Day 12 am  Leveson Inquiry  6 December 2011

1 Mr Leigh's references on page 72 below to "arms company" was a slip and Mr Leigh has
2 subsequently corrected this to "a construction company" as he intended at the time.
3 Tuesday, 6 December 2011
4 (10.00 am)
5 MR BARR: Good morning, sir.
6 LORD JUSTICE LEVESON: Yes, Mr Barr.
7 MR BARR: We have four witnesses today. We'll be starting
8 in a moment with Mr Nott, then Ms Harris and then
9 finally this morning we have Mr Leigh and this
10 afternoon, Mr Atkins.
11 LORD JUSTICE LEVESON: Very good.
12 MR BARR: The first witness is Mr Nott.
13 MR STEVEN JOHN NOTT (affirmed)
14 Questions from MR BARR
15 MR BARR: Take a seat, please, Mr Nott.
16 LORD JUSTICE LEVESON: Very good.
17 Q. Could you tell the Inquiry your full name, please?
18 A. My name is Steven John Nott.
19 Q. You've provided a witness statement to the Inquiry on
20 a voluntary basis. Are you familiar with the contents
21 of the statement?
22 A. I am, yes.
23 Q. Are the contents of the statement true and correct to
24 the best of your knowledge and belief?
25 A. They are.

1 Q. We're going to take your statement as read, but there
2 are a few questions that I would like to ask you to
3 amplify what is in your statement and to summarise it.
4 You tell us, first of all, that you are a member of
5 the general public, currently employed as a delivery
6 driver?
7 A. I am.
8 Q. Winding back now to 1999, you tell us that there came a
9 point in time when you discovered that it was very easy
10 to access other people's Vodafone voicemail accounts?
11 A. I did.
12 Q. Could you tell us in summary, please, how you came to
13 find that information out?
14 A. I was a salesman for a food company based in south
15 Wales. I used to have a lot of customers -- new
16 customers ringing up my mobile phone and leaving
17 messages with new orders on the phone as I was driving,
18 and you couldn't take the orders and write them down as
19 you were driving so they would be left on my voicemail
20 until I'd stopped, to be able to write the orders down,
21 the new customer's details, and ring the production --
22 the sales team up to put the production into order,
23 basically, at the company.
24 At the time this happened, the network went
25 completely down and I was expecting a lot of new

1 customers' orders that afternoon and I was in a bit of
2 a panic trying to get -- waiting for the network to come
3 back on my phone so I could access my orders so I could
4 ring the customers up, basically, to put the orders in,
5 and I stopped at a service station and I rang up the
6 customer services at Vodafone to ask them how long the
7 network was going to be off for because of this problem
8 I had, and they explained to me that the whole of South
9 Wales area was down at the time, it had been off for
10 a few hours, and I told them the problem that I had.
11 They said it's not a problem and explained to me that
12 I could access my voicemail from any other phone, from
13 a landline, from a mobile and so forth.
14 It was new to me at the time, and I asked them how
15 I would do it, and they described -- they explained to
16 me that I would have to ring my own mobile phone number
17 up, and when I -- when it went into the voicemail, said,
18 "This is a Vodafone recall service for..." whatever
19 number you were ringing -- after you'd hear that message
20 and it said, "Please leave a number after the tone",
21 after you'd hear the tone, you'd press number 9. This
22 is what the customer service lady was telling me at the
23 Vodafone customer services. She then said, "You'd have
24 to enter your security number", and I didn't realise
25 what she meant by that and I thought that was the

Page 1

1 (Pages 1 to 4)
Q. Then you tell us that you then decided to contact the press. First of all, you contacted a reporter called Oonagh Blackman, who was at that time working for the Daily Mirror?

A. I did.

Q. And that she decided to look into it?

A. She did.

Q. When you spoke to her on another occasion, she said that she'd tried it on a few numbers that she had?

A. She did.

Q. And that she decided to look into it?  

A. She did.

Q. And that she had some of her colleagues ringing up publicly profiled people in and around London?

A. All of her colleagues in the newsroom is what I was told.

Q. Did you understand that they were ringing up these publicly profiled people to tell them that their voicemail was insecure?

A. Yes.

Q. And were you given to understand that there was going to be a story published?

A. Yes, most definitely.

Q. But in fact, as we now know, the Daily Mirror decided not to publish the story?

A. That's right.

Q. And you were told by Ms Blackman that she wasn't interested in it any longer; is that right?

A. That's correct.

Q. Is this a document that you submitted to New Scotland Yard?

A. That's -- it's the same document. However, that's -- that's the second document I sent out.

Q. I see, so you tried twice?

A. Yes.

Q. Was there any covering letter to this second document?

A. To the second document, yes, but not the first document.

Q. I see. Do you have the covering letter to the second document?

A. No.

Q. Why is that?

A. I didn't find it in my attic where all these documents were.

Q. It was a long time ago, but can you remember whether or not you asked the police to do anything?

A. No, it would have been a basic note to say, "This letter is what I discovered. Please look into it." It wasn't -- there's enough details in that document to explain what I'd discovered.

Q. I see. Then you wrote to the Department of Trade and Industry?

A. I did.

Q. The Home Office?

A. I did.
1. A. I did.
2. Q. And Her Majesty's Customs and Excise?
3. A. I did.
4. Q. Essentially explaining what you had found?
5. A. I sent them the same document.
6. Q. Did you get a reply from any of those departments?
7. A. No. None of them.
8. Q. You go on in paragraph 12 to list the further people that you informed. These included MI5?
9. A. Yes.
10. Q. The National Council for Civil Liberties?
11. A. Yes.
12. Q. The Orange press office?
13. A. Yes.
14. Q. Is that Orange the mobile phone company?
15. A. Yes.
16. Q. Is that Orange the mobile phone company?
17. A. Yes.
18. Q. And what happened there?
19. A. I spoke to a few of the mobile networks at the time and Orange were the ones that were interested at the press office, so I kept in touch with them about what I'd done, basically, what I was trying to do, what I was trying to expose.
20. Q. I see. You then say you contacted ITN?
21. A. Yes.
22. Q. And did they take an interest?
23. A. I spoke to Chris Choi, the consumer affairs correspondent at ITN at the time and he sent a film or news crew or some sort -- film or news crew, whichever -- to my house and filmed me in my back garden telling the story about the Vodafone security flaw, not the story about who I'd been to see.
24. Q. I see. And was that broadcast?
25. A. No.
26. Q. Did they explain why that wasn't broadcast?
27. A. No. But I was told to stop hassling them after I kept asking.
28. Q. You tell us you also contacted One 2 One?
29. A. I did.
30. Q. BT Cellnet?
31. A. I did.
32. Q. And the Watchdog programme?
33. A. I did.
34. Q. Did the Watchdog programme take an interest?
35. A. I had a phone call back from them, but nothing came from it.
36. Q. So now we come to BBC Radio 5 Live and it's right, isn't it, that BBC Radio 5 Live did take an interest?
37. A. They did.
38. Q. And that interest led to a short piece being broadcast, didn't it?
39. A. It did.
40. Q. On 22 October 1999?
41. A. That's correct.
42. Q. And you've been trying to obtain a recording of that broadcast recently, haven't you?
43. A. I have.
44. Q. And is it right that although Radio 5 Live could no longer find a copy of the broadcast, they did find a copy of the technician's transcript?
45. A. It's part of the transcript. It's only the engineer's transcript, not all of the actual programme.
46. Q. I see. That may well be enough for our purposes. Could we have up on the screen, please, the document which ends 24177. Could we magnify the paragraph that starts "Time now for business", which is almost halfway down the page. Adam Kirtley is a reporter who was conducting the piece, wasn't he?
47. A. He was.
48. Q. And there was a representative from Vodafone involved as well as yourself?
49. A. Yes.
50. Q. And we see in the paragraph that's been magnified the way in which the piece was introduced, don't we?
51. A. Yes.
52. Q. If we turn over to page 24178, we see in summary the way in which it was dealt with from Vodafone's side, albeit we only get a part of the conversation. Is it right that Vodafone's answer was essentially to accept what you were saying and to say that customers would be well advised to change their voicemail PINs from the default setting?
53. A. That's right.
54. Q. Thank you. The document can be taken down now.
55. A. I did.
56. Q. And also the BBC, you tell us, filmed you in the Blue Peter garden?
57. A. On Percy Thrower's bench.
58. Q. I see. Was that piece ever broadcast?
59. A. No.
60. Q. You contacted Mannesmann Dusseldorf, which is a company which was involved in commercial negotiations with Vodafone?
61. A. I did.
62. Q. And also the BBC, you tell us, filmed you in the Blue Peter garden?
63. A. On Percy Thrower's bench.
64. Q. I see. Was that piece ever broadcast?
65. A. No.
66. Q. You then go on to tell us about contact with the South Wale Argus (sic), and the South Wale Argus did print a piece, didn't they?
67. A. It's the South Wales Argus.
68. Q. Could we have up on the screen, please, 24164. This is the article, isn't it?
69. A. It is.
70. Q. Could we magnify, please, in the left-hand column the
paragraph which begins "Horrified"? We see that the
journalist wrote:
"Horrified Vodafone subscriber Steve Nott, 32, found
that anyone can access his answerphone service and
listen to his private messages ... helped by the giant
network's own operators."
And the article goes on, doesn't it, to explain your
discovery?
A. Yes.
Q. Could we highlight, please, in the second column the
paragraph which begins "He said Vodafone has millions of
users". We see the paragraph:
"He said Vodafone has millions of users and many of
them will be MPs and high-ranking government officials,
people with highly sensitive information at their
g fingerprints."
Was it a concern of yours that there might be
security vulnerabilities for people who held sensitive
information?
A. Definitely.
Q. Was that one of your motivations in trying to
disseminate your discovery as far as you could?
A. Definitely, yeah.
Q. Then if we could magnify, please, the paragraph a little
below the one that's presently magnified, which begins
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"The Argus put Mr Nott's claims to the test". Thank you.
We see there that the Argus said that it put your claims
to the test and by following your instructions was able
to access Vodafone users' personal message service.
They're careful to point out that they did it with
permission, and they too appear to have consulted
Vodafone, who confirmed that your information was
correct, didn't they?
A. Yes.
Q. So is it right in summary to say that although some of
your efforts to publicise the story fell on deaf ears,
there was at least some publicity in the mass media in
1999?
A. Yes.
Q. You also informed your member of Parliament, didn't you?
A. I did.
Q. Your statement moves then to 2010, as the phone hacking
saga began to break as a major national story. I don't
need to go to the details of your statement, but it's
right, isn't it, that since then you've been in contact
again with very many different bodies?
A. I have.
Q. And you have provided a witness statement for use in
civil legal proceedings brought by others?
A. I have.
Q. We've been asking every witness who attends the Inquiry,
Mr Nott, if there is anything that they would like to
say to the chairman in relation to the future regulation
of the press. It's an optional question, you don't have
to answer it, but if there is anything that you would
like to say to Lord Justice Leveson about future
regulation, now is your opportunity to do so.
A. I would like to say something, if I can, please, if
that's okay. Do I need to stand up or sit down?
Q. No, no, you can remain seated.
A. As an outsider and nothing to do with the industry
whatsoever, I feel I don't have the right to have any
say about the future of press regulation, but I would
like to add something if that's okay. It may or may not
be relevant.
When I was younger and went to visit my
grandparents, I always remember my grandfather sitting
at the dining room table picking horses from the
Daily Mirror and carefully filling out betting slips
with the day's selections. Meanwhile, my grandmother
would be sat in her chair with her glasses on the edge
of her nose, marking off numbers in the Sun bingo, even
using her best bingo board to rest on.
I regularly visited my grandparents and once
I brought my nan a large pile of Sun bingo cards that
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A. Thank you.

MR BARR: Thank you very much, Mr Nott. I have no further questions for you.

LORD JUSTICE LEVESON: Thank you, Mr Nott. It's quite clear this was a problem you identified in the late 1990s and it's now come home for us all to think about.

A. I'm very grateful. Thank you.

MR BARR: Would you like to return to your seat, please, Mr Nott?

A. Thank you.

Q. You provide the statement to assist the Inquiry in understanding surveillance of you?

A. Yes.

Q. And also to assist us with the nature of press treatment of some of your clients?

A. Yes.

Q. Can we deal, first of all, with the surveillance of you.

You've provided to the Inquiry an exhibit which contains documents, some of which were adduced in evidence last week when we heard from Mr Lewis. You have seen surveillance evidence obtained about yourself, haven't you?

A. Yes, I have.

Q. And that surveillance was of you and of your family?

A. It seems that it was of me and my family and my two children and perhaps the people around us as well.

Q. The contents of the reports you've seen, were they accurate in their summary of you and your private life?

A. They were littered with inaccuracies, but certainly there was a mixture of information, some of which was correct, some of which was speculation and some of which just seemed to be made up.

Q. You tell us that you first became aware of this in May of this year?

A. Yes.

Q. When a contact provided you with some of the documents that you now possess on this subject?

A. That's right. The documents that I was provided in May this year in my view are not documents that were necessarily prepared by News International. That's not clear. They subsequently led on to the discovery of documents that were the surveillance documents that have been spoken about, so it's important to understand that there was more than one type of surveillance going on.

Q. The first document that you were handed, the one which you are not sure of its provenance, you took that to News International, didn't you?

A. I did. I was given the documents. I looked at them.

There were four reports. From the four reports, there was one report that focused on myself and other lawyers, and certainly looked like it had some surveillance material in it. There were three other reports that talked about News International generally, people connected to News International and also matters that, as far as I'm concerned, were pure speculation. Not about myself, but about many other people, which is why I was keen that those documents remained confidential. There was nothing to back up what was said in them.

But when I saw these documents, I thought that it was important to take it to News International directly because I was able to -- I had a meeting set up with
them and we obviously are in talks the whole time
because we are in the middle of litigation -- and to ask
them what they thought and whether they could assist in
finding out what on earth had gone on.
Q. You took them to Simon Greenberg, director of corporate
affairs at News International?
A. At the time, yes.
Q. You are careful to tell us that you didn't take them to
Tom Crone, who was head of legal at the
News of the World at the time. Could you explain to us
why you chose to go to the director of corporate affairs
and not to Mr Crone?
A. At the time I didn't know that Tom Crone had any
involvement whatsoever in the surveillance or the
commissioning of surveillance or any knowledge of it and
I was certainly surprised to find out that there would
be any kind of allegation in Tom Crone's direction.
Obviously I'd worked opposite Tom in litigation for many
years.

However, having had a good relationship with Tom,
he'd stopped speaking to me for a little while, starting
from November the year before, and so that communication
had stopped and I thought that as Simon Greenberg had
come in and was dealing directly with these matters, and
having had a meeting set up with him anyway, I'd go to

who I thought was the most appropriate person to deal
with it, and that seemed to be Simon Greenberg and not
Tom Crone. But I had no idea that there was any
involvement at that stage.

Q. Was there anything which prompted this sudden ending of
direct communication with Mr Crone?
A. I'd been getting on extremely well, I think, as
a claimant lawyer with the other side. I think it's
very important, when you're fighting battles --
important battles for your clients, not to put yourself
in a position that you've fallen out with the other side
to such an extent that communication breaks down
completely, and that's the basis on which I've tried to
run as successful a practice as possible. And so for
quite a long time during working on, for instance, the
Max Clifford litigation, what had happened was I'd
started to speak directly to Tom Crone because he was
head of legal, and it meant that I could forego some of
the lengthy correspondence and get, you know, straight
to it. And we'd got on quite well and it meant that
when other issues arose -- not to do with phone hacking
but just the day-to-day kind of issues that you have as
a media lawyer, somebody might telephone and say that
there's an article about to go in -- I would phone Tom
directly, and this was, you know, extremely efficient as

far as working together.
In November last year, it stopped completely and it
was very sudden, to the extent that I would have been
embarrassed, I think, to have phoned him out the blue,
having not received -- not received -- not received any
telephone calls returned and having stopped all
 correspondence. I didn't know then that there was
anything in connection to me. I've only ever
represented my clients in terms of privacy.

Q. Am I understanding you correctly that there was no
obvious reason why communication suddenly dried up?
A. No, but it was sudden.

Q. You go on to tell us that you provided the material
which you'd been given, which you call surveillance
report 1 in your statement, to the police?
A. Yes.

Q. Then there came a time when you had further contact with
Mr Greenberg, and he told you that they had found some
more surveillance material relating to you; is that
right?
A. That's right. The initial reports -- I still don't know
their provenance, but that started off an Inquiry by
Simon Greenberg as to whether there had been any
surveillance, and so at a later date -- I think we get
to August by now, so I first gave the documents to him

in May, but I'd like to add the documents that I gave to
Simon Greenberg, I made sure that the private
information about the other lawyers and so on wasn't
handed over. There was -- we were -- we were careful
about that as well, because obviously you have to be
careful not to breach somebody else's privacy when
you're investigating a serious matter of an invasion of
privacy.

Q. Yes.
A. One of the points --

LORD JUSTICE LEVESON: It's been one of the problems about
all this.

A. Absolutely. Absolutely one of the problems, and the
same problem occurring in the Privacy and Injunction
Select Committee, that in order to investigate, you have
to be careful not to expose.

In August, I went back for a meeting with
Simon Greenberg and he said to me that -- and very
nicely -- that he was terribly sorry, but it looked like
although the original report didn't look like it had
necessarily emanated from News International -- we don't
know, it might have been anything -- that the material
that he'd now discovered did emanate from Tom Crone and
that he was going to look into it and he said he would
look into it appropriately and so I allowed that
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<td><strong>Q.</strong> Was it after the documents had been passed from News International to the police that the police showed them to you?</td>
<td><strong>A.</strong> Yes, it was, but I was expecting it.</td>
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<td><strong>Q.</strong> Because you'd been told the documents existed?</td>
<td><strong>A.</strong> I'd been told -- yes.</td>
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<td><strong>Q.</strong> Did the police show you redacted copies?</td>
<td><strong>A.</strong> They were redacted, but in such a minor way. I mean, they would have found it very difficult to redact this information and to keep it meaningful, which of course is another problem associated with keeping things confidential. Sometimes it's very hard to redact things and keep the meaning, and I think the police had that difficulty. They showed me the documents and it was very helpful.</td>
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<td><strong>Q.</strong> Can we now turn to the question of what motivated the surveillance of you and the investigation of you --</td>
<td><strong>A.</strong> As far as I'm concerned, he got on with it. It was a process that actually I think worked quite well. So no, I didn't doubt at all that there would be a problem with that.</td>
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<td><strong>Q.</strong> Say, I think, that Mr Greenberg's assurances to you and surveillance of you and the investigation of you --</td>
<td><strong>A.</strong> I think it's me, yes.</td>
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| **LORD JUSTICE LEVESON:** Just before you do, it's right to say, I think, that Mr Greenberg's assurances to you and his sincerity you don't question at all? | **Q.** And we see there what leading counsel said about your case: "Gregory said that the problem with Harris and Reed was the waiver that NGN made in respect of those two. They relied on it. They even said (as recorded in our RXC attendance note of the meeting ...) Then it says "in Andrew", which doesn't quite make sense. Is that referring to a case? **A.** It would be Sky Andrew, who I -- **Q.** "... that if there was a problem they would not act. He cannot see that in light of that, there would be any way to get the Reed/Harris off the case unless there is a significant new development. He does not think there is any mileage in reporting them to their professional bodies either." **LORD JUSTICE LEVESON:** That's all to do with their concern that you were acting for other people, having acted for some others? **A.** That's right. They weren't keen on the fact that having done a phone hacking case, that we should continue to do phone hacking cases, all of which are actually quite similar, and so they had written to my law firm at the time, JMW, and said that they thought that -- I remember the word "shameless" in correspondence because it was quite a hard and harsh word to use and I took it very seriously, because you do when that kind of allegation is levelled towards you by, you know, what is a serious law firm. And so I took it to my senior partner and I took it to Mr Reed and we looked into it and the conclusion we came to -- and I think that their leading counsel here agreed -- was that there simply wasn't any case that -- you know, against us in terms of acting, and so we moved on and continued to act. **LORD JUSTICE LEVESON:** Yes. But that's the issue that's being discussed here? **A.** That is the issue, yes. **MR BARR:** If we go to the next paragraph, it reads: "The facts of the statements of case being similar (for example, the particulars of claim drafted by Reed), being a breach of confidentiality obligations, he was not sure was an issue. A barrister has to plead a case. He has done it in a way that is efficient/sensible. He must be entitled to go back and repeat that process." The gentleman being referred to there is Mr Reed, who is the barrister you had instructed? **A.** And still is a barrister I instruct. **LORD LEVESON:** Well, there you are. There's a tick. **MR BARR:** And we see no complaint there of his pleadings. **A.** No. **Q.** "JCP said that there is evidence of a transfer of information from one case to another. There has been reliance of information gleaned in the first case and used in the second, as shown in the similarity of the
particulars."

So this is Lord Justice Leveson's point. There 

seems to have been a suspicion on the part of Mr Pike, 
or even a belief, that you'd been sharing information?

A. Yes.

Q. But let's see in the paragraph below what leading 
counsel made of that:

"Gregory said that there appeared to be no evidence 
in the pleadings that emanated from the first case. 

There was no confidential information that they could 
only have learnt through the Taylor proceedings. It did 
not seem to him that the similarities were 
a particularly significant feature."

So he's rather pouring cold water over Mr Pike's 
concern?

A. Concerns, yes.

Q. Then we see the conclusion:

"Gregory said that the case against Harris and Reed 
was hopeless. Gregory asked what the position was with 
Gordon Taylor ..."

And then we go on to Mr Lewis, who we need not deal 
with today.

There is a second later document that I'd like to 
draw your attention to. It's at page 19. It's headed 
"Farrer & Co". If we could have paragraph 5 in the 
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centre of the screen, please. This is a letter that was 
written on 7 September this year by Farrer & Co to 
Linklaters, who were investigating what has happened.

Paragraph 5 contains, in a nutshell, Farrers' 
explanation for the inquiry:

"The reason for this inquiry stemmed from the 
suspicion that Mr Lewis and Ms Harris were exchanging 
highly confidential information gained from acting for 
claimants (and Mr Taylor in particular) in cases against 
News Group News in order to bring further actions 
against News Group News by other potential claimants."

It then goes on to give their explanation. It says:

"While in hindsight the relevance of the results of 
such enquiries may be open to challenge, we are 
satisfied that there were legitimate concerns: apart 
from the issue regarding the possible exchange of 
confidential information, it was known that Mr Taylor 
was sufficiently concerned about the conduct of his 
previous law firm and Mr Lewis that he had instructed 
new solicitors to make a complaint to the SRA."

Accepting that there was in fact, on your evidence, 
no wrongdoing, do you accept Farrers' position that 
there was enough for them to be suspicious of to justify 
investigation of you and your private circumstances?

A. No. It seems an incredible thing to do. I'm at 
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a separate law firm at this time. There's no wrongdoing 
or confidential information being passed from my -- on 
my part, and certainly -- we've gone through that 
evidence.

The idea that when there is this kind of criminality 
going on, particularly now that we know a little bit 
more about the levels of knowledge and when various 
people knew -- and we know this through the privacy -- 
through the Media Select Committee as well as through 
this Inquiry. We've begun to get a better picture of 
what people knew and when they knew it. So taking that 
into account, the idea that if I was concerned about an 
opponent lawyer, or anyone, on the other side, that 
I would decide that a good way of dealing with that 
wouldn't be to write to them and say, "We are concerned 
that there is some kind of leak, breach, confidential 
information", or write to my senior partner or the Law 
Society, but to take -- you know, to take out 
surveillance on me and my kids or family members or to 
find out which of my siblings I lived with in what year, 
that kind of information -- I don't see how that could 
possibly help them. Why not just ask the question? Why 
not write a letter? Why not just go for the traditional 
approach, which would be: if you have a concern, raise 
it with me, raise it with my law firm, raise it with the 
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Q. You go on in paragraph 19 -- I'm now looking at page 7 of your witness statement -- to talk about some of the conversations that you had with Mr Crone in the spring of 2010. You say that between March 2010 and May 2010, the intensity of the litigation was increasing.

A. Yes.

Q. That's a reference, isn't it, to phone hacking litigation?

A. Yes.

Q. And you say that you had many conversations with Mr Crone. Of particular interest to the Inquiry, you say:

"He was absolutely wedded to the defence that there was only one rogue journalist engaging in phone hacking."

A. Yes. When we talked on the telephone, I would sometimes say, "Well, what are you going to do about this? What do you think should happen?" And it was always Tom Crone's position that apart from in this case where there had been one rogue reporter, there was no evidence. He did take the position at times that there had been one rogue journalist.

LORD JUSTICE LEVESON: Your relationship was professional. Of particular interest to the Inquiry, you say:

Mr Crone. Of particular interest to the Inquiry, you say:

"One of the difficulties with surveillance -- and I hear this from clients but I also speak for myself -- is you don't really know what happened when. You can only -- you know, did someone watch you as you, you know, left your house, as you left the supermarket, or on what day? And it's the same for my clients, where they've been under either surveillance or their telephone messages have been intercepted. You don't always have the evidence of the particular message that was intercepted or the particular occurrence or place they were when they were under surveillance. It's what you don't know that can cause, I think, stress. And it's -- that in itself might be a new form of harassment to look into.

MR BARR: You deal with the impact on yourself of the surveillance that you had come to learn about in paragraph 20. Could you tell the Inquiry, in your own words, please, how you feel about what you have now learned?

A. I think I have expanded on it a little bit just now. As a lawyer, I feel very much that I want to focus on my cases and my clients and I don't want this mischief from the other side, such as surveillance. It gets in the way. Obviously it's inappropriate and obtrusive to trying to sort out some very difficult litigation, some very difficult issues, and it's almost like -- I wish it hadn't happened not only because it's not nice, but it throws a spanner in the works in terms of just trying to get down to the groundwork of getting this whole matter sorted.

LORD JUSTICE LEVESON: It disrupts orderly resolution of the --

A. Yes, it disrupts orderly resolution. It gets in the way and you shouldn't have to be suspicious of your opponents in that way. I'm sorry that they were suspicious of me and the other lawyers. I just wish they'd said so.

MR BARR: I see. Can we move now from the surveillance of Paragraph 20. Could you tell the Inquiry, in your own words, please, how you feel about what you have now learned?

A. I think I have expanded on it a little bit just now. As a lawyer, I feel very much that I want to focus on my cases and my clients and I don't want this mischief from the other side, such as surveillance. It gets in the way. Obviously it's inappropriate and obtrusive to trying to sort out some very difficult litigation, some very difficult issues, and it's almost like -- I wish it hadn't happened not only because it's not nice, but it throws a spanner in the works in terms of just trying to get down to the groundwork of getting this whole matter sorted.

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MR BARR: I see. Can we move now from the surveillance of
you to seek the benefit of your experience as
a specialist media lawyer? Have you noticed, in your
time in practice, any trend in prior notice? Has it
been given more often or less often?
A. Generally there's notification. I speak generally. You
don't always know. Sometimes if there's a very big
media story going on, so many -- you get a certain
amount of notification and then all the papers cover it.
So you -- you know, you sometimes find yourself in
a position -- something's come out on the Internet or in
an early publication and then everybody else will
decide whether or not this is private information. Is
it something that we should consider instructing counsel
to seek the benefit of your experience as
injunctions -- one of the first things you do is you
appropriateness of injunctions and privacy
movement and debate and discussion in terms of the
privacy. I think very hypocritically, don't expose
tabloid newspapers who have been eager to expose
criminal law, actually, where there's possibly
a stronger apparent public interest in it. So if, for
instance, they're reporting some kind of allegation of
a crime, you don't -- you tend to hear from the
journalists if it's a sex scandal, if it's some kind of,
you know, maybe if there's some kind of chance that they
might get an interview out of your client, that can
happen.
There's always the standard ploy of: "We're going to
run this. Are you going to co-operate?" And then you
have to decide. Up until May, when there was a lot of
movement and debate and discussion in terms of the
appropriateness of injunctions and privacy
injunctions -- one of the first things you do is you
decide whether or not this is private information. Is
it something that we should consider instructing counsel
on immediately? Is this a story that could be stopped?

Now, things have moved on. There are certainly less
injunctions and you have to decide: are you going to let
this story run or are you going to manage it in some
other way? Are you going to make a comment? I think
that the press have been, during this Inquiry, more
careful. I think that my workload in terms of scandal
has been somewhat reduced.
6 LORD JUSTICE LEVESON: Is that good or bad?
7 A. I'm delighted. Absolutely delighted. Thank you.
8 LORD JUSTICE LEVESON: I'm pleased somebody's pleased.
9 MR BARR: On the question of injunctions, can I ask you
this: have you had experience of injunctions being
defeated by talk on the Internet or through social
media?
13 A. When you say "defeated", do you mean lifted? Or --
14 Q. No, I mean --
15 A. Breached?
16 Q. -- the practical purpose is negated.
17 A. Breached. Certainly in terms of the May injunctions,
there were breaches on the Internet and one of the
things that people say quite a lot is: "Oh, well, what's
the point of having this injunction? There's all this
information out there." But the fact is all the
information isn't out there. If there's an injunction
in places and a small amount of information has leaked
out, sure, that's a breach, but that doesn't mean that
the newspaper can run an exploitative story where they
pay money to an individual who is breaching the
injunction. A lot of the salacious detail doesn't come
out. There's a rule of law. There's an injunction in
place that has been lawfully provided and one of my
problems with it was that it's very easy for -- certain
tabloid newspapers who have been eager to expose
scandals, I think very hypocritically, don't expose
their own scandal. So it's difficult for me to take it
seriously when they say that this is all about public
morality.
11 Q. I see. Moving to the PCC, have you had much experience
of dealing with the PCC?
12 A. I deal with the PCC generally in terms of harassment,
generally in terms of photographers. So if, for
instance, there have been occasions where I've had
clients who have had enormous amounts of photographers
outside or they can't exit a building, they've tended to
be very effective in terms of sending a notice around.
18 Q. Have they been effective with harassment cases as well
as photographer cases?
21 A. One of the things about the PCC is you sort of have to
make this choice. You can't have civil proceedings
going on at the same time as a complaint with the PCC.
So I have tend to go down the civil route, although
the relationship that I've had with the PCC in terms of

think of an example that isn't real at the moment.
Q. You say generally. Can I ask you about those cases
where you don't get prior notice? Is there any
particular pattern to those? Is there a particular type
of case?
A. They tend to be cases that have got something to do with
criminal law, actually, where there's possibly
stronger apparent public interest in it. So if, for
instance, they're reporting some kind of allegation of
a crime, you don't -- you tend to hear from the
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MR BARR: On the question of injunctions, can I ask you
this: have you had experience of injunctions being
defeated by talk on the Internet or through social
media?
13 Q. I'm thinking here about exclusive stories, when they are
first broken by a newspaper.
14 A. Generally, generally. Exclusive stories by a newspaper
I've received prior notification or my client has
received prior notification. Sometimes it's not enough
prior notification to get a matter sorted. It's very
difficult on a Saturday. Saturday can be a very busy
day because of the Sunday papers, and so when the phone
rings at 4.30 or 5 o'clock, you have to -- and you can
tell, because normally there will be a few calls and
a journalist on the other end of the phone -- I don't
even want to give an example because I don't think I can
| Page 41 | getting something done immediately hasn't been too bad. | Page 42 | reaction to some of the terrible things that we've heard. |
| Day 12 am | Q. Are there any areas in which you think the PCC could be improved? |  | So I can't be specific at the moment about what model and what the outcome of this Inquiry should be in terms of recommendation. I just know that I want the law to be obeyed in some way so that we don't have this ridiculous situation that we had over the injunctions, where it was okay to breach them, where if there's a scandal exposed, that can be printed all over the papers but if there's a phone hacking scandal, there can be silence for years. That doesn't seem right. There has to be proper sanctions as well. |
| Leveson Inquiry | A. Whether it's the PCC, whether it's some other body, whether everybody decides that it's time to obey the law -- which, you know, seems to be strange that you'd even have to say that -- something has to be done so that there is resolution to law breaking, and whether it's, as I said, a PCC, a new tort, regulation, not having regulation and following the law, as long as matters become better than they are, I'd be pleased. But the PCC have limited powers. |  | LORD JUSTICE LEVESON: It's not just a question of the law in that sort of rather grand sense. One can talk about the criminal law. |
| 6 December 2011 | Q. So you don't want to be specific about any particular changes you think might help, you simply want a system that will ensure the rule of law; is that right? |  | A. The approach that we take at my law firm, at Mishcons, is that we are -- we have a lot of internal discussion about what should happen, and we are lawyers. So therefore, as a first base, you want to respect the rule of law and you want -- and I think there are decent laws that have been properly applied. When it comes to speaking of regulation going forward, obviously there's a certain reluctance in terms of regulation, not just from the press but in terms of what form would it take? And so nobody wants a sort of bureaucratic knee-jerk... |
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|  | A. There are issues in terms of what people agree private information should be. There's -- and where criminality starts and where it stops. These grey lines have come up in so many cases, particularly, for instance, just to give you an example, where -- if a journalist is looking into a public person in a position of authority who they suspect might have committed a criminal offence, if they haven't committed that criminal offence, you know, at what point do you get to where it's okay to investigate? Same goes for areas of privacy law. When does your privacy start and stop? When do you first become a public person? So, for instance, if I was addressing some students, like you sometimes do, who might, in ten years' time, have a career which takes them into the public domain, if they become a public figure, does what they did yesterday -- is that still private? Can that be revealed? And should we be frightened, even when we're not a public person, of what we've done or said now? Will that be exposed later? There has to be a certain amount of personal autonomy and freedom to be, without fear that you're going to be a role model in five years' time. So I think a lot of the law is very grey in that -- well, actually, the law isn't grey. I think a lot of... |
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that people don't know about; much more public
judgments, even if parties are anonymised.
I think once a judge has made that decision and it's
been put into an injunction that's been served, it is
not right for other people, particularly those who have
got commercial interests, to pre-judge, make a decision
and simply say, "Well, we'll just put that out on the
Internet because clearly that decision was wrong."

LORD JUSTICE LEVESON: That's all about the rule of law.
A. Yes.
LORD JUSTICE LEVESON: I'm actually concerned about trying
to find a mechanism to resolve these issues, and of
course as lawyers, we might very well all say, "Well, we
have a system that deals with it. You issue
proceedings, you go before a judge and you go into this
with microscopic detail and then you get a result." But
whether that works for people who don't have a lot of
money but whose privacy might be just as important, and
whether it indeed works for the press, who then have to
respond appropriately --
A. The press don't want regulation, though, I think,
generally.
LORD JUSTICE LEVESON: -- is another matter.
A. The idea, which is a little bit of a myth, that you have
to have vast sums of money in order to have a lawyer

look after your privacy is one of the arguments that was
happening in May, where it was: "This is just a rich
man's law." You can get a CFA as a claimant and -- on
a no win, no fee. Not only that; the fact is that the
fodder of tabloid newspapers -- so the front cover, the
big sex scandals -- tend to involve not the ordinary
person. I'm sure you've heard this argument before.
They're far more interested in -- and understandably --
interested, in terms of sales, in who a footballer might
or might not be having a relationship with than who,
I don't know, my postman might be having a relationship
with. And so to an extent it self-corrects, and that's
why CFAs are important as well, for both claimants and
defendants, and I have worked on both sides of
injunctions, for claimants and on behalf of newspapers.
MR BARR: For my next questions, there's no need for you to
name clients or breach any confidences unless you have
instructions which enable you to do so.
The Inquiry's had a lot of evidence about phone
hacking. What I'd like to ask you is: from your
experience of acting for claimants, is email hacking
also an issue?
A. The first sprouts of evidence starting now -- it's at
such an early stage. So there may be -- there may be
something. I'd like to take as forensic approach as

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<tr>
<td>1. A. Yes.</td>
<td>1. A. What do you mean by &quot;false attribution&quot;?</td>
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<td>2. Q. In addition to your work as a journalist, you are the professor of reporting at City University, journalism department?</td>
<td>2. Q. We've heard evidence, for example, which suggests that stories which were obtained by the interception of communications were then attributed to the friends of, for example, celebrities. Of course, everyone would depricate the illegal means, but would you also depricate the false attribution of the story?</td>
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<td>3. A. I am.</td>
<td>3. A. Yes, I think telling lies or misleading statements about your sources is just wrong. It's misleading the reader as to what is really going on.</td>
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<td>6. Q. And you are the author of seven books on journalism and politics?</td>
<td>7. A. Well, an editor sees every story that is submitted, yeah.</td>
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<td>7. A. This is correct.</td>
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<td>9. Q. You explain that in your newspaper there are two codes of conduct that you have to have in mind: there's the Guardian News Media's own code of conduct and the PCC code of conduct, and the latter is set out at the end of the former, isn't it?</td>
<td>10. A. Yes, this is a quotation from our great past editor, CP Scott, who was regarded as a guru in these matters by all of us.</td>
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<td>10. A. Yes, it is.</td>
<td>11. Q. I'm just going to read a few extracts from Guardian News Media's code of conduct. It starts off under the heading &quot;Summary&quot;, with the quotation: &quot;A newspaper's primary office is the gathering of news. At the peril of its soul, it must see that the supply is not tainted.&quot;</td>
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<td>14. Q. I'm just going to read a few extracts from Guardian News Media's code of conduct. It reads: &quot;Journalists should generally identify themselves as GNM employees when working on a story. There may be instances involving stories of exceptional public interest where this does not apply, but this needs the approval of a head of department, see PCC code section 10. This applies to anything we publish, including any information obtained by the subterfuge of others.&quot;</td>
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<td>14. Q. We're going to take your statement as read and so I shall proceed, as with the other witnesses, simply to ask you to expand on certain parts of your witness statement.</td>
<td>15. What I'd particularly like to ask you about is the use of the word &quot;exceptional public interest&quot;. It seems to be a further qualification above and beyond that which we'll come to in a moment in the PCC code.</td>
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<td><strong>A.</strong> The wording of the PCC code isn't something that I have in front of me when I'm doing stuff, because their exceptions about public interest are so broad that I think everything in that code is pretty well negated by their remarks &quot;except if it's in the public interest&quot;. It's a problem for me like it's a problem for all serious journalists where to draw this line about public interest and we do spend a certain amount of time thinking about that. That's the area of difficulty for this Inquiry, too, I suspect.</td>
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<td><strong>A.</strong> I don't think that journalists should break the law. I don't think they should break the criminal law, at any rate. Sometimes, as I said in an article you've referenced there, we challenge the law and sometimes it's difficult to stay on the right side of the civil law, certainly, because there are arguments about, you know, how far we should actually be bound by, for example, the alleged law of confidence. So we constantly find ourselves in collision with different interpretations of the law.</td>
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<td>1</td>
<td>LORD JUSTICE LEVESON: Yes.</td>
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<td>MR BARR: Can we move now to paragraph 6 of your witness statement, where you deal with the question whether practices have changed either recently, as a result of the phone hacking media interest, or prior to that point, and if so, what the reasons for the change were.</td>
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<td>You say in reply to that question -- and we now have it</td>
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<td>pretty closely about the nature of the source, and</td>
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<td>I expect my editor -- either my immediate editor or the editor himself -- to question me pretty rigorously about a story that's important and sensitive or contentious.</td>
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<td>Does that necessarily involve naming the source or is it</td>
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<td>I try and condense what you've said, is it right that there are various variables in play, one of which is the sensitivity of the source?</td>
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<td>8</td>
<td>A. Mm-hm.</td>
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<td>&quot;Following concerns expressed by the Information Commissioner in two reports published in 2006...&quot;</td>
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<td>10</td>
<td>If I stop there, that's &quot;What price privacy?&quot; and &quot;What price privacy now?&quot; isn't it?</td>
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<td>11</td>
<td>A. Yes.</td>
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<td>12</td>
<td>Q. &quot;... Alan Rusbridger reiterated that private detectives could only be used to obtain otherwise confidential information where the public interest justified it and in all cases only after reference to him.&quot; And this is reference to the editor, not an editor?</td>
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<td>13</td>
<td>A. Mm-hm.</td>
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<td>14</td>
<td>The editor-in-chief, in fact.</td>
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<td>15</td>
<td>The word that I'd like to allay upon is your use of the word &quot;reiterated&quot;. Just to confirm, is it your evidence that in fact nothing changed, there was just an emphasis on maintaining the status quo, or was there really any change?</td>
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Day 12 am Leveson Inquiry 6 December 2011

1. statement, where you start to talk about the use of different means and you refer to whether the end may justify the means. We'll come to some specific examples in due course, but if we can deal with it, at this stage, on a theoretical basis. In what circumstances do you think that the end may justify the means? Can I start by asking you: does it always justify the means?

2. A. Well, no, the end doesn't always justify the means.

3. Q. Where do you draw the boundaries?

4. A. It's quite a difficult question to answer because that's the whole issue, isn't it? Where do you draw the boundaries? Where is the frontier? The answer, in my experience, is apart from some rather sort of broad and banal distinctions, it's case by case. It depends absolutely on the particular circumstances of a particular case. The art of what journalists like me do, the judgment we exercise, is whether it's appropriate, it's ethical, it's right to do things in the particular circumstances of a case.

5. Q. If we accept for a moment that it's a judgment that has to be done on a case-by-case basis and is fact-sensitive, what then are the pointers that the journalist can use to answer the question whether the end will justify the means? Is public interest one of the pointers?

6. A. Public interest is the central pointer, yes. I mean, that's the compass, really, I mean, I find. You say: what is justified in this case in the public interest? First of all, is the inquiry you're making in the public interest? Is it in the public interest to take the steps you're thinking about taking? And in the article I wrote that you may want to come to in 2006 when the News of the World reporter was arrested, I tried to start what I hoped would be an adult debate about where you draw these lines by drawing examples from my own experience of where there had been difficult decisions. Were you on the right side of the line or not?

7. Q. I wanted to ask you whether, in considering the public interest, can you get a public interest which is so acute that it will justify, in your mind, any means?

8. A. Well, I can't imagine a public interest that would be so acute it would justify pushing a High Court judge off Beachy Head or murdering anybody.

9. LORD JUSTICE LEVESON: I'm relieved to hear you say that, Mr Leigh.

10. MR BARR: So there are some outer boundaries?

11. A. Yes, that's what I meant by banal distinctions. That's pretty obvious, isn't it?

12. Q. Perhaps if we move from that interesting vision to try and test out the boundary more realistically. Can you help us as to where in your mind you think the outer boundaries of are what means are out of bounds?

13. A. Right, I mean, I have broad approaches -- I don't/we don't use private detectives. I don't/we don't harass people normally. I don't/we don't write up -- intrude into people's sex lives unnecessarily. Those are very obvious boundaries. And we don't practise chequebook journalism as a rule.

14. Having said that, I can think of circumstances where I've applied those rules in problematic circumstances. Maybe it would help if it did. For example, I remember a source once came to me and he offered to sell information about the way an arms company had been spying on anti-arms protesters. There's an organisation called Campaign Against the Arms Trade and he said he was in a position to sell me documents showing that this arms company had infiltrated the protesters at quite a high level and he wanted £20,000 for it. And I brooded about this and thought: "Well, there is a public interest about exposing this. On the other hand, I'm not sure it justifies me in paying a large sum of money like that" -- because there are good reasons why we don't pay money, apart from being poor, and one of the good reasons is it encourages people to embellish. It sets up a market in stories which can taint and corrupt the information.

15. So I said, "No, I won't do it, the balance is wrong for me", and then this person, to my amusement, went off to another newspaper and obviously succeeded in selling it because the same story then appeared in this Sunday paper a few days later. To my chagrin, I realised that actually the documents had shown some rather important things, that some politically connected people had been organising this espionage and in fact it was the person who was at the very top of the Campaign Against the Arms Trade who had been infiltrated in an undercover way, and since then it's been proved that this use of undercover infiltration has been growing as an industry.

16. So I asked myself afterwards: did I make a mistake? Was I too prissy in turning down that? I still don't know the answer, because these things are judgment calls.

17. Q. Perhaps we can explore that a little further in our voyage towards the line. Would you criticise as unethical the newspaper which did pay for that story?

18. A. That's where I'm in a dilemma, because it's like the way the Telegraph newspapers paid a large sum of money for the information about MP's expense.

19. Q. You've stolen my next question.

20. A. Yes. Well, I've often scratched my head about this and
Q. As a matter of principle, do you think there may be circumstances where a journalist should be permitted to break the law in the public interest to get a story?
A. In the abstract, I can imagine circumstances, yes. As I say, obviously if you broke the law in a grave way by murdering someone, there's no conceivable public interest that would justify it, but there might be ways in which, theoretically, the interest would justify it.

Q. I think here we may come on to what some may describe as a fastball, because I want to ask you now what you teach your students as a professor of journalism. Would you ever consider teaching a student of journalism that it might, in certain circumstances, be permissible to break the law if it was in the public interest?
A. I try and teach my students of journalism to think.

I try and present them with these problematic issues, like the ones that I write about in the paper, or like the example I've just given you. I take them through stories that have been published, stories like the Telegraph one, and I ask them to think as deeply as they can about what the issues are. I don't presume to give them the answers, because the whole structure of my teaching is to say: this is about the line, and we'll talk about the frontier and here you find problematic areas and if you think very hard about this, you will work out your own position about what the public interest is. I'm not a teacher like I'm issuing fatwas to people. I see my job as stimulating them to think ethically.

Q. I get the impression that the result of that is that ultimately a lot is going to depend upon the conscience of the individual journalist; is that right?
A. Well, the informed conscience. If you like, when I'm teaching students, I try and inform their conscience. I say, "These are the factors you ought to take into account." I mean, the chief one is the public interest.

It's what is in the public interest?

Can I give you another example of where I think I wavered about? I think we discussed already at this Inquiry the David Blunkett case, in which people started to publish information about his private life.

I know that we on the Guardian initially took the view this was over the line, it wasn't in the public interest. Then it transpired that some public interest issues did come up. Had he, because of his personal relationship, fast-tracked a visa for someone? And I then felt it was in the public interest, and I say to my students: "What do you think? You decide. If you had to make that call, do we write this story or not, what are the factors you would take into account? Would it be justified? Would it be not?" And I say it's not easy. We on the Guardian, some of us thought one way, some of us thought another. Some of us thought one way to start with and then changed our views.

Q. So if so much comes down to a case-by-case judgment and to the use of an informed conscience, how important is training in upholding ethical standards of the press?
A. Oh, well, my experience is that people emerge from journalism courses with their heads full of ethics, because they get taught a lot about it, and as soon as they are plunged into the raw atmosphere of the tabloid newsroom, it comes under a lot of pressure. It's about the culture of the place where you work much more than the culture of the place where you trained.

Q. So if the culture is so important, does that point to a need for strong ethical leadership?
A. Well, self-evidently it does, but I don't think that can happen in a vacuum. Where does leadership come from in a newsroom? It comes from the editor. The pressures that operate on the editor are different in these different places. The pressures that operate on the editor of the Guardian or the Financial Times are quite different, I suspect, from the pressures that operate on the editor of the Daily Mail or the editor of the News of the World.

Q. But if the editor is to propagate the right tone, if I put it in that way, are there any pointers from your experience, working on a number of titles, that you would like to share with the Inquiry which might be ways of ensuring a proper culture is instilled?
A. I think to be brutal about it, you have to make people fear the law. This Inquiry has come back again and again to the question of law-breaking, and it seems to me that most of the issues of concern, whether it's harassment or it's telephone interception or it's data theft, they're all crimes, and it seems to me that what we've been circling around is the fact that the law is not enforced, and if I was an editor, I'd fear the law if it was enforced.

23 LORD JUSTICE LEVESON: But the law carries with it some
24 right? Would I have been wrong? I don't know, because
25 I was never faced with the choice, fortunately, but
26 I think everybody now agrees that the Telegraph was
27 right to do what they did because the public interest
28 was so overwhelming.

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39 LORD JUSTICE LEVESON: But the law carries with it some
Day 12 am  

Leveson Inquiry  

6 December 2011

1 regards, certainly in relation to Section 55, its own
2 public interest defence.
3 A. Yes.
4 LORD JUSTICE LEVESON: And if one is to have regard to the
5 wider public interest, that's inevitable, isn't it?
6 I mean, one doesn't have to go back very long in time to
7 see prosecutions which, on the face of it, appear
8 unanswerable but which lead to acquittals because the
9 jury are not prepared to convict in those circumstances,
10 and we can all think of the examples.
11 A. Well, that's the law operating in the right way, I'd
12 have thought. Things are tested in that way.
13 LORD JUSTICE LEVESON: And the other problem about the law,
14 if I might just say, is that in one sense you're
15 absolutely right, and if there could be a policeman at
16 everybody's shoulder, then it would be very easy to say,
17 "This isn't our problem, let the police sort it out",
18 and indeed now we're in the position that an enormous
19 police investigation is being undertaken for reasons
20 which everybody understands. But the fact is that there
21 isn't a policeman at everybody's shoulder and there
22 won't ever be, and therefore we can't just say, "Well,
23 it's a failure of the criminal law", and so wash our
24 hands of it, can we?
25 A. I wasn't suggesting --

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1 LORD JUSTICE LEVESON: I know you weren't, but I'm testing
2 the proposition that it's comparatively straightforward
3 to say there's a criminal law, harassment, data theft,
4 RIPA interceptions. All that stuff bites on the
5 individual, but it does have its own complications.
6 A. What I was driving at was I don't think you get very far
7 by improving training or by appealing to the conscience
8 of the editor of a tabloid newspaper that's driven by
9 greedy and cynical attitudes. I don't think you'll get
10 very far by appealing to people's conscience. You have
11 to look at the pressures that are operating upon them.
12 LORD JUSTICE LEVESON: I understand, and with respect,
13 I think that's absolutely right. But if one just
14 presses that a little bit, the more you try to put in
15 levers in place to drive what might be thought to be
16 a more appropriate approach, the more you run into
17 arguments about the freedom of the press and the very
18 real importance that everybody has to be able to express
19 themselves as Article 10 permits.
20 A. I've been campaigning for freedom of the press for as
21 long as I've been a journalist, and I couldn't disagree
22 with you in any way, but fear of the law does act as
23 a deterrent, and one of the things that I've written
24 about is I think it's a shame the law is not enforced.
25 I think it's a shame, for example, that the proposal to

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1 bring in custodial sentences for improper breach of the
2 Data Protection Act for blagging data, that that hasn't
3 happened, and I think the lobbying by some sections of
4 the tabloid press against it shows it would be a good
5 sanction. It would probably make private detectives
6 very reluctant to, you know, risk jail by doing these
7 kind of things unless there was a proper defence.
8 So, you know, I would like to see some deterrents in
9 place, and I'm sure they would have an effect and I'm
10 sure they would have more of an effect than abjurations
11 on editors to behave better and be nicer people.
12 LORD JUSTICE LEVESON: I understand. I understand the
13 point.
14 MR BARR: Can we move now to consider a couple of specific
15 techniques. You tell us at paragraph 19 of your witness
16 statement about an episode in which you stood up, if
17 I use the jargon, a story by making a telephone call
18 under a false pretence to Mark Thatcher.
19 A. Yes.
20 Q. Again to use a jargon, I think that was blagging, wasn't
21 it?
22 A. Sort of blagging. I mean, I was trying, as I said, not
23 to be holier than thou, so I was trying to think of
24 examples about my own practice that people would regard
25 as questionable and, you know, analyse them. And this

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1 was a minor example of the use of subterfuge. I'm
2 trying to prove -- this is many years ago when I was on
3 the Observer. I'm trying to prove there's a connection
4 between Mark Thatcher, the then Prime Minister's son,
5 and an arms company executive because I suspect that
6 they have a relationship, that the arms company has
7 hired Mark Thatcher for their own purposes.
8 The man is called Jamil Amunyi. I ring up
9 10 Downing Street and say, "I'd like to be put through
to Mark Thatcher", the switchboard operator says, "Who's
calling?" and I say, "Tell him it's Jamil." When he
10 comes on the line, what he immediately does is he says,
11 "Hi Jamil", and I think: "That's brilliant. I've proved
12 that these two men know each other." And we then have a
13 conversation -- I have a conversation with Mark Thatcher
14 about it and say, you know, "You had a deal with this
15 person", and he says, "Oh, it's confidential." So
16 I think: "Ah, that's proved again." And we then wrote
17 a large story on the back of this, with some confidence,
saying that Mark Thatcher was employed on the quiet by
18 this firm.
19 Now, I think that was completely in the public
20 interest and I think the minor deception that I used,
21 minor and temporary, was completely defensible and
22 appropriate, and I can't think of another way in which

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18 (Pages 69 to 72)
| Q. Thank you. In that case, we can move on to the general point which you were just advertising to, which is the important point if you're going to blag information is whether it's in the public interest. So if we think about public interest for a moment. I'll start with what might be described as a very underarm ball. We've had a journalist who's come to give evidence who suggested that the public interest is what the public is interested in. Do you agree with that proposition?
A. No. To my mind, it's an absurd proposition and most judges appear to say it's an absurd proposition too. I have some experience of the public interest being used in a legal context because it's a live phrase in the so-called Reynolds defence in libel now. We have a defence in libel if we can show that what we're investigating, what we're writing about, not only have we taken steps to verify it but the original story that we were pursuing was in the public interest to make known. So I go through this checklist when I'm writing stories that are potentially libellous. Is what I'm doing in the public interest? Have I taken the relevant steps to verify it? Have I behaved as a responsible journalist? So actually, that notion has got quite familiar to newspaper lawyers and to newspaper reporters.
Q. If the public interest is not what the public is interested in, what pointers can the journalist thinking through the assessment that you've just spoken about use to establish whether a story really is in the public interest?
A. Well, I mean, Lord Northcliffe said all those years ago -- and I think my colleague Nick Davies repeated it -- that news is something that somebody wants to suppress. All the rest is advertising. That's a starting point. You know, it has to be something that somebody wants to suppress. And then the question is: do they want to suppress it for a good reason or bad?
There are many powerful organisations in society who want to keep things quiet for their own reasons, and that includes newspaper corporations, too, obviously. The question I ask myself is: is this something that ought to be made known? You know, would people agree generally that this is something that society ought to know about?
Q. If I might suggest, in the answer you've just given, it was hard to distinguish between -- you mentioned a large corporation, but initially it was hard to distinguish whether you were talking about large corporation or an organ of the state on the one hand or a private individual on the other. Perhaps with private individuals the question is particularly acute. When is a story about a private individual going to be in the public interest?
A. Well, I gave you the example about the Blunkett case, where a private relationship of a public individual -- it was very uncertain where the public interest was, and in fact possibly the public interest wasn't there at one point and was at another.
Generally, private individuals, there's much less public interest in writing about their private lives, and that's why papers like the Guardian don't write about -- we don't publish gossip about celebrities, by and large.
Q. Does there need to be some wrongdoing that is being uncovered or not?
A. Broadly, I'd have said yes. That includes people being hypocritical, I suppose. I mean, I don't have very much time for these arguments about adulterous footballers or role models for small boys, but maybe they are for all I know.
LORD JUSTICE LEVESON: I'm sorry, just so I understand that, you don't consider that marital infidelities, if that's what they are, of footballers justify invasion of privacy in publication?
A. By and large, no. But in my mind, there is not a sort of either/or situation.
LORD JUSTICE LEVESON: No, I can see that.
A. That something is either allowed to be published or to be forbidden to be published. It seems to me that there's a category of material which there probably isn't any or much public interest in making known, such
as footballers' marital infidelities, but it doesn't automatically follow from that that there's a public interest in censoring it or banning it. Does that distinction make any sense?

LORD JUSTICE LEVESON: No, no, I understand, I think. Quite how one works that out, though, is not entirely straightforward.

A. We're all hoping you will.

LORD JUSTICE LEVESON: Yes. Move on, Mr Barr.

MR BARR: I'll move on this far, sir.

In the relationship between public interest and privacy, we've heard a witness who said that in many years working as a journalist and many intrusions into privacy, he'd never come across anyone doing anything good, and he effectively said that privacy was something which people who were doing bad things needed. Is that a proposition with which you would agree?

A. No. I think it's a proposition few people would agree with. We all have not exactly skeletons in our cupboard, perhaps, but things about our private lives which are embarrassing, perhaps, or shameful perhaps, or just overly intimate or -- I mean, medical things, for example, and the whole question is whether you're entitled to bring these up. People aren't necessarily doing something wrong because, for example, they are now

In the relationship between public interest and privacy, there should be a copy for the projector.

MR BARR: 4 December 2006. It's entitled "Scandal on Tap" and there should be a copy for the projector.

LORD JUSTICE LEVESON: Sorry, what date?

MR BARR: 4 December 2006, sir.

LORD JUSTICE LEVESON: I don't know that my copies are in chronological order.

MR BARR: It should be immediately behind the tab 1 divider in your bundle, sir.

LORD JUSTICE LEVESON: Yes, that makes an assumption.

MR BARR: In that case, it's immediately after the --

LORD JUSTICE LEVESON: I have it, "Scandal on Tap".

MR BARR: That's right, sir, thank you.

LORD JUSTICE LEVESON: Yes.

MR BARR: This is an article you wrote after Clive Goodman's guilty plea, isn't it?

A. Yes.

Q. And you discuss the ethics of journalism and various respects of it. Can I alright, first of all, please, on the second paragraph, where you say in the second sentence:

"But there is not a newspaper or TV channel in the country what has not, on occasion, got down in the gutter and used questionable methods."

Can I ask you, first of all, was that a statement that you believe to be true or was it using a little bit of dramatic licence?

A. It was put in a blunt and provocative way because I was hoping to stimulate people to read the rest of it and enter into the debate without immediately rejecting what I was about to say on the grounds of: oh, it's just the Guardian being holier than thou. I was trying to be as frank and candid as I could be. I wouldn't say I embellished it but I would say I put it in a more blunt way than I might normally.

Q. I see. To what extent was this assertion based upon factual knowledge that you possessed at the time?

A. Well, I was racking my own brains for all the things I've done that people might have questioned over 30 years in both newspapers and television.

Q. I certainly don't want you to name them or indeed the titles they were working for, but were you thinking about the actions of others as well as that you might have known about?

A. Well, I've come across lots of newspaper malpractice over the years, and you know, I mention a few things there.

Q. What I'm ultimately coming to is to what extent could Lord Justice Leveson use this statement as an evidential basis?

A. Well, it's not evidence because there's no detail there, is there? It's a sweeping assertion designed to position me in a particular place to start off the argument.

Q. So really, as you say, something to get the readers' attention?

A. Yes.

Q. All right. Let's move two paragraphs down:

"I've used some of those questionable methods myself over the years. I, too, once listened to the mobile phone messages of a corrupt arms company executive -- the crime similar to that for which Goodman now faces the prospect of jail. The trick was a simple one: the businessman in question had inadvertently left his pin code on a print-out and all that was needed was to dial straight into his voicemail."

And you go on to say:

"There is certainly a voyeuristic thrill in hearing another person's private messages. But unlike Goodman, I was not interested in witless tittle-tattle about the
MR BARR: Which may be your get out of jail free card, and do you think there is a discrepancy between the lack doing was in the public interest and therefore it was ethical?

Q. As a matter of law, there isn't a public interest
defence to intercepting --

LORD JUSTICE LEVESON: Don't tell me I should have cautioned Mr Leigh.

MR BARR: There is a code for Crown prosecutors.

LORD JUSTICE LEVESON: Yes, right.

MR BARR: Which may be your get out of jail free card, and so I think the answer to the chairman's question is no, but do you think there is a discrepancy between the lack of an express public interest defence to interception of communications and the express defence in the DPA?

A. Well, I don't hack phones normally. I don't hack -- I have never done anything like that since and I'd never done anything like that before. On that particular occasion, this minor incident did seem to me perfectly ethical, yes.

Q. As a matter of law, there isn't a public interest defence to intercepting --

LORD JUSTICE LEVESON: Don't tell me I should have cautioned Mr Leigh.

MR BARR: There is a code for Crown prosecutors.

LORD JUSTICE LEVESON: Yes, right.

MR BARR: Which may be your get out of jail free card, and so I think the answer to the chairman's question is no, but do you think there is a discrepancy between the lack of an express public interest defence to interception of communications and the express defence in the DPA?

A. What I think is not okay is that the law shouldn't move against a journalist just because they're afraid of the power of the press, and that seems to be what's happened with the News of the World cases. I think.

MR BARR: You go on in your article to say: "That is my defence when I try to explain newspaper methods to my current university journalism students, some of whom are rather shocked."

That's why I asked you earlier on about what you teach in this respect. What are your students shocked by?

A. Well, I try to shock them. I try to say to them: don't imagine that investigative journalism is just a case of a knight in shining armour riding about on a milk white steed doing easy things. You have to do difficult things. Journalism of this kind requires sometimes guile. It requires sometimes making hard choices. If you're to get results, then you have to sometimes, you know, go up to the edge of what's acceptable. So you need to have a clear ideas in your own minds of what is acceptable and what's not, what is in the public interest and what's not. So I'm trying to wake them up to the hard choices and the difficulty decisions that I get paid to make.

Q. If they need any indication of how grubby things might get, you go on in your article to say:

"I did not turn up my nose when the notorious Benjy the binman emptied a bag of stinking rubbish onto my carpet. He wanted to show me incriminating statements about Saudi arms deals which a City law firm had been too idle to shred before putting out on the street for collection."

LORD JUSTICE LEVESON: This is the example you've already given us, is it?
A. No, this is a different example.

LORD JUSTICE LEVESON: You gave an example of being asked for a large sum of money.

A. Yes, that was –

LORD JUSTICE LEVESON: That was different? All right.

A. That was different. Another one.

LORD JUSTICE LEVESON: I see.

MR BARR: "I read the information with interest. I did, however, refuse to pick up the other gossip documents about celebrities that Benjy was also peddling and when he wanted large amounts of cash for copies of those documents he had that were rather more in the public interest, I sent him off to the Sunday Times."

Can I ask you to be clear about what the objections were on an ethical ground to buying material from Benjy the binman? Was it simply financial or was it more than that?

A. No, it was more than that. Benjy, who was a notorious figure in Fleet Street, had presented himself to me unsolicited and was waving these pieces of paper at me. I thought those particular pieces of paper were important and in the public interest and should be made known. I didn't want to pay him for them because I didn't want to encourage him. If he was going to do that, I didn't want to pay him for them because I didn't want to encourage him. If he was going to do so, I was going to take a view on whether it was appropriate to publish it or not, that was one thing. I didn't want to be commissioning the man, as it were, to go and root through people's dustbins.

Q. I see. There was some evidence given by Mr Davies about this instance. Did you hear that evidence?

A. I have seen that evidence, yes.

Q. And he suggests that you were very clever in passing on Benjy to the Sunday Times because it resulted in you obtaining the information but somebody else paying for it and the matter coming out into the public domain in any event. Do you agree and accept Mr Davies' evidence or is your evidence different?

A. I think what Nick Davies meant -- he meant it as a last resort, as indeed you've told us today. I think -- he's a rather erratic person and I'd hesitate to look into his mind. At the time, he seemed to feel friendly enough towards me because you know, I would be nice to him. I would be civilised to him and I would say, "I'd like to help you". I would say all the things you'd say to somebody that you want to keep in play, as it were. I'm sure you do understand that in the world of journalism, just like the world of being a detective in the police force, you have to deal with some rather unsavoury people because they may be in possession of important evidence.

Q. Yes, because what I'm building up to, of course, is the ethics of having a continuing relationship, obtaining information from a man who is obtaining it in the way that he was. Did you think that the public interest in what you were receiving justified your conduct?

A. Yes. Evidently I did. That was the decision I took, that it was acceptable in the public interest to structure the brief relationship in that way.

Q. Even though he was stealing the rubbish?

A. Well, my stance was I wasn't encouraging him to steal rubbish. It wasn't -- I didn't give him the idea. He was going to continue to do it whatever I did or said.

Q. You go on in your article to deal with stings and then blagging, and you give the example we've already touched upon with Mark Thatcher. You discuss the public interest.

I'd now like to settle on a paragraph on the second page of the article. It's the fourth paragraph down. It needs to be read with the end of the third. In the third, you've said that the rule should be that deceptions, lies and stings should only be used as a last resort, as indeed you've told us today.
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This makes you feel rather hostile to the fleets of expensive lawyers who come after you, and it makes you feel that the law is being misused against you. When you've been subject to injunctions and super injunctions wrongly, as I have and other journalists have, things that are not about privacy issues, you very much sympathise with what Ian Hislop, the editor of Private Eye once called "censorship by judicial process". What this means is you're a journalist doing the right things, trying to expose wrongdoing of various kinds. Your opponents then go to court and they get an injunction from, let's say, not particularly well-informed judge, and it then costs you and your newspaper immense amounts of time, which is distracting, and money, which you may not have, to fight your way out of the legal mire into which you've been entangled by your wealthy opponents, and I think that's an abuse and I think "censorship by legal process" is a good phrase to describe it. When you're on something like the Guardian, you have legal resources so long as we still, you know, get some revenue, to fight these things. When you're a small magazine or when you're, say, a scientist saying something at a scientific conference or whatever, you just don't have the resources to fight that and so the lawyers sit on you and you can't fight your way out of the legal mire because you don't have the money or the time. Those are the kind of experiences which lie behind me saying that some of these collisions tend to breed disrespect for the law. What I mean is that the law can be abused against journalists trying to do good things.

LORD JUSTICE LEVESON: I'm not so sure that is quite how I read that sentence but I'd just like to take forward the idea that you've just identified, because what I would like to think about, and I want everybody to think about is how you solve that, because on the one hand what you are criticising is the abusive use of the law to smother appropriate debate or discussion, but it's not a million miles away from having the problem that the journalist is abusing his or her position to interfere with the legitimate activities of whatever. I mean, these are two sides of the same coin. The problem with it that you've just identified is that it's all too expensive, because you have very distinguished Queen's Counsel and solicitors when it suits them to try to conceal their own crimes and misdemeanours. I'd like to explore with you in what sense you meant "disrespect for the law".

A. Well, just as earlier on when I spoke about the voyeuristic thrill of listening to other people's private messages, I was trying to think myself into the frame of mind that takes some journalists, particularly tabloid journalists, so cavalier about what they do and I was trying to think of the pressures that work on them, and one of the pressures that does work on all journalists -- not just tabloid journalists, not just serious journalists -- is that you do collide from time to time with the law or the law as it's being enforced. At its most crude, when you're trying to take on rich people and powerful corporations, they can and often do hire fleets of very expensive lawyers in order to try and intimidate you by threats of libel, for example.

Q. At the end of that paragraph you say:

"I have had my share of confidence injunctions, lost libel actions and threats of prosecutions under the Official Secrets Act. These tend to breed disrespect for the law, and a nonchalant attitude to these billionaires and cabinet ministers who wheel in solicitors when it suits them to try to conceal their own crimes and misdemeanours." I'd like to explore with you in what sense you meant "disrespect for the law".

A. I think that's a principle that's been well identified is that it's all too expensive, but unless you already have a prepared solution in your inside pocket, but it is a very, very important issue, and to my mind one of the crucial questions which I have to address.

Q. LORD JUSTICE LEVESON: I'm not so sure that is quite how I read that sentence but I'd just like to take forward the idea that you've just identified, because what I would like to think about, and I want everybody to think about is how you solve that, because on the one hand what you are criticising is the abusive use of the law to smother appropriate debate or discussion, but it's not a million miles away from having the problem that the journalist is abusing his or her position to interfere with the legitimate activities of whatever. I mean, these are two sides of the same coin. The problem with it that you've just identified is that it's all too expensive, because you have very distinguished Queen's Counsel and solicitors and lawyers and everybody all climbing out of the woodwork, looking at the authorities, trying to analyse the position, engaging judges on a Saturday night, who is the duty judge -- a position which I myself have been in -- who is trying to do the right thing. So all that, but if not that system, what system is there or should there be to resolve that sort of issue?

A. There are a couple of things I'd like to say, if I may. Obviously journalists do things wrong sometimes and the law is there to stop them. Prior restraint is a very bad way forward. I think that's a principle that's been lost sight of. When you hand out injunctions, which is then a big struggle and an expense to struggle out of, you're applying prior restraint. "Prior restraint" is another word for censorship. I know that in privacy cases everybody says, oh, well, you have to have an injunction because otherwise the cat is out of the bag. I don't think that's a good argument. I think what you need is punitive damages. If you had punitive damages, a newspaper will be very much deterred from invading somebody's privacy if they know that the last time that happened, it cost them £1 million, and I think punitive damages is a much better way to go than censorship in advance.
LORD JUSTICE LEVESON: I understand that, but then you have to deal with Mr Mosley's argument that his life, which had been lived motor racing and the rest, is now defined by an article that the court ruled was an inappropriate invasion of his privacy.

A. Yes, but my argument is that that article would have been published and that video would never have been put out if the News of the World had known that it was going to be -- it was going to be penalised for millions of pounds as a result of doing so, so they wouldn't have done it. They did it with impunity. So I think if you had a deterrent effect, you wouldn't get these invasions of privacy and I think that would stop the mischief.

The other side of this is if newspapers commit libel, which they sometimes do, sometimes because they make mistakes as we all do, there needs to be a simple, quick, cheap method of resolving those disputes with ordinary people that doesn't cost a fortune, that doesn't enrich lawyers with 100 per cent success fees to the point where newspapers just can't afford to fight them even if they have a good case. So you need a tribunal there that is going to resolve these things sensibly without fleets of lawyers. If you could think of a way of doing that, I'd be very grateful.

LORD JUSTICE LEVESON: Yes.

MR BARR: Looking at another question that arises from the phrase "breed disrespect for the law", is there any connection between the disrespect which you've described emerging from the use of the law to thwart your journalistic endeavours and willingness to use borderline or illegal methods to obtain information about institutions who may have all this legal muscle?

A. I think you're pushing this a bit far with me, really, because the Guardian and I, we don't do this bad stuff as a rule. These issues don't really -- aren't really problems for us. Move the time, we're extremely well behaved, and as I say, I've tried not to be holier than thou about it and I've tried to think myself into the forces that operate on all journalists in the tabloid world as well, but you need to direct these questions towards the kind of newspapers that are doing the bad things, because they're special in the pressures on them, the people who own them, the way they're constructed.

LORD JUSTICE LEVESON: I think we probably shall.

MR BARR: Indeed.

Just a final question on the article. It's in the paragraph which starts "Thomas says there is a public interest defence available under the Data Protection Act", which is presently right at the bottom of the screen. Could that be raised up, please? You go on to say:

"... and honest journalists have nothing to fear. We shall have to see about that. Personally, I am resigned to seeing the tabloid cockroaches doused with a spot of legal insecticide."

LORD JUSTICE LEVESON: There's some journalistic-ese for you.

A. Sorry.

MR BARR: You may wish that word to be your evidence in relation to this part of your article, but in case it isn't, can I ask you: are you intending to communicate a real disdain for the practices of tabloid journalism?

A. Yes, it's very upsetting because it does bring our trade into disrepute, and because they fail to clean up their act it makes it more difficult for people like me, people on serious newspapers trying to do worthwhile things.

Q. Why did you use the verb "resigned"? Because it suggests a certain reluctance to see the law changed and earlier today you've told us that you're in favour of the imposition of custodial sentences for grave breaches of Section 55.

A. Well, resigned because, as this Inquiry is obviously well aware, there are threats to the freedom of the press every time you introduce new regulations and the words "statutory regulation" make me feel very uncomfortable. It is not an accident that dictatorships lock up journalists as one of the first things they do, and very often, prior to locking them up, they set up systems for licensing them and regulating them. So naturally, I don't look forward to that prospect with any enthusiasm. So as I say, I am resigned -- because of the refusal of the tabloid media to clean up their act, I'm resigned so something being done but I'm not happy about it.

Q. That runs into some evidence which Mr Davies gave last week when he said that he'd -- his thinking had evolved to the point where he'd concluded that the press was incapable of self-regulation. Is that a conclusion which you now share?

A. I don't like this phrase "the press". The Guardian, for which you now share?

I which work, as far as I'm concerned, is capable of self-regulation and we do regulate ourselves quite well. You know, we have all the code you've talked about. We have a reader's editor who is independent, who people can appeal to. We publish corrections in what we think of as the main leader page of the paper. We do regulate ourselves. So the bit of the press that I'm currently familiar with is capable of self-regulation.
| Q. | The one technique that I don't think was mentioned in the article we've just looked at was bribery. It's made very clear in material from the Guardian that the Guardian doesn't do that, but can I ask you this: do you consider that the bribery of public officials to obtain information is one of those matters which is completely ethically off limits? |
| A. | Yes, it's a crime. |

| Q. | So we turn inevitably to your opinion about the weaknesses of the PCC. What do you think these are? |
| A. | The only strength of the PCC is that it does circulate the backs of the newspapers, especially when they've managed to keep the government and the royal family off. I guess, is that it works as a sort of political fixer, people. The other strength of the PCC, in its own eyes, of the PCC? |
| Q. | Moving now to the PCC. You've written about the PCC. Is this an issue which, as a professor of journalism, you've given any thought to from a regulatory point of view? |
| A. | Personally, I would be in favour of abolishing the PCC. It may not be necessary to go to the article but could you help us, from your understanding, from your experience, as to, first of all, what are the strengths of the PCC? |

| Q. | Finally, the question of the Internet and new media, which are assuming increasing importance in many aspects of our lives, but in particular in the propagation of news and also the circumvention of court injunctions. Is this an issue which, as a professor of journalism, you've given any thought to from a regulatory point of view? |
| A. | The Internet makes it much more difficult to control and censor what appears in British newspapers and we no longer live in that world where you can control it. I've watched this over the years. All of us who have been around for a long time remember the Spycatcher affair of 20 or so years ago, where the issue was how slippery was a book, and the book which had been banned in Britain was published by publishers in hardback form in Australia and in Ireland. So in fact, you know, that idea that information can slip and slide about between jurisdictions isn't new. What is new, of course, in the world of the Internet, is that everything happens instantaneously, so it's much more slippery and any laws do need to take that into account and they need to take reality into account. We've had some situations, which have been very unreal, in which things have been banned that everybody is reading about on the Internet and we have to find a way of being realistic. |
| Q. | Just to tease out those potential solutions to those broad problems, one method might be to regulate the Internet content that comes into the jurisdiction, if that were technically possible. Would that be a solution that would find favour with you? |
| A. | Well, that's a sort of Chinese solution. It might be described that way. A. I don't think many people would be keen on that. It would cast us not as an open society and it would -- it wouldn't work, either. |
| Q. | And if you can't use the Chinese solution, what might you do? |
| A. | Well, that's a sort of Chinese solution. I don't think many people would be keen on that. It would cast us not as an open society and it would -- it wouldn't work, either. |
works for the Guardian into other papers because of the different dynamics of the organisation.

A. (Nods head)

LORD JUSTICE LEVESON: The problem is going to be how you read what is good about the approach to journalism that you have spoken about into the context that other journals, perfectly legitimately, operate within.

A. Yes. I mean, I always used to argue that liberty was indivisible, and that if we lived in a country with free speech, then we must let everybody do things, particularly things we don't like. But as I said, I am now resigned to the fact that something has to be done.

MR BARR: Just a couple more issues to explore. They're based on the theme of circulation. The first is this: I think you would readily accept that the circulation of the tabloids is much greater than the circulation of the broadsheets, including the paper that you work for.

A. Yes.

Q. Is there something to be said for the argument that a newspaper that prints a certain amount of tittle-tattle but also some serious stories is a very effective way of mass education, mass communication on serious issues?

A. What's the question, exactly?

Q. The question was: do you see a benefit in a newspaper publishing a mixture of tittle-tattle and serious stories in order to reach a wider audience with the serious message?

A. Well, obviously yes. Nobody objects to people publishing tittle-tattle if they want to and people reading tittle-tattle if they want to. Why this Inquiry has been set up, I guess, is because the tittle-tattle is being got illegally, intrusively and sometimes cruelly.

Q. So it's a question of method rather than content?

A. I think so, yes.

Q. And the second question is: the market for a purely serious newspaper, which doesn't have any tittle-tattle in it, is necessarily limited, isn't it?

A. It would be nice to think that more people would take things more seriously than they do, but obviously, yes.

MR BARR: Thank you.

LORD JUSTICE LEVESON: The Lord Chief Justice in A v B said the courts must not ignore the fact that if newspapers do not publish information which the public are interested in, there will be fewer newspapers published, which will not be in the public interest.

A. The result of this scandal is we have had one fewer newspaper published, and that wasn't because of -- that was because of their own behaviour or misbehaviour.
Gunspear

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