

**Commission d'enquête sur les
actions des responsables
canadiens relativement à Maher
Arar**Erreur ! Signet non défini.

**Commission of Inquiry into the
Actions of Canadian Officials
in Relation to Maher Arar**

Audience publique

Public Hearing

Commissaire

**L'Honorable juge /
The Honourable Justice
Dennis R. O'Connor**

Commissioner

Tenue à:

**Salon Algonquin
Ancien hôtel de ville
111, Promenade Sussex
Ottawa (Ontario)**

le mercredi 1^{er} juin 2005

Held at:

**Algonquin Room
Old City Hall
111 Sussex Drive
Ottawa, Ontario**

Wednesday, June 1, 2005

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1 Ottawa, Ontario / Ottawa (Ontario)

2 --- Upon commencing on Wednesday, June 1, 2005 at

3 9:07 a.m. / L'audience débute le mercredi

4 1^{er} juin 2005 à 9 h 07

5 THE COMMISSIONER: Good morning,

6 Senator.

7 HON. PIERRE DE BANÉ: Good morning,

8 Mr. Commissioner. It's an honour for me. It's my

9 pleasure.

10 MR. DAVID: Mr. Commissioner, we're

11 going... may I introduce Senator de Bané, who will

12 testify this morning about his involvement.

13 The Senator will testify about his

14 personal involvement when he went to Syria at the

15 request of the Canadian Government to represent

16 the Prime Minister of our country, and it is in

17 this regard that the Senator will provide his

18 testimony this morning.

19 Senator, if you would be good

20 enough to take the oath or make a solemn

21 declaration, the Commissioner will swear you.

22 SWORN: PIERRE DE BANÉ

23 EXAMINATION

24 MR. DAVID: I would like to begin,

25 Senator, by introducing your curriculum vitae, and

1 I would like to place certain aspects of your C.V.
2 on the record.

3 [ENGLISH]

4 THE COMMISSIONER: That will
5 be 114.

6 MR. DAVID: Thank you.

7 EXHIBIT NO. 114: Curriculum
8 Vitae of Senator Pierre
9 de Bané.

10 [TRANSLATION]

11 MR. DAVID: First, Senator, I note
12 that you have had and continue to have a long
13 career in our Parliament.

14 You were elected to the House of
15 Commons in 1968 and you have subsequently been a
16 member for a total of five Parliaments, five
17 elections?

18 HON. PIERRE DE BANÉ: That is
19 correct.

20 MR. DAVID: So your career as a
21 Member of Parliament, and as a Minister, because
22 you were a Minister of State, your career in the
23 House of Commons extended from 1968 to the early
24 1980s?

25 HON. PIERRE DE BANÉ: Yes, I was a

1 member of the House of Commons, as you said, from
2 1968 to 1984.

3 MR. DAVID: And in June 1984 you
4 were appointed a Senator by the Prime Minister of
5 the day, Mr. Trudeau?

6 HON. PIERRE DE BANÉ: That is
7 correct.

8 MR. DAVID: And I understand that,
9 during your service as a Senator, you were
10 involved in a number of Senate Committees,
11 including the External Affairs Committee?

12 HON. PIERRE DE BANÉ: Yes, I was a
13 member of the Senate Committee on Foreign Affairs.

14 MR. DAVID: And I also note that in
15 your political career, you have been Minister of
16 what... in English, it is External Relations; in
17 French, I imagine it's called...

18 HON. PIERRE DE BANÉ: Relations
19 extérieures.

20 MR. DAVID: Relations extérieures.
21 And you were appointed Minister of External
22 Relations in 1982?

23 HON. PIERRE DE BANÉ: That's true,
24 and External Relations is concerned primarily with
25 cooperation, whereas foreign policy is the

1 purview, obviously, of the Minister of Foreign
2 Affairs. External Relations is the field of
3 cooperation with developing countries.

4 MR. DAVID: Thank you for that
5 clarification.

6 Lastly, Senator, I would simply
7 like to note that you were born in Palestine.

8 HON. PIERRE DE BANÉ: That is
9 correct.

10 MR. DAVID: And you are of Lebanese
11 origin; your parents are of Lebanese origin?

12 HON. PIERRE DE BANÉ: That is
13 correct.

14 MR. DAVID: And I also understand
15 that you are fluent in Arabic?

16 HON. PIERRE DE BANÉ: Unfortunately
17 not. At one time, obviously, when I was young,
18 when I came to Canada, I obviously spoke Arabic
19 very well, but because of circumstances, I did not
20 have an opportunity to practice the language, and
21 my family is essentially Lebanese, but I also have
22 Syrian and Egyptian roots because, as you know,
23 these are all neighbouring countries. So I had
24 family, I had relatives in these various
25 countries.

1 MR. DAVID: And I understand,
2 Senator, that in 2000 you accompanied the Prime
3 Minister of the day, Jean Chrétien, on an official
4 visit to the Middle East?

5 HON. PIERRE DE BANÉ: Yes, I
6 accompanied Mr. Chrétien on his visit to the
7 countries of the Middle East and the Persian Gulf.
8 I think that we visited seven or eight countries,
9 including Lebanon, Syria, Israel, Egypt, and so
10 forth.

11 MR. DAVID: And what was your role
12 in this delegation?

13 HON. PIERRE DE BANÉ: As a member
14 of the parliamentary delegation that accompanied
15 the Prime Minister.

16 MR. DAVID: Thank you.

17 Mr. de Bané, I am going to refer
18 you to a number of documents. A large proportion
19 of these documents do not concern you directly,
20 personally, but I would simply like to spread them
21 out for the purpose of placing them on the record,
22 and in other cases, you are directly involved, and
23 I am going to ask you for your comments and your
24 testimony.

25 So I will begin, first, by noting

1 caucus have suggested to him
2 the idea of sending a special
3 envoy."

4 [TRANSLATION]

5 Following this document, we go to
6 tab 253, where the Canadian Ambassador to Syria,
7 Ambassador Franco Pillarella, provides his
8 comments on the advisability of sending an envoy
9 to Syria at that time, and the comments of the
10 Ambassador can be found at paragraph 3 and 4 of
11 his memo at tab 253, which I will read:

12 [ENGLISH]

13 "Given that Arar is being
14 detained for internal
15 security reasons, it is very
16 doubtful that a special envoy
17 could do much to obtain his
18 release. The sending of a
19 special envoy would also
20 raise this issue at the
21 political level. In the
22 Syrian context this would
23 most likely cause
24 considerable embarrassment
25 because it is far from

1 evident that the 'civilians'
2 would be able to prevail over
3 the security services."

4 [TRANSLATION]

5 And the Ambassador continues in
6 paragraph 4, about half way down:

7 [ENGLISH]

8 "Again, in my view, a special
9 envoy at this time could
10 probably not achieve much.
11 If the Syrians maintain that
12 Arar represents a potential
13 menace, they will not yield
14 to the entreaties of a
15 special envoy."

16 [TRANSLATION]

17 So this is in December 2002, and
18 as I said to you, Senator, I am not asking for
19 your comments on it.

20 But let us now go to the heart of
21 the matter and to your personal involvement in the
22 case, and I would like to refer you to Tab 466, in
23 Volume 5, and at this tab, Senator, you will find
24 five Emails, to which I would like to refer you,
25 which describe your personal involvement in the

1 case of Mr. Arar and in the government's wish...
2 that you represent the Canadian Government in
3 Syria.

4 So go to page 3 of that tab and
5 you have the five Emails in question.

6 The first is at the bottom of the
7 page and is dated July 3, 2003. The document...
8 the Email comes from Gar Pardy, who is a senior
9 official in the Department of Foreign Affairs, and
10 is addressed to Robert Fry, who is a
11 representative of Minister Graham in his political
12 office, and Mr. Pardy says this to Mr. Fry:

13 [ENGLISH]

14 "...spoke to PCO ..."

15 -- Privy Council Office --

16 "... and they have agreed
17 that Senator De Bané can be
18 asked to go to Syria as a
19 special envoy of the Prime
20 Minister. The Senator is
21 being asked if he can do so
22 today. Do not anticipate a
23 problem. Will draft a letter
24 from the Prime Minister over
25 the weekend along with

1 updating the letter from the
2 Minister. Will have further
3 news on Monday."

4 [TRANSLATION]

5 Let us now go, after this first
6 Email, to the second, which is just above it, and
7 there is the reply from Mr. Fry to Mr. Pardy the
8 same day, which says:

9 [ENGLISH]

10 "Sounds good, Gar. Who is
11 speaking to Senator De Bané?
12 Carmen? I know him well and
13 spoke to him originally so
14 unless PMO is going to call
15 him, I would like to speak to
16 him myself on this."

17 [TRANSLATION]

18 The third Email in this chain is
19 dated July 7 -- and there again we are
20 approximately half way down -- and there,
21 Mr. Pardy is writing to Mr. Fry once again, and
22 this is on Monday, July 7, and Mr. Pardy says
23 this:

24 [ENGLISH]

25 "Carmen was going to try and

1 speak to him on Friday. Will
2 check and let you know.
3 However, in the meantime
4 please go ahead and call the
5 Senator. Gar."

6 [TRANSLATION]

7 The fourth Email is found above
8 it, and there, it's still Mr. Pardy writing, this
9 time to Mr. (sic) Carmen Sylvain, on July 7, and
10 asks the question:

11 [ENGLISH]

12 "Were you able to speak..."

13 [TRANSLATION]

14 HON. PIERRE DE BANÉ: To Ms.

15 MR. DAVID: To Ms. Excuse me, you
16 are right. I said Mr., but it's Ms.

17 [ENGLISH]

18 "Were you able to speak to
19 the Senator on Friday? Gar."

20 [TRANSLATION]

21 And there, finally, the answer,
22 which is found above:

23 [ENGLISH]

24 "Yes, I spoke with the
25 Senator and he has agreed to

1 go to Syria. I informed Jill
2 Stirk."

3 [TRANSLATION]

4 So, Mr. Senator, I'm getting to my
5 questions for you.

6 Would you tell us who approached
7 you first, and how was the situation described to
8 you?

9 HON. PIERRE DE BANÉ: To the best
10 of my recollection, I received a telephone call, I
11 think, from someone in the office of the Minister,
12 Mr. Graham, who said to me: "Senator, would you
13 agree to take a personal letter from the Prime
14 Minister of Canada to the Saudi Arabian and Syrian
15 authorities and could you leave immediately?"

16 I replied immediately: "With
17 great pleasure. I would be happy to take on this
18 mission, but unfortunately I cannot leave today or
19 tomorrow because I have commitments here until
20 July 12 or 13. But at that point I could
21 certainly leave and carry out the mission that you
22 are asking me to carry out."

23 MR. DAVID: And do you know,
24 Senator, why you were the representative mentioned
25 here, in this situation, to represent our Prime

1 Minister?

2 HON. PIERRE DE BANÉ: I assume
3 that, since I am myself of Arab origin and have
4 been very involved in foreign affairs and know
5 these countries, that that was perhaps one of the
6 factors, one of the factors that played a role.

7 But obviously, I am not the only
8 Member of Parliament, in my opinion, who could
9 have carried out that mission. But I assume that
10 those were some of the factors that played a role.
11 But other factors could also have come into play
12 in favour of choosing other candidates. That's
13 it.

14 MR. DAVID: And am I right in
15 understanding that when you were approached, the
16 idea was that you would represent the Prime
17 Minister on two different cases, and that that was
18 the understanding from the outset?

19 HON. PIERRE DE BANÉ: Yes, yes,
20 yes. Absolutely. To go to these two countries
21 and see the heads of state of both countries.

22 MR. DAVID: To represent the
23 interests of Canada in relation --

24 HON. PIERRE DE BANÉ: That's
25 correct. And to carry a very personal message to

1 them from the Prime Minister of Canada.

2 MR. DAVID: Thank you.

3 So if you will please, still at
4 tab 466, move on to page 2.

5 I would simply like to refer,
6 around half way down the page, to a message, again
7 from Gar Pardy, regarding your trip. Mr. Pardy
8 says this -- and this is also dated at that time,
9 around July 7.

10 The message reads:

11 [ENGLISH]

12 "Below is the draft of the
13 letter from the Prime
14 Minister to the President of
15 Syria that would be delivered
16 by Senator de Bane. The
17 Senator has confirmed that he
18 will visit Beirut following
19 his visit to Riyadh in
20 connection with..."

21 [TRANSLATION]

22 And I imagine that that refers to
23 the other case, for the other Canadian than
24 Mr. Arar.

25 [ENGLISH]

1 "... A separate message is
2 going out to Ambassador
3 Pillarella providing
4 information on the visit and
5 requesting that he seek an
6 appointment with the
7 President for Senator de
8 Bane. It is anticipated that
9 Senator de Bane would visit
10 Damascus around July 19."

11 [TRANSLATION]

12 So my question is as follows,
13 Senator: Was it your initial understanding that
14 you would meet with the President of Syria.

15 HON. PIERRE DE BANÉ: Yes, that's
16 true. It was.

17 What page are we on?

18 MR. DAVID: At page 2 of this tab.

19 HON. PIERRE DE BANÉ: Page 2.

20 MR. DAVID: Yes.

21 HON. PIERRE DE BANÉ: Yes.

22 So I see here -- what paragraph?

23 MR. DAVID: It's half way down,
24 just below -- that says -- there is a line of
25 dashes.

1 HON. PIERRE DE BANÉ: Yes.

2 MR. DAVID: That says "Email".

3 HON. PIERRE DE BANÉ: Yes.

4 [ENGLISH]

5 "Below is the draft of the
6 letter..."

7 [TRANSLATION]

8 MR. DAVID: There it is.

9 HON. PIERRE DE BANÉ: Yes.

10 So yes, I took a letter to Saudi
11 Arabia's de facto Head of State and then to Syria
12 to deliver a letter to His Excellency, the
13 President of Republic.

14 MR. DAVID: Thank you.

15 According to the text of
16 Mr. Pardy's Email, you also had the draft letter
17 that the Prime Minister was to sign, which
18 Mr. Pardy had drafted.

19 My question is: were you involved
20 in any way in the language, in the drafting, in
21 the wording of this letter?

22 HON. PIERRE DE BANÉ: No.

23 MR. DAVID: Were you aware of the
24 evolution of the various versions of this letter?

25 HON. PIERRE DE BANÉ: No.

1 MR. DAVID: Okay.

2 I would now like to take you to
3 tab 459, still in that same volume. This is an
4 Email, a message from Mr. Pardy to the Canadian
5 Ambassador in Syria.

6 I cannot tell you the exact date,
7 but it was around July 7. And in it, Mr. Pardy
8 says this:

9 [ENGLISH]

10 "PCO and MINA..."

11 [TRANSLATION]

12 So, Minister Graham.

13 [ENGLISH]

14 "...have given approval for
15 the appointment of Senator
16 Pierre de Bane as the Prime
17 Minister's Special Envoy who
18 will go to Syria in order to
19 deliver a letter from the
20 Prime Minister to the
21 President seeking action on
22 Mr. Arar. A copy of the
23 draft letter is given below."

24 [TRANSLATION]

25 And there, in the third paragraph,

1 met with your officials in
2 Damascus and to emphasize
3 Canada's continuing concern
4 that Mr. Arar remains in
5 custody..."

6 And then goes on to say:

7 "...without any complete
8 understanding of the reasons
9 for his detention or the
10 intentions of your officials
11 with respect to his case."

12 And I just want to highlight to
13 you that in the final version the portion after
14 "custody", that is, "without any complete
15 understanding of the reasons for his detention or
16 the intentions of your officials with respect to
17 his case.", was removed.

18 [TRANSLATION]

19 So, Mr. de Bané, let's go back to
20 tab 450, excuse me, 467. We have to go to tab 467.

21 I would like to refer you to --
22 here again, it is simply to spread them out for
23 the file -- but, in four different Emails.

24 First, in page 2, an Email dated
25 July 9. This is an Email from Mr. Pardy to

1 Mr. Fry -- at the top of the page, it's dated
2 July 9, which says the following:

3 [ENGLISH]
4 "For your information.
5 2. Nicolas, will be
6 briefing the Senator on
7 Friday morning..."

8 [TRANSLATION]
9 A reference to July 11.

10 [ENGLISH]
11 "...will the letter be signed
12 by then?"

13 [TRANSLATION]
14 And Mr. Pardy also says that
15 Mr. Fry, Robert Fry:

16 [ENGLISH]
17 "...will join us for the
18 briefing..."

19 [TRANSLATION]
20 So here, Mr. de Bané, we're
21 talking about a briefing, in other words a -- they
22 were going to meet with you to provide you with
23 sufficient elements to understand your mission.
24 So, a meeting was proposed with
25 you -- which was supposed to take place on July

1 11, in this Email.

2 The next Email to which I would
3 like to refer you is on page 1. This is an Email,
4 also dated July 9, which states that it is
5 unlikely that the Prime Minister's letter will be
6 signed in time.

7 There, it says:

8 [ENGLISH]

9 "It is doubtful that the
10 letter will be signed by
11 then. I will, nonetheless,
12 attempt at speeding up the
13 process. I will keep you
14 informed as soon as the
15 signed letter is received
16 back from Shawinigan."

17 [TRANSLATION]

18 As is well known, the Prime
19 Minister is from Shawinigan.

20 The next Email is on page 2. This
21 is an Email dated July 9. It's the second message
22 with that date, and comes from Patty Goodfellow,
23 JPO -- so from the Department of Foreign Affairs -
24 - to Mr. Léo Martel, who is a representative of
25 the Consulate in Syria, for the Canadian

1 Government.

2 There, Ms. Goodfellow says to
3 Mr. Martel and also to Ambassador Pillarella that:

4 [ENGLISH]

5 "The Prime Minister has
6 appointed The Honourable
7 Pierre DeBané as his Personal
8 Envoy for the purpose of
9 travelling to Saudi Arabia
10 and Syria to meet with HRH
11 the Crown Prince Abdullah bin
12 Abdul Aziz Al-Saud and
13 President Bashar al-Asad,
14 respectively. In addition to
15 conveying the Prime
16 Minister's respects, Senator
17 DeBané will express Canadian
18 hopes that the cases of... in
19 Saudi Arabia and Maher Arar
20 in Syria can be resolved
21 quickly and favourably. The
22 Senator's trip has not been
23 made public."

24 [TRANSLATION]

25 I would like to ask you: was it

1 your understanding of the situation that you were
2 to [ENGLISH] "express Canadian hopes that the case
3 of... Maher Arar in Syria can be resolved quickly
4 and favourably"?

5 [TRANSLATION]

6 Was that one of your tasks?

7 HON. PIERRE DE BANÉ: The sole
8 reason for my mission was to take this letter to
9 the President and, ideally, to obtain the
10 immediate release of Mr. Arar and also, in the
11 case of Saudi Arabia, to release someone who had
12 been condemned to death.

13 MR. DAVID: Okay.

14 I would now like to take you to
15 Tab 470, which is dated July 10. Here again, it
16 is merely a series of three Emails that I would
17 like to display.

18 First, on page 1, the first Email
19 is half way down. It is from Robert Fry to Gar
20 Pardy. He says the following, and it is dated
21 July 10, at 10:35 a.m.:

22 [ENGLISH]

23 "When we are ready to let it
24 be known Senator de Bané is
25 going to... and Syria.

1 We should let Marlene break
2 the news to Monia."

3 [TRANSLATION]

4 That is a reference to Marlene
5 Caterall.

6 [ENGLISH]

7 "We need to get some media
8 play on this as well.

9 However we don't want to do
10 anything that hurts the trip
11 either so I will rely on your
12 advice and experience as to
13 when you think we can release
14 this info."

15 [TRANSLATION]

16 The reply comes from Mr. Pardy at
17 11:12 am and says:

18 [ENGLISH]

19 "...I spoke to Marlene..."

20 [TRANSLATION]

21 Here again, a reference to
22 Ms. Caterall, Marlene Caterall.

23 [ENGLISH]

24 "...on Syria and agree that I
25 will give her a heads up on

1 when she can speak to Monia."

2 [TRANSLATION]

3 And the last message that concerns
4 your meeting to brief you about your terms of
5 reference is found at the top of the page and a
6 reference from Mr. Fry, who says:

7 [ENGLISH]

8 "...we can use A-10
9 boardroom.

10 I will ask Francine to
11 reserve it."

12 [TRANSLATION]

13 So they were preparing to meet you
14 the following day to prepare you for this trip.

15 I would like also to refer you to
16 Tab 470, where I would like to ask you, Senator,
17 when they refer to the fact that you were going to
18 be "briefed" -- that's not the right word, but --

19 HON. PIERRE DE BANÉ: Yes, yes.
20 It's used increasingly: briefing sessions.

21 MR. DAVID: Fine, then, briefing
22 session. Do you remember, do you recall this
23 session, on July 11, and could you tell us what
24 you were told, what parameters were explained to
25 you relative to your mission?

1 HON. PIERRE DE BANÉ: Well, I went
2 to the department and I received a briefing. It
3 was in a conference room, where there were a dozen
4 Foreign Affairs officials.

5 And the Chairman of this group was
6 Gar Pardy, who gave me a briefing that lasted, I
7 would say, about an hour, an hour and a half on
8 both cases, the two files, where I was to take a
9 letter to Crown Prince Abdullah in Saudi Arabia
10 and to President Bashar.

11 I think I say without fear of
12 being mistaken that the case that took up most of
13 the time was that of the Canadian in Saudi Arabia,
14 Mr. Sampson, because he had been tried and
15 condemned to death and there were all sorts of
16 quite complex aspects in this case. So the main
17 part of the briefing had to do with the Sampson
18 case.

19 And obviously, after having
20 explained everything that I needed to know about
21 the Sampson case, Mr. Pardy also gave me a
22 briefing on the case of Mr. Arar.

23 MR. DAVID: Do you remember, do you
24 recall what you were told about the case of
25 Mr. Arar?

1 HON. PIERRE DE BANÉ: Yes,
2 certainly.

3 MR. DAVID: Could you tell us the
4 gist of it?

5 HON. PIERRE DE BANÉ: The thing
6 that -- that remains vividly in my memory, is that
7 Mr. Pardy said this to me.

8 He told me: the Americans have
9 told the Canadian Services -- I no longer remember
10 whether he was talking about CSIS or the RCMP. He
11 told me: The Americans have told the Canadian
12 Services, we are prepared to hand over Mr. Arar to
13 you on the condition that you undertake to arrest
14 him, put him in prison and bring charges against
15 him.

16 To which the Canadian Services
17 told the Americans: we have a Charter of Rights
18 in Canada and we do not have any evidence that
19 would justify arresting this gentleman, bringing
20 charges against him, and asking for his
21 imprisonment.

22 So there was an official request
23 from the United States and an official refusal by
24 the Canadians. That is something that I remember
25 very clearly.

1 The other thing that he told me is
2 that, after the Syrian authorities had received
3 Mr. Arar, is that they were astonished when the
4 Americans brought Mr. Arar to them, because they
5 were not expecting to see him. They were not
6 expecting to see him at all.

7 The cooperation between the Syrian
8 authorities and the Canadian Embassy was really
9 remarkable, in that the Embassy was initially
10 allowed to visit Mr. Arar on a weekly basis. Then
11 it was every two weeks. Then it was every three
12 weeks. Then every month. And that, after a few
13 months, the Canadian Embassy was not allowed any
14 visits.

15 So it began with a great deal of
16 cooperation on the part of the Syrian authorities,
17 who gave our Embassy really exceptional access:
18 every week, every two weeks, then every three
19 weeks, a month, and then at one point zero. Okay.

20 And I remember clearly, the visit
21 by Canadian Members of Parliament, Ms. Caterall
22 and Assadourian, was the last visit when Canadians
23 were able to visit Mr. Arar.

24 So me, we're now in July -- it was
25 several months since any Canadian had been able to

1 visit him. So the situation had deteriorated over
2 the months.

3 Those are the two things that I
4 remember most from this briefing.

5 MR. DAVID: So you are telling us,
6 in relation to -- the message you have just told
7 us about, Mr. de Bané, was delivered by Mr. Pardy.

8 HON. PIERRE DE BANÉ: Yes,
9 Mr. Pardy, that's correct.

10 MR. DAVID: And you --

11 HON. PIERRE DE BANÉ: And I was
12 struck when he said to me: we told the Americans,
13 the Canadian Charter of Rights does not allow us
14 to arrest this gentleman. We have nothing
15 whatever that would justify putting him in prison
16 and bringing charges.

17 There you have it. That really
18 struck me when he told me that.

19 MR. DAVID: Are you quite certain,
20 and I would ask you to think carefully about this,
21 Mr. de Bané, because your testimony is important
22 with regard to this question, are you quite
23 certain that Mr. Pardy told you that the
24 Americans, the American authorities were prepared
25 to deliver Mr. Arar to Canada provided certain

1 steps were taken here in Canada?

2 HON. PIERRE DE BANÉ: That is very
3 clear in my mind. I am absolutely certain that I
4 am reflecting the essence of what I was told,
5 because it made a great impression on me when it
6 was said.

7 MR. DAVID: And did Mr. Pardy go so
8 far as to identify the agencies that were
9 involved? Either the American agencies or the
10 Canadian agencies or authorities?

11 HON. PIERRE DE BANÉ: Maybe he
12 told me, but I don't remember who said it on
13 behalf of the American Government, and who was
14 there on behalf of the Canadian authorities, no, I
15 don't remember, unfortunately.

16 MR. DAVID: And that meeting is
17 definitely the meeting on July 11, 2003.

18 HON. PIERRE DE BANÉ: You're
19 talking about the briefing at which I said...

20 MR. DAVID: Yes.

21 HON. PIERRE DE BANÉ: Yes, it was.

22 MR. DAVID: And where did this
23 briefing take place?

24 HON. PIERRE DE BANÉ: At the
25 Department of Foreign Affairs in Ottawa in a

1 conference room where there were a dozen officials
2 from Foreign Affairs and the meeting was chaired
3 by Mr. Pardy.

4 MR. BAXTER: He was surrounded by
5 all his co-workers.

6 MR. DAVID: You had identified
7 Mr. Pardy, are you in a position to identify any
8 other people who attended that meeting?

9 HON. PIERRE DE BANÉ: You have
10 mentioned the name of Ms. Goodfellow.

11 MR. DAVID: Patricia.

12 HON. PIERRE DE BANÉ: Yes. I
13 remember her. I can't remember the others, no,
14 because in the case of Ms. Goodfellow, I dealt
15 with her on my return from the trip for
16 administrative reasons, expense account, and so
17 forth.. So I remember her.

18 But the lion's share of the
19 briefing was given to me by Mr. Pardy, who had a
20 thorough knowledge of the file.

21 MR. DAVID: Were there any other
22 officials from the Department who spoke to you?

23 HON. PIERRE DE BANÉ: Yes, but only
24 parenthetically. He was the one who chaired the
25 meeting and he had convened a dozen officials and

1 I don't think I am wrong in saying that most of
2 them were in their thirties.

3 MR. DAVID: And did you, Senator,
4 take notes at that meeting, personal notes?

5 HON. PIERRE DE BANÉ: Yes. I took
6 notes. Unfortunately, I can't find the pad in
7 which I took the notes.

8 Yes, I did take notes because ...
9 but I remember very clearly that I took notes.

10 Obviously, the Department gave me
11 a briefing book.

12 MR. DAVID: Before or afterwards?

13 HON. PIERRE DE BANÉ: When I
14 arrived. They gave me the letters from
15 Mr. Chrétien that I was to deliver, and then they
16 gave me a briefing book.

17 The first part dealt with Saudi
18 Arabia, the second dealt with Syria. And my two
19 letters.

20 MR. DAVID: And do you understand
21 why it was necessary for Mr. Pardy to explain to
22 you that the Americans had already offered to
23 deliver, if I may use the word, Mr. Arar here to
24 Canada?

25 Did you understand why Mr. Pardy

1 told you that, why it was necessary to tell you
2 that?

3 What was the context in which he
4 told you that?

5 HON. PIERRE DE BANÉ: I assume that
6 he told me that to comfort me, to convince me that
7 here was someone who deserved all the help the
8 Canadian Government could give him, because we
9 were not prepared to lay charges against him. We
10 had nothing whatever under our Charter of Rights
11 that would have justified laying charges, putting
12 him in prison, and so on and so forth.

13 So I had an excellent case. And
14 that he deserved all the support the Canadian
15 Government could give him.

16 That's how I interpreted that.

17 MR. DAVID: Did anyone else who was
18 present at that meeting make any comments
19 regarding the information that Mr. Pardy gave you?
20 Did anyone cast doubt on the accuracy, or did
21 anyone correct Mr. Pardy or did anyone concur with
22 Mr. Pardy about what he said?

23 HON. PIERRE DE BANÉ: Listen, I
24 remember what I have just told you as if it had
25 been said to me yesterday. So I am absolutely

1 certain, it made such an impression on me that it
2 has stayed in my memory that the Americans said:
3 "We will hand him over if you undertake to arrest
4 him, et cetera, and put him in prison." And the
5 Canadians said: "It's not possible."

6 MR. DAVID: Did Mr. Pardy indicate
7 the source of that information?

8 HON. PIERRE DE BANÉ: No. No. No.

9 MR. DAVID: Where he had that
10 information from?

11 HON. PIERRE DE BANÉ: No. I knew,
12 obviously, that Mr. Pardy was the Director General
13 of Consular Affairs and that in this capacity,
14 obviously, he dealt with all the agencies of the
15 government. But no, I did not ask him: who told
16 you that. No, no.

17 MR. DAVID: Let us continue, and
18 with your permission we will change the volume as
19 we now have to go to Exhibit P-48. Keep the
20 volume that you have, Mr. de Bané, because I will
21 return to it.

22 --- Pause

23 [ENGLISH]

24 THE COMMISSIONER: Volume 1?

25 MR. DAVID: It's volume 1 and it's

1 tab 20.

2 [TRANSLATION]

3 Tab 20, Mr. de Bané.

4 [ENGLISH]

5 THE COMMISSIONER: Tab?

6 MR. DAVID: Twenty.

7 [TRANSLATION]

8 There again, Mr. de Bané, it's
9 simply to place a number of documents on our
10 Commission's record.

11 I would like to refer you to page
12 2 of this tab. This is a... there again, the term
13 that I have learned thus far is a "briefing note".

14 HON. PIERRE DE BANÉ: Exactly. A
15 briefing session. A briefing note.

16 MR. DAVID: This is a briefing
17 note. Thank you. I have not had frequent
18 opportunities to examine in French up to now.

19 On page 2, we have the briefing
20 note which is addressed to the Prime Minister and
21 which asks him, at the end, to sign the letter in
22 question, which is dated July 11 and you have, in
23 fact, a copy of the letter on page 3 of this tab,
24 of this tab, and on page 3 and 4, you have the
25 text which the Prime Minister did in fact sign in

1 a first letter dated July 11.

2 In the first paragraph of the
3 letter from the Prime Minister, the Prime Minister
4 says this:

5 [ENGLISH]

6 "I have asked Senator de Bané
7 to travel to Syria at this
8 time so that I could bring to
9 your attention the case of
10 Maher Arar, a Canadian
11 citizen who has been detained
12 in your country since last
13 October."

14 [TRANSLATION]

15 (As read)

16 And in paragraph 3, the Prime
17 Minister of Canada says:

18 [ENGLISH]

19 "I would further ask that
20 consideration be given on
21 humanitarian and
22 compassionate grounds to
23 having Mr. Arar released and
24 permitted to return to
25 Canada. I can assure you that

1 there is no Canadian
2 government impediment to his
3 return." [TRANSLATION] (As
4 read)

5 If I understand correctly,
6 Mr. de Bané, you took note of the contents of this
7 letter before your departure.

8 HON. PIERRE DE BANÉ: It was handed
9 to me. The original.

10 MR. DAVID: Okay. Did you have any
11 communication whatsoever with the Prime Minister
12 regarding the contents of the letter or regarding
13 your terms of reference, your trip?

14 HON. PIERRE DE BANÉ: No. I was
15 handed a letter that had already been signed by
16 the Prime Minister, but I was not in any way
17 consulted about the drafting of the letter, no.

18 MR. DAVID: Thank you.

19 Mr. de Bané, I would like to refer
20 you now to Exhibit P-88, which is the notes...

21 Exhibit P-88, that is tab 1.
22 Simply to put you in the picture, these are Gar
23 Paridy's personal notes, which were transcribed
24 into the volume.

25 I would like to refer you to page

1 27, Mr. de Bané, of these notes for an entry dated
2 July 15, 2003. Here again, it is simply, once
3 again to display them for the file.

4 We note that Mr. Pillarella [sic]
5 had a telephone conversation with Franco
6 Pillarella, the Canadian Ambassador to Syria.
7 There was also a communication between you and
8 Mr. Pardy, which refers to the fact that you had
9 called, you called Mr. Pardy on July 15 and that
10 you were about to leave Jeddah. The note says:

11 [ENGLISH]

12 "In the meantime Senator
13 called. Out of Jeddah
14 tonight."

15 [TRANSLATION]

16 My question is: do you remember
17 having called Mr. Pardy while you were outside the
18 country on July 15?

19 HON. PIERRE DE BANÉ: Yes. If you
20 will allow me, I would like to give you a bit of
21 the background to all that.

22 I met in the afternoon with the
23 Crown Prince, the Crown Prince of Saudi Arabia,
24 and I was accompanied by the Ambassador of Canada
25 to Saudi Arabia. I had, I think, an audience that

1 lasted almost two hours.

2 MR. DAVID: Mr. de Bané, if you
3 will allow me.

4 HON. PIERRE DE BANÉ: Yes.

5 MR. DAVID: I am just going to
6 interrupt you. This is because on the date in
7 question to which I am referring you, it was July
8 15, at which point you were, it seems to me, in
9 Saudi Arabia.

10 HON. PIERRE DE BANÉ: Yes, that's
11 correct. I'm getting to that.

12 MR. DAVID: Okay. Sorry.

13 HON. PIERRE DE BANÉ: You will see.
14 So I had my audience with the Crown Prince, I
15 spent two hours with him, and I pleaded the case
16 of this Canadian who was condemned to death.

17 MR. DAVID: Perhaps it's not
18 necessary to go into detail.

19 HON. PIERRE DE BANÉ: Okay. In any
20 event. So, that all happened. Okay. Then, the
21 Canadian Ambassador to Saudi Arabia drove me in
22 his car to Jeddah Airport to catch the plane and
23 leave for Syria. Lebanon and Syria.

24 We got to the airport, where we
25 had to wait for two or three hours, I think, in

1 the airline lounge.

2 We used this delay of two or three
3 hours to call Ottawa and report to Mr. Pardy on
4 our audience with Crown Prince Abdullah.

5 And Mr. Pardy said to me:

6 "Senator, I have news for you. The letter that I
7 gave you in Ottawa signed by Mr. Chrétien which
8 talks about one subject only, the release of
9 Mr. Arar, on reflection, we are instead going to
10 send you another letter which you will give to
11 President Bashar, and that letter, contrary to the
12 one you were given in Ottawa, will not only cover
13 the Arar case, but also other subjects of
14 bilateral interest between Canada and Syria."

15 I remember that he said that to me
16 while I was in the lounge in Saudi Arabia.

17 We called him to tell him about
18 our conversation with the Crown Prince on the
19 Sampson case, and he used the opportunity, he
20 said: "I'm very happy about what you're telling
21 me." All that. He said: "Now I have some news
22 for you" and then he talked to me about that.

23 MR. DAVID: Furthermore, Senator,
24 if you will permit me, go to page 28, the next
25 page of Mr. Pardy's notes. He says at the top of

1 the page:

2 [ENGLISH]

3 "Senator de Bane ready to
4 speak on other matters."

5 [TRANSLATION]

6 MR. DAVID: I imagine that that
7 refers, in fact, to your mission, which had
8 expanded somewhat or which now also covered
9 broader issues than merely that of Mr. Arar.

10 HON. PIERRE DE BANÉ: That's it.
11 The Minister came to the conclusion that my visit
12 to Syria would be more successful if the Prime
13 Minister's letter also covered other subjects of
14 mutual interest.

15 MR. DAVID: Okay, Senator, simply
16 to support your claims, I would like to refer you
17 to tab 470.

18 Excuse me, we're changing volumes.

19 [ENGLISH]

20 THE COMMISSIONER: What tab?

21 MR. DAVID: 470, and if you could
22 go to page 6. [TRANSLATION] On page 6. You have
23 the pagination at the bottom right of the page,
24 Mr. de Bané.

25 HON. PIERRE DE BANÉ: Thank you.

1 MR. DAVID: On page 6 of 8, you
2 have a message from Mr. Pardy to a number of
3 people, Michael Chesson, Nicolas Chapdelaine, John
4 Ausman, Jillian Stirk and Patty Goodfellow to whom
5 you have already referred, and Mr. Pardy says
6 this:

7 [ENGLISH]
8 "As you are aware Ambassador
9 Pillarella is having
10 difficulty in obtaining a
11 response from the Syrians
12 with respect to the entry of
13 Senator de Bane and the
14 meeting with the President.
15 Ambassador Pillarella has
16 indicated that if there was a
17 message from the Prime
18 Minister announcing the visit
19 and indicating that the visit
20 was not a one-subject one,
21 then the chances of having
22 the Senator meet with the
23 President would be improved.
24 I spoke to Ambassador
25 Arnous..."

1 [TRANSLATION]
2 -- who is the Syrian Ambassador --
3 [ENGLISH]
4 "...earlier this afternoon
5 and received the same
6 message."
7 [TRANSLATION]
8 MR. DAVID: Yes, this is the
9 context in which I believe that Mr. Pardy told you
10 that there would be a second letter from the Prime
11 Minister.
12 In the second paragraph of this
13 message, you have Mr. Pardy's reference:
14 [ENGLISH]
15 "With that in mind, and as
16 suggested to Nicolas this
17 afternoon, we would not
18 change the Prime Minister's
19 letter but a message from the
20 Prime Minister to the
21 President that Ambassador
22 Pillarella could use would
23 improve the chances of
24 access. The message could be
25 along the following

1 lines: ..."

2 MR. DAVID: And there the text is
3 blacked out.

4 This is obviously a reference to a
5 Commission that may have been expanded in which
6 you would have been asked to address issues that
7 went beyond the question of Mr. Arar. That was
8 your understanding of the situation.

9 HON. PIERRE DE BANÉ: It was.

10 MR. DAVID: Okay. Did Mr. Pardy
11 inform you that they were having difficulty
12 obtaining access to the President for you?

13 HON. PIERRE DE BANÉ: Yes.

14 MR. DAVID: When did he inform you
15 about...

16 HON. PIERRE DE BANÉ: Let's see.
17 When I called him, the Canadian Ambassador and I,
18 we called from the airline lounge at Jeddah
19 Airport. He said to me that they were having
20 difficulty obtaining a meeting and that the
21 Ambassador thought that it would be necessary to
22 cover other subjects, et cetera.

23 MR. DAVID: Were you aware that
24 that was also the opinion of Ambassador Arnous,
25 the Syrian Ambassador to Canada, that it would be

1 necessary to take a slightly different approach?

2 HON. PIERRE DE BANÉ: No.

3 MR. DAVID: Okay. I would now to
4 refer you to tab 20 of the PCO documents.

5 Tab 20, Mr. de Bané. We are
6 dealing with a lot of documents, sorry.

7 I would simply like to refer you
8 to page 1 of that tab.

9 This is first of all, the first
10 point, the confirmation that the Prime Minister
11 had signed the first letter, which is dated July
12 11, and which he signed on Sunday, July 13. And
13 there, we have a reference, at the second and
14 third points, to the second letter that the Prime
15 Minister has to sign, and it says the following:

16 [ENGLISH]

17 "Therefore recommended that
18 you sign a second letter that
19 the Ambassador will deliver
20 which introduces the Senator
21 and places the visit in a
22 broader context. We
23 recommend that you sign the
24 attached letter to President
25 Bashar Assad."

1 [TRANSLATION]

2 And the second letter,
3 Mr. de Bané, can be found at tab 472 of the volume
4 that you had before -- 472, 472 -- and there, in
5 that letter, which is dated July 17, signed by the
6 Prime Minister, the Prime Minister says -- and
7 it's about half way down --:

8 [ENGLISH]

9 "I have asked Senator Pierre
10 de Bané to travel to Syria
11 this week in order to meet
12 with you and discuss various
13 matters in the Canada-Syria
14 relationship. I would hope
15 that you could take a few
16 moments from your schedule to
17 meet with him so that I can
18 have your views on the many
19 issues and developments in
20 your region. Thank you for
21 your consideration."

22 [TRANSLATION]

23 So it is clear that the
24 language...

25 HON. PIERRE DE BANÉ: Which tab?

1 MR. DAVID: Four hundred seventy
2 two, 4-7-2.

3 HON. PIERRE DE BANÉ: Yes, yes,
4 yes. Absolutely.

5 MR. DAVID: And that letter, on the
6 other hand, you were already overseas, and you
7 didn't have it in your possession, did you? Did
8 you take possession of that letter in Syria?

9 HON. PIERRE DE BANÉ: Yes, the
10 means of communication... obviously, between the
11 headquarters of the department here in Ottawa and
12 the embassies, they have a system of transmission
13 between them, and if I recall correctly, Mr. Pardy
14 had said to me: "Senator" -- when I called him
15 from Jeddah -- "When you get to Damascus, this
16 letter, this new letter from the Prime Minister,
17 will already be there."

18 MR. DAVID: Okay and I would like
19 to refer you to tab 471 -- 471 -- and this is a
20 letter from Mr. Pardy to the Syrian Ambassador
21 here in Ottawa, which says:

22 [ENGLISH]

23 "Your Excellency,

24 Further to our telephone

25 discussion yesterday, I am

1 attaching a letter from the
2 Prime Minister of Canada, the
3 Right Honourable Jean
4 Chrétien, to His Excellency
5 Bashar Al Assad, President of
6 the Syrian Arab Republic. It
7 would be appreciated if this
8 letter could be forwarded to
9 your authorities in Damascus
10 at the earliest possible
11 time."

12 [TRANSLATION]

13 So this reveals how this second
14 letter from the Prime Minister was delivered.

15 To your knowledge, were there any
16 other letters that were also involved in your
17 mission to Syria? Did you deliver other documents
18 to the Syrian President?

19 HON. PIERRE DE BANÉ: No.

20 MR. DAVID: So now let's go to tab
21 473, which is very short in relation to that tab,
22 because it is completely blacked out. It is
23 headed by a reference to you:

24 [ENGLISH]

25 "Senator Pierre De Bané

1 Visit to Damascus
2 July 19, 2003
3 Topics and Intervention
4 Points"

5 [TRANSLATION]

6 I understand from this document
7 that someone met with you in Syria to do another
8 briefing?

9 HON. PIERRE DE BANÉ: Yes, and if
10 you will permit me, I will tell you about the
11 circumstances. I left...

12 MR. DAVID: You will have to be
13 careful here, Mr. de Bané, because the document in
14 its entirety is completely blacked out.

15 HON. PIERRE DE BANÉ: Yes.

16 MR. DAVID: So the issue of...

17 HON. PIERRE DE BANÉ: Yes.

18 MR. DAVID: ...national secrecy has
19 been invoked...

20 HON. PIERRE DE BANÉ: Yes. Yes.

21 MR. DAVID: ...so you have to be
22 very careful...

23 HON. PIERRE DE BANÉ: Yes.

24 MR. DAVID: ...in what you say so
25 as not to reveal protected information.

1 HON. PIERRE DE BANÉ: Thank you.

2 When I caught the plane in Jeddah,
3 it was a flight Jeddah-Cairo-Beirut. So I arrived
4 in Beirut and I was in daily contact with our
5 Ambassador in Damascus, Mr. Pillarella.

6 And Mr. Pillarella... well, I was
7 in Beirut. It's about an hour and a half by car
8 between Beirut and Damascus. And Mr. Pillarella
9 said to me: "I am working to get you an
10 appointment." And finally, at one point he said:
11 "Well, Mr. de Bané, I've got an appointment.
12 Tomorrow you will go with me to meet the Syrian
13 Deputy Minister of Foreign Affairs, Mr. Mouallem,
14 in Damascus."

15 So the Canadian Embassy in Lebanon
16 drove me in an Embassy car to the border. There
17 Mr. Pillarella was waiting at the Lebanese-Syrian
18 border. I got into his car. He also gave me a
19 briefing in the car, and I think that we went
20 directly to the Ministry of Foreign Affairs of the
21 Republic of Syria, where I was received, with
22 Ambassador Pillarella, by Mr. Mouallem.

23 So the briefing took place in the
24 car between... at the border until... it took
25 under an hour.

1 MR. DAVID: Okay. Thank you for
2 that clarification.

3 I would now like to refer you... I
4 am coming back to Mr. Pardy's personal notes...

5 HON. PIERRE DE BANÉ: Mm-hmm.

6 MR. DAVID: ...which you have there
7 on your right. No, it's the other volume. Yes,
8 that one, and I would like to refer you to page 28
9 of his notes -- page 28...

10 HON. PIERRE DE BANÉ: Yes.

11 MR. DAVID: ...and there is a
12 reference to July 21, 2003...

13 HON. PIERRE DE BANÉ: Mm-hmm.

14 MR. DAVID: ...and it's a reference
15 to the fact that you had met with the Syrian
16 Deputy Foreign Minister, and Mr. Pardy said:

17 "Franco Pillarella..."

18 So, he had a conversation with
19 Ambassador Pillarella.

20 [ENGLISH]

21 "Ar Residence with
22 Senator..."

23 [TRANSLATION]

24 That should be:

25 [ENGLISH]

1 "- At Residence with Senator
2 De Bané
3 - Mtg at 1100am with Vice
4 Minister
5 - Two letters.
6 - Only deliver first letter.
7 - Senator De Bané
8 - First letter.
9 - Very much interested in
10 events in region. Views on
11 the regional issues."

12 [TRANSLATION]

13 So the notes seemed to show that
14 you in fact delivered only one of the two letters
15 that you had. Do you recall anything in
16 connection with this matter?

17 HON. PIERRE DE BANÉ: No. What is
18 very clear in my mind is that Mr. Pardy had told
19 me on the telephone: "Mr. de Bané, we should
20 prepare a letter which covers more than the Arar
21 case, and that is what we are going to do." And
22 that is very clear in my mind.

23 Good! And Mr. Pardy told me, not
24 about a plan that was not firm, no, no, he told
25 me: "This is the decision that has been taken.

1 We are going to prepare a new letter, and with
2 this letter, you will have the appointment, et
3 cetera, that will give you an opportunity to
4 deliver the Prime Minister's letter." And that is
5 all clear in my mind.

6 Now, which letter did the
7 Ambassador or I give to Mr. Mouallem, that part,
8 frankly, is not very clear in my mind.

9 MR. DAVID: Okay.

10 In your mind, Mr. de Bané, were
11 you going to meet with the President of Syria?

12 HON. PIERRE DE BANÉ: Yes.

13 MR. DAVID: When did you...

14 HON. PIERRE DE BANÉ: And
15 Mr. Pillarella, when he met me in Beirut --
16 because we spoke every day -- from the moment I
17 arrived in Beirut, he said to me: "Well, you're
18 going to meet Mr. Mouallem and not the President
19 of the Republic."

20 So I said: "Fine, I know
21 Mr. Mouallem. He was the Syrian Ambassador in
22 Washington. I had previously met him down there,
23 et cetera." So this was a gentleman whom I knew.
24 I knew how influential he was. And I said:
25 "Good, since this is the appointment that you have

1 been able to get for me, that's perfect, I will be
2 there, and you will tell me tomorrow. I will
3 leave by car and I will be there."

4 MR. DAVID: And were you given an
5 explanation... did they explain to you how it was
6 that now you would be meeting with the Vice -- the
7 Deputy -- "the Vice Deputy Foreign Affairs
8 Minister", rather than the President of Syria?
9 Was that explained to you...

10 HON. PIERRE DE BANÉ: Yes. I
11 remember that during the days I spent in Beirut,
12 when I spoke every day to our Ambassador,
13 Mr. Pillarella, he told me about all the
14 representations that he was making to obtain the
15 appointment, to the Syrian authorities: "Senator
16 de Bané is the bearer of a personal letter from
17 the Prime Minister of Canada to the
18 President... ". And he said to me: "I'm having
19 trouble getting an appointment..." et cetera,
20 okay.

21 After a few days, he said to me:
22 "Okay, I finally have an answer. The Deputy
23 Minister will receive you." Okay.

24 So I visited the Deputy Minister,
25 and when I saw Mr. Mouallem -- I could talk about

1 it if you wanted -- the first thing he said to me
2 was: "I must pass on to you our President's
3 apologies, et cetera, et cetera. Unfortunately
4 the time was so short that it was not possible to
5 organize a meeting with the President, and I would
6 like to express our regrets to you." Okay.

7 MR. DAVID: Okay.

8 HON. PIERRE DE BANÉ: That's what
9 he said.

10 MR. DAVID: Now, the briefing that
11 you received about Mr. Arar from the Canadian
12 Ambassador, Mr. Pillarella, did you receive it
13 during the drive from Lebanon to Damascus?

14 HON. PIERRE DE BANÉ: Yes.

15 MR. DAVID: I would like you to
16 tell us what you were told about Mr. Arar. What
17 information were you provided with, with what did
18 the Ambassador provide you specifically concerning
19 Mr. Arar?

20 HON. PIERRE DE BANÉ: What struck
21 me particularly in the briefing that I had from
22 Ambassador Pillarella was that the Syrian
23 authorities had given access that was really out
24 of the ordinary, excellent, to the Canadian
25 Embassy so that they could visit Mr. Arar, at the

1 point where, I think, in October when he
2 arrived... when he arrived in Syria, and that the
3 Embassy's access had become increasingly
4 difficult.

5 Initially, it was on a weekly
6 basis, then every two weeks, then every three
7 weeks, then every month, then every three months,
8 then nothing at all, and the Ambassador was not at
9 all pleased about that and he was really very
10 disappointed about this state of affairs, that the
11 Embassy did not have access as frequently as
12 before to Mr. Arar, because one of the things that
13 was very important for Mr. Pillarella was to know
14 what state Mr. Arar was in and why he was being
15 kept in prison, when promises had been made to
16 bring charges and to bring him to a public trial,
17 et cetera.

18 And secondly, these visits would
19 allow Mr. Pillarella and his colleagues to make
20 sure that... how can I put it... whether or not
21 Mr. Pillarella [sic] was in good health. So they
22 no longer had access to him. That, therefore,
23 created considerable concern, et cetera.

24 So I remember that he had talked
25 to me about that, that whereas initially the

1 visits had gone very well, these visits had now
2 been suspended completely.

3 MR. DAVID: And did... the Canadian
4 Ambassador provide you with details about the
5 reasons that might justify Mr. Arar being held by
6 the Syrians, the evidence that the Syrians might
7 have about Mr. Arar, and lastly, what might
8 explain the treatment that Mr. Arar was receiving
9 in Syria?

10 --- Pause

11 HON. PIERRE DE BANÉ: I am going to
12 give you one fact which remains very vividly in my
13 memory and another that is more of a conclusion
14 that seems logical to me.

15 I will begin with a deduction.
16 The deduction is that the Americans were the ones
17 who sent him there. I remember that Mr. Pardy had
18 told me that the Syrians were astonished when the
19 Americans told them, from Amman, I think: "We
20 would like to entrust Mr. Arar to you." The
21 Syrians, it would seem, were very astonished, very
22 surprised that the Americans were asking them to
23 take responsibility for Mr. Arar from them, that
24 is a deduction, I think it's... right.

25 But what is very clear in my mind,

1 is that when I met Mr. Mouallem and when I
2 explained to him why Mr. Arar should be released,
3 he said at one point: "It's the Americans'
4 fault." I do remember that.

5 MR. DAVID: So, Mr. de Bané, let's
6 go to the meeting with Mr. Mouallem. I would like
7 to refer you to tab 476.

8 HON. PIERRE DE BANÉ: Could you
9 stop for a couple of minutes?

10 MR. DAVID: Yes. Yes, absolutely.

11 HON. PIERRE DE BANÉ: Thank you.

12 [ENGLISH]

13 MR. DAVID: Mr. Commissioner, I
14 think Mr. de Bané would appreciate a break at this
15 point.

16 THE COMMISSIONER: Okay. We will
17 take a fifteen-minute break.

18 MR. DAVID: Thank you.

19 THE REGISTRAR: Please stand.

20 Veuillez vous lever.

21 --- Suspension à 10 h 15 /

22 Upon recessing at 10:15 a.m. /

23 --- Reprise à 10 h 33 /

24 Resuming at 10:33 a.m.

25 THE SECRETARY : Please, be seated.

1 Veillez vous asseoir.

2 [TRANSLATION]

3 MR. DAVID: Mr. de Bané, I would
4 refer you to tab 476. We were in the process of
5 examining your meeting with Mr. Mouallem, and I
6 would refer you to this tab simply to review the
7 discussion and ask you if what is contained in
8 that report coincides with your memory of that
9 meeting.

10 So --

11 HON. PIERRE DE BANÉ: We're talking
12 about ---

13 MR. DAVID: Tab 476.

14 HON. PIERRE DE BANÉ: Yes, that's
15 it.

16 MR. DAVID: Four seventy-six.

17 HON. PIERRE DE BANÉ: Yes.

18 MR. DAVID: So, this is a message
19 that comes from the Canadian Ambassador, which was
20 sent to Canada and which concerns -- which is an
21 account, finally, of your meeting with the Vice --
22 the Vice -- Deputy Foreign Minister of Syria.

23 It says the following:

24 [ENGLISH]

25 "Senator de Bané met, July 22

1 with Foreign Deputy Minister
2 Mouallem to present PM
3 Chrétien's letter bringing to
4 the attention of President
5 Bashar the case of Maher
6 Arar. In handing the letter
7 to Mouallem the Senator
8 explained the importance PM
9 Chrétien attached to this
10 question and sought the
11 assurance that the letter
12 would be brought to the
13 personal attention of the
14 President."

15 [TRANSLATION]

16 Does that accord with your
17 recollection? That you asked --

18 HON. PIERRE DE BANÉ: Yes, it does.

19 MR. DAVID: Okay.

20 Paragraph two, it notes that you
21 said:

22 [ENGLISH]

23 "Senator de Bané explained
24 why the case was important to
25 Canada. Referring to the

1 fact that Canada was a
2 multicultural country made up
3 of immigrants, he himself had
4 been born in Haifa,
5 Palestine, every Canadian,
6 whether by birth or acquired
7 citizenship had the same
8 rights and obligations under
9 the law and thus entitled to
10 the same protection by the
11 Canadian Government when in
12 need.. The Senator was well
13 aware that under Syrian law,
14 Arar was considered to be a
15 Syrian citizen, but as a
16 Canadian citizen the Canadian
17 government had a duty to
18 intervene on his behalf."

19 [TRANSLATION]

20 Does that reflect what you said,
21 Senator?

22 HON. PIERRE DE BANÉ: Yes.

23 And what I would also like to say,
24 to give you a bit of the atmosphere of the
25 meeting, is that I knew Mr. Mouallem.

1 We knew each other and we were --
2 we were happy to see each other again, and I
3 explained to him that, of course, Mr. Arar was a
4 Syrian citizen in their eyes, but for us, as
5 Canadians, he was a Canadian citizen.

6 And Canada is undoubtedly the only
7 country in the world that has included in its
8 highest law, in the country's constitution, that
9 Canada is a multicultural country. And it is a
10 Canadian expression to say that Canada is made up
11 of people who come from all the countries in the
12 world and that they all have the same rights.

13 I said: we are, I think, the only
14 country in the world that has put that into its
15 highest law, that all Canadians, whether they were
16 born in Canada or came from abroad, are first
17 class citizens.

18 And so, even if in his eyes
19 Mr. Arar was a Syrian, for us he was a Canadian.
20 And that is the reason why the Prime Minister of
21 Canada says again and again in public that he will
22 do everything he can to free Mr. Arar. So that's
23 that.

24 So I began to explain to him in an
25 extremely energetic manner why, even though other

1 countries also have naturalization processes, ours
2 goes much further.

3 It takes three years to become a
4 Canadian citizen. There are more than 40 members
5 of Parliament who were born abroad. Several are
6 ministers and were born abroad. Et cetera, et
7 cetera.

8 So I tried to make him understand
9 the fact that these are not just words, this is
10 the reality. It is a reality.

11 So I put great emphasis on that.
12 I also talked to him about the extent to which the
13 Canadian community of Syrian origin is making an
14 outstanding contribution to the development of
15 Canada.

16 In short, that portion of my
17 speech, of my intervention, to establish the
18 background, was very important for me, because, as
19 you know, in many countries of the world, if
20 you're not born in the country, it's not the same
21 thing.

22 And I wanted to tell him no! no!
23 It's very different in Canada. And that's why the
24 Prime Minister was speaking so emphatically about
25 this file.

1 It was to put the case in context.

2 MR. DAVID: Thank you.

3 I would refer you to the third
4 paragraph of the report, Mr. de Bané. And there
5 it says that you spoke of:

6 [ENGLISH]

7 "...unparalleled co-operation
8 the Syrian authorities had
9 first shown in this case by
10 allowing the Canadian consul
11 to visit Arar on a number of
12 occasions and later, allowing
13 two members of the Canadian
14 Parliament to also meet with
15 him. Senator de Bané thought
16 this was a reflection of the
17 good relations which existed
18 between our two countries.

19 It was therefore
20 disappointing and
21 incomprehensible to see that
22 since the visit of the MPs
23 last April, no other visit
24 from the Canadian Consul had
25 been allowed, nor had Arar

1 been put on trial as we had
2 been assured he would be."

3 [TRANSLATION]

4 Does this passage reflect your
5 conversation with Mr. Mouallem?

6 HON. PIERRE DE BANÉ: It does. I
7 told him: We thank you for having allowed our
8 Embassy here, our Ambassador and his colleagues,
9 to visit Mr. Arar on a frequent, even quite
10 exceptional basis, but quite frankly, they have
11 had no access to Mr. Arar for several months now,
12 and that is a completely unacceptable situation.

13 MR. DAVID: So I continue. And the
14 text continues. It says:

15 [ENGLISH]

16 "It was in this context that
17 PM Chrétien was now asking
18 President Bashar to give his
19 urgent attention to this
20 matter. The PM was further
21 asking that consideration be
22 given, on humanitarian and
23 compassionate grounds, to
24 have Mr. Arar released and
25 permitted to return to

1 Canada. The Senator added
2 there was no impediment to
3 Mr. Arar's return to Canada
4 and if Syria were to allow
5 such return, Canada would not
6 forget."

7 [TRANSLATION]

8 MR. DAVID: Does that reflect what
9 was said?

10 HON. PIERRE DE BANÉ: Absolutely. I
11 told him: "Mr. Mouallem, the Prime Minister of
12 Canada, who says regularly that he will spare no
13 effort to free Mr. Arar, is asking you to free
14 him. I can tell you, as the personal
15 representative of the Prime Minister of Canada,
16 that Canada will not forget if you free Mr. Arar."

17 MR. DAVID: I will conclude by
18 referring you to the last paragraph, paragraph 5,
19 the last sentence which says:

20 [ENGLISH]

21 "Finally, Mouallem assured
22 the Senator that the PM's
23 letter would be brought to
24 the personal attention of the
25 President, adding that for

1 himself, he hoped that
2 something positive in the
3 affair could happen soon."

4 [TRANSLATION]

5 MR. DAVID: Do you remember
6 receiving this assurance from Mr. Mouallem?

7 HON. PIERRE DE BANÉ: That is
8 really a moment that I will not forget. Because I
9 had been explaining for an hour the importance
10 that this case had for the Prime Minister of
11 Canada and then I said to him: "Mr. Mouallem, you
12 and I both know each other very well. I am here
13 on an official mission bearing a letter from the
14 Prime Minister of Canada to His Excellency the
15 President of the Republic and I absolutely have to
16 take the Syrian Government's answer back to the
17 Prime Minister of Canada."

18 Mr. Mouallem replied with two
19 things that I still remember vividly. He said to
20 me: "Number one, tell the Prime Minister of
21 Canada that I will personally hand his letter to
22 the President of the Republic, Bashar al Assad.
23 Number two, as far as I am concerned, I will
24 support the Prime Minister of Canada's request to
25 the President."

1 Obviously, I was very proud when
2 he made the second point to me, not only "I will
3 personally take the letter to President Bashar Al
4 Assad, but I will personally support it and tell
5 the President of Syria, my President, that I
6 support the letter from your Prime Minister."

7 MR. DAVID: Do you remember having
8 suggested to Mr. Mouallem that Mr. Arar could be
9 handed over to Mr. Pillarella and that if it
10 should ever turn out that he was responsible for
11 any criminal or other act, guilty of any offence,
12 that Canada would look after it?

13 HON. PIERRE DE BANÉ: Absolutely. I
14 told him: "One more thing, we have laws in Canada
15 against terrorism, against all offences, crimes
16 against the State and so we can, clearly, if there
17 has been any infringement of Canadian laws, we can
18 take care of it."

19 I remember the vigorous
20 representations made by our Ambassador,
21 Mr. Pillarella, who said to Mr. Mouallem: "You
22 had promised me, you had said that you had certain
23 concerns, et cetera. If so, we, Canada, demand a
24 public trial, if you have any accusations against
25 Mr. Arar, we want the charges to be brought in a

1 trial where Canadian lawyers can attend, et
2 cetera."

3 Our Ambassador had -- how shall I
4 put it? -- he spoke in a very direct, frank manner
5 that this way of keeping a Canadian citizen
6 incommunicado was unacceptable and that there were
7 two solutions: either he was released immediately
8 or, if they had any charges to bring against him,
9 that they do so in a public trial where the
10 Canadian government could attend the trial.
11 Mr. Pillarella was very, very forthright.

12 MR. DAVID: Senator, I would like
13 to refer you to tab 709 in volume 8. You do not
14 have it to hand.

15 Tab 709 and if you could, at the
16 bottom of the page, find page 15 of 19. This is
17 the reference in the lower right hand corner, page
18 15 of 19. It is also referred to as page 14 a
19 little higher up.

20 There is a reference at the bottom
21 of the page for July 22, 2003. The document in
22 question here is a chronology, prepared by the
23 Department of Foreign Affairs, of the basic facts
24 in the Arar case.

25 They are referring in this

1 chronology, which was prepared in November 2003,
2 for your information, to your meeting with
3 Mr. Mouallem on July 22.

4 I would simply like to read you an
5 excerpt from it. Starting at the sentence... in
6 fact, let me read it to you to give you the full
7 context.

8

[ENGLISH]

9

"Senator Pierre de Bané

10

discusses the case with

11

Syrian Vice Minister of

12

Foreign Affairs Walid

13

Mouallem and hands over the

14

letter from PM Chrétien for

15

transmission to the

16

President. The PM asked that

17

consideration be given, "on

18

humanitarian and

19

compassionate grounds," to

20

releasing Arar and allowing

21

him to return to Canada.

22

Senator de Bané explains the

23

PM's concerns about the

24

plight of a Canadian citizen

25

and sought an assurance that

1 the letter would be
2 transmitted to the personal
3 attention of the President."

4 [TRANSLATION]

5 MR. DAVID: This is what is new in
6 terms of the report which we have just looked at
7 together at tab 476.

8 [ENGLISH]

9 "Mouallem states that the
10 Minister of Foreign Affairs
11 is following the case very
12 closely, but that new
13 elements had widened the
14 scope of the Syrian
15 investigation, hence Arar had
16 not been put on trial and the
17 Embassy has not been
18 permitted access."

19 [TRANSLATION] (As read)

20 MR. DAVID: I have some questions
21 to ask you. First, do you remember Mr. Mouallem
22 saying that to you? I warn you in advance,
23 Mr. de Bané, great care is required here
24 respecting what you say about what Mr. Mouallem
25 said, but tell us first, did Mr. Mouallem tell you

1 what is quoted here as being his words that
2 Foreign Affairs:

3 [ENGLISH]
4 "...is following the case
5 very closely but that new
6 elements had widened the
7 scope of the Syrian
8 investigation and that Arar
9 had not been put on trial and
10 the Embassy had not been
11 permitted access."

12 [TRANSLATION] (As read)

13 MR. DAVID: Did Mr. Mouallem say
14 that to you? Do you remember those words?

15 There again, I will issue a
16 caution, I don't think that one should go beyond
17 that.

18 HON. PIERRE DE BANÉ: Yes, I
19 remember very well that, in response to the
20 statements by our Ambassador, who expressed his
21 displeasure, his disappointment that the Embassy
22 no longer had access to Mr. Arar, Mr. Mouallem
23 said that he understood that disappointment, that
24 he would see how he could arrange things to again
25 allow a consul from our Embassy to visit Mr. Arar,

1 that if he had been unable to follow up on this
2 until now, if the visits had stopped, it was
3 because the investigation had taken on another
4 dimension.

5 [ENGLISH]

6 "...that new elements had
7 widened the scope of the
8 Syrian investigation."

9 [TRANSLATION] (As read)

10 So he said that, he said: "Which
11 has resulted in the fact that we will be bringing
12 charges soon", et cetera.

13 That is the reason that would
14 explain why the Embassy no longer had permission.
15 But he did say: "Listen, I will see how these
16 visits might be resumed."

17 He spoke about that in answer to
18 the comments of Mr. Pillarella who said: "How is
19 it that I no longer have the right to send my
20 colleagues to visit this gentleman?"

21 MR. DAVID: This new evidence to
22 which the document that we have just read together
23 refers, without your having reported them, did
24 someone ask for explanations, were explanations
25 given to you about this new evidence? Here again

1 I would ask you to...

2 HON. PIERRE DE BANÉ: No, no, he
3 spoke in general terms.

4 MR. DAVID: Very general.

5 HON. PIERRE DE BANÉ: He spoke in
6 general terms. He began, you see, after our
7 representations, he began in more general terms.

8 He said to me: "One, I would like
9 to tell you that the President enormously
10 appreciates the telephone conversations that he
11 has with your Prime Minister. My Minister of
12 Foreign Affairs enormously appreciates the
13 conversations he has with your Minister of Foreign
14 Affairs. Three, I thank Canada for the way in
15 which you have welcomed the Syrians who have
16 emigrated to Canada."

17 So there was all this positive
18 part, where he felt obliged to state his
19 appreciation to the Government of Canada.

20 Then he said: "Listen, on the
21 subject of Mr. Arar, yes, Ambassador, I understand
22 your disappointment, but the investigation has
23 taken another turn and I will see what I can do to
24 let the visits resume and the department that I
25 direct as Secretary General, as Vice Minister,

1 attaches very great importance to this case", et
2 cetera, et cetera.

3 There was accordingly a political
4 message of appreciation for Canada, of the
5 contacts between the two governments, of the
6 welcome that Canada has given to the Syrian
7 community, there was all that.

8 When he finished by saying: "I
9 will give Mr. Chrétien's letter to the President,
10 I will support it", I said to myself: mission...
11 proceeding satisfactorily.

12 MR. DAVID: Thank you.

13 You returned to Canada on July 28,
14 Mr. de Bané, and did you subsequently have
15 briefings with the Canadian authorities here?

16 HON. PIERRE DE BANÉ: Yes. When I
17 was back in Canada, I spoke to Mr. Pardy, who had
18 briefed me before I left and I said to him: "I
19 think that it went well in both countries and that
20 in both of them, without giving me a formal
21 promise that they would accede to Mr. Chrétien's
22 two requests, the impression I had was that we
23 were going to get positive replies."

24 Mr. Pardy told me: "I got the
25 same impression from our Ambassadors."

1 MR. DAVID: Just for the record,
2 Mr. Pardy's notes indicate that you had a
3 conversation with him on July 31. You returned on
4 the 28th, on the 31st, did you meet with anyone
5 else in addition to Mr. Pardy, did you meet...

6 HON. PIERRE DE BANÉ: I don't think
7 so. I told him on the telephone that I thought
8 that I had carried out the commissions that I had
9 been given and he answered: "I am very satisfied
10 with your performance and I have had feedback from
11 our Ambassadors in both countries and they are
12 also highly positive."

13 MR. DAVID: And did you meet with
14 Ms. Mazigh, Mr. Arar's wife, on your return?

15 HON. PIERRE DE BANÉ: No. I'd like
16 to say something to you about that. Neither
17 before my mission, nor during my mission, nor
18 after my mission did I talk to anyone at all about
19 the trip that I made.

20 Because I have relations with
21 those countries and my instinct, my assessment is
22 that in order for me to maintain my relations with
23 these countries, I must not add any comments,
24 either via the Canadian media, or through the
25 people concerned in order not to -- how should I

1 put it -- add any elements that would reduce my
2 contacts with these countries.

3 So I have never, except for today,
4 spoken about these missions. This is the first
5 time that I have spoken about them. I have always
6 refused to talk to anyone at all.

7 Of course the newspapers have
8 called me, frequently since that time, but I have
9 never wanted to talk to anyone at all.

10 MR. DAVID: Thank you.

11 I would now like to go to October
12 3, Mr. Commissioner, at tab 37 of these PCO
13 documents, that's Exhibit P-48.

14 [ENGLISH]

15 P-48, tab 37, and it's for the
16 record only, Mr. Commissioner.

17 [TRANSLATION]

18 This is a briefing note to the
19 Prime Minister dated October 3, 2003. It refers
20 to the fact that there had been no follow-up by
21 the President of Syria to his letter of July 11,
22 2003, and it is a recommendation to the Prime
23 Minister of Canada to have a telephone
24 conversation with his counterpart in Syria. It is
25 simply to...

1 HON. PIERRE DE BANÉ: Which tab is
2 that?

3 MR. DAVID: It's tab 37,
4 Mr. de Bané. I would now like you to go to tab
5 590, which also deals with this same question, but
6 I don't think that it's necessary to...

7 But here again, this is a
8 recommendation made to the Prime Minister of
9 Canada that he telephone the Syrian President on
10 October 3, simply to follow up on his letter of
11 July 11, which you delivered.

12 Were you aware that there had been
13 no follow up to the Prime Minister's letter by
14 October 2003; did you stay in touch to monitor
15 developments?

16 HON. PIERRE DE BANÉ: One thing
17 that I remember is that there had been a concerted
18 effort on behalf of Mr. Arar. Clearly, there was
19 the intervention by the Prime Minister of Canada;
20 there was the intervention by the Minister of
21 Foreign Affairs; there was the work by the
22 headquarters in Ottawa with Mr. Arnous here; there
23 was the work at headquarters and at our Embassy
24 led by Ambassador Pillarella; the interventions
25 with Amr Moussa, the former Egyptian Minister of

1 Foreign Affairs and the Secretary General of the
2 Arab League.

3 In short, there were a lot of
4 people who made a contribution to all that.

5 But I remember having read in the
6 'Ottawa Citizen' a statement by Mr. Pardy saying:
7 "I think that all the work done by everybody was a
8 factor and that undoubtedly what had been most
9 significant was the personal letter from
10 Mr. Chrétien to President Bashar." I think I read
11 that.

12 So I am a little surprised when
13 you tell me that there was no follow up to
14 Mr. Chrétien's letter, because in both cases,
15 Mr. Samson and Mr. Arar, in both cases both
16 people, the authorities acceded to Mr. Chrétien's
17 request.

18 I believe that I read in the
19 'Citizen' Mr. Pardy saying: "I think that in both
20 cases it was Mr. Chrétien's letter that played a
21 decisive role."

22 MR. DAVID: Simply to note,
23 Mr. Arar was released from Syria on October 5 and
24 returned to Canada on October 6.

25 You returned to Syria on November

1 24, 2003, for a second trip, Mr. de Bané. I would
2 refer you to tab 742, which is in volume 8,
3 volume 8, 742.

4 So I would refer you to page 5 of
5 13, where you can read a message from
6 Mr. Pillarella in Damascus on November 24, 2003,
7 which reports on a visit, and thus the notes that
8 he wrote regarding this visit, and the message
9 reads:

10 [ENGLISH]

11 "Please find attached draft
12 notes for the visit of
13 Senator De Bane, with
14 appendix on the commercial
15 success stories."

16 [TRANSLATION]

17 So obviously, Mr. Arar returned to
18 Canada, he is in Canada, you returned to Syria on
19 November 24, and I would refer you to tab 474
20 regarding the report on this visit.

21 --- Pause

22 MR. DAVID: So, at tab 474,
23 Mr. de Bané, you have the report on this second
24 visit. The summary shows that this trip focused
25 essentially on economic interests.

1 The summary states that:

2 [ENGLISH]

3 "Key themes raised by the
4 Senator included Canada's
5 balanced policy on the Middle
6 East peace process, the
7 differences between Canada
8 and the US, the welcome
9 Canada has given to Arab
10 Canadians like himself, the
11 pride that Arab Canadians
12 felt for the Syrians'
13 principled stance on the
14 Arab-Israeli conflict, and
15 the need for Syria to develop
16 better links with the
17 Syrian-Canadian community."

18 [TRANSLATION]

19 And in the report, much of the
20 report, once again, has been blacked out.

21 Simply, Mr. de Bané, I understand
22 that on this second visit, you met with the
23 President of Syria?

24 HON. PIERRE DE BANÉ: Yes, I did,
25 and as you see in paragraph 2 --

1 MR. DAVID: Yes.

2 HON. PIERRE DE BANÉ: -- the visit
3 occurred on the 3rd and 4th of December.

4 MR. DAVID: Yes, the 3rd and 4th of
5 December in Damascus.

6 And there, without going into any
7 details, I understand that you had talks with the
8 President and that, in part, you broached the
9 subject of Mr. Arar and what had happened and you
10 had a conversation with the President about this
11 case. Is that correct?

12 HON. PIERRE DE BANÉ: Yes, and ...

13 MR. DAVID: You should not give any
14 details, unfortunately.

15 HON. PIERRE DE BANÉ: I cannot give
16 you any details about that?

17 MR. DAVID: You cannot give any
18 details about that meeting, but it is simply to
19 put it on record that this meeting occurred and
20 that discussions took place, because otherwise you
21 can see by the nature of the document in front of
22 you that there have been applications to protect
23 this information regarding your meeting.

24 So, Senator, that...

25 HON. PIERRE DE BANÉ: In any event,

1 I can tell you, without references, since you do
2 not want me to recount in detail my conversation
3 with President Bashar, whom I saw, I think, for
4 approximately an hour and a half to two hours.

5 Fine, then I also saw the Prime
6 Minister. I also saw several ministers. I had
7 several meetings, and Mr. Arar had been released
8 two months previously, I think.

9 And I discussed with the
10 President, with the Prime Minister and with others
11 a number of other subjects as well. So if you
12 don't want me to talk about that, I won't talk
13 about them.

14 MR. DAVID: I think that that is
15 better. Thank you Senator. I will conclude my
16 examination on that note. Thank you.

17 HON. PIERRE DE BANÉ: Thank you.

18 [ENGLISH]

19 THE COMMISSIONER: Mr. Waldman. Do
20 you want to get one of the lecterns.

21 --- Off microphone / Sans microphone

22 THE COMMISSIONER: Okay. Take
23 your time.

24 Sorry. Did you want to take a
25 break for five minutes?

1 MR. WALDMAN: No, no. I said I
2 won't be more than ten minutes.

3 --- Off microphone / Sans microphone

4 THE COMMISSIONER: I see.

5 EXAMINATION

6 MR. WALDMAN: My French -- I can
7 understand it, but I can't speak well enough to
8 question in French. So I'm just making sure...

9 First of all, Senator, on behalf
10 of Mr. Arar, I would like to thank you for
11 everything you did for him.

12 HON. PIERRE DE BANÉ: It is my
13 duty.

14 MR. WALDMAN: I just want to ask
15 you one or two clarifying questions about the
16 briefing with Mr. Pardy.

17 Mr. Pardy briefed you and said
18 that the Americans had said to the Canadians and
19 RCMP that while he was in New York they're ready
20 to send him here to Canada on condition that they
21 committed to arresting themselves, and that when
22 the Canadians said they could not arrest him,
23 that's when the Americans sent him to Syria?

24 HON. PIERRE DE BANÉ: Post facto,
25 we know that they have decided to do that when the

1 Canadians refused, but they did not -- I think,
2 they did not say to the Canadians, "Hey, if you
3 don't commit yourself to incarcerate Mr. Arar,
4 then we're going to fly him to Damascus."

5 I don't think they conveyed that
6 information to the Canadian parties. They told
7 them, "We are ready to give you back this
8 gentleman on the condition that you incarcerate
9 him." The Canadians said no.

10 But I don't think that they
11 informed the Canadians, "If you say no, we're
12 going to ship him to Damascus," I don't think so.
13 I think the Canadians were taken by surprise when
14 they learned about it. I think --

15 [TRANSLATION]

16 MR. BAXTER: Just to remind you,
17 Sénateur de Bané, that you have the right to speak
18 in French or English. I know that you have tried
19 to reply in English. I know everyone is grateful
20 to you for that, but you do have the right to
21 speak in French. --

22 HON. PIERRE DE BANÉ: As long as I
23 manage to get understood, I want to answer him in
24 the other official language of my country.

25 MR. WALDMAN: Okay. Thank you

1 very much. I appreciate that.

2 So what was your reaction when you
3 heard this?

4 HON. PIERRE DE BANÉ: I was proud
5 to see that those fundamental rights, recognized
6 to all Canadians, are well understood by the
7 Canadian authorities, and they said no to the
8 Americans. "We cannot promise you that because we
9 do not have proper grounds to incarcerate him." I
10 was proud to learn that.

11 MR. WALDMAN: Now, I'd like to go
12 on to another area.

13 When you were approached by the
14 Government of Canada to ask as a special envoy for
15 the government, would it be fair to say that you
16 thought that, given your background, that you
17 would be able to make a contribution?

18 HON. PIERRE DE BANÉ: You're
19 absolutely right. You see, as a Member of
20 Parliament, of course, when I'm asked by my
21 government, "Can you bring your modest
22 contribution to help a Canadian who is in prison
23 abroad or condemned to death?", it is my duty to
24 say yes.

25 And in this case, it was even

1 more. It was in an Arab country that I know. So
2 it was another reason why -- it was another
3 reason, bon. But, of course, I would have done
4 that for any other country in the world, for any
5 Canadian, irrespective of his background.

6 Here there were some more things
7 because I knew the people, I have been there. I
8 have been to Syria twice in six months. But it is
9 my duty as a Member of Parliament to answer, "Yes,
10 I stand up to be counted when our Canadians abroad
11 need help, according to my government." Sure. I
12 did not hesitate one second.

13 MR. WALDMAN: Okay. And from your
14 description, you feel the meetings with the Syrian
15 deputy Foreign Minister went very well?

16 HON. PIERRE DE BANÉ: Yes.
17 Particularly when he said at the end, "I'm going
18 to support that."

19 MR. WALDMAN: So the government
20 was receptive to your efforts at this time?

21 HON. PIERRE DE BANÉ: Well, you
22 know, I played a very, very minor role. I realize
23 that that was the fruits of a lot of people,
24 Ambassador Pillarella, the other staff of the
25 Embassy in Damascus, Ottawa, the headquarters, the

1 Minister, the Prime Minister -- I played a very
2 modest role, and something, of course, very, very,
3 important, is the country I was representing.

4 Canada -- we do not realize that
5 in this country commands a lot of respect, a lot
6 of respect, in the Arab world. That I have seen
7 so often in the last 37 years as I have been
8 Member of Parliament, how much this country
9 commands respect in the Arab world. I am so proud
10 when I tell them, you know, that I'm a Canadian,
11 and they all know -- they all know how Canadians
12 of Arab descent are treated in this country.

13 Just in Lebanon, you have 50,000
14 people living there who have their Canadian
15 passport in their pockets, bon. So Canada is
16 known, Canada is respected, Canada is loved. And
17 this is one thing that Mouallem told me, "We
18 appreciate how well you receive -- you have taken
19 care of the Canadian community of Syrian descent,"
20 you know? All that. So my role is very minimal
21 compared to what my country that I represented has
22 done toward the Arab world.

23 MR. WALDMAN: Well, we have in the
24 material before us, and I'll just read it to you.
25 There's a notation in tab 709 that when the Syrian

1 Foreign Minister phoned Minister Graham to inform
2 him that he would be released, he said it was
3 because of the Prime Minister's request that was
4 communicated to him in the letter that you
5 delivered.

6 Do you think it was extremely
7 important that the Prime Minister wrote a letter
8 and he wrote it on behalf of the Government of
9 Canada?

10 HON. PIERRE DE BANÉ: No doubt
11 about it, in my opinion. But, you see -- how can
12 I say?

13 More competent people than me can
14 weigh all the different factors that played in it,
15 but in my humble opinion, it was a concerted
16 effort of a lot of people.

17 Number one, of course, the Prime
18 Minister, because when the Prime Minister of our
19 country conveyed a personal message to another
20 head of government, of course it carries a lot of
21 weight.

22 But also the country that you
23 represent. The efforts of our Foreign Affairs
24 department, the Minister, Mr. Amir Moussa, the
25 whole staff of the Canadian embassy, the publicity

1 of the media in Canada -- you know, there are so
2 many things that played a part in it.

3 So other people more competent
4 than me can explain the weight of each of those
5 elements.

6 MR. WALDMAN: The fact that you
7 went in an official capacity representing the
8 Government of Canada, do you believe that was very
9 important in achieving the success as opposed to
10 being in a personal capacity?

11 HON. PIERRE DE BANÉ: I think so,
12 I think so. But I want to emphasize that I was
13 there as part of a great team of people who worked
14 on it, bon, and I like to think that being of Arab
15 descent myself and having roots in Syria and
16 speaking to them with all my passion, how much I
17 was privileged to be accepted in Canada as an
18 immigrant, then elected Member of Parliament,
19 Minister of the Crown, Senator -- you know, I told
20 them, I said, "Look it. My father used to tell
21 me, Pierre, I kiss the soil of this land every day
22 to thank God for being here."

23 So it's part of me. Myself, it's
24 the same thing every day. I feel privileged to be
25 a citizen of this country, because I have a

1 background coming from a very troubled region.

2 MR. WALDMAN: You've told us that
3 you were briefed in the car on the way to the
4 meeting. In your conversations with
5 Mr. Pillarella, did he emphasize the need to ask
6 for consular access? Was that the main focus of
7 his conversation with you regarding Mr. Arar?

8 HON. PIERRE DE BANÉ: What I can
9 tell you, that he was profoundly disappointed that
10 the frequent visits of his people to Mr. Arar had
11 been stopped; that, he was very, very, very vocal
12 about it.

13 And he also said, "Look it. They
14 cannot keep that person in prison. If they have
15 any charge about him, we have to insist to have a
16 public trial where Canadian experts can attend and
17 see what they have to say against him." You know?

18 So he was -- Mr. Pillarella is a
19 man who does not mince words, you know? And I
20 have seen him in Algeria, I have him seen in
21 Syria, I have seen that very, very senior
22 diplomat. He is very, very -- very direct, and he
23 does not, you know, practice what other diplomats
24 do, what I would call, having been Minister of
25 Exterior Relations, positive ambiguity.

1 This is not his style. He goes
2 directly to it and he said, "Mr. Mouallem, I am
3 very disappointed that I am not able to visit my
4 compatriot. It's terrible. If you have something
5 against him, bring him to trial in a public trial
6 where our own people can assess what you have
7 against him."

8 And we had also the other
9 strategy, "Look it. The best thing, get him out,
10 put him in the custody of Mr. Pillarella, and
11 Mr. Pillarella will bring him back to Canada
12 forthwith."

13 MR. WALDMAN: If you had been
14 approached to do this job earlier, would you have
15 done it, before July?

16 HON. PIERRE DE BANÉ: Well, you
17 see, I have learned through this documentation
18 that Maitre David has shown me, that when I
19 received a phone call at the end of June from the
20 Minister's office, Mr. Graham, that option, of
21 sending somebody there, was in the works for
22 several months. I was not aware of that.

23 MR. WALDMAN: But if you had been
24 approached earlier to go, would you have made
25 yourself available, given your --

1 HON. PIERRE DE BANÉ: Of course,
2 of course, of course. You know, it is my duty as
3 a Member of Parliament. If the government tells
4 me, "Hey, there is a Canadian somewhere in need,
5 and would you please go and convey a message of
6 the government or of the Minister, of the Prime
7 Minister," et cetera, I would never hesitate to do
8 that.

9 And as you know, on average there
10 are about always 3,000 Canadians in prisons abroad
11 at any moment. So if I am asked to do that, I
12 would never hesitate.

13 Now, why the department decided at
14 that moment to do it, I do not master the file to
15 give a learned opinion on it. But I would have
16 done it at any time.

17 MR. WALDMAN: Thank you, sir.

18 THE COMMISSIONER: Mr. Baxter?

19 MR. BAXTER: Mr. Commissioner,
20 given the good progress we are making and my
21 undertaking to you to be extremely brief, might I
22 have a brief adjournment for ten minutes just to
23 get some instructions?

24 THE COMMISSIONER: Absolutely.

25 MR. BAXTER: And I undertake to be

1 extremely brief on return.

2 THE COMMISSIONER: All right. So
3 we will rise for ten minutes.

4 THE REGISTRAR: Please stand.

5 --- Upon recessing at 11:21 a.m. /

6 Suspension à 11 h 21

7 --- Upon resuming at 11:30 a.m. /

8 Reprise à 11 h 30

9 THE REGISTRAR: Veuillez vous
10 asseoir. Please be seated.

11 THE COMMISSIONER: Mr. Baxter.

12 EXAMINATION

13 MR. BAXTER: Just two questions,
14 Mr. de Bané.

15 I wanted to clarify an answer you
16 gave to my friend Mr. Waldman just before the
17 break. He was asking you questions about the
18 briefing you received from the DFAIT officials,
19 and he asked you about the conversation which
20 Mr. Pardy related to you between American
21 officials and Canadian officials.

22 Did I understand you correctly to
23 say that the Americans never mentioned anything
24 about sending Mr. Arar to Syria?

25 HON. PIERRE DE BANÉ: Yes, that

1 was clear to me, that they said to Canadians, "We
2 will put him in your custody on the condition that
3 you do this and this and this," and the Canadians
4 said, "No, that we cannot do." But that was it.

5 MR. BAXTER: That was the end of
6 your briefing --

7 HON. PIERRE DE BANÉ: That was the
8 end of it. And Canadians were not told in advance
9 what would happen.

10 MR. BAXTER: Of course. If I
11 could ask the clerk to put before you the Garvie
12 report, which is a document you have not seen.

13 It is P-19 and it is at page 30,
14 Mr. de Bané, and it is entirely in English, so I
15 will read it to you in English, the relevant
16 portions.

17 Just to situate the Commissioner
18 and yourself, Senator de Bané, this was a report
19 that was written after the fact for an
20 investigation conducted for the RCMP. At page 30
21 you have the text of a letter that was received on
22 the 18th of October, 2002, from DFAIT -- pardon
23 me, at DFAIT from RCMP.

24 The second-last question on page
25 30 states:

1 "Did the U.S. approach
2 Canadian authorities
3 regarding the possibility of
4 Arar's deportation?"

5 The answer provided by the RCMP is
6 as follows:

7 "U.S. authorities requested
8 the RCMP provide information
9 that might assist in the
10 filing of criminal charges
11 against Arar. U.S.
12 authorities made enquiries as
13 to the level of interest the
14 RCMP had in pursuing Arar
15 criminally. They also made
16 enquiries as well as the
17 RCMP's ability to refuse
18 Arar's entry into Canada.
19 The U.S. authorities were
20 advised that the RCMP was
21 interested in Arar from a
22 criminal perspective. They
23 were also advised that where
24 Arar is a Canadian citizen,
25 the RCMP could not refuse his

1 entry into Canada."

2 Do you see that question and
3 answer there, Mr. de Bané?

4 HON. PIERRE DE BANÉ: Yes.

5 MR. BAXTER: Is that consistent
6 with what Mr. Pardy told you at the briefing that
7 you just referred to?

8 HON. PIERRE DE BANÉ: I don't
9 remember all those points, no. All I remember is
10 that -- that struck me, you know, it was very
11 potent information. He said the Americans said to
12 the Canadians, "We are ready to give you back
13 Mr. Arar on the condition that you bring him back
14 to Canada, you incarcerate him, you make charges
15 against him," et cetera, et cetera. And the
16 Canadian party said, "No, the Canadian Charter of
17 Freedoms does not allow us to do what you are
18 asking. We do not have proper grounds to do what
19 you are asking."

20 And as a Canadian, as a lawyer, I
21 was very proud that our security forces answered
22 in that way.

23 MR. BAXTER: Thank you,
24 Mr. de Bané. Those are my questions.

25 THE COMMISSIONER: Mr. David --

1 M^e David?

2 MR. DAVID: I have no questions,
3 Mr. Commissioner.

4 THE COMMISSIONER: Thank you very
5 much, Senator, for coming, and the time that you
6 took in preparing and coming to give evidence
7 here. Let me join with Mr. Waldman and thank you
8 for undertaking your mission to Damascus.

9 HON. PIERRE DE BANÉ: Thank you so
10 much.

11 THE COMMISSIONER: I am very
12 pleased that you had done that. I am very
13 appreciative for the help you have given to the
14 Commission.

15 HON. PIERRE DE BANÉ: If I may
16 tell you, Your Lordship, in those two cases, one
17 was condemned to death. The other one was also in
18 prison. And there is no doubt in my mind that the
19 fact that I was representing Canada, that was the
20 major factor that played to save those two people.

21 I saw firsthand what Canada meant
22 in those Arab countries, and I hope that my fellow
23 Canadians realize how Canada is well regarded
24 abroad.

25 THE COMMISSIONER: That's

1 certainly good to hear. Thank you very much.

2 HON. PIERRE DE BANÉ: Thank you.

3 THE COMMISSIONER: We will rise
4 and resume at two o'clock.

5 THE REGISTRAR: Please stand.
6 Veuillez vous lever.

7 --- Upon recessing at 11:36 a.m. /

8 Suspension à 11 h 36

9 --- Upon resuming at 2:02 p.m. /

10 Reprise à 14 h 02

11 THE REGISTRAR: Please be seated.
12 Veuillez vous asseoir.

13 PREVIOUSLY SWORN: MARLENE ANN CATTERALL

14 THE COMMISSIONER: Good afternoon,
15 Ms Catterall.

16 MS CATTERALL: Good afternoon.

17 THE COMMISSIONER: Mr. David.

18 EXAMINATION (Continued)

19 MR. DAVID: Mr. Commissioner.

20 Ms Catterall, when we left off
21 your testimony yesterday we were basically
22 reviewing the document that deals with the report
23 of your visit in Syria and the day that you spent
24 with various officials and with Mr. Arar, and that
25 was April 22nd, 2003.

1 If you could now return to tab
2 395, which is in Volume 4, we will deal with the
3 last portion of that day's events, and that was
4 the debriefing with Ambassador Pillarella
5 afterwards.

6 I would bring you to paragraph 9
7 of that day's report. And the officials review
8 your debriefing with the ambassador and note the
9 following:

10 "In a debriefing with the
11 Ambassador, Mrs. Catterall
12 and Mr. Assadourian expressed
13 disappointment that all the
14 security aspects of the Arar
15 case, as seen by the Syrians,
16 had not been explained to
17 them earlier. Mrs. Catterall
18 even suggested that perhaps
19 Minister Graham had been kept
20 in the dark concerning some
21 of this information, a view
22 that was not shared by
23 Mr. Assadourian."

24 Could you comment on that?

25 MS CATTERALL: Yes. I can't

1 remember how much of this we may have covered
2 yesterday, but as far as I can recall, any
3 information I had received in Canada was not
4 specific as to charges or the investigations that
5 the Syrians were conducting and what kinds of
6 conclusions they were coming to, although it
7 certainly appeared from the briefings I got in
8 Damascus that our ambassador there was aware of
9 the concerns the Syrians had with respect to
10 possible terrorist activities.

11 MR. DAVID: All right. Did you
12 express disappointment, as it is noted here, to
13 the ambassador?

14 MS CATTERALL: I don't know if
15 "disappointment" is the right word. I was
16 certainly concerned that the information I had
17 been given in Ottawa was incomplete for sure.

18 MR. DAVID: And I believe
19 yesterday you mentioned the part that you had not
20 been briefed on that was new to you was the
21 training in Afghanistan?

22 MS CATTERALL: Yes -- well, the
23 fact that the Syrians were zeroing in on an
24 involvement with al-Qaeda, according to them,
25 specifically training in Afghanistan.

1 MR. DAVID: It goes on to say:
2 "Both MPs indicated that had
3 they been more fully briefed
4 in Ottawa, they would have
5 reconsidered undertaking
6 their mission to Damascus."

7 MS CATTERALL: I can't speak for
8 Mr. Assadourian, but that was certainly not the
9 case for myself, and I don't know where that
10 impression could have come from.

11 MR. DAVID: "On the humanitarian
12 side, Mrs. Catterall was very
13 concerned that the news of an
14 impending trial against
15 Mr. Arar on charges of
16 terrorism would devastate
17 Mrs. Arar. She has requested
18 that no part of this report
19 be conveyed by DFAIT to Mrs.
20 Arar before she has the
21 chance to speak to her
22 directly."

23 MS CATTERALL: That is correct.

24 MR. DAVID: Thank you. Did you
25 ever suggest that according to your assessment of

1 things, because you had learned new information in
2 Syria from either the officials, the Syrian
3 officials, or possibly the ambassador, that the
4 Minister in question, Minister Graham, had not
5 been fully briefed on the Arar facts?

6 MS CATTERALL: I did express that
7 concern.

8 MR. DAVID: And did you express
9 those concerns to the ambassador?

10 MS CATTERALL: I think it was at
11 that time that I said I couldn't help wondering if
12 Mr. Graham was getting full information. I
13 certainly felt in Ottawa that both Mr. Graham's
14 office and officials in Foreign Affairs, notably
15 Mr. Pardy, were being quite open with me about
16 whatever they knew, and this level of specificity
17 about the Syrians questioning and coming to the
18 conclusions about al-Qaeda involvement and
19 training was not something I had previously heard.

20 MR. DAVID: And so you did not
21 feel that information was being held back from you
22 by either Mr. Pardy or Mr. Fry?

23 MS CATTERALL: No, I did not.

24 MR. DAVID: I would like to come
25 now to the -- do you want to say anything else

1 about the debriefing with the ambassador, other
2 than what is there?

3 MS CATTERALL: No, I don't think
4 so.

5 MR. DAVID: Okay. If you could
6 just go to the beginning of this tab, there is a
7 message that is going to Gar and Dan from Pierre
8 Guimond of the Minister's office. It is dated
9 April 25th, so a few days later. And Gar is Gar
10 Pardy and Dan is Dan Livermore from ISD.

11 It says:

12 "Further to the report below
13 and the apparent unhappiness
14 of Ms Catterall, the Office
15 of the Minister and Robert
16 Fry would like a more
17 complete readout on what the
18 Syrian intelligence would
19 have told her and how this
20 corresponds to the most
21 recent information we, in
22 this government, have about
23 Mr. Arar. We would need a
24 complete report from Damascus
25 on what the Syrians told Ms

1 Catterall about Mr. Arar and
2 how much of it we believe to
3 be accurate."

4 The characterization here of
5 unhappiness on your behalf, I guess, does that
6 reflect really how you reacted to the information
7 you had learned in Syria?

8 MS CATTERALL: Well, I think the
9 word "unhappiness" is reflecting the word
10 "disappointment" in Ambassador Pillarella's
11 report. It certainly was a concern, yes.

12 MR. DAVID: And for the office of
13 the Minister to be getting involved, is it that
14 you complained to his office, to Mr. Fry?

15 MS CATTERALL: No, I don't think I
16 specifically complained to Mr. Fry.

17 MR. DAVID: So this would be
18 initiated by Ambassador Pillarella's report?

19 MS CATTERALL: I would think so,
20 yes.

21 MR. DAVID: If you could just now
22 tell us, there was a --

23 MS CATTERALL: I am sorry, can I
24 be clear about who that Email is from?

25 MR. DAVID: Yes, it is Pierre

1 Guimond, who is from the Minister's -- he is the
2 liaison officer between the political office of
3 the Minister and DFAIT.

4 MS CATTERALL: Thank you.

5 MR. DAVID: If you could brief us
6 now, Mrs. Catterall, for a part that is not
7 covered in this document, and that is the
8 remainder of the day.

9 There was a reception, I believe,
10 wherein you met Syrian parliamentarians, and if
11 you could just tell the Commissioner --

12 MS CATTERALL: Ambassador
13 Pillarella had arranged a dinner with members of
14 the Foreign Affairs Committee. There had just
15 been elections in Syria, which frankly I had
16 forgotten until I began re-reading some of these
17 notes.

18 The person chairing the Foreign
19 Affairs Committee was a quite well-known and very
20 well-respected member of the Syrian Parliament,
21 and Ambassador Pillarella felt that it would be
22 good to make Members of Parliament aware of the
23 situation with Mr. Arar.

24 MR. DAVID: And you left Syria at
25 about three o'clock in the morning --

1 MS CATTERALL: Two o'clock in the
2 morning.

3 MR. DAVID: Two o'clock in the
4 morning, okay.

5 When you returned, did you report
6 to Monia Mazigh on your trip?

7 MS CATTERALL: Yes. I am trying
8 to remember when we would have gotten back in
9 Ottawa. You may have dates and times. I don't.

10 MR. DAVID: There is a
11 reference -- it's an indirect reference, and we
12 can go to it. It's tab 393.

13 As I say, it is an indirect
14 reference to the fact that you met Ms Mazigh, and
15 if you want, I will just read that to you.

16 It is a CAMANT note dated April
17 24th:

18 " Monia Mazigh called
19 JPO/Pastyr-Lupul to find out
20 if MPs were able to visit
21 subject. I advised that yes,
22 they did visit on April 22
23 and that Marlene Catterall
24 was supposed to call her
25 yesterday to brief her on the

1 meeting. However, when
2 Marlene called Monia
3 yesterday, she was not at
4 home, so Monia missed the
5 call. I told Monia that
6 Marlene will surely call her
7 as soon as she is back in
8 Ottawa, as she is enroute to
9 Ottawa at the moment."

10 That is the only reference I can
11 give you.

12 MS CATTERALL: I would not have
13 called her before leaving Damascus simply because
14 we had the dinner with the parliamentarians, left
15 directly from there for the airport, caught a two
16 o'clock flight. So I would have had no choice but
17 to wait until I was back in Ottawa to speak with
18 her.

19 MR. DAVID: Okay. And in terms of
20 briefing, I would like to refer you now to Exhibit
21 P-88, which are Mr. Parady's personal notes.

22 It is at tab 1, page 22.

23 Again, this is an indirect
24 reference of a briefing that Mr. Parady is
25 receiving about your trip. However, he is

1 receiving it from Mr. Pillarella, and I just want
2 to briefly review that with you.

3 This conversation that Mr. Pardy
4 had with Mr. Pillarella was dated Wednesday, April
5 23rd. About halfway down, there is a reference to
6 the following:

7 "- Investigation is over."

8 I don't know if you see that?

9 MS CATTERALL: Yes.

10 MR. DAVID: And then:

11 "- Lawyer, yes

12 May be closed."

13 Does that jog your memory in any
14 way?

15 MS CATTERALL: The "may be closed"
16 was with respect to questions that we had asked
17 following the meeting with Maher about whether the
18 family would have access to any court trial. They
19 had just informed us, remember, that he was going
20 to be charged.

21 MR. DAVID: Okay. And this you
22 would have found out from the colonel after --

23 MS CATTERALL: Yes.

24 MR. DAVID: After -- yes, it was
25 before you met Mr. Arar?

1 MS CATTERALL: No. It would have
2 been after Maher left the room.

3 MR. DAVID: And the reference to
4 "investigation is over", does that ring a bell?

5 MS CATTERALL: Yes, we were told
6 that, that they had completed their investigation.

7 MR. DAVID: And further on down,
8 about three-quarters of the way down, there is a
9 reference to:

10 "Mrs. Catterall spoke of his
11 family. Spoke openly."

12 And then it says:

13 "Syrians around him and
14 appeared sympathetic."

15 It says "sympatric" but I would
16 say sympathetic.

17 Is that an observation that you
18 were able to make, that the Syrians in the room
19 present during your interview -- or your meeting
20 with Mr. Arar -- seemed to be sympathetic to him?

21 MS CATTERALL: I really couldn't
22 say because I just looked at him.

23 MR. DAVID: Okay. Again, my last
24 reference to this document is a reference halfway
25 in the message.

1 Above "investigation is over", it
2 says:

3 "Seemed a bit upset and may
4 not have come."

5 MS CATTERALL: Again, I don't know
6 where that impression could have come from. If
7 anything, in retrospect, had I known the situation
8 was that serious, I would have been more
9 determined to go.

10 MR. DAVID: Okay. I bring you now
11 to page 23 of Mr. Pardy's notes, and it's an entry
12 for April 25th.

13 In this entry, we see that you met
14 with Monia Mazigh and that you are providing to
15 Mr. Pardy a report of that meeting. And the entry
16 is as follows, in the third box:

17 "Marlene Catterall"

18 And then it's:

19 "Monia:

20 - Visit.

21 - Back in..."

22 I don't know. That must be
23 "February".

24 "Permission from Foreign
25 Affairs.

1 - Franco and Sarkis: Spoke to
2 - Wayne Easter..."

3 Anyway, there is a reference here
4 to the fact that you would have met Monia. Do you
5 recall that meeting?

6 MS CATTERALL: Yes, because -- of
7 course I had the letter from her husband for her.

8 MR. DAVID: Where did you meet
9 her?

10 MS CATTERALL: In my constituency
11 office. It's close to where she lives.

12 MR. DAVID: Is this an accurate
13 date, April 25th, as to when you would have met
14 her?

15 MS CATTERALL: Yes.

16 MR. DAVID: And what did you
17 discuss at this meeting?

18 MS CATTERALL: I would have told
19 her everything about the meeting. I would have
20 told her what we were told by the Syrians.

21 MR. DAVID: So did you discuss the
22 fact that there were impending charges?

23 MS CATTERALL: Yes, I believe I
24 did. I wouldn't have kept that from her at that
25 point.

1 MR. DAVID: Okay. And did you
2 also inform her that there were allegations of
3 participation or membership in al-Qaeda and of
4 training in Afghanistan, if you recall?

5 MS CATTERALL: I can't be
6 absolutely sure, but I can't think of any reason I
7 would not have told her that.

8 MR. DAVID: Could we go to tab
9 399. This is an entry for April 28th, and it's a
10 meeting that you are having with Mr. Pardy and the
11 discussion of an action plan.

12 Again, the date is April 28th, and
13 the message is as follows:

14 "Further to this Email,
15 JPD/Pardy and
16 JPO/Pastyr-Lupul contacted
17 Monia by telephone to advise
18 that we would be meeting with
19 Marlene Catterall later in
20 the day to discuss the trip
21 and possible options for
22 action at this point. Monia
23 had met with John Manley on
24 Sunday evening at a dinner
25 and addressed the topic of

1 assisting with her husband's
2 release. See her letter to
3 Manley in the next note."

4 And then it says:

5 "JPD/Pardy will be writing a
6 summary of the April 28th
7 meeting which took place in
8 Marlene Catterall's office
9 with Sarkis Assadourian,
10 GMD/Don Sinclair and JPO/Myra
11 Pastyr-Lupul."

12 Do you recall that meeting on
13 April 28th, is my first question. And what was
14 the nature of the action plan that seems to be
15 referred to?

16 MS CATTERALL: I don't recall that
17 specific meeting.

18 MR. DAVID: Okay. If you go to
19 tab 398, this is a letter that is drafted by
20 Ms Mazigh and it's going to Mr. John Manley.
21 There is a copy to you, the second "cc". It's
22 dated April 28th also.

23 It refers to the fact that
24 Ms Mazigh was able to meet with Mr. Manley at a
25 function where he gave a speech at the Ottawa

1 Muslim Women's Organization, I believe, on the day
2 before, on April 27th.

3 You were in attendance at this
4 meeting?

5 MS CATTERALL: Yes, I was.

6 MR. DAVID: When Monia met with
7 John Manley, were you present?

8 MS CATTERALL: I can't recall for
9 sure that I was in on the conversation.

10 MR. DAVID: Okay. I bring you now
11 to Mr. Pardy's notes on page 24.

12 It is an entry for April 30th, and
13 it refers to the fact that you are having a
14 conversation with John Manley.

15 It says:

16 "Marlene Catterall

17 Spoke to John Manley"

18 So do you recall speaking to
19 Mr. Manley?

20 MS CATTERALL: I would have spoken
21 to John Manley. I believe at that time he had an
22 upcoming meeting with his American counterpart,
23 Tom Ridge, and I would have asked him to raise the
24 issue of Mr. Arar at any opportunity he had.

25 MR. DAVID: And how did you

1 understand that Mr. Ridge could possibly help or
2 assist Mr. Arar in the situation --

3 MS CATTERALL: I had no idea. It
4 was just any possible avenue to help.

5 MR. DAVID: Okay. I bring you now
6 to Exhibit P-107. This is an entry in
7 Mr. Graham's personal notes for April 30th also.

8 If you could go to page --
9 actually, it is not sequentially paged, but if you
10 could go to the entry for April 30th, it is about
11 a third of the way in.

12 MS CATTERALL: Okay.

13 MR. DAVID: There is an entry in
14 Mr. Graham's personal notes and they read as
15 follows:

16 "Marlene C."

17 I would suggest that's Marlene
18 Catterall?

19 MS CATTERALL: It is.

20 MR. DAVID: "The ambassador..."

21 And I would suggest that is
22 Ambassador Pillarella.

23 "... said that he'd been
24 sending advice back that Arar
25 would be charged.

1 This is an opening bid in
2 negotiations. With the
3 Americans is this real or a
4 'ritual dance'? She's
5 horrified with what Penny C.
6 told me last night about what
7 the American ambassador is
8 saying about Arar."

9 It is a bit convoluted, but I will
10 tell you how I understand it and you could tell me
11 if you agree. Or maybe you could tell us what you
12 understand.

13 It says:

14 "... (that the Americans were
15 told that we didn't want him
16 back)."

17 MS CATTERALL: As I recall,
18 Mr. Graham had had a conversation with me -- I
19 think it was right after Question Period. It
20 might have been after caucus because that was a
21 Wednesday morning.

22 He told me that he had heard from
23 Penny about a speech Mr. Cellucci gave at a
24 Harvard Club dinner and we have said pretty well
25 what's said in the notes.

1 MR. DAVID: We understand that
2 Penny C. is Penny Collette?

3 MS CATTERALL: Yes.

4 MR. DAVID: The wife of Minister
5 Collette?

6 MS CATTERALL: Yes.

7 MR. DAVID: Could you repeat what
8 you just said?

9 MS CATTERALL: That Minister
10 Graham let me know that Penny had contacted him;
11 that she had been at a dinner at the Harvard Club
12 where Ambassador Cellucci spoke, and he had said
13 that the Americans were told that we didn't want
14 him back.

15 MR. DAVID: So, in other words,
16 the American Ambassador is saying to Canadians, in
17 about this time period, April or the end of April
18 of 2003, that the message the Americans had
19 received from the Canadians is that they did not
20 want Mr. Arar back in Canada.

21 MS CATTERALL: Yes.

22 MR. DAVID: And you discussed this
23 issue with Mr. Graham?

24 MS CATTERALL: Yes. He informed
25 me of his conversation.

1 MR. DAVID: And what came of it,
2 Ms Catterall?

3 MS CATTERALL: I think it was just
4 part of another discussion about the seriousness
5 of the situation and what more we needed to do.

6 MR. DAVID: Was it your
7 understanding that Mr. Graham had been in
8 attendance at this function where the ambassador
9 spoke?

10 MS CATTERALL: No, that was not my
11 understanding.

12 MR. DAVID: Okay. I bring you
13 again to Mr. Pardy's notes on page 24 for an entry
14 on May 5th, and as well I would bring you to PCO
15 tab 17, which is P-48, Volume 1.

16 There are basically two references
17 in each of these documents that speak on the theme
18 of Canada speaking with one voice to Syria.

19 On the May 5th Pardy entry it
20 says:

21 "Marlene Catterall ..."

22 He is referring to the fact that
23 he had a phone conversation with you, and the
24 issue of Brian, I think it's Klunder, was
25 discussed, and the message in Mr. Pardy's notes

1 says:

2 "- Need a clear government
3 position.

4 - Spoke to Monia on Friday
5 night."

6 So the idea here is we that need a
7 clear government position.

8 If you go to tab 17, there is a
9 draft version of a memo that is going to Minister
10 Graham that is dated May 5th, in which this same
11 thing is being repeated.

12 Again, this is a draft. The final
13 version is dated June 5th. I will refer you
14 eventually to it, but for the time being, let me
15 refer you to the first page of the draft memo, the
16 first bullet, wherein Mr. Pardy is saying to his
17 Minister:

18 "Efforts continue to
19 establish a common
20 understanding within the
21 Government of Canada on this
22 case, with the objective of
23 the issuance of a statement
24 signed by the Solicitor
25 General and the Minister of

1 Foreign Affairs that could be
2 used with the Syrian
3 authorities."

4 And the final bullet on that page:
5 "If necessary that you meet
6 with the Solicitor General
7 and the Deputy Prime Minister
8 to arrive at a common
9 understanding in the case."

10 And I bring you to the
11 before-last-page of the memo, wherein it is
12 paragraph 10, and Mr. Pardy is suggesting that:

13 "In the days ahead, efforts
14 had to concentrate on
15 convening a meeting of
16 Canadian officials
17 representing CSIS, the RCMP,
18 PCO and the Office of the
19 Deputy Prime Minister to
20 develop a common Canadian
21 approach that could be
22 sufficiently clear to
23 communicate to the Syrian
24 authorities."

25 So you seem to have had a

1 discussion with Mr. Pardy on this theme. Do you
2 recall the contents of your discussion with him?

3 MS CATTERALL: I think it is
4 fairly evident that I had had several
5 conversations with Mr. Pardy on this theme,
6 before, after, throughout this whole ordeal.

7 MR. DAVID: Above and beyond what
8 you have already spoken to on this theme, this
9 does not bring on any new elements?

10 MS CATTERALL: No, except that,
11 you know, I felt this was the kind of thing that
12 needed to be done all along. I actually never saw
13 this memo before, so I really haven't read it
14 carefully and I can't comment on it.

15 But this is certainly what I had
16 felt needed to be done all along.

17 MR. DAVID: Okay. If we could now
18 go to tab 414 in Volume 5, I just want to refer
19 you to the contents of an Email that is coming
20 from Monia Mazigh to Gar Pardy, dated May 21,
21 2003.

22 It is on the first page of that
23 tab. Let's go about halfway down where Ms Mazigh
24 is saying to Mr. Pardy:

25 "Mrs. Catterall promised to

1 talk to the US ambassador,
2 she did not. She promised
3 she will call Damascus to
4 follow up with a discussion
5 she had with one Senior
6 official there at her visit,
7 she didn't yet."

8 Final comment:

9 "She promised to talk to
10 Mr. Manley and I don't know
11 what happen."

12 Do you have any comments about
13 those three issues?

14 MS CATTERALL: Yes. I didn't meet
15 with the U.S. ambassador because --

16 MR. DAVID: You did not?

17 MS CATTERALL: I did not. Because
18 it had become pretty clear to me that that would
19 be quite pointless, frankly; that they were very
20 consistent in saying "it's your own people", in
21 different words.

22 MR. DAVID: And when would you
23 have told Ms Mazigh that it was your intention at
24 one point to do so?

25 MS CATTERALL: I can't recall.

1 MR. DAVID: Okay.

2 MS CATTERALL: It might have been
3 right after I came back from Syria. I really
4 don't know.

5 In terms of Mr. Manley, yes, I did
6 talk to Mr. Manley.

7 MR. DAVID: And the contact in
8 Damascus?

9 MS CATTERALL: No, I didn't follow
10 up on that. Their parliament was just re-forming,
11 and it's just one of those things that did not get
12 done.

13 MR. DAVID: And what did that
14 refer to as a possibility?

15 MS CATTERALL: I think it might
16 have referred to one of the Members of Parliament
17 we had met.

18 MR. DAVID: So basically a contact
19 you had developed --

20 MS CATTERALL: Yes.

21 MR. DAVID: A potential contact.

22 MS CATTERALL: A potential contact
23 within the Parliament. But it seemed fairly clear
24 that this matter wasn't going to be dealt with by
25 parliamentarians in any case.

1 MR. DAVID: Moving on to June 12th
2 now, if I could bring you to tab 443, which is a
3 reference to a meeting with Minister Graham and
4 yourself and Monia Mazigh.

5 Do you recall that meeting?

6 MS CATTERALL: Yes, I do.

7 MR. DAVID: I bring you to the
8 reference on the first page, in the last complete
9 paragraph. In this summary of the meeting held on
10 June 12th there is reference to the following:

11 "Riad Saloojee raised the
12 point that US Ambassador
13 Cellucci responded to a
14 question about Mr. Arar at a
15 dinner recently, stating that
16 Canadian elements ordered his
17 deportation and that 'certain
18 wanted to see him go to
19 Syria'. Riad asked what were
20 those 'certain elements'.
21 Marlene Catterall responded
22 by saying that 'certain
23 elements' did not object to
24 his deportation to Syria.
25 Dr. Mazigh asked how she

1 could defend his rights if
2 this was the case."

3 Could you provide us with some --

4 MS CATTERALL: I believe that Riad
5 Saloojee was referring to the reports out of the
6 Harvard Club dinner about what the ambassador had
7 said and that he certainly had a different
8 interpretation of what was said than what was
9 noted in Minister Graham's notes, and also in my
10 recollection of what Minister Graham told me about
11 the conversation with Penny Collette.

12 I think all I would have said --
13 the only reason I would have commented on that was
14 because it was different than what I knew about
15 that speech that Ambassador Cellucci had given.

16 MR. DAVID: So basically you are
17 providing the understanding of what Mr. Graham and
18 yourself had discussed?

19 MS CATTERALL: Yes.

20 MR. DAVID: All right. We can
21 move now to Mr. Pardy's notes --

22 MS CATTERALL: Let me just
23 clarify --

24 MR. DAVID: Yes.

25 MS CATTERALL: -- because that

1 suggests that I felt at the time that certain
2 elements in the Canadian government knew about his
3 possible deportation to Syria and didn't object.
4 I don't think that's a fair interpretation.

5 MR. DAVID: Okay. What would a
6 fair interpretation be?

7 MS CATTERALL: I think I would
8 only have said that his understanding was
9 different than mine of that conversation, that
10 this was not precisely what Ambassador Cellucci
11 had said.

12 MR. DAVID: We can move now to
13 Mr. Pardy's notes at page 25, for an entry on June
14 26.

15 There is a reference at the very
16 bottom of page 25:

17 "Marlene Catterall...."

18 With your fax number.

19 "Fax: copy of PM letter.

20 Brian Kunder."

21 We know, Ms Catterall, that the
22 Prime Minister signed a letter dated June -- July
23 11th --

24 MS CATTERALL: Yes.

25 MR. DAVID: -- to Mr. De Bané. Is

1 this a reference to that letter?

2 MS CATTERALL: Yes.

3 MR. DAVID: So it was faxed to
4 you. Was it faxed to you at your request, and why
5 was it being faxed to you? Did you participate in
6 the drafting of the letter?

7 MS CATTERALL: I didn't
8 participate in the drafting of the letter. I
9 would have asked to see a copy when I knew that it
10 had been prepared.

11 MR. DAVID: And so you were aware
12 of the proposed trip by Senator De Bané?

13 MS CATTERALL: Yes, I was.

14 MR. DAVID: If we can go to page
15 26 of Mr. Pardy's notes, there is a reference for
16 July the 8th.

17 In this reference you had a
18 telephone conversation with Gar Pardy, and you are
19 reporting on a phone call that you had with
20 Mr. Fry.

21 The notes say:

22 "- Spoke to Robert Fry"

23 And then it says "John Manley".

24 Do you have any recollection about
25 that reference on July the 8th?

1 MS CATTERALL: No.

2 MR. DAVID: If you go now to tab
3 497 for an entry for August the 8th, this is a
4 CAMANT note. It is simply an upload of a media
5 article.

6 I would like to bring you through
7 some of the language there, because this article
8 is apparently quoting you.

9 So about halfway down the article,
10 it is where it says:

11 "Arar. A Sun Media article
12 reports..."

13 Do you see that?

14 MS CATTERALL: Okay.

15 MR. DAVID: It says:

16 "A Sun Media article reports
17 that according to Ottawa
18 West-Nepean MP Marlene
19 Catterall, the federal
20 government must demand the
21 U.S. press Syria to release
22 Maher Arar. Ms Catterall,
23 who notes that Mr. Arar is
24 being detained because of a
25 U.S. deportation order, is

1 quoted: 'I think at this
2 point in time we need to be
3 considering asking the U.S.
4 to intervene... They created
5 this problem by deporting a
6 Canadian citizen to a country
7 he hasn't been in since he
8 was a teenager. My view is
9 that some indication from the
10 Americans that they don't
11 object to him being returned
12 to Canada would be extremely
13 helpful.'"

14 Do you recall being quoted --

15 MS CATTERALL: Yes.

16 MR. DAVID: Is this an accurate
17 quote?

18 MS CATTERALL: Yes.

19 MR. DAVID: Was that your belief
20 at this time?

21 MS CATTERALL: Yes, and I suppose
22 it had been for a while. It had been the subject
23 of some discussion, part of my asking John Manley
24 to speak with Tom Ridge or any other American
25 officials he could because it just seemed to me --

1 and this is only an interpretation -- that this
2 was a problem the Syrians would be just as happy
3 to get rid of, but they were maybe afraid of
4 offending the Americans if they sent him back to
5 Canada, and that perhaps more efforts were needed
6 to get the Americans to say, if not openly, oops,
7 we made a mistake, and to indicate to the Syrians
8 that they would have no objections if he were
9 returned.

10 MR. DAVID: Okay. If we could go
11 to page 30 of Mr. Parady's notes for an entry on
12 August 11th. It's at the very top.

13 It refers to a conversation with
14 you and a reference to the fact that:

15 "Nothing to show stress when
16 they saw..."

17 Arar. So there seems to be some
18 sort of inquiry or questions being posed about
19 Mr. Arar's conditions at this time.

20 MS CATTERALL: That may have
21 been -- I can tell you that at the time that would
22 have been my first Monday back from holidays after
23 a holiday with my grandchildren. So that would
24 have been the first thing I would have checked
25 back on.

1 I am trying to recall if -- I was
2 asked a number of times after we returned from
3 Syria if I saw any signs that he had been
4 tortured, and I said -- my standard answer was,
5 "No. He looked pale. He looked thinner than I
6 thought he had looked in previous photographs. I
7 didn't see any obvious signs of mistreatment, but
8 I am not an expert in torture."

9 MR. DAVID: And do you recall why
10 this issue was being raised at this time by
11 Mr. Pardy on August 11th? This was several months
12 after you had returned and had seen Mr. Arar.

13 MS CATTERALL: I can't be sure.

14 MR. DAVID: Do you recall if it
15 coincided with the release of a human rights
16 report?

17 MS CATTERALL: Well, that's the
18 only reason that I can think that we would be
19 revisiting this, Mr. Pardy and I.

20 MR. DAVID: But basically you are
21 not certain?

22 MS CATTERALL: I am not.

23 MR. DAVID: Okay. We come now to
24 Mr. Arar's return to Canada, Mrs. Catterall. The
25 date is October 5th of his release in Syria, and

1 his return is on the 6th.

2 So I would like to spend some time
3 with you now about the chain of events that
4 occurred on both those days.

5 MS CATTERALL: Which reference are
6 we at?

7 MR. DAVID: There is no document
8 to refer you to.

9 MS CATTERALL: Okay.

10 MR. DAVID: Other than your
11 recollection of the events.

12 Who informed you that Mr. Arar was
13 released?

14 MS CATTERALL: Minister Graham.

15 MR. DAVID: Did you learn of his
16 release before Ms Mazigh?

17 MS CATTERALL: Yes.

18 MR. DAVID: Did you inform
19 Ms Mazigh of this? Do you know who informed
20 Ms Mazigh of her husband's release?

21 MS CATTERALL: I did.

22 MR. DAVID: Okay.

23 MS CATTERALL: And I am trying to
24 recall. I think my first call may have come not
25 from Minister Graham but from probably Robert Fry

1 saying that this was going to happen and that as
2 soon as it was sure, the Minister would be in
3 touch with me personally.

4 They didn't want to, and I did not
5 want to, inform Monia until he was actually on the
6 plane and it was certain that he was on his way
7 home.

8 MR. DAVID: So you wanted --

9 MS CATTERALL: I think you will
10 find several times throughout I said I didn't tell
11 her until things were happening because I didn't
12 want to have her hopes dashed again.

13 MR. DAVID: Right. And so you are
14 the one that informed Mrs. Arar once it had been
15 confirmed to you that Mr. Arar was, as you say, in
16 the air?

17 MS CATTERALL: Yes.

18 MR. DAVID: And what happened
19 thereafter?

20 MS CATTERALL: Well, the Minister
21 did phone to tell me that yes, I could inform her
22 now that it was going to happen.

23 The day he arrived, I went to the
24 airport in a van with Mr. Pardy, Monia and the
25 children, Kerry Pither, who had been helping

1 her --

2 MR. DAVID: I believe Sarkis
3 Assadourian?

4 MS CATTERALL: Sarkis was with me,
5 yes. We went to the airport.

6 MR. DAVID: This was the Montreal
7 Pierre Trudeau Airport?

8 MS CATTERALL: Yes. He was met in
9 the arrival area by his wife and his mother and
10 then came into a waiting room where a number of us
11 had been waiting.

12 Again, it was a very emotional
13 moment, and I guess one of the highlights of my
14 political life when he put his arms around me and
15 said "Ms Marlene" and ...

16 --- Pause

17 MS CATTERALL: And then he spent
18 time with his family and myself, Sarkis, Leo
19 Martel, who had come home with him. A couple of
20 other people were waiting in another room.

21 MR. DAVID: And thereafter where
22 did you go, what did you do?

23 MS CATTERALL: As you know, Maher
24 and his wife, along with Alex Neve, did a press
25 conference.

1 MR. DAVID: And this was at the
2 airport?

3 MS CATTERALL: Yes, at the
4 airport.

5 We then left. I left with Sarkis
6 and the people from Foreign Affairs. He left with
7 his family to go to -- I can't remember if it was
8 his parents' home or his brother's home.

9 The others I was in the van with
10 went to the home but were going out to get some
11 dinner, and I decided I wanted to stay with the
12 family.

13 MR. DAVID: So in terms of
14 non-family members, if I can so express myself,
15 were you the only non-family member at this point
16 in time in the Arar home?

17 MS CATTERALL: As far as I know.
18 There were a lot of people there.

19 MR. DAVID: No. But, I mean, in
20 terms of the --

21 MS CATTERALL: None of the
22 officials that I had came down with, no.

23 MR. DAVID: That's what I mean.

24 MS CATTERALL: No.

25 MR. DAVID: So they went on to

1 have supper in some restaurant somewhere and you
2 stayed on in the home?

3 MS CATTERALL: Yes.

4 MR. DAVID: Could you just
5 describe to us what happened, what occurred?

6 MS CATTERALL: I was quite
7 surprised when Maher came and sat down beside
8 me -- and I can remember exactly where we were
9 sitting on the couch -- and began talking to me
10 about his experience. I was surprised because his
11 whole family was there, but he almost seemed to
12 need to talk about it. He spoke about being in
13 Jordan --

14 MR. DAVID: Was this conversation
15 that you were having with Mr. Arar in any way
16 prompted by yourself?

17 MS CATTERALL: No.

18 MR. DAVID: It just came about
19 from Mr. Arar's initiative?

20 MS CATTERALL: Yes.

21 MR. DAVID: And was there --

22 MS CATTERALL: No, I wasn't
23 grilling him, believe me. I felt this was his
24 time to be with his family and to begin to have
25 his life back.

1 MR. DAVID: And when Mr. Arar
2 spoke to you, was there anybody else close by?
3 Was this a private conversation?

4 MS CATTERALL: It was a private
5 conversation. There were family sitting on either
6 side of us. People were coming in and out and he
7 would introduce me to cousins and relatives.

8 MR. DAVID: It was essentially a
9 celebration.

10 MS CATTERALL: Yes.

11 MR. DAVID: A family celebration?

12 MS CATTERALL: Very much.

13 MR. DAVID: So you spent some --
14 we call it quality time when we are parents. You
15 spent some precious time with Mr. Arar?

16 MS CATTERALL: Yes.

17 MR. DAVID: Alone with him, and he
18 spoke to you?

19 MS CATTERALL: Yes.

20 MR. DAVID: And how long did that
21 conversation last, approximately?

22 MS CATTERALL: I would estimate
23 somewhere between ten and fifteen minutes, you
24 know, with interruptions for introductions and so
25 on.

1 MR. DAVID: Sure. Could you
2 provide us with as much detail as possible,
3 Ms Catterall, about what Mr. Arar informed you of
4 his ordeal.

5 You were referring to Jordan? I
6 think that's where you were.

7 MS CATTERALL: He referred to
8 being in Jordan and being -- I don't remember what
9 words he used -- but roughed up, and saying to the
10 people who were detaining him there that they
11 better be careful because his family knew people.
12 I guess he convinced them not to be quite as rough
13 with him.

14 MR. DAVID: And this is for the
15 portion of time he was in Jordan?

16 MS CATTERALL: It's the time he
17 was in Jordan, yes.

18 MR. DAVID: Did he tell you how
19 long he had been in Jordan?

20 MS CATTERALL: I don't think so,
21 no.

22 MR. DAVID: What else did he
23 discuss with you?

24 MS CATTERALL: He talked about his
25 early days of detention in Syria and the terrible

1 conditions he had been held in. The way he
2 described it -- I don't remember if he used this
3 word or if this was my image -- it was almost like
4 being in a coffin. No room to stand up. It was
5 dark all the time and crowded.

6 The image I had in my mind was
7 like being in a coffin.

8 MR. DAVID: I guess what I am
9 asking you is basically if you could give us as
10 much detail as possible about --

11 MS CATTERALL: Okay. He talked
12 about the consular visits and he said it had been
13 clear to him, although not explicit, but that Leo
14 Martel, who was the person in the Damascus
15 embassy -- it was clear to him from Leo that, when
16 they were having their consular visits, there were
17 certain things that he and Leo were not allowed to
18 talk about.

19 He did mention, however, that at
20 the last consular visit, he had essentially
21 decided that he had nothing to lose and he talked
22 to Leo about his treatment.

23 MR. DAVID: Do you know when that
24 occurred?

25 MS CATTERALL: As far as I know,

1 that was in August.

2 MR. DAVID: Mr. Arar mentioned
3 this to you?

4 MS CATTERALL: Mm-hmm.

5 MR. DAVID: So concerning this
6 August consular visit --

7 MS CATTERALL: That was the first
8 visit since Mr. Assadourian and I had been there
9 in April.

10 MR. DAVID: Could you provide us
11 with as much detail about what he told you about
12 that visit?

13 MS CATTERALL: That's what I
14 recall. He told me that notwithstanding the
15 precautions he had operated under from the
16 beginning, he decided at that point he had nothing
17 to lose. He wasn't specific about what he had
18 said to Leo but said that he had been very blunt
19 about his treatment.

20 MR. DAVID: So he was candid with
21 Mr. Martel?

22 MS CATTERALL: Yes, even though
23 the Syrians were there, as they were there on
24 every visit he had had.

25 MR. DAVID: Did he discuss your

1 meeting with him when you were there?

2 --- Pause

3 MS CATTERALL: Only to say, you
4 know, that he couldn't be very frank in that
5 situation.

6 There is something that I -- there
7 is another element of that conversation that I am
8 overlooking.

9 MR. DAVID: I believe it's a
10 reference to perhaps when he was brought -- or was
11 going to be told that he was going to the Canadian
12 embassy?

13 MS CATTERALL: Yes. He was
14 brought into court that afternoon and he was
15 released, and I am not sure he knew why. I am not
16 sure we know why even yet, but he didn't really
17 believe it. And even when he was in the car on
18 the way to the embassy, he thought this was just
19 another trick to break him down and really didn't
20 believe that he would be going home.

21 MR. DAVID: Okay. Any other
22 recollection of your conversation with Mr. Arar in
23 his home?

24 MS CATTERALL: Those are the main
25 things that I remember talking to him about.

1 MR. DAVID: If I could bring you
2 to an entry for October 10th, Ms Catterall, that
3 would be tab 613 in Volume 7.

4 There are two messages here and
5 the first is the bottom part. It is coming from
6 Michelle Lobo, from the Minister's Office, to
7 DFAIT.

8 It says:

9 "Graeme,
10 As per our conversation can
11 we arrange a phone call for
12 Marlene with Leo for Tuesday
13 morning our time. She can be
14 reached on her cell ... She
15 will provide a land line..."

16 The message above says "Leo" -- so
17 it is going to Leo Martel:

18 "Please see below. MP
19 Marlene Catterall has asked
20 to talk with you..."

21 Do you recall that request, and do
22 you recall speaking to Leo, and do you recall why
23 you would want to have spoken to him?

24 MS CATTERALL: I recall the
25 request. I would have wanted to speak to Leo just

1 to thank him for being basically Mr. Arar's main
2 contact with Canada through a number of months.

3 Personally, when he arrived at the
4 airport in Montreal, I was very relieved to see
5 that it was Leo who was with him. And I think I
6 wanted to call him.

7 I wanted to find out a bit more,
8 if possible, about why it had come about that he
9 had been released. I am not sure we know yet why.

10 To tell you the truth, I really
11 can't recall the conversation.

12 MR. DAVID: Thanks. The next
13 entry in our chronology, Ms Catterall --

14 MS CATTERALL: That just reminded
15 me that my cell phone is on, I think.

16 MR. DAVID: The next entry I would
17 like to refer you to has to do with a CTV news
18 report, Joy Malbon. You saw something on the news
19 that upset you and you acted on it, and if you
20 could tell us about the circumstances?

21 MS CATTERALL: I don't think you
22 gave me the tab number.

23 MR. DAVID: And I don't think I
24 have one.

25 --- Laughter / Rires

1 MS CATTERALL: It was sometime in
2 November. There had been a number of issues I
3 continued to pursue.

4 MR. DAVID: I understand that the
5 news report was on October 23rd.

6 MS CATTERALL: I mean, I remained
7 concerned and active in trying to get resolution
8 to this whole matter because simply being back in
9 Canada, in my view, was obviously not enough. I
10 mean, this man needed an opportunity for his own
11 sake, for his family's sake, and for the sake of
12 justice to clear his name, and it seemed that
13 there was no way that that was going to happen.
14 So I continued to pursue ways of making that
15 happen.

16 But the Joy Malbon report on CTV
17 infuriated me because she was quoting government
18 officials as saying that Mr. Arar had informed on
19 other people.

20 I was outraged, because who could
21 have said that? That puts this man's life in
22 danger and his family in danger if it's true, or
23 even if it's not true. And the fact that somebody
24 within government would have been so irresponsible
25 was an outrage to me.

1 I thought of those kids. I mean,
2 I had sat there, I had held them on my knee. I
3 had given his little son a sip of my tea and my
4 cookie. And I could not believe that somebody
5 could be this irresponsible.

6 The first thing the next morning I
7 called Alex Himelfarb. I had never spoken to the
8 Clerk of the Privy Council before. I said, "Alex,
9 you are the only person I know who can find out
10 what is going on here, who is saying what. What
11 government official could possibly have done that?
12 I don't know if it was somebody in Foreign
13 Affairs, somebody in the RCMP, somebody in CSIS,
14 but you are the only one who can reach into every
15 department of this government and find out who did
16 that."

17 MR. DAVID: And what was the
18 reaction?

19 MS CATTERALL: Mr. Himelfarb took
20 it as seriously as I did. Obviously he didn't
21 tell me specifically what he did, but I am
22 convinced he took action.

23 MR. DAVID: So he did indicate to
24 you he was going to be looking into it?

25 MS CATTERALL: Yes.

1 MR. DAVID: We come now to
2 November the 4th, 2003, Ms Catterall, and that's
3 the day that Mr. Arar held his press conference.

4 I understand that you were in
5 attendance at this press conference?

6 MS CATTERALL: Yes, I was.

7 MR. DAVID: My question to you is
8 very simple: In terms of what you heard Mr. Arar
9 say about his ordeal, and in terms of the
10 information that you had obtained from Mr. Arar in
11 his home, or in his family's home, on October the
12 6th in Montreal, were there any discrepancies
13 between the two versions that you noted?

14 MS CATTERALL: None. Obviously
15 his statement was much more complete, but nothing
16 contradicted anything he said to me that night.

17 MR. DAVID: All right. And my
18 last question is I want your appreciation, your
19 opinion, your assessment, of the actions of
20 Canadian authorities, of Canadian officials.

21 In your assessment was what you
22 witnessed, in terms of providing assistance to
23 Mr. Arar, was it according to standards?

24 MS CATTERALL: I am not a
25 bureaucrat. I don't know what standards are. I

1 do know that if my husband or my child were in a
2 similar situation, I would trust Gar Pardy with
3 their life.

4 MR. DAVID: Those are my
5 questions, Ms Catterall. Thank you very much.

6 THE COMMISSIONER: Mr. Waldman?

7 EXAMINATION

8 MR. WALDMAN: Are we on the same
9 time limitation, one hour for me, and one hour for
10 my friend?

11 THE COMMISSIONER: Well, I don't
12 want to unduly curtail your cross-examination.
13 It's important.

14 MR. WALDMAN: I can do it in an
15 hour.

16 THE COMMISSIONER: Okay. If you
17 can, that's fine. I think it is important but we
18 would like to get through it.

19 And you let me know, Mr. Waldman,
20 at what time it would suit you to have the break,
21 or Ms Catterall.

22 MR. WALDMAN: If you want to go
23 for about half an hour more I think I am --

24 THE COMMISSIONER: Okay. That
25 would be about the regular time.

1 MR. WALDMAN: My guess, I may be
2 wrong. I never know.

3 I had one document that I gave to
4 my friends yesterday. It is an Email that
5 Mr. Arar got under Access. I just want to
6 introduce it as an exhibit.

7 THE COMMISSIONER: Okay. 115.
8 --- Off microphone / Sans microphone

9 EXHIBIT NO. P-115: Email
10 from Keith (R) Clark to
11 Françoise Lang and Allen
12 Nause, dated Wednesday
13 October 29, 2003, 4:06 p.m.,
14 re Minister Catterall request
15 to protect Mr. Arar

16 MR. WALDMAN: I'll take her to
17 that in a minute.

18 I just want to cover a few areas
19 with you. The first is about the mixed signals
20 that we seem to be getting.

21 If I could ask you to go to
22 tab 324. The last -- item 5, there are some
23 talking notes, and there are six items on this --

24 MS CATTERALL: I'm just trying to
25 get to 324, if you don't mind?

1 MR. WALDMAN: Oh, I'm sorry.

2 MS CATTERALL: Thank you. Okay.

3 MR. WALDMAN: My understanding is
4 this is one draft of the talking notes, and in
5 this draft there are six items, and one of the
6 items, if you go over to the next page, said:

7 "The Canadian government
8 would be extremely pleased if
9 Mr. Arar could be returned to
10 Canada."

11 But, if you go to tab 328, we get
12 another version, and that specific talking note is
13 left out, being pleased about Mr. Arar being
14 returned to Canada.

15 Were you aware of the differences
16 between the two versions of talking notes? Was
17 this ever pointed out to you or discussed with
18 you?

19 MS CATTERALL: No. You know, I
20 was more aware of general messages I needed to
21 convey than of specific wording.

22 MR. WALDMAN: Okay. So the
23 version on 328, was that the set that was given to
24 you to take to --

25 MS CATTERALL: Sorry, there's 324

1 and then there's 328 --

2 MR. WALDMAN: 328. Because what I
3 find noteworthy is that the version on 328 left
4 out the request that Mr. Arar be returned.

5 MS CATTERALL: Well, I guess it's
6 maybe good that I didn't memorize these, because I
7 certainly conveyed that message.

8 MR. WALDMAN: But yes, does this
9 ever raise any concerns about -- you know, we were
10 talking about the conflicting messages, that there
11 seemed to be different messages being given by
12 different peoples. Do you see this as another
13 example?

14 MS CATTERALL: I'm only
15 speculating, but the difference between those
16 two -- I mean, as far as I know, they both seem to
17 have the same date.

18 MS McISAAC: Mr. Commissioner, I
19 think it's fairly clear that the document at 328
20 is provided by the political branch to Mr. Pardy
21 for him to use as suggestions and that, in fact,
22 the document at 324 is what Mr. Pardy prepared so
23 that he added the additional wording after the
24 political branch had given the first draft.

25 THE COMMISSIONER: Thank you,

1 Ms McIsaac.

2 MR. WALDMAN: Perhaps Ms
3 McIsaac --

4 MS CATTERALL: But it seems to me
5 what that reflects is in fact the kind of changing
6 that was going on in Mr. Graham's letters as well.

7 MR. WALDMAN: Right. That's the
8 point I'm trying to make.

9 Regardless of what was the final
10 version, was that there seemed to be disputes in
11 terms of what was the wording that could be said
12 and what couldn't be said within the department,
13 and also between departments.

14 Is that a fair assessment of what
15 you were experiencing during this time?

16 MS CATTERALL: My sense was that
17 if there were differences it was between
18 departments, not within.

19 MR. WALDMAN: Okay.

20 Now, the second point I want to
21 take you to is how you actually ended up going,
22 and in what capacity.

23 If I could ask you to go to tab
24 338? This is item 3.

25 MS CATTERALL: Mm-hmm.

1 MR. DAVID: It says:

2 "...I understood that the Mps
3 are coming in a private
4 capacity..."

5 MS CATTERALL: Okay. This is from
6 who to whom? Oh, from Ambassador Pillarella.

7 MR. WALDMAN: Yes.

8 MS CATTERALL: Please remind me
9 who Harold Hickman is.

10 MR. WALDMAN: Harold Hickman is
11 someone in the Minister's office, I believe --

12 MS McISAAC: No, he's in the
13 political branch of the Middle East at Foreign
14 Affairs.

15 MR. WALDMAN: Okay, thank you.

16 So Mr. Pillarella obviously was
17 under the belief that you were coming in a private
18 capacity.

19 Was that your desire and intent,
20 to come in a private capacity or, rather, as a
21 representative of the Government of Canada?

22 MS CATTERALL: I guess I saw
23 myself in both capacities, frankly, but having
24 seen both the draft and the final version of
25 Minister Graham's letter, there was obviously a

1 specific change in that letter to not indicate
2 that Mr. Assadourian and I were there on behalf of
3 the government.

4 MR. WALDMAN: Do you think you
5 would have been more effective in your
6 representations if you had been representing the
7 government?

8 MS CATTERALL: To me that was the
9 whole point of having a letter from our Minister
10 to the Syrian Minister, was that it was not a
11 personal plea on my behalf, or on behalf of
12 Mr. Assadourian; we were delivering a message on
13 behalf of our government, that we wanted Mr. Arar
14 returned to Canada.

15 MR. WALDMAN: Okay. Well, if we
16 go to tab 343, this tab seems to suggest that the
17 idea was for you to go representing the
18 government?

19 --- Pause

20 MS CATTERALL: I'm sorry. I'm
21 just reading it again.

22 --- Pause

23 And this was before the first
24 attempt to visit.

25 I'm sorry, your question,

1 Mr. Waldman?

2 --- Pause

3 MR. WALDMAN: Sorry, it's tab 344.

4 Do you know -- do you recall --
5 you're not sure who this is from. This is a tab
6 from you -- an Email to you, copied to Gar Pardy,
7 but do you recall who this was from?

8 MS CATTERALL: I'm not sure.

9 MS McISAAC: What document,
10 please?

11 MR. WALDMAN: 344.

12 MS CATTERALL: I honestly do not
13 remember seeing this before. Even though it says
14 it's to me.

15 MR. WALDMAN: Do we know who it's
16 from? Do you know?

17 MR. DAVID: I believe Ms McIsaac
18 indicated that it was an official from DFAIT.

19 MR. WALDMAN: Right, that was my
20 understanding.

21 Right, but the point I'm trying to
22 point out here, it is an official from DFAIT.
23 That was clearly established yesterday.

24 MR. DAVID: That's what Ms McIsaac
25 indicated yesterday.

1 MR. WALDMAN: And in this document
2 it says that:

3 "Canada *must* officially ask
4 the Syrian Government for
5 Maher's release."

6 So do you feel that to a certain
7 extent your trip was undermined by the fact that,
8 instead of going in an official governmental
9 capacity, you were going in a personal and private
10 capacity?

11 MS CATTERALL: The objective was
12 to hopefully achieve Mr. Arar's release. I don't
13 know that we would have achieved that anyway.

14 You know, I've said often I tried
15 not to get Monia's hopes up at any time. I tried
16 to do the same for myself, frankly. And you
17 always hope for the best.

18 I had visions of flying home with
19 him, but I knew that wasn't particularly
20 realistic.

21 Look, I don't know what diplomats
22 read between the lines. I don't know what the
23 change in wording in Mr. Graham's letter would
24 have meant to the Syrian officials.

25 Obviously I wanted a much stronger

1 letter in terms of no charges against Mr. Arar, no
2 basis on which to charge him in Canada, or if
3 there were, I presume charges would have been
4 laid, and that we wanted him back, and that the
5 government wanted him back.

6 MR. WALDMAN: Right. So you
7 thought it was important that it be clear that it
8 was the government that wanted Mr. Arar back?

9 MS CATTERALL: Yes.

10 MR. WALDMAN: Okay. Thank you.

11 If I could ask you to go to P-99
12 for a second?

13 Maybe just look at it for a
14 second. It's that Email note on Arar, March 24,
15 2002. One page.

16 --- Off microphone / Sans microphone

17 MS CATTERALL: Thank you.

18 THE COMMISSIONER: P-99.

19 MR. WALDMAN: P-99. That's not
20 it.

21 THE COMMISSIONER: Just a second.
22 Ms Catterall, he'll get it for you. The registrar
23 will. There we go.

24 MR. WALDMAN: I know we went over
25 this. I just have a few questions to ask you

1 about it. If you could just refresh your memory
2 briefly?

3 --- Pause

4 Have you read it? Okay.

5 With respect to this, do you
6 recall this conversation?

7 MS CATTERALL: With Mr. Arnous or
8 with Myra?

9 MR. WALDMAN: With Myra.

10 MS CATTERALL: Not particularly,
11 but -- I mean, I don't recall talking to Myra.

12 I do know that when Mr. Pardy
13 wasn't available I would convey whatever I needed
14 to convey to him through Myra.

15 I obviously knew that our
16 conversation with the Syrian ambassador was
17 significant.

18 MR. WALDMAN: I just have one
19 question to clarify with that.

20 The idea of the miscommunication,
21 my understanding from your evidence is that that
22 came from Sarkis, Mr. Assadourian -- is that
23 correct ? -- in terms of the miscommunication
24 between the Syrians and CSIS?

25 MS CATTERALL: Sarkis was the one

1 who reacted initially. I had been doing most of
2 the talking up to that point.

3 MR. WALDMAN: Okay. But the idea
4 of the miscommunication was when Sarkis heard --
5 or Mr. Assadourian --

6 MS CATTERALL: Yes.

7 MR. DAVID: -- heard that, he was
8 the one who said, "Oh, this must have been a
9 miscommunication." That was his response, so it
10 came from him, not from the ambassador?

11 MS CATTERALL: Yes.

12 MR. WALDMAN: Thank you. With
13 respect to the clear message in writing, do you
14 recall that that was what you thought was
15 important, that there be a clear message in
16 writing, as being part of what you thought should
17 be done?

18 MS CATTERALL: Yes.

19 MR. WALDMAN: And were you ever
20 able to achieve getting a clear message in writing
21 from CSIS with respect to Mr. Arar despite all
22 your efforts?

23 MS CATTERALL: No.

24 MR. WALDMAN: And did you ever
25 get -- I know you've already told us that you

1 spoke to Mr. Easter about this on several
2 occasions. Did you ever get any clear explanation
3 as to why you could not get this clear statement
4 from CSIS?

5 MS CATTERALL: My recollection is
6 that Foreign Affairs was going to be speaking for
7 Canada on this matter, but it was pretty clear
8 that security was also having a say about what
9 Foreign Affairs was going to be saying.

10 MR. WALDMAN: Right. So then even
11 in terms of the context of what Foreign Affairs
12 was saying, your understanding was that the
13 security officials had a say in what the minister
14 was going to say on behalf of Canada, the Minister
15 of Foreign Affairs was going to say on behalf of
16 Canada?

17 MS CATTERALL: I think that's
18 fairly normal. Not that I accept the kind of
19 changes that took place from the draft of the
20 letter to the final letter. I think it's quite
21 normal that there is a government position that
22 brings in comments from other departments as well.

23 MR. WALDMAN: Okay. But you said
24 that you didn't accept in this case the changes.
25 What was it that bothered you about the changes in

1 the version --

2 MS CATTERALL: That they were not
3 very clear. I thought the letter should have been
4 very clear, that Mr. Arar is not under suspicion
5 or under charge in Canada. That he has no
6 criminal record. That he has been a good citizen
7 for over half his life.

8 MR. WALDMAN: Right. So you were
9 frustrated at your inability to get them to agree
10 to a letter that was clear in the terms that you
11 thought might be very helpful to Mr. Arar?

12 MS CATTERALL: Yes.

13 MR. WALDMAN: Thank you.

14 --- Pause

15 MR. WALDMAN: Okay. I'd like to
16 move on.

17 You told us in your evidence that
18 when you met with the Syrian officials when you
19 visited Syria on behalf of Mr. Arar, that you told
20 them that Mr. Arar was not wanted for criminal
21 activity in Canada.

22 If we go back to the speaking
23 notes, I don't think that was, in fact, in the
24 speaking notes.

25 So, did you -- this was clearly

1 not in the speaking notes --

2 MS CATTERALL: No.

3 MR. WALDMAN: -- that were given
4 to you.

5 So could you explain to us why you
6 would say that if it weren't in the speaking
7 notes?

8 MS CATTERALL: Because it was the
9 truth.

10 MR. WALDMAN: Okay. And did you
11 think it was important to communicate that?

12 MS CATTERALL: Yes.

13 MR. WALDMAN: So you took it of
14 your own initiative that, even though it wasn't
15 part of what you had been instructed to say?

16 MS CATTERALL: Yes.

17 MR. WALDMAN: And you did that
18 consciously?

19 MS CATTERALL: Yes. A simple
20 statement of fact shouldn't be controversial, I
21 don't think.

22 MR. WALDMAN: Well, I would agree
23 with you.

24 Do you believe that if the letter
25 had said that clearly it would have had a greater

1 impact? I mean instead of coming from --

2 MS CATTERALL: I have no way of
3 knowing that. I have no way of knowing that.

4 My impression -- no, it's not fair
5 to give you impressions, I guess, but my
6 impression was that if people from either CSIS or
7 the RCMP were having discussions internationally,
8 then it almost had to come from them.

9 MR. WALDMAN: Right. Okay. I'd
10 like to take you to P-85, volume 5.

11 --- Pause

12 Have you ever seen this document
13 before?

14 MS CATTERALL: I don't think you
15 gave me a tab number.

16 MR. WALDMAN: Tab 30, sorry.

17 MS CATTERALL: Thank you.

18 No, I haven't seen this before.

19 MR. WALDMAN: Perhaps you could --
20 the first page isn't particularly relevant. It
21 just gives us background.

22 The second page is what I'd like
23 you to look at, where it starts with "CONCERN".

24 MS CATTERALL: If you don't mind
25 me taking a few minutes to read the first page to

1 kind of put it in context.

2 MR. WALDMAN: That's fine. That's
3 fine.

4 --- Pause

5 MS CATTERALL: Okay.

6 MR. WALDMAN: Well, I'll take you
7 to the handwritten notes in a minute. It says:
8 "The Members of Parliament
9 are seeking intervention at
10 the Prime Ministerial level
11 for the release of ARAR and
12 his return to Canada."

13 Do you assume that they might be
14 referring to you as being one of the members who
15 were lobbying the Prime Minister?

16 MS CATTERALL: I would suspect so,
17 yes.

18 MR. WALDMAN: So you would accept
19 that you were the one lobbying -- or one of the
20 members -- I know there might have been others.

21 Then it goes on to say:

22 "The potential for
23 embarrassment exists should
24 the Prime Minister become
25 involved in a similar fashion

1 to the incident following the
2 Egyptian bombing in 1995..."
3 And then they refer to the Khadr
4 case.

5 So how do you respond to the
6 suggestion that the Prime Minister should not have
7 intervened in this case because it might lead to
8 embarrassment?

9 MS McISAAC: I don't think the
10 memo says the Prime Minister shouldn't intervene.
11 It simply says there's a potential for
12 embarrassment.

13 MS CATTERALL: I'm sorry, I
14 couldn't hear Ms McIsaac's comments.

15 THE COMMISSIONER: I think the
16 question can be phrased, then, how do you respond
17 to the suggestion that there was the potential for
18 embarrassment because of the Khadr case?

19 MR. WALDMAN: What is your view of
20 the suggestion that there be potential for
21 embarrassment, and why would someone raise the
22 Khadr case in the light of your efforts to bring
23 Mr. Arar back?

24 What do you think the purpose of
25 that was, and how do you respond to it?

1 MS CATTERALL: I was conscious of
2 the fact that the Prime Minister had intervened on
3 behalf of Mr. Khadr and had secured -- appeared to
4 have secured his release and that it was
5 subsequently revealed that in fact this man did
6 have terrorist connections and had been involved
7 in terrorist activities.

8 It occurred to me that that
9 experience might make it less likely that the
10 Prime Minister would intervene again.

11 On the other hand, in terms of my
12 personal efforts, I was more persuaded by the
13 argument that the Prime Minister's intervention is
14 something you use when everything else has failed,
15 because once you have used that avenue, if it
16 fails, then you have nothing left.

17 MR. WALDMAN: Right. But did
18 you -- when you read this, do you get the sense
19 that there are people who are raising the Khadr
20 experience as a way of trying to pressure the
21 Prime Minister to not intervene so that your
22 efforts wouldn't be successful?

23 MS CATTERALL: I wasn't aware of
24 that happening personally.

25 MR. WALDMAN: Okay. But when you

1 read this, how do you respond to that?

2 --- Pause

3 MS CATTERALL: I am not sure it is
4 fair to ask me to interpret what was in somebody
5 else's mind when they did something.

6 MR. WALDMAN: Ms McDonough told us
7 in her evidence that there were suggestions made
8 to her by different officials that Mr. Arar was a
9 bad person and she should be careful about
10 intervening on his behalf.

11 Did you ever have that experience
12 yourself?

13 MS CATTERALL: I don't believe so.
14 I don't believe anybody ever said to me, "You
15 shouldn't be intervening on his behalf." It was
16 obvious that some people had that opinion. My
17 response was only, "If you have evidence, charge
18 him. If you don't, shut up."

19 And, you know, even after his
20 return, quotes in the newspapers about him being,
21 quote, "dirty" -- I mean, to me, that was coming
22 from somewhere in government and it was absolutely
23 appalling; that, again, this man's life continued
24 to be undermined by people who didn't have enough
25 evidence to lay any charges. It was just

1 unconscionable to me that people could continue to
2 say things like that.

3 MR. WALDMAN: Speaking of those
4 leaks, did you ever think of why people were
5 leaking -- I mean, there were leaks that went on
6 before Mr. Arar came back. You recall that.
7 There was a series of articles before he came
8 back. You reacted to them.

9 Did you have any sense in your
10 mind why people might be leaking -- doing these
11 leaks? What was your opinion as to the purpose
12 behind them? Referring to the ones before he came
13 back, and then the ones after; if you had any
14 thoughts at the time.

15 MS CATTERALL: I didn't speculate
16 about why people were doing it. I just found it
17 absolutely appalling that it was happening.

18 MR. WALDMAN: Thank you.

19 You told us about your phone call
20 to Mr. Himelfarb concerning your concern about
21 Mr. Arar's safety.

22 I believe I handed you up the -- I
23 gave out the Email.

24 This is the last exhibit, I
25 believe.

1 MS CATTERALL: This one? Okay.

2 MR. WALDMAN: P-115. If you could
3 just take a quick look at that.

4 Actually to save some time, there
5 are two versions. They are almost identical
6 except that we got them under two different Access
7 requests and the second one is the slightly more
8 complete one. It starts on page 3.

9 MS CATTERALL: The one that has
10 7989 at the bottom of it?

11 MR. WALDMAN: Yes, and 7990.

12 --- Pause

13 MS CATTERALL: I had forgotten
14 about this part.

15 MR. WALDMAN: So you recall this?
16 So this was at the same time as you spoke to
17 Mr. Himelfarb?

18 MS CATTERALL: Yes, it was. In
19 addition to saying you have got to find out who
20 did this and stop it, I had said, "Is there some
21 way we can provide some protection for the
22 family?"

23 MR. WALDMAN: Right. And so after
24 that you were contacted by the Ottawa Police, and
25 basically you expressed your concern to the

1 police.

2 MS CATTERALL: Who is Fran Lang,
3 if you don't mind? I don't know who either of
4 these people are.

5 MR. WALDMAN: I don't know either.

6 I think Fran Lang, if I am not --
7 reading the Email, my understanding is he was with
8 the RCMP. But I am just speculating. I have no
9 idea.

10 But these are obviously people
11 that were contacted as a result of your
12 interventions.

13 What I am more concerned with is
14 that someone apparently spoke with you and said
15 that he couldn't be provided protection because he
16 is not an internationally protected person, from
17 the RCMP.

18 It goes on to say you said:

19 "... the information
20 pertaining to the threat came
21 from information she got from
22 the federal authorities."

23 Could you explain to me what you
24 mean by that?

25 MS CATTERALL: I am just reading

1 it. I have no idea what OIC Protective Services
2 is.

3 MR. WALDMAN: I guess what I am
4 trying to understand is what you meant when you
5 said --

6 MS CATTERALL: Yes, I didn't say
7 the information pertaining to the threat came from
8 information I got from federal authorities.

9 What I would have done was said
10 that my concern about the threat was based on
11 information provided by federal authorities as
12 contained in Joy Malbon's news report.

13 MR. WALDMAN: Okay. Thank you for
14 clarifying that.

15 At the end it says:

16 "It was apparent that you
17 were not happy with the
18 answer I gave."

19 MS CATTERALL: No, I was not.

20 MR. WALDMAN: Did you carry this
21 through further? Did you do anything more about
22 your concern about Mr. Arar's safety than that?

23 MS CATTERALL: I honestly don't
24 recall what I did next. I think I probably would
25 have spoken to Mr. Himelfarb again.

1 MR. WALDMAN: Well, I am just
2 going to move on.

3 At tab 389 -- you don't have to go
4 to it, unless it's necessary -- there is a
5 reference that you were given a briefing by
6 Mr. Pardy in Cairo. You have covered some of
7 this. I just want to ask you some questions.

8 In that briefing or any of the
9 other briefings, was the human rights situation in
10 Syria discussed by Mr. Pardy or any of the other
11 officials?

12 MS CATTERALL: Not that I recall.

13 MR. WALDMAN: Were you briefed on
14 the lack of due process in Syria and the lack of a
15 fair and independent judicial system?

16 MS CATTERALL: No, but I was
17 certainly aware of it.

18 MR. WALDMAN: Were you briefed by
19 Mr. Pardy as to the likelihood that Mr. Arar might
20 have been tortured during the initial stages of
21 his detention?

22 MS CATTERALL: Not before we
23 visited him in Syria, no.

24 MR. WALDMAN: Were you briefed at
25 any other time by Mr. Pardy about the likelihood

1 he might have been tortured in the initial stages
2 of his detention?

3 MS CATTERALL: I think Mr. Pardy
4 and I would only have discussed that when the
5 report from the Syrian Human Rights Committee
6 became public.

7 MR. WALDMAN: So at that point
8 Mr. Pardy mentioned to you that it was likely --

9 MS CATTERALL: No, he wouldn't
10 have mentioned it to me. It would have been
11 probably part of one of our conversations, or many
12 conversations trying to get this resolved.

13 MR. WALDMAN: Do you recall what
14 he said to you about the issue of Mr. Arar being
15 tortured?

16 MS CATTERALL: No.

17 MR. WALDMAN: Had you formed any
18 opinion as to the likelihood that Mr. Arar might
19 have been tortured before you went to Syria?

20 MS CATTERALL: Not before I went
21 to Syria, because that honestly had not come up as
22 a discussion. My whole focus was this is a
23 Canadian citizen who has been deported without any
24 due process and without any good reason, and it's
25 our responsibility to get him back as quickly as

1 possible.

2 MR. WALDMAN: I just want to ask
3 you a few quick questions about your involvement
4 in this file.

5 I just want to be clear. You
6 never obtained any briefing from the Solicitor
7 General or the RCMP on Mr. Arar at any point?

8 MS CATTERALL: No.

9 MR. WALDMAN: Were you aware of
10 any members of any other political party who might
11 have received a briefing?

12 I am recalling statements of
13 interviews that were given by some Members of
14 Parliament shortly after Mr. Arar was arrested. I
15 don't know if you recall them?

16 MS CATTERALL: I don't know. I
17 don't recall.

18 MR. WALDMAN: You don't know.

19 So it is fair to say, though, that
20 you agree with what Ms McDonough had told us
21 earlier, that at least Mr. Graham was saying he
22 was having difficulty getting information on the
23 file?

24 MS CATTERALL: The first time I
25 felt that might be the case was when I got a

1 substantially different impression of the
2 situation in Damascus than I had had before I
3 left: the fact that the charges they were looking
4 at were quite serious -- were much more serious
5 than I had heard and much more specific than I had
6 heard; that their investigation had provided
7 information to justify that; that our ambassador
8 was aware that things had gone this far but that
9 any of the briefings that I had had or any of the
10 discussions I had had in Canada had certainly not
11 reflected the seriousness of the situation that I
12 felt both from Mr. Pillarella's briefing and from
13 what I heard directly from the Syrian intelligence
14 people.

15 MR. WALDMAN: Did Mr. Pillarella
16 advise you that he obtained a copy of the
17 statement that the military intelligence had taken
18 from Mr. Arar during the initial stages when, of
19 course, Mr. Arar says he was tortured?

20 Did he ever tell you that he
21 obtained that statement?

22 MS CATTERALL: No.

23 MR. WALDMAN: So obviously he
24 didn't advise you of the contents of that
25 statement?

1 MS CATTERALL: No.

2 MR. WALDMAN: Did he advise you
3 that he brought the statement back to Canada, and
4 that it was given to CSIS and the RCMP?

5 MS CATTERALL: No.

6 MR. WALDMAN: How do you react to
7 learning that Mr. Pillarella, our ambassador,
8 actively solicited the statement that was taken
9 and, according to Mr. Arar, under torture?

10 THE COMMISSIONER: You should only
11 answer a question like that if you feel
12 comfortable and you feel you have enough facts to
13 answer it.

14 MR. WALDMAN: If you don't feel
15 comfortable, feel free to say that you don't.

16 --- Pause

17 MS CATTERALL: I am not sure how
18 relevant my feelings are in this matter.

19 It was evident to me during our
20 briefings in Damascus that the ambassador had had
21 several briefings, had had briefings and contact
22 with security officials at a high level in Syria;
23 that he seemed convinced by what they were telling
24 him.

25 And it was my sense that the level

1 of seriousness of the concerns the Syrians had and
2 their conviction of Mr. Arar's guilt had not been
3 conveyed to the Minister or his political staff,
4 or to Mr. Pardy who was responsible for the
5 consular elements of this case. And I think that
6 comment was made at some point in the briefing
7 note.

8 Mr. David asked me earlier if I
9 had any comments on the work of officials, and it
10 was just a sense that if this information was
11 getting back to Ottawa, it wasn't getting to
12 Minister Graham because I felt that any -- I felt
13 that Minister Graham's office, himself, his
14 political people, as well as people in consular
15 service, were being quite open with me about the
16 situation and were doing their best.

17 I have all kinds of questions,
18 frankly, about who was getting informed if the
19 Minister wasn't getting informed. Who did that
20 report go to in Foreign Affairs? If it was sent
21 by the ambassador, who was it sent to? And why
22 wasn't the Minister made aware -- because I
23 honestly don't believe that he was.

24 I have since had reasons to find
25 out that not only is there a Ministry of Foreign

1 Affairs, there is a security unit within Foreign
2 Affairs. What role do they play? Do they screen
3 what the Minister gets told? I don't know.

4 I have a whole lot of questions,
5 and these are the questions that are before this
6 inquiry.

7 Why was Mr. Arar's computer seized
8 by customs and at whose request? I don't for a
9 moment believe that he had not paid GST on a
10 computer that he had been using for quite some
11 time. And what did they do with it while they had
12 it?

13 I trust you have addressed all
14 those things in other hearings.

15 How can we have the RCMP, at
16 least, talking to officials in Washington about a
17 Canadian citizen who -- I presume they were
18 talking about him while he was in detention,
19 because they made a great point of saying that
20 they were waiting for him at the Dorval Airport
21 for his return --

22 THE COMMISSIONER: Those are all
23 questions that are before the inquiry.

24 MS CATTERALL: Yes.

25 THE COMMISSIONER: And I can

1 assure you that while a lot of the evidence is --

2 MS CATTERALL: Well, I hope a lot
3 of the answers are going to be public answers
4 because --

5 THE COMMISSIONER: Well, you have
6 some allies in that.

7 --- Laughter / Rires

8 MS CATTERALL: Quite frankly, the
9 fact that our national police force can be aware
10 that a Canadian citizen is in custody in New York
11 and doesn't even contact Foreign Affairs to find
12 out if we are aware of that as a government, it
13 astounds me.

14 MR. WALDMAN: I have a few more
15 questions. Do you want me to finish them --

16 MS CATTERALL: I am sorry if I
17 have taken some of your time.

18 MR. WALDMAN: No, that's fine.

19 THE COMMISSIONER: No, no.

20 MR. WALDMAN: I have about five
21 more minutes. Do you want me to finish and then
22 take the break?

23 THE COMMISSIONER: It would
24 probably be easiest then for you, Ms McIsaac, then
25 we have the break before your cross.

1 MR. WALDMAN: I am just picking up
2 a few things from notes of your examination
3 yesterday.

4 Just going back to that
5 conversation with the Syrian ambassador, do you
6 believe that the misunderstanding or the
7 communication that was given that CSIS didn't want
8 Mr. Arar back, do you think that likely had an
9 impact on his return?

10 That the Syrians were told that
11 CSIS didn't want him back, do you think that
12 impeded Mr. Pardy's efforts in getting him back?

13 MS CATTERALL: Well, I can only
14 assume that in that conversation the Syrian
15 Ambassador was saying to us, "You are telling us
16 your government wants him back, but we are hearing
17 another message."

18 Obviously, it was having an
19 impact.

20 MR. WALDMAN: Just one last thing.
21 This is going to Minister Graham's notes, which is
22 P-107.

23 MS CATTERALL: Okay.

24 MR. WALDMAN: We took you to the
25 page about Marlene C. on April 30th. On the next

1 page after that, there is something that says
2 "Sarkis Assadourian"?

3 MS CATTERALL: Yes.

4 MR. DAVID: And he goes on to say:
5 "Arar. What an experience.
6 There's a difference of
7 opinion between the Syrian
8 Foreign Ministry and their
9 intelligence (in cahoots with
10 the Americans?)"

11 Were you aware of this? I mean,
12 you were part of the briefing, all the briefing,
13 as was Mr. Assadourian. This notation struck me.

14 MS CATTERALL: In fact, I am sure
15 Mr. Assadourian had conversations with the
16 Minister, with other people, that I wasn't aware
17 of.

18 MR. WALDMAN: No, I understand
19 that. But my question is I am more interested in
20 the content of what is said, because it seems to
21 be he is reporting to Minister Graham after he
22 comes back about the trip.

23 MS CATTERALL: Okay.

24 MR. WALDMAN: And he says "What an
25 experience", and then he goes on to say:

1 "There is a difference of
2 opinion between the Syrian
3 Foreign Ministry and
4 Intelligence."

5 Was that communicated to you in
6 any of your briefings?

7 MS CATTERALL: It was clear to me,
8 and I think it was from the briefing by Ambassador
9 Pillarella, that decisions on this would be made
10 by the intelligence people, not by the Foreign
11 Affairs people, in Syria.

12 MR. WALDMAN: But was it also
13 communicated that there might have been a
14 difference of opinion between the Foreign Affairs
15 and the intelligence?

16 MS CATTERALL: I didn't -- it
17 wasn't something I explicitly was aware of, no.

18 MR. WALDMAN: And was it
19 communicated to you that their intelligence
20 service was working in cahoots with the Americans?
21 Was that something that was mentioned?

22 MS CATTERALL: It's not something
23 that was mentioned during our briefings, no.

24 MR. WALDMAN: Thank you. Those
25 are my questions.

1 MS CATTERALL: But can I just tie
2 that to another answer I did give yesterday,
3 though?

4 It was clear, and I think I
5 pointed out that I had not recognized the
6 significance of this at the time it happened, but
7 when the Syrian Deputy Foreign Minister referred
8 to the fact that they had expected him to be
9 deported to Canada, it was clear that there had
10 been contact between the American government and
11 the Syrian government while Mr. Arar was still in
12 detention in New York.

13 MR. WALDMAN: Thank you.

14 THE COMMISSIONER: We will take
15 the afternoon break for 15 minutes.

16 THE REGISTRAR: Please stand.

17 --- Upon recessing at 3:41 p.m. /

18 Suspension à 15 h 41

19 --- Upon resuming at 3:58 p.m. /

20 Reprise à 15 h 58

21 THE REGISTRAR: Please be seated.

22 THE COMMISSIONER: Ms McIsaac?

23 You need the podium.

24 EXAMINATION

25 MS McISAAC: Ms Catterall, I would

1 like to start by asking you a few questions about
2 the period of time when Mr. Arar was incarcerated
3 in New York.

4 As I understood your evidence, you
5 indicated that at some point you spoke with
6 Maureen Girvan?

7 MS CATTERALL: My office spoke
8 with Maureen Girvan. I am not sure that I
9 personally did.

10 MS McISAAC: But your office did?

11 MS CATTERALL: Yes, twice, I
12 believe. Initially she contacted Catherine Clark
13 in my office, and then Catherine phoned her back.

14 MS McISAAC: And was it your
15 understanding from those conversations that
16 Ms Girvan was going to be visiting with Mr. Arar
17 in prison?

18 MS CATTERALL: Yes.

19 MS McISAAC: Then you said you
20 spoke with Ms Mazigh during this period of time.

21 MS CATTERALL: Yes.

22 MS McISAAC: And my note indicates
23 that she raised with you a concern that Mr. Arar
24 might be deported to Syria?

25 MS CATTERALL: Yes.

1 MS McISAAC: Did you report that
2 to Ms Girvan?

3 MS CATTERALL: No. I would have
4 discussed it with Mr. Pardy, though.

5 MS McISAAC: Are you certain you
6 discussed it with Mr. Pardy?

7 MS CATTERALL: Yes.

8 MS McISAAC: And in what context
9 did you discuss it with Mr. Pardy?

10 MS CATTERALL: Well, I dealt with
11 Mr. Pardy on a number of occasions on different
12 immigration cases -- sorry, cases of constituents
13 of mine who were in trouble in one way or another,
14 and just regarded him as my prime contact in those
15 situations.

16 MS McISAAC: All right. But you
17 discussed the issue with Mr. Pardy, the fact that
18 Ms Mazigh had expressed this concern.

19 And can you advise me what it was
20 that Mr. Pardy then told you about the concern?
21 Was he concerned?

22 MS CATTERALL: Ms Girvan had told
23 Catherine Clark in my office and, as I recall, Gar
24 Pardy repeated to me that they just didn't think
25 that would happen; that as a Canadian citizen, he

1 would be returned to Canada.

2 MS McISAAC: I also understand you
3 had a discussion with Michelle Lobo in the
4 Minister's office?

5 MS CATTERALL: Yes.

6 MS McISAAC: All right. Did you
7 raise any concerns about Mr. Arar being deported
8 to Syria when you spoke with Michelle?

9 MS CATTERALL: I can't remember
10 specifically if I did or not.

11 MS McISAAC: If we could move
12 ahead to the period of time when arrangements were
13 under way for the trip that you and
14 Mr. Assadourian took to Syria, you indicated that
15 at some point there was a discussion about whether
16 Ms Mazigh might accompany you on that trip.

17 MS CATTERALL: Whether she might
18 go or whether she might go on her own for a visit
19 with her husband.

20 MS McISAAC: But that was a
21 discussion point?

22 MS CATTERALL: Yes.

23 MS McISAAC: All right. And,
24 again, my note shows that you indicated that it
25 was her position or her concern that she did not

1 want to go because she did not want to give
2 legitimacy to the Syrians holding him.

3 Is that accurate?

4 MS CATTERALL: Yes.

5 MS McISAAC: Can you explain that?
6 I am afraid I just don't understand what the
7 concern would be.

8 --- Pause

9 MS CATTERALL: One of the
10 difficult things in this whole situation was that,
11 according to Syria, he is a Syrian citizen. So he
12 is subject to Syrian laws when he is in Syria and
13 even when he is not.

14 She just felt that to visit him in
15 a Syrian jail would legitimize their right to have
16 him there, and she just didn't feel they did; that
17 he is a Canadian citizen and he belonged back in
18 Canada.

19 And that was her whole focus, as
20 it was mine.

21 MS McISAAC: All right. Could I
22 ask the registrar, please, to provide you with tab
23 385 and tab 324? I think they are probably in
24 different volumes.

25 They are in the same one,

1 Mr. Registrar.

2 You can go to 324 first.

3 MS CATTERALL: Right.

4 MS McISAAC: Just to set the
5 background, as I understand it, your trip was
6 originally planned or there was a hope that you
7 would be able to travel in the month of March.

8 MS CATTERALL: Yes.

9 MS McISAAC: And there were some
10 issues with respect to visas, and you eventually
11 only went in April.

12 Just to set the stage. Of course,
13 you will recall that in March, I think the 17th of
14 March, the United States invaded Iraq.

15 So would I be right in assuming
16 that throughout this period one of the
17 difficulties in the background to your trip was
18 the fact of the Iraq war?

19 MS CATTERALL: Not in my mind.

20 MS McISAAC: All right. But in
21 terms of arranging your trip?

22 MS CATTERALL: I don't think so,
23 except I think later on in April it was a concern
24 of the Syrians because obviously they were focused
25 on -- I mean, there was a war going on virtually

1 on their borders, and they were concerned about
2 that.

3 That was mentioned in one of the
4 documents that is in here, I think from our
5 embassy in Damascus.

6 MS McISAAC: But notwithstanding
7 the political situation, of course, was that ever
8 voiced as a concern or a difficulty by the
9 Department of Foreign Affairs with respect to the
10 trip?

11 MS CATTERALL: Not to me.

12 MS McISAAC: Not to you. Okay.

13 If we go to tab 324, these are the
14 notes prepared by Mr. Pardy. You will recall you
15 discussed these with Mr. Waldman and I think
16 yesterday with Mr. David as well, and that is the
17 talking points or the messages that you were to
18 convey to the Syrians when you arrived in Syria.

19 And on the second page, I see that
20 one of the ideas that you were to convey was that
21 the Canadian government would be extremely pleased
22 if Mr. Arar could be returned to Canada.

23 MS CATTERALL: Mm-hmm.

24 MS McISAAC: And you would be
25 expressing that, I assume, on behalf of the

1 Canadian government when you were in Syria.

2 Similarly, if I could ask you to
3 look at the letter that you took with you, which
4 is tab 385 -- my colleague reminds me that you
5 will have to say "yes".

6 MS CATTERALL: Yes.

7 MS McISAAC: So that we have it on
8 the record.

9 Have you got tab 385?

10 MS CATTERALL: I do.

11 MS McISAAC: All right. Now,
12 there was some concern about the wording of this
13 letter, and I would like to take you to the end of
14 the first paragraph, where the wording is as
15 follows.

16 You see:

17 "Ms Catterall and
18 Mr. Assadourian are visiting
19 Syria at this time in order
20 to reaffirm their hope that
21 Mr. Arar would be permitted
22 to return to Canada at the
23 earliest possible time. I
24 fully share their desire."

25 And of course this is signed by

1 Minister Graham.

2 Quite frankly, when I read that,
3 that strikes me as being a statement by the
4 Canadian government, that they would like to have
5 Mr. Arar back.

6 You would agree with that,
7 wouldn't you?

8 MS CATTERALL: I don't think it is
9 as strong a statement as was in the draft letter.

10 MS McISAAC: But it nevertheless
11 conveys the impression -- not the impression, but
12 the view that Mr. Graham shares the desire that
13 Mr. Arar be permitted to return to Canada?

14 MS CATTERALL: That says
15 Mr. Graham personally does, and we have heard a
16 number of other indications that the Syrians were
17 hearing other things from other people in the
18 Canadian government.

19 MS McISAAC: But Mr. Graham is the
20 Foreign Minister of the Government of Canada.

21 MS CATTERALL: Mr. Graham is the
22 Foreign Minister. But if we go back to the draft,
23 which you haven't referred to me, it was clearly a
24 much stronger statement in the original draft.

25 MS McISAAC: Were you involved in

1 the preparation of the document?

2 MS CATTERALL: No, I was not.

3 MS McISAAC: Did you complain
4 about the format of the letter that you were
5 eventually provided with?

6 MS CATTERALL: No, I did not.

7 MS McISAAC: After you had your
8 lunch with the ambassador and it was conveyed to
9 you that there was possibly mixed messages or that
10 something might have been said by CSIS with
11 respect to Mr. Arar's return, I need to make this
12 clear from you, if I can.

13 My note shows that you said you
14 would have made Mr. Graham and Mr. Easter aware of
15 your conversation.

16 My question is: Did you make
17 Mr. Easter or Mr. Graham aware of that discussion?

18 MS CATTERALL: I cannot remember a
19 specific conversation.

20 MS McISAAC: Now, going back to
21 the two letters that we have been discussing, the
22 letter at tab 385, which is the final version, and
23 the earlier version at tab 388, my note indicates
24 that you testified you were aware that the letter
25 was being revised.

1 How were you aware of that,
2 Ms Catterall?

3 MS CATTERALL: At that time I was
4 having conversations both with Robert Fry in the
5 Minister's office and with Mr. Pardy. I knew that
6 a letter was being drafted. I also knew that
7 there was some consultation with -- there were
8 objections from the security services to the
9 content of the letter and it was being revised.

10 MS McISAAC: Who told you that?

11 MS CATTERALL: I do not recall if
12 it was Mr. Fry or Mr. Pardy.

13 MS McISAAC: Did you discuss the
14 wording of the letter with Mr. Pardy?

15 MS CATTERALL: No.

16 MS McISAAC: Did you discuss the
17 wording of the letter with Mr. Fry?

18 MS CATTERALL: No. I was not
19 aware of the wording of either the draft or the
20 final letter.

21 MS McISAAC: If we could move on
22 to the time that you were actually in Syria and
23 your meeting with the Syrian officials, first of
24 all, can you be clear on exactly what it was that
25 they told you their charges or claims against

1 Mr. Arar were?

2 Did you make any notes or write
3 anything down at the time?

4 MS CATTERALL: No, I did not.

5 MS McISAAC: But you do recall
6 from your earlier testimony, I gather, that the
7 Syrians were zeroing in on the fact that they
8 believed Mr. Arar to be somehow affiliated with
9 al-Qaeda?

10 MS CATTERALL: The essence of it
11 was that they intended to charge him soon and with
12 being a member of al-Qaeda and having trained in
13 Afghanistan.

14 MS McISAAC: Did I understand your
15 evidence that none of that was pointed out to you
16 or made clear to you before you travelled to
17 Syria?

18 MS CATTERALL: Yes. None of that
19 was made clear to us before we went to Syria.

20 MS McISAAC: But I understand that
21 Mr. Pillarella, when he briefed you prior to the
22 visit, indicated that that was the situation.

23 MS CATTERALL: He wasn't specific
24 that they intended to charge him. It came -- I
25 suppose I should have been prepared from what he

1 said, but it came as a shock to me to actually
2 hear them say they intended to charge Mr. Arar
3 soon.

4 MS McISAAC: But he may not have
5 known they were planning to charge him.

6 MS CATTERALL: He may not have
7 known.

8 MS McISAAC: After the visit,
9 then, Mr. Pillarella arranged for you and
10 Mr. Assadourian to meet with a number of Syrian
11 parliamentarians. Is that right?

12 MS CATTERALL: Yes, he arranged a
13 dinner.

14 MS McISAAC: Can you tell us a
15 little bit about that discussion and what was the
16 reaction of the Syrian parliamentarians?

17 I understood you to say that the
18 reason for this was to allow you to express to
19 them Canada's concern.

20 MS CATTERALL: I can't say I
21 remember a great deal of detail from that dinner.
22 It was a dinner. It was, in part, informal and it
23 was -- I think, in part, it was exhaustion that I
24 just don't remember the details of who was there
25 or what we discussed except that I would have

1 conveyed exactly the same message I did with the
2 Deputy Prime Minister -- or Deputy Foreign
3 Minister.

4 MS McISAAC: You would have
5 conveyed the same messages to them.

6 MS CATTERALL: Yes.

7 MS McISAAC: But you don't recall
8 anything about their response to that?

9 MS CATTERALL: No, I don't.

10 MS McISAAC: Okay. When you
11 returned from the trip to Syria, I understand that
12 you were the one who first spoke with Ms Mazigh
13 about the details of the trip, the meeting with
14 Mr. Arar and such. And you told her, did you,
15 about the allegations that had been conveyed to
16 you by the Syrians?

17 MS CATTERALL: I can't remember if
18 I told her that on the phone or waited until we
19 met on the Friday afternoon.

20 MS McISAAC: But at some point you
21 conveyed to her the situation that Mr. Arar was in
22 and the allegations.

23 And what was her reaction?

24 --- Pause

25 MS CATTERALL: I can't remember

1 specifically. Obviously, she was deeply concerned
2 about what kind of a trial he would get, what did
3 they mean by "soon"? She was receiving his
4 letter.

5 I can't remember specifically what
6 she said in reaction.

7 MS McISAAC: I think you still
8 have the book there that has tab 399?

9 MS CATTERALL: Yes.

10 MS McISAAC: There was, I
11 understand, a debriefing with Mr. Pardy and
12 presumably others from Foreign Affairs on April
13 28th. Do you recall that?

14 I refer you to --

15 MS CATTERALL: I don't have a
16 clear memory of that discussion.

17 MS McISAAC: But I assume that it
18 would be logical, after having undertaken this
19 trip, that you would have debriefed?

20 MS CATTERALL: Yes.

21 MS McISAAC: But you don't recall
22 the debriefing.

23 And you wouldn't have had any
24 notes that you took as a result of it or for the
25 purposes of it?

1 MS CATTERALL: No. I said very
2 early on in this hearing, this is a time of
3 regretting that I don't keep detailed notes on
4 every conversation that I have, but it's just not
5 possible.

6 MS McISAAC: Could I ask you now
7 to look at tab 613, and that's just to remind you
8 about your desire to have a discussion with
9 Mr. Martel.

10 This is the Email that was sent to
11 Mr. Martel indicating that you wished to speak
12 with him.

13 Did you speak with Mr. Martel?

14 MS CATTERALL: Yes, I did.

15 MS McISAAC: All right. And could
16 you tell us again why you wanted to speak to
17 Mr. Martel and what you said to him?

18 MS CATTERALL: I wanted to thank
19 him for what he had done while Maher was in
20 detention. I had the feeling that he was very
21 sympathetic and that he had been sort of the one
22 constant Canadian contact for Maher while he was
23 in prison.

24 I wanted to -- I really don't
25 recall our conversation, but I also wanted to

1 understand better how it came about that he was
2 released.

3 MS McISAAC: And did you learn
4 anything more as to why Mr. Arar was released?

5 MS CATTERALL: No.

6 MS McISAAC: When you met Mr. Arar
7 and Mr. Martel at the airport and then
8 subsequently spent some time with him at his
9 family's home, did Mr. Arar convey any information
10 to you about Mr. Martel?

11 MS CATTERALL: Yes, he talked
12 about his consular visits and Mr. Martel conveying
13 to him, not explicitly, but it was very clear to
14 him from Mr. Martel that there were things he
15 should not talk about in their consular visits.

16 MS McISAAC: Understood. Did he
17 say anything to you about the importance of those
18 consular visits?

19 MS CATTERALL: I don't recall that
20 he did.

21 MS McISAAC : All right.

22 Now, with respect to the issue of
23 torture, and I want to be careful here because I
24 want to speak of torture specifically in the
25 context of physical abuse.

1 Was it your understanding from
2 your discussions with Mr. Arar that the torture
3 had taken place at the beginning of his
4 incarceration in Syria?

5 MS CATTERALL: He talked to me
6 about the conditions in which he was held. I
7 really didn't have a sense of how long that had
8 lasted, but that it had changed at some point.

9 MS McISAAC: Now, one last point
10 before --

11 I'm actually going to be much
12 shorter than I thought I would, Mr. Commissioner.
13 I really only have one last series of questions.

14 That relates to the fall of 2003,
15 after Mr. Arar has returned, and you were
16 particularly concerned about a report by Joy
17 Malbon on CTV in which apparently it was reported
18 that Mr. Arar, or somebody said that Mr. Arar had
19 given information about other people --

20 MS CATTERALL: Yes.

21 MS McISAAC: I don't think we
22 actually have the report.

23 MS CATTERALL: And I couldn't
24 find -- I do know that I had, at one point, the
25 transcript, but I couldn't find it.

1 MS McISAAC: Right. But you were
2 concerned about that, obviously.

3 MS CATTERALL: Yes.

4 MS McISAAC: And you were
5 concerned about Mr. Arar's safety, I think you
6 were saying?

7 MS CATTERALL: I was concerned, as
8 I recall, she said government officials had said
9 that.

10 MS McISAAC: Okay. I asked this
11 question of Ms. McDonough. I think most people
12 would be concerned about that sort of thing being
13 leaked by government officials, if it was
14 government officials who leaked that kind of
15 information.

16 What's your concern, or are you
17 concerned, by the fact that CTV would see fit to
18 broadcast that allegation and possibly put
19 Mr. Arar's life in jeopardy?

20 MS CATTERALL: I think it is not
21 fair to hold the media responsible for publishing
22 information that they were given. It may not have
23 occurred to them, even, that that might put his
24 life in danger.

25 But I think that anybody in a

1 position to make that kind of a statement would
2 certainly have known that.

3 MS McISAAC: Could I ask you now
4 to turn to Exhibit P? -- was the Email exchange
5 entered as an exhibit?

6 THE REGISTRAR: P-115.

7 MS McISAAC: P-115.

8 THE COMMISSIONER: 115? Yes.

9 MS CATTERALL: Okay.

10 MS McISAAC: And Mr. Waldman had
11 taken you to the third page of the Email and read
12 you the exchange at the bottom, which appears to
13 be somebody reporting with respect to a call that
14 they had received from your office expressing
15 concern about Mr. Arar's welfare, correct? That's
16 your understanding of what it is?

17 MS CATTERALL: No, it was a call
18 from myself, it was part of --

19 MS McISAAC: Oh, from yourself,
20 I'm sorry.

21 MS CATTERALL: -- part of my
22 conversation with the Privy Council Clerk that
23 morning.

24 MS McISAAC: I just wanted to take
25 you to the -- move up to the Email chain to the

1 next Email, which occurs -- the first one is at
2 3:29. The next one up in the line is 3:55.

3 "Further to our telephone
4 conversation, I spoke to the
5 Minister's Executive
6 Assistant, Ken Moreau..."

7 -- and I assume that's

8 Mr. Easter --

9 "...and advised him that we
10 would ask one of our
11 counterparts at the Ottawa
12 Police Service to give
13 Ms. Catterall a call to
14 discuss her/Mr. Arar's
15 concerns. I explained that
16 she may get the same message
17 from us. This is understood,
18 but our efforts in
19 facilitating the call is
20 greatly appreciated."

21 And then he provides the telephone
22 numbers to how you can be reached.

23 So the RCMP did immediately make
24 arrangements for the Ottawa Police to become
25 involved in this matter.

1 My question is: Did you hear from
2 the Ottawa Police?

3 MS CATTERALL: I do not remember.

4 MS McISAAC: Did you do anything
5 else to follow up on your concerns with respect to
6 Mr. Arar's safety?

7 MS CATTERALL: I do not remember.

8 MS McISAAC: All right.

9 Thank you very much.

10 THE COMMISSIONER: Mr. David?

11 MR. DAVID: I have no questions,
12 Monsieur le Commissaire.

13 THE COMMISSIONER: Okay. That
14 completes your evidence, Mrs. Catterall.

15 Let me take a moment just to thank
16 you for coming here and to comment on your
17 involvement throughout this affair.

18 I think Mr. Arar was indeed
19 fortunate to have you as his Member of Parliament,
20 and I appreciate very much the time to come back
21 twice. Thank you very much.

22 MS CATTERALL: And I appreciate
23 the work you are doing.

24 THE COMMISSIONER: Thank you.

25 Now, for tomorrow, we're scheduled

1 for nine o'clock, is that right, with Mr. Graham,
2 and then we'll carry on with Mr. Pardy in the
3 afternoon? Okay.

4 We'll rise till nine o'clock.

5 THE REGISTRAR: Please stand.

6 --- Whereupon the hearing adjourned at 4:24 p.m.,
7 to resume on Thursday, June 2, 2005,
8 at 9:00 a.m. \ L'audience est ajournée
9 à 16 h 24, pour reprendre le jeudi 2 juin 2005
10 à 09 h 00

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Lynda Johansson,

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C.S.R., R.P.R.