MR JAY: Sir, the first witness today is Mr Ian Hislop, please.

LORD JUSTICE LEVESON: Thank you.

MR JAY: Mr Ian David Hislop.

1. Q. Good morning, Mr Hislop. Your full name, please?
2. A. Ian David Hislop.

3. Q. Thank you. There's now a signed version of your witness statement with a statement of truth dated 16 January 2012. Is that your true evidence?
4. A. It is.

5. Q. You have been editor of Private Eye since 1986; is that right?
6. A. That's right.

7. Q. We're going to take your statement as read, but if I may alight on a number of discrete themes and then weave them together. Paragraph 10, please, first of all. You give us a thumbnail sketch, do you not, of the course of them together. Paragraph 10, please, first of all. You give us a thumbnail sketch, do you not, of the course of their circumstances, I would say it is legitimate to put it in. Paragraph 10, please, first of all. You give us a thumbnail sketch, do you not, of the course of their circumstances, I would say it is legitimate to put it in.

8. Q. You've given us a flavour there of the steps you take to ascertain whether a source is reliable. Can you tell us more about that, please?
9. A. Yes, well, essentially as editor, you trust your journalists and the people who work for me, I trust them to check out stories, to make sure they are accurate, not to be given stories that are pure grudge, that are not -- rubbish, that do stand up, and then with any very contentious stories, I'm sure all editors will say you will talk to them, you will talk to your lawyers, and you will say, "This is absolutely right, isn't it? The source is reliable. We will be able to stand this up."

10. Q. How do you filter out, if that's the right way of putting it, whistle-blowers, for example, who come to you because they have a grudge or a malicious animus towards the person they're whistle-blowing on?
11. A. That is the skill of the journalist involved, to talk to these people to find out. Just because someone has a grudge doesn't mean it isn't true. They may well give you stories for the worst possible motives but the story may be true. What you have to do is separate the grudge from the story.

12. Q. Now, Street of Shame. It may be a difficult question but are you able to give us some flavour of the type of stories you've published over the last ten years or so?
13. A. Street of Shame tends to be full of stories about journalists misbehaving. It tends to be anything from making up stories, drunkenness, stealing stories from each other, printing things that are totally and utterly untrue, promoting each other for reasons that aren't terribly ethical, sucking up to their proprietors, being told what to do by their proprietors, running stories because their proprietors insist on it, marshalling the facts towards a conclusion that they've already decided on. I'm sure I can think of some others, but I mean, that sort of thing.

14. Q. In relation to such stories, obviously you have what the
Q. One witness told us last week that he didn't understand what the term "ethics" means and you're telling us that ethics is self-evident. There may be some sort of mid-position here where certain things we grasp intuitively but other things in grey areas we need to make it clear that Private Eye has not signed up on the PCC, is not signed up to the code. But do you, in general terms, apply the principles which we see embedded in the Editors' Code?

A. Yes, I think they should be self-evident, and a lot of the evidence given to this Inquiry by people quibbling about whether it's in the code or not -- it seems to me all of the things that you have focused on are quite self-evidently against any sort of ethical practice.

Q. If we move on to a separate theme, public interest. You make it clear that Private Eye has not signed up on the PCC, is not signed up to the code. But do you, in general terms, apply the principles which we see embedded in the Editors' Code?

A. Indeed, absolutely. Not for me.

Q. If we move on to a separate theme, public interest. You make it clear that Private Eye has not signed up on the PCC, is not signed up to the code. But do you, in general terms, apply the principles which we see embedded in the Editors' Code?

A. Yes, I think they should be self-evident, and a lot of the evidence given to this Inquiry by people quibbling about whether it's in the code or not -- it seems to me all of the things that you have focused on are quite self-evidently against any sort of ethical practice.

Q. One witness told us last week that he didn't understand what the term "ethics" means and you're telling us that ethics is self-evident. There may be some sort of mid-position here where certain things we grasp intuitively but other things in grey areas we need to apply the principles which we see embedded in the Editors' Code?
rules, always subject to exceptions, to tell us what to do. Would you not accept that?

A. The person who didn't understand what ethics was was Mr Desmond, I gather, which again, I think you shouldn't use that as a rule of thumb for everyone else. It seemed to totally bewilder him, the idea that this could have occurred to anyone. So no, I'm not in that camp, but I do think that statutory regulation is not required, and most of the heinous crimes that came up and have made such a splash in front of this Inquiry have already been illegal. Contempt of court is illegal. Phone tapping is illegal. Taking money from -- policemen taking money is illegal. All of these things don't need a code. We already have laws for them. The fact that these laws were not rigorously enforced is, again, due to the behaviour of the police, the interaction of the police and News International, and -- I mean, let's be honest about this -- the fact that our politicians have been very, very involved, in ways that I think are not sensible, with senior News International people, and I hope you'll be calling the Prime Minister and Tony Blair and Gordon Brown to explain how that comes down from the top.

Q. Are you saying, Mr Hislop, that the existence of legal rules, whether it's the criminal law or the civil law, is a reason for there being no need for a better regulatory system?

A. It is possible to have a better regulatory system, but my view is that we have quite a lot of regulation and most of the offences that have come up and have been so shocking -- the contempt in the murder case, the Milly Dowler, all of these things that the public have felt this is absolutely unacceptable -- well, it is unacceptable. It's illegal. It's not for me to tell you what to do, but I think any Inquiry needs to find out why none of these things were enforced.

Q. Thank you?

A. Yes.

Q. Very little about what their rulers were up to was discovered by anyone for about a decade. Then you say: "There are situations where sex does influence how people behave, how contracts are awarded, how promotions are made, and we may not like having to do it very much but it does sometimes have a bearing."

So you're carving out exceptions, are you, where there is a genuine public interest in people's private lives, particularly in the realm of intimate relationships?

A. Yes. Not particularly in the realm, but I give that as an example because that's the one that always comes up and makes the most headlines. Finance was the other. The problem in France was that the contents of your own bank account were considered to be private in all situations at all times and there were cases in France where -- I mean, the minister in charge of raising taxes was paying no taxes, and one of the newspapers -- I think it was Le Canard Enchaine -- published details of his bank account and he said, "This is private. How dare you say I don't pay any tax? It's between me and the taxman." That doesn't strike me as being in the public interest.

I mean, seriously -- I mean, the French situation is far quicker than you currently get in the court. There are plenty of ways to speed up justice through the courts if you think the courts is the right way.

A. Indeed.

 LORD JUSTICE LEVESON: Because if one had some other arbitral system -- and we'll come onto -- that could deal with those issues perhaps inquisitorially rather than the sort of jousting that we have at the moment, then that might be better for everybody.

A. It might be, but my feeling is that the Leveson Inquiry -- they didn't appoint a former editor. They didn't appoint an MP. They appointed a judge, and we end up in a courtroom talking about it. You tend to end up in court anyway.

MR JAY: You've helped us with the public interest issue. There's also the issue of intersection between public interest and private rights, which is neatly summarised -- if you look at tab 5, Mr Hislop, evidence you gave to a Select Committee on 11 October last year, page 9.

A. Yes.

Q. We can summarise what you're saying there. You want to avoid the situation you perceive to exist in France, with what you describe as a very draconian privacy law.

A. Yes.
respond to any imposition of agenda from above because
the editor intuitively understands what his or her
readers want to read. They're plugged in to the mindset
and viewpoint, as it were, of the readership, and it's
that --
A. Yes, they're also plugged in to a phone where the
proprietor shouts down it.
Q. Yes, but if I could just complete the thought.
A. Certainly.
Q. It's that, whether you're looking at the Daily Mail or
any newspaper, which dictates the way the newspaper is
going to formulate and express its story. Is that not
a possibility?
A. That's certainly a possibility, but I'm not saying
it's -- you know, every page of every newspaper is
constantly following an agenda, but there are certain
stories where they will think: "What do we want to read
when this story comes up?" Look at the coverage of this
Inquiry. If you read it fairly closely, you look at the
tabloids, with journalists being told: 'Here is the
agenda; find the story'?
Mr Rusbridger gave his answer, which was along the
lines that it depends, but it's your answer on the next
page when you say:
"It sounded pretty right to me."
Why were you able to give the Select Committee that
answer?
A. I think anybody who reads newspapers and a lot of
newspapers after a while begins to see that the stories
have an agenda and that that agenda must be dictated by
someone. Most famously, Private Eye finds that if the
Daily Mail runs a story, at some point there will be
a reference to house prices in it and whether they're
going to collapse spectacularly or rise. That's
the joke, but it is an observation that most of the
time, if you read papers carefully, you think: "Who
decided the headline and the way that story is going to
go?" The editor, you would guess. In some cases, the
proprietor. That is why the story has been fed in that
particular way. Mr Desmond is the worst example,
obviously, and he's been in court about this and he's
had libel actions with Tom Bower about whether he uses
his newspaper in order to pursue certain agendas and
certain claims. But the Murdoch press is pretty clear,
I think, in a lot of its manifestations, on what the
agenda is going to be and the paper follows it.
Q. Might it be said that it could sometimes be a little bit
more nuanced than that, that the editor doesn't have to
Page 15
where you say -- the gist of it -- that there's no need
for the PCC to act as intermediary or mediator. Would
you not accept that acting as mediator is something the
PCC does rather well?
A. I have no direct knowledge of that at all. I am told by
people and people have given evidence that it works
well. I haven't seen that. It hasn't worked in our
cases. We either settle, think about arbitration
through another way or go to court.
Q. Can I just ask you about arbitration through another
way.
A. Yes.
Q. How does that work?
A. You agree to -- if the two parties agree, you can agree
to appoint an arbitrator and go through the courts and
they decide, and you say you will stick by that
decision.
Q. How often does that happen with Private Eye?
A. Never.
Q. Because, you think?
A. Two people have to agree to the settlement, and often
I don't.
Q. Because you trust the courts more? Is that it?
A. I would rather end up in the court because I think
that's where you end up anyway.
Q. I think your primary reason for not being part of the PCC is paragraph 12, that you don't believe it's an independent and impartial tribunal; is that fair?
A. Yes. I don't think the PCC has been that. I don't think it's been effective, I don't think it's been independent. There are plans to change it and Alan Rusbridger's come up with a lot of suggestions and obviously if it changes then one would have to reconsider, but essentially Private Eye spends two pages a week attacking individuals and newspapers, then to go to the PCC and find all those people are deciding on your case. You tend to think you won't get a particularly fair hearing.

Q. Is it just a question of editors being heavily represented on the PCC or is it a question of editors from particular papers being represented on the PCC?
A. Over the years, Private Eye has had some issues with the number of tabloid editors on there, with particular agenda, and also the amount of influence that News International has had on the PCC.

Q. I ask you this question: what would bring you back into the fold? What would have to happen to the PCC, whether it kept that name or changed its name altogether?
A. Obviously it is quite embarrassing that the only other person not in the PCC is Richard Desmond. Again, that is my problem, and that's probably why I've reconsider, but essentially Private Eye spends two pages a week attacking individuals and newspapers, then to go to the PCC and find all those people are deciding on your case. You tend to think you won't get a particularly fair hearing.

Q. Mm-hm.
A. That's not a position that's obviously very comfortable, but I do stick with -- there are plenty of other regulatory bodies and codes that could have stopped that particular ownership, and indeed a lot of that conduct, so I'm not wanting to be tarred with the same brush there. I'm not saying it's not possible, and we didn't flounce out of the PCC after we'd lost, you know, vast amounts of damages or had rulings against us. It was a decision I took a long time ago in order to be separate, because I think what Private Eye does is unique and therefore I don't think we are in the same camp as them.

Sorry, what was the question?

LORD JUSTICE LEVESON: No, that's quite a big word, which I think may be right. One of my concerns I've expressed is that the press will look at doctors, they'll look at lawyers, they'll look at judges, they will keep to account politicians, government, everybody, but is there any organ of the press other than Private Eye that actually has a go at other newspapers?

A. I think it would be arrogant to say no other newspaper -- there are media sections in other newspapers, they do report about each other, but there has been a tendency --
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ended up writing a tautology. I don't think you can have mandatory involvement because that becomes difficult. It's like forcing people to apologise or forcing people to arbitrate. You get into areas where you're basically dictating what the press can do and then it no longer becomes free.

Q. But all one may be doing is compelling the press to participate in the system, which, once set up, has all the attributes you would approve of, such as it is independent, it is impartial and it is able to arbitrate speedily and cheaply on the sort of matters which trouble your newspaper. Would you accept that?

A. If that's what happens, then obviously I shall have to either eat my words or go along with it.

Q. It depends what you mean by "statutory regulation" in paragraph 17. Could you define that for us, please?

A. Oh, I think that's when the state decides what you can and can't publish. Then that's dangerous. Which is where we come to prior notification and those other issues, which I don't agree with a lot of the --

Q. Let us agree that no one wants a system where the state decides what the press might publish, because that of course, would put us back in the middle ages or put us back in the position which unfortunately exists in many countries around the world. But you could have a system

where a statute sets up a body, which defines what the body can do, but the body, once set up, has complete freedom to lay down standards, arbitrate on complaints, all those matters, without any question of the state entering into the operational activities of that body.

Would you see that?

A. I do see that and again, that would have to be voluntary. You could not say, "You must go to arbitration here"; you can say, "You must go to court."

I have a problem with that.

Q. Because?

A. Because I think it should be the law.

LORD JUSTICE LEVESON: It may be the law. The problem is in one sense you're right -- that's not a problem. In one sense you are right: there are critical laws, there are civil remedies. But in the world that we occupy, the police and all the authorities that are responsible for maintaining our regulatory regime, Information Commissioners and everything, are inundated with work and there is an argument that there are rather more egregious breaches of the law that require to be investigated before one gets to the press, and that shouldn't necessarily permit a free run for those that want to table stories unethically, inappropriately, illegally. That's the concern that I have about simply

saying, "Well, there's a policeman there and they can prosecute", because there isn't a policeman on every street corner.

A. No, but there were a lot of police involved in the hacking story right the way along the line who didn't do anything, who decided nothing had happened. My view is -- I mean, we've had, what, four enquiries into press behaviour? Someone thinks it's important and is spending millions of pounds on it. That money could be used to speed things up --

LORD JUSTICE LEVESON: There's absolutely no doubt that now there is a great deal of reaction to what happened last year.

A. Yes.

LORD JUSTICE LEVESON: And one of the things that I will have to look at is why it is only now rather than years past.

A. And I don't think that is lack of money. I mean, I think there are reasons the police -- and you will be looking at this -- did not investigate, reasons that News International thought it could get away with whatever it liked, because the Murdoch family was deeply embedded in our political top class. Those are the questions. I mean, if you're the editor of a Murdoch paper and you see, oh, the Prime Minister's organising

a slumber party for the proprietor's wife at Chequers.

Oh! Presumably that gives you unbounded confidence to do whatever you like. Or if the Prime Minister appoints an ex-News of the World editor to be his communications director, you must think: "Well, we're top of the pile. What could stop us?" I mean, that's probably more likely than questions that we don't have enough money to fight this through.

LORD JUSTICE LEVESON: It's not a question of money. I think it might be rather more nuanced than that.

A. Mm.

LORD JUSTICE LEVESON: Anyway --

MR JAY: I'll just ask you about paragraph 18:

"One important question [you say] is whether adjudication by such a regulator would be instead of adjudication through the court process."

You take that up three lines from the top of the next page:

"However, if the press are to be made subject to a new form of regulator (particularly if it has power to impose sanctions), then there should be a corresponding protection from additional court sanctions."

Which court sanctions are you referring to there, the additional court sanctions?

A. I just mean you shouldn't be tried twice, as it were,
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<td>a possibility -- is that many people bought the</td>
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<td>A. Well, that may well have been it.</td>
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<td>Q. May I move off that theme to is a separate theme, which</td>
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<td>is paragraph 22, the public interest. I think what</td>
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<td>Mr Justice Tugendhat said in one case, is the range of</td>
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<td>public interest test which reflects a range of</td>
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<td>reasonable permissible views; is that right?</td>
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<td>A. Yes. I mean, I know that that isn't law because he lost</td>
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<td>subsequently, but it's in the appeal court, isn't it?</td>
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<td>So it may turn out to be that what he said is accepted.</td>
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<td>Is that right?</td>
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<td>Q. Well, we can deal precisely with the state of that</td>
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<td>particular case on appeal, but my concern is perhaps the</td>
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<td>more general one, that if you give too much weight to</td>
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<td>justify the publication of almost anything, because</td>
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<td>reasonable people might reasonably disagree on</td>
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<td>a particular issue. Would you accept that?</td>
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<td>1</td>
<td>A. What I mean by that is if you print things that people</td>
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<td>don't believe or turn out to be lies, then people don't</td>
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<td>Q. So it's a question of tarnishing the brand, which is</td>
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<td>a risk all newspapers will be aware of; is that right?</td>
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<td>A. Yes. Tarnishing the brand is putting it a bit low. You</td>
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<td>want to be the paper that people believe.</td>
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<td>Q. But if your thesis is right, many papers have thrived by</td>
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<td>not following that principle.</td>
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<td>A. Yes, and again, you'd have to question the readers very</td>
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<td>carefully when you invite them in.</td>
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<td>Q. In order to do that and get a representative sample, you</td>
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<td>would obviously have to ask questions of a large number</td>
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<td>of readers to get any sensible steer on where the</td>
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<td>problem lies, but why do you think there's a problem</td>
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<td>here?</td>
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<td>A. Um ...</td>
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<td>Q. With the readers in particular?</td>
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<td>A. Well, did they think everything they read was true?</td>
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<td>When they read subsequent reports saying, &quot;Oh, no, this</td>
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<td>is rubbish&quot;, did they feel embarrassed? Did they think:</td>
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<td>&quot;I shouldn't have bought the News of the World? Why did</td>
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<td>I read that bit? Did I enjoy that?&quot;</td>
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<td>25</td>
<td>Q. One possible answer -- I only float this as</td>
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7 (Pages 25 to 28)
there appears to be no evidence and say he's the murderer before we've started the case." Those things seem to me self-evidently unreasonable.

MR JAY: The judge, although charged with the decision as to whether it's within the judgment of the editor, can give some deference to the view of the editor in reaching the decision. That's another possibility, would you agree?

A. Yeah.

Q. Can I ask you about 22.5 in your witness statement. You don't think there that the behaviour of the journalist is a relevant consideration. Your concern is more what is being printed, although the behaviour of the journalist may be relevant because of the means the journalist has deployed in order to obtain the information which is then printed. Would you accept that?

A. Yes. I was just trying to argue that saying, "Well, did you ring three times in advance, did you notify him there?" - that sort of procedural "letter of" is less important than whether that's printed is true or not.

Q. May I move to a different topic, that of prior notification, which you pick up in particular at paragraph 22.11.

A. Yes.

Q. You give the example here of a practical difficulty which arose, namely you did give prior notification to Mr Napier, he applied for an injunction, the judge refused the application but granted a temporary injunction pending an appeal, and not withstanding that appeal was expedited, it all was extremely expensive and effectively scotched the story; is that right?

A. Well, it would have scotched the story but we went with it. This was a man called Napier, who was president of the Law Society. He was reprimanded by the Law Society, his own society. That seemed to me a reasonable story to put in. He said this was confidential, it was between him and his professional organisation, the fact that he'd been reprimanded while being president. We went to a court, quite expensive, and won. They said: "No, I'm not going to grant the application but he can have a temporary injunction while we appeal." The appeal -- that was in January and the appeal didn't come on until May, so it was five months delay. We have a story. We're not allowed to run it for five months.

The total joint costs of both of the parties were 350,000 by this point. If we'd lost, £350,000 just to try and put in a story. As it happens, we didn't recover all other costs, because you never do, but we won finally an appeal. So six months later we're allowed to print a story which I thought self-evidently was in the public interest.

LORD JUSTICE LEVESON: Mr Hislop, aren't you there proving the point that I was trying to make to you before: inevitably, there are many, many calls upon the time of the court, and even when something is urgent, there are many, many urgent appeals, too, so it takes a long time.

A. Mm.

LORD JUSTICE LEVESON: Therefore, is there not a value in having a mechanism to resolve that sort of issue definitively -- in other words, binding on everybody -- but very quickly, so that you don't risk all that money and all that time and run the risk that you've just been talking about?

A. In that case I'm complaining about the privacy injunction in the first place, and I think that created a delay and a racking up of cost that is due to the mechanism of privacy injunctions. So you're -- what I'm saying is it was slow and it was expensive, but I'm saying the principle in the first place was wrong. He should not have been allowed to get a privacy injunction stopping us printing it.

LORD JUSTICE LEVESON: Yes, and the Court of Appeal agreed with you.

A. It did. It did eventually, but we might well have not have got to the Court of Appeal. If you're suggesting that was in the public interest.

LORD JUSTICE LEVESON: I'm not suggesting Mr Napier was doing that. It's a question of speedy resolution so there it is an arbitral mechanism that people are bound by -- in other words, people have to do it -- but that's inquisitorial and done very quickly.

A. In that case, if it had worked, obviously I'd have been for it.

LORD JUSTICE LEVESON: But it's not just this case. It might be every single case where you feel: "Well, you know, I will give a prior notification", but then you run the risk of somebody trying to stop it. You need some mechanism to resolve that very quickly.

A. I can see that's an argument. The lesson I learned from that was not to give prior notification.

LORD JUSTICE LEVESON: Yes, but that runs other potential
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1. risks, not perhaps in the case where you were very clear
2. and the Court of Appeal agreed with you, but there may
3. be cases where the balance is perhaps slightly
4. different.
5. A. But mandatory prior notification, it was thrown out by
6. Europe and it's generally assumed that this is not
7. a runner, this will not --
8. LORD JUSTICE LEVESON: I'm not suggesting mandatory prior
9. notification, but every single time you have a story,
10. you have to decide: "Am I going to prior notify or not?"
11. A. Yes.
12. LORD JUSTICE LEVESON: One of the issues is purely the
13. delaying factor of potential litigation. There could be
14. good reasons not to prior notify, because the story
15. might be destroyed or something might happen to it, but
16. it's not necessarily the very best reason that: "Well,
17. the court system there just kill it in any event."
18. That's the point I'm making.
19. A. Yes, and that's quite right. The same would apply to
20. when we had a threatening letter from Schillings
21. immediately -- we'd put a question to the man who ran
22. the NHS IT system about his next employment, and he'd
23. said, "This is a private matter", then immediately we
24. get a threatening letter. You're saying that's
25. a practical legal reason. The other reason is witnesses

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1. get lent on in the ensuing time. With prior
2. notification, they disappear, documents disappear.
3. Alan Rusbridger has given you a lot of that evidence.
4. LORD JUSTICE LEVESON: Yes, but that's why I am thinking
5. about some sort of mechanism that copes with the problem
6. which you're talking about.
7. A. Yes, I appreciate that.
8. LORD JUSTICE LEVESON: But, of course, doing that -- and you
9. may have heard Mr Barber, actually he was quite
10. interested in the concept, not least because of the
11. concern that very, very wealthy people might be able to
12. put a lot of money into undermining a story.
13. A. Yes.
14. LORD JUSTICE LEVESON: But that requires some sort of
15. framework in the background to require people to
16. participate. Otherwise most people would, but those who
17. really have a lot of money and really have a real
18. interest in stopping something won't.
19. A. No, and they will just fight it on through the court.
20. Yes, okay.
21. MR JAY: You gave evidence to a Select Committee, Mr Hislop,
22. about the NHS IT project. That was Mr Granger, wasn't
23. it?
24. A. Yes.
25. Q. And Schillings was his solicitors. Can you just remind

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1. us what happened there?
2. A. The journalist in question put a number of questions to
3. Mr Granger, and then, rather than reply to them, we had
4. a threatening letter from his lawyers saying, "These are
5. private and confidential matters", and again, this was
6. the man who -- under whose -- on whose watch, under
7. whose directorship, a vast amount of public money had
8. been effectively wasted, something like £12 billion.
9. You can take whatever the last estimate is on this
10. utterly useless system which we'd been writing about for
11. quite a long time. So we thought it was a reasonable
12. question to find out what he was doing next: is he going
13. back into public employ? Is he a consultant? Where has
14. he ended up? But he said, "This is private, this is
15. none of your business", and his lawyers sent that
16. letter, and when they send that letter, the immediate
17. question is: how much -- is it worth fighting this? Is
18. it worth going on with this? How much is this going to
19. cost? Do we need this as well as whatever else we're
20. doing?
21. Q. The letter itself from Schillings I think was put in
22. evidence before the Select Committee.
23. A. Yes.
24. Q. What did Private Eye do in response to that letter? Did
25. it publish?

Page 35

1. A. Well, I read it out under privilege in that committee,
2. so I didn't have to worry about any further
3. ramifications.
4. LORD JUSTICE LEVESON: That's not actually the purpose of
5. the committee.
6. A. It's something useful the committee could do for us,
7. I thought.
8. MR JAY: Is this a common phenomenon, you receiving letters
9. of this sort which are designed obviously to have either
10. a terrorising or a chilling effect, however you'd like
11. to put it?
12. A. Yes. Privacy has become more of a problem than libel,
13. or had become more of a problem than libel before the
14. sort of explosion over this -- the previous summer.
15. Q. May I ask you some different questions now. Under
16. tab 2, you deal with the problem of the Internet under
17. the page which says, at the top left, "evidence 197".
18. This is the question of the blogosphere, the right-hand
19. column. Are you with me?
20. A. Sorry, one moment.
21. Q. A third of the way down.
22. A. Alan Rusbridger? No.
23. Q. Right-hand side.
24. A. 197, yes.
25. Q. Quarter of the way down, where you say:

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9 (Pages 33 to 36)
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Q. In a nutshell, what do you think the purpose of such interactions is, apart from social pleasure or however you accept that?
A. Yes, I occasionally meet them.
Q. Do you have social interactions with politicians?
A. Yes.
Q. Can I ask you about your relationship with politicians?
A. Yes.
Q. I've asked this question of other editors, of course.
A. We don't have a proprietor.
Q. Is it because the politicians are trying to get one over in terms of what you might say about them, or do you have some sort of motive towards the politicians or is it simply you're meeting them socially?
A. No. I mean, I'm sure there's an agenda on both sides. I'm hoping to find out information that will be useful to me and a world -- insight into the world that they're operating in. I think they're trying to do the same. There are -- it's a two-way trade. But I think arm's length is what you need with politicians, and that is -- I mean, they come -- we invite MPs to Private Eye lunches, I see MPs at events. I haven't been to any slumber parties with any, with my children or wife. I haven't appointed any to be on the staff of the Eye. I think a certain amount of distance is probably a good idea.
Q. Yes. I imagine I know the answer to this question: is the agenda of Private Eye set or do you have any perception that it's set by the wishes of the proprietor?
A. We don't have a proprietor.
Q. So the answer then is self-evident. Can I ask you finally about a couple of points in tab 11 and then tab 13.
A. Yes.
Q. Some pieces about you. The first one is in the Guardian, published in September of last year. The last page, page 5 of 5. He says, two lines down from the top of the page, about you:
"He has a strong sense of what constitutes ethical behaviour in a good society and is not slow to castigate those in public life who fall short. It's not that he despises politicians that make him so severe on them but he holds in such high esteem what they can be at their best."
I appreciate that's quite flattering of you.
Q. But is it reasonably on point?
A. I'm not likely to say no.
Q. Fair enough. The third paragraph, about the future of Private Eye in the context the Internet -- you don't foresee Private Eye embracing the digital future? At the moment you have a rudimentary website, but you keep your key content for the magazine. Then he says:
"He gives me [that's obviously the writer here] a brief lecture on the dangerous culture of free."
Q. Mr Hislop?
A. Yes.
Q. Can you remember what that was about?
A. I think I'd probably said something along the lines of: a generation that wants everything for free has already meant it's very difficult to make films, it's difficult to make records and now it's saying, "I want journalism for free", and I think we should try and resist it. I disagree with a number of my colleagues here, but I cannot see why journalism, which, at its best, is a terrifically noble craft, should be given away, and people who can analyse information, write well, entertainingly, informatively, should have everything they do just taken from them. I mean, if we're looking at other countries, I was hugely heartened to see Le Canard Enchaine has a website which just says literally: "Go and buy the paper." They're doing very well.
Q. For those who don't know, they're your sort of analogue in France?
A. Yes.
Q. The final point, subject to points the chairman might have: in tab 13, the third page, I think there you do accept the mistake, if that's the right way of putting it, in the context of the MMR scare. Is that right, Mr Hislop?
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<td>A. That's correct.</td>
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<td>Q. That's under our tab 6 and it bears the number 07774.</td>
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<td>Q. For those who are not fully aware of the relationship between the various companies within News Corporation, there is a helpful family tree which we see under our tab 2 and bears the number 53570.</td>
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Q. Thank you. May I ask you, please, generally about your dealings with Mr Rupert Murdoch. How frequent are those?

A. In this role?

Q. Yes.

A. It will vary week to week. In some weeks, I will speak to simultaneous several times via the phone. In some weeks, I might not speak to him at all.

Q. It may be a difficult question put at this level of generality, but what sort of things is he interested in?

A. I should say first of all it's not necessarily relating to News International, because I continue to have responsibilities in other parts of the company. He is interested fundamentally in the business. Frequently our discussion would be how our advertising revenue is progressing. He's interested in the news in general terms and will be interested in observations about what is current in British society and what issues we might be reporting. He's also interested in the progress of this Inquiry and the progress we're making in the company in updating and changing compliance and these issues. So a broad range of issues.

Q. You tell us in paragraph 2.5 that the NI board is now meeting monthly to accommodate the work being performed in the area of compliance. Again, in general terms, are you able to give us a thumbnail sketch of that work, please, since July of last year in the area of compliance?

A. I think in particular what we have sought to do is to update/refresh the whole range of compliance policies and in particular improve the communications of the compliance policies. My observation has been that even where an existing policy is completely thorough and appropriate, if it's not well communicated, then it's much more difficult to expect people to comply with it. So I think a lot of that just goes to the language, the drafting, the way it is presented to employees. Sometimes that might mean the distribution of a hard copy document, as we did with the News Corporation standards of conduct. The mere device of that reminds people of the issues in that document. Sometimes it might mean using the intranet and the Internet devices to refresh. I think it's a broad-ranging objective to make sure that policies which were generally required before are correctly up-to-date and communicated.

Q. Thank you. At paragraph 2.6, you remind us of the position of the independent national directors following undertakings given to the Secretary of State for trade and industry, as he then was, in 1981. We're going to hear a bit more about that in a moment. As for the fifth is actually available on the intranet in a draft form, but has to be finalised.

Q. We do have those policies in separate bundles. At that stage, some of the policies were in the process of being approved, but am I right in saying that policies (i) to (iv) have been rolled out since the date this statement was signed off?

A. It's correct the first four have been rolled out and the fifth is actually available on the intranet in a draft form, but has to be finalised.

Q. Thank you. The payments policy is going to be covered in some more detail by the next witness. What responsibility, if any, do NI board members have for the ethics of the newspapers?

A. I believe the board members have a general responsibility to contribute to ethics. I would think ethics itself, as other witnesses have described, is a subjective term, not an objective one, but I think the standards that the board sets, the way the board itself behaves, contributes to the overall ethics of any company, equally ours.

Q. In what way, do you think, Mr Mockridge?
A. I think it requires positive control. I think it's fair to say people are particularly sensitive to this issue at this time, given recent history. I'm confident that at this time there is no leakage in the policy and it would require ongoing attention to ensure that's the case.

Q. In relation to private investigators, as you've defined them, the policy now is that editors need to seek your approval before engaging any private investigators. Up to now, you've never given your approval. Under what circumstances might you give your approval?

A. I would await a request and consider it at the time.

Q. You point out under paragraph 14.1 that you're actively developing a policy in that regard. Is that so?

A. That is correct.

Q. Your second statement now, Mr Mockridge. I'm not going to ask about paragraph 2.4, but you rightly update the Inquiry as to the position and the arrest of one individual. Can I ask you to clarify paragraph 5. This is the access to a computer by a reporter at the Times. Are we talking about an internal computer or are we talking about a third party's computer?

A. I believe it was a third-party computer.

Q. Are there any specific issues which have caused you concern since you took over as chief executive officer?

A. I think if the board shows an interest to apply itself to, as we are doing now, set clear and well-communicated policies, that itself is a message to the employees of the company of the manner they're expected to behave.

Q. Thank you. I'm going to pass over, if I may, taking them as read, a significant number of paragraphs, and ask you, please, to look at paragraph 12.4, our page 07785. You are careful to define your terms, the difference between a "private investigator" on the one hand and a "search agency" on the other. You're clear about who a private investigator is: someone who holds himself or itself out as being skilled in sourcing information which is not otherwise publicly available, on the one hand, and the search agency only looks at publicly available records. Do you know that from your own knowledge, that that is what a search agency confines itself to?

A. This is what I've been advised by my colleagues, and particularly editorial staff.

Q. Have you asked editorial staff closely about -- (Alarm sounds)

A. The search agency, what they do, or their modus operandi, was something you've been told about by the editorial department. Is that so?

Q. (Alarm sounds) said that they might have described himself quite accurately as a search agency, but deploying methods which were illegal methods?

A. I'm aware in general terms of that evidence and I'm aware that this was an issue in the past, although I think these definitions are relevant today.

Q. It's not so much the definitions, I think, Mr Mockridge. It's more what goes on by search agents and whether you've undertaken steps to satisfy yourself that the search agents News International employs are deploying lawful as opposed to unlawful methods. What have you done about that?

A. What -- I'm completely confident that they are. I have required of the editors and the managing editors that -- as it's stated here, first of all, we don't at this time employ private investigators and secondly that search agents, like other suppliers to the company, are subject to the general governance of the company, so they cannot operate in ways differently from what employees would.

Q. Is that right, necessarily, Mr Mockridge, in relation to an independent contractor? Unless enquiry is made of the independent contractor as to how he or it is operating, you won't know? It is merely aspirational that the search agency is comporting itself legally?
Day 27 - AM  
Leveson Inquiry  
17 January 2012

1 a change in the governing structure. It's well
2 understood through the business, the policies have been
3 rolled out with training and information, and I believe
4 the individuals are rigorously applying the policy.
5 Q. Do you have a policy for risk management?
6 A. News Corporation has a risk management policy. NI, as
7 a subdivision of the company, doesn't have a separate
8 risk management policy.
9 Q. So it applies the news corporation policies; is that how
10 it works?
11 A. That is correct.
12 Q. Is catastrophic editorial error, however you like to put
13 it, one such risk?
14 A. It's not defined as a separate -- to my knowledge, it's
15 not defined as a separate item in the risk management
16 policy, no.
17 Q. Of course, you have oversight -- and this is my final
18 question -- over two subsidiary companies, one of which,
19 NGN, is responsible for the Sun. The other, TNHL, is
20 responsible for the Times and the Sunday Times. In
21 terms of compliance, is there any difference between
22 those two separate companies and the newspapers they
23 run?
24 A. In terms of compliance, no. The policies of NI apply
25 equally to all three title or the two companies which

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1 encompass the three titles.
2 MR JAY: Thank you, Mr Mockridge. Those are all the
3 specific questions I have for you, having taken the rest
4 of your statement as read.
5 LORD JUSTICE LEVESON: I have a couple. Mr Mockridge, you
6 arrived in this country six months ago. Your work has
7 taken you to various parts of the world. I'm not asking
8 you to foreshadow what Lord Grabiner might say or
9 recommend, but I am asking if you are prepared to share
10 with us, from your bird's eye perspective and experience
11 in the business of journalism over many years, your view
12 of where we've got to in this country and where you
13 believe we should be going.
14 A. Thank you for a broad question. I would maybe make the
15 caveat that as a newcomer to this country, clearly my
16 observations are relying on a relatively short period of
17 time, and that I've worked in four significant separate
18 markets: firstly, New Zealand and Australia, both of
19 which are broadly derivative of the United Kingdom.
20 I would note in both these countries there are
21 self-regulatory mechanisms for the press which appear to
22 be working effectively.
23 LORD JUSTICE LEVESON: Although there are reviews, at least
24 in one of the countries, I think possibly both.
25 A. There's certainly a review in Australia at this time.

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1 A. It's an exciting concept. It was actually implemented
2 in the 1930s by a prime minister who was legally
3 appointed in Italy and who was legally removed from
4 office, but I don't know that this structure from Italy
5 is much to learn from. But I think the general lesson
6 is that state intervention in the press diminishes the
7 free press.
8 LORD JUSTICE LEVESON: But there is a difference, isn't
9 there, between state intervention and the state
10 provision of a mechanism which permits independent
11 regulation?
12 A. I don't accept that.
13 LORD JUSTICE LEVESON: Why not?
14 A. Because once the state intervenes, the state intervenes.
15 I think I would go to the principle of the
16 United States, where the congress could not pass a law
17 to have that effect, and --
18 LORD JUSTICE LEVESON: Yes, but we have to be a bit careful
19 about that, because Parliament can pass a law about
20 anything. It might be said it's the thin end of the
21 wedge but the fact is that if a government were brought
22 into office that wanted to change the system, whether
23 they're amending a statute or passing a new statute
24 makes not the slightest difference.
25 A. I would argue in the end this gives an extra

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1 Again, we'll see how that evolves. I'd be very
2 surprised if it changed the fundamental self-regulation
3 position.
4 I would point out that both Australia and New
5 Zealand share the principle of the United Kingdom that
6 there is no constitutional requirement of free speech,
7 but I think all three societies would regard that as
8 a fundamental element of the way they operate, and
9 I share the view of many of your other witnesses that in
10 this society, where there is not a constitutional
11 guarantee of free speech, for the government to make
12 laws which intervene in the press would contravene that
13 basic principle and undermine the principle of a free
14 press.
15 I think in the other markets I've worked in --
16 I don't think there is much to learn from Hong Kong, due
17 to the particular constitutional circumstances of Hong
18 Kong, although I should point out it does have a vibrant
20 In Italy, the press is not directly regulated by the
21 government, but it is subject to influence in several
22 ways, in particular by very extensive state subsidies
23 for newspapers, and also by a requirement that to be
24 a journalist you must pass a state-sponsored exam.
25 LORD JUSTICE LEVESON: That's an exciting proposition.

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1 without any change. It's to have that effect, and --
2 LORD JUSTICE LEVESON: Yes, but we have to be a bit careful
3 about that, because Parliament can pass a law about
4 anything. It might be said it's the thin end of the
5 wedge but the fact is that if a government were brought
6 into office that wanted to change the system, whether
7 they're amending a statute or passing a new statute
8 makes not the slightest difference.
9 A. I would argue in the end this gives an extra
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1. responsibility to the United Kingdom, without a written
2. constitution, without these guarantees, with guarantees
3. which I find, coming here, are relying on a 1998
4. European Act -- there is an even greater responsibility
5. for the state to limit its intervention.
6. LORD JUSTICE LEVESON: I'm not sure that's entirely fair.
7. The European Convention, as you probably know, was
8. drafted in large part by British constitution lawyers at
9. the end of the war, and has been part of the law but
10. only enforceable in this country directly since the
12. A. I don't -- I'm not actually familiar with the full
13. detail.
14. LORD JUSTICE LEVESON: I understand. That's why I felt it
15. appropriate.
16. My question, which was deliberately broad, as you
17. say, was also to get your view about what your reaction,
18. coming into this maelstrom, has been of the way in which
19. the press operates in this country.
20. A. If I can, again, make a general honest remark. I think
21. there are many people outside the United Kingdom who
22. look at the British press with jealousy, due to the
23. extent of competition and choice in this marketplace,
24. and due to the ability of the press in general terms in
25. the United Kingdom to examine stories, issues, to report

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1. with a freedom and holding to account that is not
2. evident in other markets, which is a combination of the
3. resources available to the press here, and the fact
4. that -- and those resources essentially flow from the
5. fact that there is a much greater readership of
6. newspapers in the United Kingdom than certainly other
7. European countries, with the exception of, I think,
8. Germany -- and due to the history of the free press
9. here. So everything might not be perfect but if we look
10. at the great array of stories published in this country
11. over the last decade, there is only a minute fraction of
12. them which have been of particular interest to this
13. Inquiry.
14. I think that point of balance needs to be
15. considered.
16. LORD JUSTICE LEVESON: I'm not sure "minute fraction" is
17. right and I'm not sure I would necessarily agree with
18. the characterisation of the situation that everything
19. may not be perfect, and I wonder whether that's really
20. how you intend to put it, given what you came into and
21. what you must have heard over the last six months.
22. A. I'm talking about the situation today, not the
23. circumstance, clearly, of five years ago, but I think in
24. general this country enjoys something precious, and
25. something which I say many people in other countries

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1. look up to. I think that's a balancing thing that needs
2. to be very seriously considered.
3. LORD JUSTICE LEVESON: I hope you'll agree that that's
4. something that I've been trying to do, but that doesn't
5. necessarily remove the responsibility of coping with
6. those parts of the way in which the press operate that
7. could not be described as either precious or perfect.
8. A. Certainly I agree.
9. LORD JUSTICE LEVESON: All right. Thank you. Thank you
10. very much.
11. A. Thank you.
12. MR JAY: Sir, Mr Pennant-Rea needs to be away before noon.
13. He'll only be about ten minutes. May we hear from him
14. now and then break?
15. LORD JUSTICE LEVESON: Certainly. Certainly.
16. MR RUPERT LASCELLES PENNANT-REA (sworn)
17. Questions by MR JAY
18. MR JAY: First of all, Mr Pennant-Rea, if you would kindly
19. give us your first name.
20. A. Rupert Lascelles Pennant-REA.
21. Q. I'm going to ask that the second of our files be
22. provided to you from the pile to your right, because
23. under tab 6A we will find located there your witness
24. statement.
25. LORD JUSTICE LEVESON: Mr Pennant-Rea, you provided from the

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1. independent national directors of Times Newspaper
2. Holdings Limited a submission which I think was
3. unsolicited and helpful and I'm grateful to you and your
4. colleagues for doing so.
5. A. Thank you. I should emphasise this isn't my statement
6. so much as on behalf of all of us.
7. MR JAY: Thank you. You're one of six independent national
8. directors of the Times, but in terms of your own CV, you
9. describe yourself succinctly as the chairman of the
10. Economist group?
11. A. Yes.
12. Q. We can see the qualifications, and they're very
13. distinguished, of your colleagues.
14. Can I ask you about the circumstances in which the
15. independent directors were set up? This was
16. inextricably bound up, was it not, with undertakings
17. given to the Secretary of State in 1981 when
18. Mr Rupert Murdoch took over the Times. Is that so?
19. A. That's correct. The circumstances at the time were very
20. much focused on editorial protection. The public
21. view -- certainly the political view as expressed in the
22. debate in the House of Commons -- was that if
23. Rupert Murdoch got control of these two very important
24. titles, there was a risk that their cherished
25. independence would be lost, and the arrangement which

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15 (Pages 57 to 60)
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<th>Q.</th>
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<td>Q.</td>
<td>So you can tell us about what's happened over the last six or seven years. In your view, have the independent directors been able to accord that measure of protection to the editors from proprietorial influence or not?</td>
<td>A.</td>
<td>Yes.</td>
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<td>A.</td>
<td>The specific powers, responsibilities, that we were allocated in 1981 highlight the approval of any candidate for the editorship. So we have had one instance since I've been a director, in the case of the Times, where the editor was leaving to go to New York and a new editor was appointed. The proposal for his appointment was put to us. We interviewed him, we spent a couple of hours satisfying ourselves that he was indeed the person who should take on the responsibility of editing the Times. So that was one very specific occasion. By the same token, if ever there was a proposal to dismiss an editor, that would have to be put to the national directors for their approval, or if they chose, they would say, &quot;No, we don't think that those are reasonable grounds to dismiss them.&quot; Beyond that specific occasion, we've had a number of meetings, formal and informal, with the editors. We attend quarterly board meetings of Times newspapers Holdings Limited and we are constantly having to ask ourselves: have the editors got (a) the budget to do the job that they need, and (b) the culture of freedom that gives them the right to edit the newspapers in the way they want? I think the best test of all has been the coverage of the phone hacking scandal, and here I'm not just giving my own view but the views of a lot of people who we have asked. Do they think that the coverage in the Times and the Sunday Times has been comprehensive and objective and fearless? And people like Anthony Lester have, on the record, said they think it has been. Q. Can I just ask a number of follow-up questions. I think it's implicit from the first part of your answer that when consideration has been given to a new editor -- and that was Mr James Harding, in or about December 2007 -- the proposal was put to you by the proprietor; is that right?</td>
<td>A.</td>
<td>Absolutely.</td>
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<td>Q.</td>
<td>If that cause you any concern, that you weren't being offered a choice? That presumably wasn't your expectation under the terms of the Secretary of State's undertaking?</td>
<td>A.</td>
<td>Yes.</td>
</tr>
<tr>
<td>A.</td>
<td>It wasn't our expectation, but I should also perhaps add a more personal note here. I was editor of the Economist. The Economist has a system of trustees whose role is not dissimilar to that of the national directors of the Times and the Sunday Times, and in the case of my appointment, there was only one candidate put up by the board to the trustees for their consideration. I was interviewed by the trustees, who followed a very similar process. I found that perfectly satisfactory then and I found it satisfactory in the case of James Harding.</td>
<td>Q.</td>
<td>Thank you. Would you expect either of your editors to draw to your attention matters of concern -- this is outside matters of budgetary stringency -- by which I mean in particular excessive proprietorial influence? Q. I think I know the answer to this question: have either of them done so?</td>
</tr>
<tr>
<td>A.</td>
<td>No, they haven't. But we ask them the question from time to time to make quite sure that on particular issues and more generally there is any sense in which they feel subjected to pressure, and that is a very important part of what we're trying to do. Q. You make it clear at page 3 -- on the internal numbering, 23515, you see your presence as the editorial equivalent of a nuclear weapon which you have the button of, on which you haven't been required ever to press.</td>
<td>Q.</td>
<td>Thank you. Further on in this page, you consider whether the Times model is or might be seen as an appropriate model elsewhere. You point to the particular circumstances which gave rise to the creation of independent national directors in 1981; is that right?</td>
</tr>
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<td>Q.</td>
<td>Can I ask you about one particular aspect of this, and this is (d) on page 23516, level with the lower hole punch, where you say -- and I paraphrase:</td>
<td>A.</td>
<td>Yes.</td>
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Merrill Legal Solutions  www.merrilcorp/mls.com  8th Floor 165 Fleet Street  London EC4A 2DY
1. “Financial constraints are already restricting the freedom of editors.”
2. I just wanted to explore with you why you say that.
3. A. Well, I think all editorial budgets are under some pressure, at the same time as the world is becoming a more interesting and complicated place, and if you asked any editor what their ideal configuration of their editorial staff and particularly of their overseas offices would be, they would probably give you an answer that added up to rather more than the budgets they are actually having to operate under.
4. Q. And that is ever thus, I'm afraid.
5. A. That is correct.
6. Q. In file 1, under tab 8, you'll find a copy of your witness statement from 14 October last year.
7. A. Susan Lee Panuccio.
8. Q. In relation to the Economist, can you just help us with that? The role of the trustees, do they cover these areas or not?
9. A. Well, they are there to ensure that the editor has complete independence over his recruitment policy, promotion policy and, above all then, what is put in the paper week after week. And the editor can go to the trustees on any point if he felt that there was some undue pressure being exercised on him, and not purely a proprietorial pressure. In that sense, they are a sort of sounding board, a comfort.
10. MR JAY: Thank you very much, Mr Pennant-Rea for your evidence. We've read the rest of your statement, of course. I just wanted to allight, as I have done, on a number of specific matters.
11. LORD JUSTICE LEVESON: Thank you very much indeed.
| Q. | Have there been other examples that high, or is that an exception? |
| A. | That it is an exception. Certainly whilst I've been CFO there's been no other cash payments in excess of £50,000. There have been a couple that sort of are in the 30 to 40,000 range and we would pick them up via finance, because obviously we have to facilitate the cash, but it gets approved within editorial. |

| Q. | In relation to the Pakistani cricket story, what steps, if any, did you taking to satisfy yourself that (a) the payment was appropriate, and (b) you were getting value for money? |
| A. | So the way it would typically work, obviously a story of that nature is very confidential and very sensitive, and the editor would have a conversation with the CEO in relation to that story. I then had a courtesy call from the editor to say that he required the cash. We obviously had to facilitate the cash payment. I spoke to the CEO to ensure that they were comfortable with the story and the provenance of it and we facilitated the cash payment following that. |

| Q. | You cover staff expenses, paragraph 5.2.2, page 07798. |
| A. | Yes. |

| Q. | Has there been any change of practice or policy in relation to these expenses? |
| A. | So we have definitely seen that the usage of cash payments has gone down considerably. So I think up until December -- so we run over a financial year ending 30 June, so up until December, so six months, our cash payments were less than £50,000, which was significantly less than what they had been in the past. So I think, you know, the journalists, certainly within that first six months, were very nervous in relation to cash payments and obviously we were doing a lot of training. |
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1 and reinforcing a lot of policies. So I think there's
2 just a lot more awareness of cash payments and the fact
3 that we always have stipulated that where possible, we
4 should use non-cash payments as a general practice. So
5 I would say that yes, we have seen a reduction to that.
6 In relation to staff expenses, I think staff
7 expenses, certainly over the last few years and since we
8 implemented the new policy in March 2010, have been
9 pretty consistent.
10 MR JAY: Yes, thank you very much.
11 LORD JUSTICE LEVESON: If you take a story like the cricket
12 scandal, presumably there's a lot more money involved in
13 than that the payment for the story?
14 A. That's correct.
15 LORD JUSTICE LEVESON: And all that money is paid through
16 with an audit trail associated with it?
17 A. Yes. So there would be expenses incurred in getting the
18 story -- travel expenses, accommodation expenses,
19 depending on where the story is, and yes, all of that
20 would be auditable, have an audit trail.
21 LORD JUSTICE LEVESON: Thank you.
22 MR JAY: Thank you very much, Ms Panuccio.
23 A. The next witness is Mr James Harding.
24 MR JAMES PAUL HARDING (sworn)
25 Questions by MR JAY
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1 MR JAY: Please make yourself comfortable, Mr Harding. Your
2 full name.
3 A. Is James Paul Harding.
4 Q. Thank you. Might I ask you to bring to hand file 2,
5 entitled, "Bundle for News International, the Times and
6 Sunday Times". You're under tab 1. That is a witness
7 statement you gave and it is signed under a statement of
8 truth on 14 October of last year. Is that your truthful
9 evidence?
10 A. Yes, it is.
11 Q. You probably want to incorporate into that statement --
12 I don't know whether you have it to hand -- a leader in
13 the Times this morning. I have a spare copy for you.
14 A. Thank you.
15 Q. Which, it's fair to say, gives us advance notice of some
16 of the issues your evidence covers, but there are just
17 some isolated questions, if I may, on your witness
18 statement before I delve into the leader. You, of
19 course, are the editor of the Times and have been, is
20 this right, since December of 2007. Before then, you
21 had a career primarily at the Financial Times for 11
22 years, between 1994 and 2005; is that correct?
23 A. Yes, that's correct.
24 Q. Thank you very much. Some specific points on your
25 statement, which of course we've looked at carefully.
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1 A. Yes, that's right, and one of the other things we've
2 done is we introduced a few years ago just a little
3 column called "You the editor", which runs beneath the
daily letters page, and the purpose of that is to allow
4 people not just to comment on what they think is right
5 or wrong with the paper in a factual sense, but in terms
6 of emphasis, in terms of the way in which the paper's
7 been edited, precisely, as you say, to make sure the
8 readers feel as though they can comment on the paper
9 they get every day.
10 LORD JUSTICE LEVESON: And that's not the subject of
11 editorial modification?
12 A. No.
13 Q. Thank you. On the next page, 07823, under paragraph 3,
you say in the middle of that paragraph you seek to set
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19 (Pages 73 to 76)
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Q. The key to the reputation and, as you say, the commercial viability of the Times is your relationship with your readers, both current readers and, you hope, prospective readers. But how do you, as it were, log in to the aspirations, reactions and viewpoints of your readers to what you're producing so as better to improve your product?
A. Firstly, as you say, I think there's long been a view held by the readers of the Times, and certainly by editors of the Times, that the most important page in the paper is the letters page, that you understand the range of interests, the depths of the passions and also the extent of the knowledge of the people that you're writing for, that at the root of the paper is a respect for the intelligence of our readers.

In the modern world, of course, that comes at you every which way, so I will receive not just those letters every day, but emails directly to me, or I'll get telephone calls directly to the office. There's a running commentary, of course, on what the paper does and says on Twitter, not to mention in the pages of other papers or on other blogs, so I do feel as though we're keenly aware of what is being said about the paper, good and bad.

Q. On the issue of sources, paragraph 17 -- I think this chimes with the evidence of the previous witnesses, that aside from freelancers, it isn't the practice of the Times to pay sources for stories; is that right?
A. That's right.

Q. On the issue of collision between private rights and public interest, again, it may not be an issue which often affects what the Times is writing about, but how do you weigh up in general terms the public interest in publishing a story against the private rights of individuals? Where do you see the line falling?
A. Well, this is at the heart of the work of this Inquiry, I suppose. There is clearly no absolute right of privacy and there's no absolute right of freedom of expression, and I think that what you're always doing is addressing what is a sliding scale. The question you have to ask yourself is, when you authorise a level of intrusion or when a story is going to have a certain impact as a consequence of the exposure of the person or the institution involved: what is the merit of that only one source. So you will try to get multiple sourcing for any story but you wouldn't close the door on a story simply because it only had one source. You would just have to interrogate properly what the motives of that person were and what their role in that story was.

Q. Thank you. The question of sources you cover in paragraph 6 in a manner which I think is now quite familiar to us, but one straightforward question: do you ever print stories on the basis of one source alone?
A. Very, very rarely. But, yes, you would if that source was -- most likely if that source was pivotal in the story. There are, of course, stories where there is no other evidence, no other conversations that happen through the day.

The culture of the paper is set through those meetings, as well as, of course, the private conversations and the other conversations that happen through the day.

Q. Since your arrival in December 2007, what changes, if any, have you perceived in the culture of the paper?
A. Well, of course, the largest by far has been: how do you take a newspaper which, for 225 years, was printed entirely on paper, and say how do you produce editions of the Times that live up to what our readers expect of the Times but -- not in print but on screen? So one of the very big changes has been moving to a 24-hour newsroom, moving to a whole range of different devices and journalistically that, of course, has meant that we can do things very differently, the incorporation of videos and interactive graphics and all that.

So that means that our journalism is changing very rapidly, as is the way that our readers are consuming the Times.
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1. Clearly, that was an intrusion in terms of his life
2. and in terms of the individuals that had funded him.
3. I took the judgment that this was clearly in the public
4. interest and the nature of external influence on the
5. Secretary of State for defence was something the public
6. should know about.
7. LORD JUSTICE LEVESON: So the greater the public interest,
8. the higher the potential level of legitimate intrusion
9. can become?
10. A. I think so, yes.
11. LORD JUSTICE LEVESON: And it works the other way around?
12. A. I would have thought so, yes.
13. MR JAY: Thank you. Before I get to your ideas for the
14. future, which you've set out in detail and in writing,
15. a miscellany of questions. Was the Times offered the
16. MPs' expenses story?
17. A. Yes, I think we were one of a number of papers that was
18. approached about that story.
19. Q. By implication -- well, it's not a necessary
20. implication -- the Times turned it down. Why was that?
21. A. We generally don't, as I mentioned, pay for stories, and
22. on that occasion we took the view that we shouldn't be
23. in the business of paying for stolen goods, that there
24. would not necessarily be a public interest defence for
25. that. If you remember, sir, in this case, what you had

1. to pay for was the right to look at what you could look
2. at. So there was a fee, as I remember it, for looking
3. at the -- at a selection of the disks before you
4. actually acquired them.
5. It may be the case -- you know, hindsight is
6. a wonderful thing. You look back -- there may have been
7. a public interest defence in that case. There was
8. undoubtedly a public interest in the publication of that
9. story, and going back to the point you just made, if
10. there's a lesson there -- and I certainly -- this is
11. certainly the lesson that I drew, it was that you have
12. to have a set of rules in a newsroom, you have to have
13. a set of standards and a culture, but you also have to
14. be willing to break them in the event that you're
15. presented with a story that is overwhelmingly in the
16. public interest.
17. LORD JUSTICE LEVESON: That's quite a hard call before
18. you've got to the four corners of the story.
19. A. It is.
20. LORD JUSTICE LEVESON: Does that require some structure
21. around it for you or you're happy to say, "Well, that's
22. my call, that's what I get paid for and I don't need any
23. help to do that; I just need to be able to think about
24. it"?
25. A. Well, it -- I think there are two issues there. How do
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25 LORD JUSTICE LEVESON: All right.
24 you're endlessly reporting on yourselves.
23 necessarily, as I say, getting into a situation where
22 a way that you log the fact of these meetings without
21 have told me.  I think the issue here is to figure out
20 A.  You won't be surprised that that's what our lawyers also
19 prepared to waive privilege.
18 one caveat: I don't want a newsroom
17 to spend more time reporting on its own activities than
16 what's happening elsewhere, so I think our view is
15 that -- and what we're putting in place is an audit
14 trail which is clear that when there are issues of
13 concern, that we log those meetings and we can trace
12 back that --
11 LORD JUSTICE LEVESON: There must be a level below which
10 becomes unduly bureaucratic but above which it is
9 appropriate to do something. The trick is going to be
8 to find out where the level is, and that's a judgment
7 call in itself.
6 A.  I think so.  I think -- actually, I'm not sure that the
5 issue is at much the level as the mechanism. So in
4 our -- because sometimes it can be a very small issue
3 that actually grows into something much bigger.
2 LORD JUSTICE LEVESON: Yes.
1 A.  So I think the simplest mechanism, at least in terms of
the newsroom of the Times, is to be clear that when one
of our journalists is consulting a lawyer, that we log
the fact that that meeting has happened, because the
reality is that whenever there is an issue of concern to
a journalist -- is this going to raise concerns about
bribery, blagging, is this going to be a data protection
issue -- any of those, not to mention the big privacy
issues, the first instinct is to say, "Let's consult our
lawyers."

13 LORD JUSTICE LEVESON: You have to be a bit careful about
that, because if you're ever called upon to justify it,
you would want to know what somebody was thinking, and
the great snap about that, as I've seen in connection
with many of the statements that I've received, is
people say, "Hang on, this is legal advice and I'm not
prepared to waive privilege."
20 A.  You won't be surprised that that's what our lawyers also
have told me.  I think the issue here is to figure out
a way that you log the fact of these meetings without
necessarily, as I say, getting into a situation where
you're endlessly reporting on yourselves.

14 LORD JUSTICE LEVESON: There must be a level below which
the Times and perhaps even the Sunday Times -- but I'm
only asking you about the Times -- was rather slow to
pick up the phone hacking story, possibly because of
external pressures. Is that fair, Mr Harding?
7 A. If you look back at the coverage of phone hacking, look,
it's clearly the case that the Guardian broke that
original story in the summer of 2009. We followed that
story immediately the following day. We had a story up
online by lunchtime, another story in the paper the
following day. Through the course of the months that
followed, we covered it too, and occasionally on the
front page.

13 what changed, of course, was when it emerged that
the News of the World appeared to have hacked into the
voicemails of Milly Dowler. Then the way in which we
thought about what was happening or what had happened at
the News of the World fundamentally changed, and that
was not just about how widespread it was, but about the
nature of the journalistic inquiry there. And after
that, what you saw is that we covered that story on the
front page every day, day in and day out, for the better
part of three weeks.

3 A.  Yes.  Looking back I certainly wish that we'd got on the
story, it might be argued?

17 Q.  Might it not be said that you were a bit slow here?
16 I appreciate -- I think the timing of the Milly Dowler
story was 4 July of last year, but certainly for 18
months before that, the Guardian was saying, "Look, this
isn't confined to one rogue reporter; it was
widespread."  Wasn't it at that moment that the Times
ought to have had an interest in the importance of the
story, it might be argued?

3 A.  Yes, looking back I certainly wish that we'd got on the
story harder earlier. The reality, of course, is that
both News International and the police poured cold water
on it at the time, and we went to the sources that we

22 (Pages 85 to 88)
had to try and chase it up and ran off those. It was only later that we could fully get to grips with it, but of course it was and has proved a very important and significant story.

Q. I can't expect you to start identifying the sources you went to. Were they journalistic sources?
A. Sorry, I don't understand what you mean.
Q. You said that you went to the sources you had in order to find out whether the News International/News of the World line was correct: one rogue reporter. My query was: did you go to journalistic stories? What sort of source did you go to?
A. I think the point that I'm making is that, looking back on it, if you're trying to understand why was the Guardian better sourced on this story than the Times, I think the answer to that is self-evident: if you wanted to bring this story, you would probably not immediately bring it to a newspaper that was owned by Rupert Murdoch, precisely because you had that suspicion, even though I would take the view that that suspicion is wrongly held.

Q. Thank you. Can I ask about the question of proprietorial influence, if any. I suspect I know the answer to this, but do you feel under any influence?

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under pressure from the proprietor?
A. When I joined the paper -- I joined the paper just after the Times had endorsed Labour at the general election and the Sunday Times had endorsed the Tories, and it seemed quite clear to me that these were papers that were free to express themselves, politically and in all things, as they saw fit. In my experience, I should say, Rupert Murdoch had a number of undertakings when he bought the papers in 1981 and they are quite expressly made that there should be no interference in the opinion of the paper, in the political commentary of the paper, and my experience of that is that he's always respected that.

Q. Thank you. In terms of his contact with you, presumably most of the time by phone, how frequent is it?
A. It varies a great deal. So sometimes you won't hear from him for weeks, then occasionally there will be things that are happening and you'll get a couple of calls in a week. And usually that is driven by the news. So in the run-up to Christmas, we spoke quite often because he was very interested, as was I, in what was happening in the eurozone. He'd heard certain things he wanted to talk about. He wanted to know how I saw things. So in that context, he'll call and we'll discuss that, as well as other things.

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Q. Can I ask you please about your dealings, if any, with politicians, socially or semi-socially. I've asked similar questions of other editors. How often do you meet politicians in the highest office or shadowing those in the highest office?
A. I try to meet with them pretty regularly, by which I mean once every few months, once every six months, and -- I've noticed the fact that this has been an issue that has come up regularly in the Inquiry and I think I'd like to make the point that for journalists, access is very important. It's important to speak to the people that you write about to find out what's going on. Sometimes it will be to make the case to them when it comes to your criticisms of them, your questions of them, your complaints about the way in which they're handling things, and to give them a forum to answer to.

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I have no doubt they have their own agenda when they see us. I think I do, and I hope my journalists regularly speak to politicians and people of power and influence and do so to pursue journalistic lines of inquiry.

Q. How often since May 2010 have you met with Mr Cameron?
A. Um -- I don't have the number to hand, but he will now -- because -- do you remember since the summer they announced a log of every time we'd met? Do you have the number?

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Q. No, I think all we need is a broad sense of the number?
A. Since May 2010, so in the last year and a half? I would have thought around half a dozen times, maybe a bit more, but I'm happy to go back and check and give you the exact number.

LORD JUSTICE LEVESON: I don't know that that's important, but I just don't want you to miss the point that I think is behind Mr Jay's question. It's entirely understandable that journalists will want to pursue stories with politicians, with generals, with bishops, with judges, with whomsoever you like in our society on a general level. The real question is whether, because of the extent of the contact, it is possible for newspapers overly to influence government policy. An example could be the decision not to implement the amendments to the 1998 Act.

A. Oh, I see. (Pause)

All I can say to that is that's not been my experience. My experience is that the subject of the conversations that we've had are always the matters of the day, that actually when we get in the room, the conversation that you have with the prime minister or the chancellor or the leader of the opposition is: what direction are they taking the economy, what do they think they should or shouldn't be doing on issues of...
A. Sometimes, a journalist or an editor will be gripped by a particular issue or idea and will make a point of going after a particular line of reporting. So in the last year, the Times has reported again and again on, you might say, a campaigning footing about the scandal of adoption in this country and the failures of our adoption system. And similarly, we have sought, over a period of more than two years, to draw attention to the plight of a woman, Sakineh Ashtiani, who has been imprisoned and threatened with the death sentence and threatened with stoning, and you would say our coverage of that has been disproportionate. It has been in the service of an agenda. Of course it has, and that's what newspapers should do. So I make that small defence.

I think that when people talk about agenda-driven reporting in terms of more broad news coverage and the service to our readers that we provide in telling them what's happening in their communities and countries, the point I'd make is that that really misunderstands the nature of a newsroom and the nature of journalists. We are a pretty independent-minded bunch of people, and we want to pursue the story and pursue it where it leads us. If you try to constrain journalists, what you'll often find is that you don't get the best people working for you and you don't land the best stories, and actually, more broadly, when it comes to issues of

...
A. It's been significantly influenced by what's been happening here in this room. If you believe deeply in a free press and free expression, what is happening here is of enormous importance, and of course you've been affected both emotionally by some of the evidence that was given right at the beginning of this Inquiry but also forced to think technically about some of the possible responses that you will make to it.

Q. In terms of the evidence the Inquiry received -- and of course, Lord Justice Leveson will form his own view about it -- was that evidence a revelation to you or did it merely chime with your own perception of where we were with the press generally or certain quarters of it in particular?

A. Both. At times, you were surprised and at times people said things that you were familiar with. I think if you talk about this leader and the way in which what's been happening here has shaped it, some of the issues that we wouldn't -- that I wouldn't previously have been quite so exercised about I've become much more exercised about, and some of the small -- not smaller but some of the more technical questions have seemed to me -- have loomed much larger. So -- I don't know whether you want to go into it in any detail?

Q. Yes. Yes, please.

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1 actually, the more I thought about that, the more deeply
2 opposed I was to that, because either that backstop
3 would have been meaningless, ineffectual, or what you
4 have is actual state regulation.
5 LORD JUSTICE LEVESON: Now let me change the word "oversee",
6 and let me say "provides only a framework".
7 A. Right, this is, I guess, the third element of it.
8 I have to confess in the recent weeks I was coming
9 around to the idea that what could happen at the end of
10 this Inquiry would be that Lord Justice Leveson, you
11 would outline a new framework for regulation and it
12 would be recognised in an Act of Parliament, and the
13 more I thought about that, the more uncomfortable I was
14 with it, and it's for this reason: instead of looking
15 back at what's happened in terms of phone hacking over
16 the recent years, if you look forward ten years' time,
17 and a Leveson Act was in place, my concern is that you
18 would be a journalist walking down Downing Street or
19 walking into the Commons and be aware that if you were
20 potentially too critical or possibly if you sought to
21 curry favour, that could play out in terms of
22 politicians using the Leveson Act and using -- making an
23 easy amendment to the Leveson Act to take that out on
24 you.
25 So I know there is -- some people take the view:

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1 well, actually, if the press behaved very badly in ten
2 years' time, Parliament could anyway legislate against
3 you. But I think that the creation of a -- I call it
4 a Leveson Act -- would give a mechanism to politicians
5 to loom over future coverage, to respond to the bad
6 press they're getting by making an easy amendment to
7 that legislation and that would have a chilling effect
8 on press freedom.
9 So I end up in a very, very strong position, which
10 is: I would not like to see any form of statutory
11 regulation of the press.
12 LORD JUSTICE LEVESON: Yes. You carry on and I'll bring it up again.
13 MR JAY: Can I just test this a little bit, Mr Harding?
14 First of all, let's imagine that we want to create
15 a regulator, properly so-called, we want to give it
16 a name and we want to decide how it's going to be
17 comprised. We could have an Act of Parliament which
18 establishes the framework, but then does two things:
19 one, sets up an independent body to decide who's going
20 to comprise the regulator, and secondly then, the
21 regulator will, by definition, have, one would hope, an
22 independent and impartial group of people who could
23 start regulating the press.
24 Is there any principled objection you would have to

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1 that, notwithstanding that that system has its genesis
2 in an Act of Parliament?
3 A. So the system that you talk about, ie having an
4 independent regulator which the press funds and the
5 press respects but does not appoint, does not set the
6 rules, does not manage the adjudications, that seems to
7 me to be entirely right. As we say in the leader, we
8 have to move away from a system where we're seen to be
9 marking our own homework. So an independent regulator
10 is essential.
11 What I don't like is the prospect of that being
12 enacted by Parliament, because my concern is that once
13 you have that legislation on the statute book, any
14 future infringements by the press, any future failings
15 by the press -- and there will be -- there will be --
16 whatever we come up with here, there will be
17 shortcomings -- it gives politicians the opportunity to
18 say, "Well, Lord Justice Leveson's work was good but
19 we're going to just ratchet it up a little bit through
20 this amendment or through that small act of
21 legislation", and that's something I'd like to -- I hope
22 that this Inquiry will think about.
23 LORD JUSTICE LEVESON: Well, we're thinking about everything
24 but the whole point that Mr Jay is getting at is that
25 all one is doing is enabling the work of an independent

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1 regulator, the difficulty with it being: if you don't do
2 that (a) you don't need to join the club, and that's
3 a real issue, and (b) you can't have a mechanism, which
4 has certainly attracted some of your colleagues, that
5 provides for a swifter, more expeditious and cheaper
6 resolution of the types of issues that bring members of
7 the public into conflict with the press.
8 A. But, sir, what are you saying there? Because if you're
9 saying that it's only through recognition and an Act of
10 Parliament that you're going to be able to bind people
11 into that regulator, what does that mean?
12 LORD JUSTICE LEVESON: Well, the question is -- I'll put it
13 quite bluntly: how do you solve the problem of
14 a substantial publisher of newspapers saying, "I'm not
15 prepared to participate in your independent regulator,
16 either (a) because I don't like any of them, or (b)
17 because I spend all my time criticising them and I don't
18 particularly want to give them a chance to have a go at
19 me; they wouldn't be very supportive"?
20 A. But does that mean that you think that you have to, in
21 the end, have a system whereby you have -- where you
22 have compulsory compliance? Because then you have
23 a system of licensing of newspapers.
24 LORD JUSTICE LEVESON: I'm not thinking anything yet.
25 A. I -- yes.

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26 (Pages 101 to 104)
25 A. And I would say that it has to be sufficiently robust, but in the event that in a decade's time you had an amendment.

1 LORD JUSTICE LEVESON: And I have to continually say this: I haven't made up my mind about anything. Watch my lips: I haven't. I am simply trying to tease out what are the real issues and how best to create a mechanism or recommend a mechanism -- it will be for others, in part the press and in part others, to decide what will happen -- that will work.

2 A. Yes.

9 LORD JUSTICE LEVESON: The absolute priority I have is that it should work, because I am struck by the history of this sort of exercise -- not quite, an Inquiry under this legislation -- the number of times it has happened since the war. I don't think it's very good for the country, I don't think it's very good for the press, but whatever one does, then there's another Inquiry, last-chance saloon, "We'll be better", then another one. This is why I have postulated this graph of immediate improvement after some disaster and gradual drift until the next disaster, and then a big story will happen, and you've said it yourself: there will be trouble. So the system has to be sufficiently robust to cope with the trouble, so that in ten years' time we don't have to do the whole thing again.

24 A. And I would say that it has to be sufficiently robust, but in the event that in a decade's time you had an incident along the lines of the BBC's reporting of the run-up to war in Iraq but it happened not to be the BBC but a bunch of newspapers, I would be very concerned that politicians would react to that reporting by saying, "We have the Leveson Act on statute and we're now going to make a number of amendments to make sure that this kind of thing can't happen again."

8 LORD JUSTICE LEVESON: But what I really can't grasp, and I'd like to, is what the difference is. Because it's not very difficult for a parliamentary draftsman to start on a blank piece of paper with an Act or to amend another Act. So if you've really wound up the government by what you've done, then we all know of examples where immediate reaction leads to swift legislation, normally which has all sorts of problems associated with it. Certainly, wearing a different hat, I'm only too conscious of legislation that's been speedy and ill-sufficiently planned.

19 A. But, sir, there is a big political difference between amending an existing piece of legislation and putting new legislation on the statute book, particularly when it is going to be the first piece of legislation that articulates regulation of the press.

24 LORD JUSTICE LEVESON: But it won't --

25 A. There is a political hurdle there that is different from
1. Perhaps -- then you could begin to see the makings of an
2. objection because the state again would be determining
3. who would be doing the reporting?
4. 
5. A. Yes, you would have ripped up the principle of free
6. speech, yes.
7. 
8. Q. But if we fall short of doing any of that and we keep to
9. a framework under which, although the state sets up the
10. regulatory body, the regulatory body itself or via
11. a different body -- whether we call it a press
12. commission, it doesn't matter -- decides who's going to
13. sit on the regulator but the state has no influence over
14. who sits on the regulator -- do you follow me?
15. 
16. A. Yes.
17. 
18. Q. -- then your principal objection falls away, because the
19. state has merely set up the framework, has put the baton
20. down and then allowed the regulatory body to get on with it. Do you accept that?
21. 
22. A. I do. I guess my point was I was coming around to
23. seeing that as, if you like, the least-worst objection, and when I thought about it with an eye to the future, I thought: my concern here is that I do not want journalists at the Times, years from now, walking into the offices of politicians talking about ourselves, rather than the issues that face the country, and that we have an interest in behaving in a certain way in those offices rather than behaving in the way that journalists should, which is in pursuit of the story.
24. 
25. Q. The other key point I'd like to make is that: provided that the state has absolutely no role in the standards which the regulatory body sets itself -- and those standards are purely for the body to decide, either in consultation with the press or wholly independently, but there's likely to be a consultation process -- then again, the principled objection falls away because the state has no hold over what journalists can do. Do you accept that?
26. 
27. A. Actually, the practical objection falls away. I think the principled objection stands and the concern would be over time, again, that in the event that politicians were unhappy with the press they were getting, they would say, "You know what? We should just tighten one thing up, and the thing we should tighten up is the oversight of standards. It will be easy to do; we'll just make an amendment to the Leveson Act."
28. That's my concern, and I'm sorry we're labouring the point. Obviously, as you know, before the war, the Times endorsed appeasement. There was a real concern that a newspaper of influence and importance had got too close to government. I think it's really important that we avoid that.

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1. LORD JUSTICE LEVESON: I'm sure that's right, and one may be looking at the least-worst possibility. That may be so. But if I just pick up a couple of the other points you suggested in your leader: have you done any work on whether the VAT legislation would permit an exception to be made, given that VAT tends not to be attracted on printed matter, whether it be newspapers or book, but on other matter? That's not just a question of national law; it's a question of European law.
2. 
3. A. European law. As you noticed, at the start of the leader we said it's an unenviable task. The answer that we've had when we've looked into this issue has been quite contradictory. Some people said it is possible to do; others have said it's very difficult to deal with similar products in different ways for tax purposes.
4. 
5. LORD JUSTICE LEVESON: Discriminatory.
6. 
7. A. But as I say, unfortunately we've had contradictory responses to that from the same place, so we're -- as we said in the leader, we realise that you need to have a muscular and independent regulator and it needs to bind in newspaper publishers and to do that we think it needs to sound in the pocket of proprietors, and what I hope we've listed here are a few ideas that are worth exploring. I'm sure -- these may be good; there may certainly be better ones out there.

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1. LORD JUSTICE LEVESON: That's what you and your fellow editors can carry on thinking about.
2. Yes, Mr Jay.
3. 
4. MR JAY: If we move on now to the Internet. Those who publish on the Internet are subject to the general law and to the law of tort. May there not be a difference generally and what happens on the Internet? The Internet is merely an expression of an opinion by a blogger or whoever. It carries no more or no less weight than that. But that which appears in your paper -- and we'd like to think everybody else's paper -- carries with it a specific imprimatur, that an editor has approved it, it has been carefully sourced, et cetera, et cetera, and therefore that we see in the press is, by definition or as a matter of practice, much more weighty than that we read on the Internet and it's because of that that it requires a measure of regulation. Do you accept that?
5. 
6. A. I think that certainly was true. I think that may even hold to be true now. I'm not sure that that view of things will endure. If you look at the speed with which individuals are gaining really huge followings on Twitter, for example, or through Facebook or through their blogs, you're seeing individuals have huge followings.

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readership, sometimes bigger than national newspapers, and I think it will feel – we'll very quickly feel as though we're in a strange world, where there are significant constraints on publishing in a newspaper or beneath the masthead of a newspaper but those can easily be circumvented through any digital means of communication.

Q. The issue of prior notification, a separate issue. One puts this forward not as an absolute requirement -- there is unlikely in this area to be any requirement which is absolute -- but, as it were, a presumptive requirement that generally speaking one should follow the principle of prior notification unless you can demonstrate exceptions to it. After all, you've heard the Pandora's box point, that once privacy is invaded, privacy is lost forever. With that refinement, would you accept the good sense of prior notification?

A. Yes. I think I do. I hope what we've laid out here on prior notification is essentially two points. One is: of course it's right, where possible, to contact people in advance and it's right for reasons of decency that you mention it. For reasons of accuracy, you want to make sure you hear their side of the story.

The concern that I have is simply: how do you recognise that in the future? And I think there is Page 113

1 understandable concern amongst journalists that any significant requirement or any significant obligation to -- for prior notification will result in a surge of injunctions, which even if they are -- if they go through the courts and we take the time and the money to deal with them, the correct outcome is one that we see at the end. I'd be very concerned about that.

But there was a practical point I really wanted to make about prior notification. I remember a fair few years ago I was reporting a story for the FT. I was covering media, and I got a tip-off that one big media company was about to launch a bid for the other, and I called the person I knew of that company and someone picked up the phone and said -- it was late in the evening by now -- "I'm the cleaner, I can't help you." So I called another number there; turned out I got the cleaner. And I called a third and again I got another cleaner. And it later emerged, many years later I discovered that the person who ran the company had heard that I'd been tipped off about it and informed every single person in the office that if they picked up the phone, they should say they were the cleaner.

This is a rather elaborate way of saying: if you make a requirement of prior notification, you could very quickly get yourself in a situation where, because the journalist cannot deliver that notification, they cannot publish.

LORD JUSTICE LEVESON: It can't work that way.

A. That's my one hope. I hope there's a simple way of dealing with this, which is: if you look in the PCC code, as things currently stand, editors have to justify intrusion without consent. I think editors should have to justify intrusion without consent or prior notification.

MR JAY: Yes. The slightly odd feature about this is that virtually all the editors we've heard from have said in fact it is their practice, but not an invariable one, to give prior notification to their targets.

A. It is.

Q. It's a bit of theoretical argument.

May I turn to the issue of public interest on the right-hand column. I think what you're arguing for there is a public interest defence which applies to all laws that affect information-gathering, and I suppose that would also cover logically the laws which relate to phone hacking, which are laid out in the Regulatory Investigatory Powers Act 2000. Have I correctly understood where you're coming from?

A. It would. We touched on this right at the beginning, which is to say that if a story is of significant enough public interest, you should be able to justify the intrusion. The world we live in now is very odd, because I fear that the public interest defence we have is currently too narrow and not sufficiently robust, but more than that, it's very uneven, so it applies to some laws and not to others. So we're in the odd situation that blagging -- you can impersonate your way to securing a document, but you could not buy that document, say, from the knowledge that you had a public interest defence.

And I would say that if we are going to move to a world, which I expect we will do, where we will have a more muscular regulator and there will be expectations that the press treat people better, press freedom will be best defended by having a very strong and widely enforceable public interest defence.

LORD JUSTICE LEVESON: Possibly we could come back to that at 2 o'clock, but let's just think about this on the way: the effect of your leader, which is the response to all that has happened and has led to the Inquiry, is this right, is to recommend legislation to allow the press to publish more?

A. The response is this, is to say: we recognise, the Times recognise, that this Inquiry has a very difficult task, that it will want to, and rightly should ensure that Page 115
the press treats people better in the future, and that it does so by giving them meaningful terms of redress in terms of their corrections, by giving a greater expectation of prior notification and a regulator that has the power to investigate and to punish. But at the same time, if you are going to ensure that there is press freedom in this country, you should look to -- or I hope this Inquiry will look to a more robust and more widely enforceable public interest defence. That's our conclusion.

LORD JUSTICE LEVESON: I'd like to test some ideas on that with you, but we'll do it at 2 o'clock. Thank you very much.

(1.02 pm)

(The luncheon adjournment)