtaining confirmation of previous evidence: *Transcript of Proceedings before the Inquiry Committee* (T) 2245 - 2246;

(b) suggesting certain propositions to Mr. King to test his prior statements to the Committee: T 2247;

(c) seeking further elaboration of Mr. King's position with respect to what other witnesses had said: T 2249;

(d) obtaining clarification of what Mr. King meant by the use of the term "lifestyle choice": T 2249 - 2257;

(e) testing the logic of Mr. King's assertion that he acted because of irrational sexual fantasies: T 2255 - 2257;

(f) clarifying Mr. King's evidence on the appearance to others of his poor mental state in 2003: T 2257 - 2258;

(g) clarifying what Mr. King meant by the word "staged" in the context of his testimony that the photos were not "staged": T 2260 - 2263;

(h) clarifying whether the settlement of the Chapman claim for $25,000 was to protect his wife as asserted by his counsel on his behalf in Exhibit 31, tab B: T 2263 to 2265.

(i) clarifying from the photographic evidence whether a third party had photographed Ms. Douglas (as she then was) and Mr. King: T 2266 to 2268;

(j) clarifying Mr. King's knowledge of Ms. Douglas's awareness of the photos and her access to them in light of his evidence that she never asked about them or saw them: T 2268 - 2274;

(k) clarifying and elaborating on his statement in his affidavit submitted to the Law Society of Manitoba concerning the availability of the photos to him and his wife: T 2274 - 2275;

(l) clarifying whether the photos were available to a third party through the photographic development process: T 2276 to 2277;

(m) clarifying statements made to Independent Counsel that Ms. Douglas did not appear to know of the existence of the Polaroids and film pictures: T 2278 - 2280;

(n) obtaining context regarding the change of the entry in Ms. Douglas's diary for May 16: T 2281 - 2287;

(o) clarifying Mr. King's interpretation of the language used in the May 27th e-mail to Mr. Chapman: T 2287 - 2288;

(p) clarifying Mr. King's evidence in response to the assertion by Mr. Chapman as to how the meeting on May 30th ended: T 2289 - 2290;

(q) clarifying the basis for Mr. King's assertion and evidence that there was no plan to invite Mr. Chapman to their home and that he did not leave Ms. Douglas and Mr. Chapman alone: T 2290 - 2297;

(r) clarifying why Mr. King believed or knew that Ms. Douglas did not know about any Internet site where the photos were posted in light of Mr. Sinclair's note that Mr. King had said to him that she may have known about one site: T 2298 - 2301; and

(s) clarifying precisely what Mr. King told Ms. Douglas on June 16th given his evidence that he gave her a "bowdlerized" version about the existence and details of the photos he posted on the Internet: T 2302 - 2303.

[69] In our view, all these matters were legitimate areas of inquiry by way of further questioning, given the nature of the evidence that had already been elicited and the way it had been presented by Mr. King. For example, to expand further on the last point mentioned, when Independent Counsel asked Mr. King what he told Ms. Douglas on June 16th, the day he testified that he disclosed to her what he had done, Mr. King replied that he had given her a "bowdlerized" version of events. Since the answer to this question arguably goes to the issue of what Ms. Douglas knew and when, it will be apparent why the inquiry committee would need to understand what Mr. King meant by this answer. And yet on this crucial point, Mr. King was not asked to explain precisely what he had told Ms. Douglas. Thus, the Committee was left with an answer that consisted of an ambiguous linguistic expression with multiple potential meanings which conveyed no useful information to the inquiry committee. Hence, the evident need to explore further this evidence.

[70] It must also be remembered that this questioning arose in the context of an inquiry that has diametrically opposed stories on key issues which require careful consideration of circumstantial evidence for their proper assessment.

[71] A reasonably informed bystander, knowing all this and thinking the matter through, would conclude that the Committee was merely trying to do its job of truth seeking in a difficult case by having Committee Counsel pursue these further lines of questioning.

C. Manner of Questioning

[72] In addition to the subject matter and length of the questions, consideration must also be given to the manner in which they were asked. There can be no doubt that the questions were firmly and in some cases persistently put. At two points, Mr. King complained that the questions were argumentative and Judge's Counsel objected that they were improper but did not elaborate other than to say that this line of questioning, which at that point was in relation to what he meant by the term "lifestyle choice", was not appropriate.

[73] In her objection, Judge's Counsel stated: "We are here on four counts in relation to Associate Chief Justice Douglas, and in my submission, this line of questioning is not appropriate." Presumably, this meant that she thought the questions were irrelevant, and that is certainly the basis

on which the Committee dealt with that objection. This Committee considered it relevant to the first allegation. When all the evidence is in, it may turn out that certain aspects of the testimony of Mr. King may not have much juridical significance in the outcome. But for obvious reasons, this Committee was, and is, unable to say whether that is or will be so in the end result. That will be determined in light of all the evidence and all the arguments made by counsel.

[74] In our view, in light of the manner in which the evidence had been given by Mr. King up to that point, it was not improper for Committee Counsel to approach the additional questioning in the way he did. Committee Counsel uses a crisp, organized, and fluid style of questioning. It is very efficient and effective. One cannot fault him for an advocacy style that is well within the range of reasonable questioning techniques. Still less can he be faulted if his style happens to be successful in clarifying the evidence which is the subject of the questioning.

[75] Towards the end of his examination, Committee Counsel did make one suggestion to the effect that the documentary evidence was completely inconsistent with Mr. King's evidence a number of times. He did it repetitively and in a forceful way. While reasonable people might disagree as to whether the way in which these questions were put was appropriate, in the circumstances, we do not believe that when the examination is looked at as a whole, it can be said that a reasonable bystander properly informed would conclude that the Committee, in directing these lines of questioning, was acting in a biased manner with a closed mind or was displaying animus, as has been suggested.

[76] It must be remembered that the issue is not whether a particular party to a proceeding, let alone a witness, might feel unsatisfied with the course of the proceedings. It is whether an objective, reasonable and informed observer, mindful of the inquiry process, the aims of the proceeding, the evidence given and questions asked, would conclude that the members of the Committee would be unable to behave with complete fairness in assessing all the evidence and arguments before it.

D. Limitations on Evidence Elicited by Committee Counsel

[77] Evidence elicited by Committee Counsel is subject to the same limitations applicable to all counsel. In other words, were the answers given inadmissible on some basis? This can be so if the evidence elicited is irrelevant. We have already ruled that the general lines of questioning were not irrelevant; in other words, that the scope of relevancy was not transgressed. Of course, it always remains open for one or more of the counsel to identify specific questions asked by Committee Counsel and answers given that, in their view, were irrelevant. Nor has it been suggested that any questions or answers were prejudicial or that they would somehow distort a proper assessment of this case. If counsel wishes to make any submissions with respect to specific questions or answers, they remain free to do so on these grounds too. It is in the nature of the judicial process for judges to routinely hear evidence which turns out to be inadmissible and to then disabuse their minds of such evidence when reaching their final fact findings.

[78] In other words, there is no basis for concluding that any concerns that counsel might have on these points could not be cured in argument. It should be remembered that in relation to

reasonable apprehension of bias claims, there are both attitudinal and behavioural considerations: *RDS*, *supra*, at paras. 104-108. The objective, informed and reasonable person who has thought the matter through realistically and practically would consider not merely whether there might be an initial pre-disposition or inclination about evidence as it has emerged during the proceeding, but whether the members of the Committee are capable of behaving with complete fairness irrespective of any initial pre-disposition. All judges know that final decision-making comes at the end.

E. Additional Considerations

[79] Independent Counsel made the point that it is important that no one think that Independent Counsel and Committee Counsel have "cooked up something between them". There is no risk of that occurring. All discussions between Committee Counsel and Independent Counsel include Judge's Counsel when "contentious" or "substantive" issues are involved in accordance with the *Policy*. Maintaining that arm's length relationship which has existed throughout the proceedings remains of vital importance.

[80] Finally, neither Judge's Counsel nor Independent Counsel objected to Committee Counsel's questioning of Mr. Sinclair, even after that questioning was concluded days ago. It is true that Mr. Pratte raised a concern outside the hearing directly with Committee Counsel, but that concern was not, it is our understanding, framed in the context of Committee Counsel's role in this inquiry.

[81] With respect to Mr. King's evidence, it is correct that during Committee Counsel's questioning of him, Judge's Counsel raised an objection, but it appeared to be limited certainly at that time to the issue of relevance. The Committee considered her objection on that basis and rejected it. Independent Counsel did not raise any objections during the questioning, except to assist Committee Counsel in questioning Mr. King on one front by producing a document which supported Mr. King with an answer.

[82] Of course, we acknowledge that the issue was then raised the following morning by both Judge's Counsel and Independent Counsel.

VII. Conclusion

[83] For the reasons given, we are satisfied that a reasonable person properly informed and considering the matter carefully would not conclude from the questioning by Committee Counsel that this Committee is in some way predisposed to a particular result or that our minds are closed with regard to particular issues.

[84] We have not prejudged any issues in this inquiry or any person's credibility. Our minds remain open to persuasion.

[85] Accordingly, we are not satisfied that we are disqualified from sitting on this inquiry, and we decline to recuse ourselves. We might add that we regard the completion of our mandate to be a matter of public duty. It is crucially important that a matter of such social significance and public

interest be carried out fairly to its conclusion according to law, and be seen to do so.

[86] The Committee wishes to restate its support for Mr. Pratte and his team in the work that they have done at every stage of this proceeding. Mr. Pratte is one of this country's top counsel, and he has performed in this difficult case in accordance with his reputation. The Committee wants to carry on in its role with as much as co-operation as is possible with Independent Counsel.

[87] As it has done with two of the four witnesses who have testified to this point, the Committee will normally endeavour to ask any questions it has itself without the assistance of its counsel. If the Committee believes that the assistance of Committee Counsel is required in asking questions of a witness in areas of concern to the Committee, it will consult all counsel for their views at that time.

[88] For reasons given earlier in these proceedings, the transcript of the proceedings leading up to this Ruling, including Mr. King's evidence, will not be published on the Council website at this time. These proceedings have all taken place in public. Of course, that transcript is provided daily to all the counsel who are participating in this inquiry. Therefore, it is available to counsel at any time. This Ruling will be published on the Council website once released to counsel.

Issued this 20th day of August, 2012.

(Signed) "Catherine Fraser"
Chief Justice Catherine Fraser, Chair

(Signed) "J. Derek Green"
Chief Justice Derek Green

(Signed) "Jacqueline Matheson"
Chief Justice Jacqueline Matheson

(Signed) "Barry Adams"
Mr. Barry Adams

(Signed) "Marie-Claude Landry"
Me Marie-Claude Landry, Ad. E.

Independent Counsel: Guy J. Pratte and Kirsten Crain
Counsel for the Judge: Sheila Block and Molly Reynolds
Counsel for Alex Chapman: Rocco Galati and Dushahi Sribavan
Counsel to the Committee: George Macintosh, Q.C.
Consultant to the Committee: Ed Ratushny, Q.C.