

<p>1 saying, and what you're saying you're going to do, but 2 obviously you can't be tested in terms of your actions. 3 Much press media reporting of politics is copy which is 4 framed by reference to the government, and these days 5 it's part of our culture, most of those stories are 6 knocking stories in one way or another. So what you get 7 is very close, sometimes cosy relationships being built 8 up between particular journalists and particular 9 opposition spokespeople, and it can become very, very 10 close, sometimes incestuous. And we all had to try and 11 do that.</p> <p>12 So when I was education spokesman between 1987 and 13 1992, there were education correspondents who I worked 14 with. When I became home affairs correspondent -- home 15 affairs spokesman between 1994 and 1997, again there 16 were home affairs correspondents that you would work 17 with and build up stories and enjoy the results.</p> <p>18 But that has to change when you go into government, 19 and I think one of the reasons -- there was a bigger 20 reason, but one of the reasons why collectively the 21 Blair government was too close to some people in the 22 press was because of our experience in opposition and 23 we'd not stopped and thought: hang on, we can't continue 24 to operate in that way in government.</p> <p>25 Q. I will pick that point up a little bit later, Mr Straw.</p> <p style="text-align: center;">Page 5</p>	<p>1 A. Not even I was there at the time, but my grandfather was 2 and remembered it, and so I remember him telling me this 3 with great bitterness, about how Labour had been 4 deprived of -- the government only lasted eight months, 5 in 1924.</p> <p>6 They were more powerful in one sense, hence Stanley 7 Baldwin's complaint, but all the broadsheet papers and 8 actually papers like the Daily Mail and the Daily Mirror 9 used to report what was going on in Parliament as 10 a public service, and that started to disappear, in fact 11 I think coincidentally with the televising of 12 Parliament. But as I submitted, sir, to the Inquiry, 13 I got a young researcher who was working with me as an 14 intern in 1993 to do a lot of work in a newspaper 15 library in Colindale charting the decline of reporting, 16 being pretty stable and then it shot down, and the 17 effect of that, and it's led to -- contributed to 18 ignorance by the public about what happens.</p> <p>19 I mean, just to give you an example, this is subject 20 to correction, but the online editor of the Times, 21 Mr Philip Webster -- he's been -- great man, been there 22 forever -- he started work working in the press gallery 23 of the House of Commons, and he's told me that at that 24 time there were 12 people in the gallery, not the lobby, 25 whose sole job was to produce the 7,000 words a day</p> <p style="text-align: center;">Page 7</p>
<p>1 The general points you make in paragraphs 20 and 21, 2 02548, are points which we've heard from other 3 witnesses, in particular the need to sensationalise, 4 really.</p> <p>5 A. Yes.</p> <p>6 Q. Because the truth may be prosaic and boring, but if you 7 add the spice of a personality clash or conflict, it 8 becomes more interesting. This is paragraph 20.</p> <p>9 A. Yes.</p> <p>10 Q. And then the problems of print media in seminal decline, 11 Mr Campbell spoke to those matters. Are there any 12 points you would wish to elaborate?</p> <p>13 A. Two sets of points. One is there wasn't ever a golden 14 age of journalism, and indeed before television and 15 radio got going, of course the newspapers were even more 16 powerful than they are today, and part of the folk 17 history of the Labour Party is still there. But 18 certainly when I -- it is about the role the Daily Mail 19 played in the defeat in the second election 1924 when 20 they published this Zinoviev letter suggesting that the 21 Labour Party had received Moscow gold, which 22 subsequently, but a long time afterwards, turned out to 23 be a complete forgery, and no question it assisted our 24 defeat.</p> <p>25 LORD JUSTICE LEVESON: You have a long memory, Mr Straw.</p> <p style="text-align: center;">Page 6</p>	<p>1 which reported what had happened in Parliament. So if 2 you wanted to know what had happened in Parliament, as 3 opposed to what the background stories were, where the 4 fights were, that would be there. And that was also 5 true when I went into the House in the late 70s, and 6 that's gone and it's been replaced by this sort of 7 personality conflict-based journalism.</p> <p>8 So if you're pursuing a policy which is consensual, 9 which ought to be a good thing, the papers in their 10 editorial columns will say why aren't you going for 11 agreed policies with the opposition? Often you are, 12 probably half the legislation that goes through is 13 agreed, but nobody notices and that has a knock-on 14 effect of not being examined.</p> <p>15 The second point I'd make, Mr Jay, is this, that 16 although television and radio have become, and now the 17 Internet, much more powerful and to some extent balance 18 the print media, it is still the print media that sets 19 the news values, and I was very struck that in Mr Adam 20 Boulton's written evidence, paragraph 17, he brings that 21 point out, that they set the news values and they set 22 the news values for the broadcasters as much as they do 23 for their own colleagues in the print media.</p> <p>24 Q. Special advisers now, Mr Straw, paragraphs 27 and 28. 25 When you were in high office over a 13-year period,</p> <p style="text-align: center;">Page 8</p>

<p>1 presumably you had special advisers. Can you assist us, 2 approximately how many?</p> <p>3 A. Yes, I had -- any one time you were allowed two special 4 advisers and I had one who was on the policy side and 5 the other who dealt -- on the media side. And on the 6 media side, I only had two fill that slot. One was 7 a man called Ed Owen, who'd been with me in opposition 8 in 1993 and stayed until the General Election in 2005, 9 and then the second was a man called Mark Davies, who 10 was with me from 2005 to 2010. Both were journalists, 11 they came to the job as journalists, and their job was 12 to have direct relations with the media but also to 13 co-operate and work closely with the Civil Service press 14 officers.</p> <p>15 Both were completely straight and are completely 16 straight and I wouldn't have employed them for a second 17 if they'd not been, and they had a good reputation with 18 journalists for being straight and for -- I think for 19 not being manipulative, and that's how I wanted it.</p> <p>20 I'm afraid my observation -- and bear in mind I was 21 a special adviser in the 70s -- is that they're a very 22 mixed bunch, special advisers, and to some extent they 23 reflected the personality and quirks of their bosses, 24 and some people in politics are obsessively 25 conspiratorial and think that the only way you can make</p> <p style="text-align: center;">Page 9</p>	<p>1 have found out immediately.</p> <p>2 Q. Okay. Aspects now, Mr Straw, of your own individual 3 practice. This is paragraph 30 of your statement and 4 following. Our page 02550. You explain in 5 paragraph 30:</p> <p>6 "I have known a number of the senior 7 journalists/editors for years, and we have each other's 8 contact numbers. The political editors/senior 9 correspondents would often call for a steer on issues -- 10 how forthcoming I was would depend on a number of 11 factors."</p> <p>12 One can understand the underlying reasons for that. 13 Can I ask you about Mr Dacre, who you identify?</p> <p>14 A. Yes.</p> <p>15 Q. You've known him since university in the late 1960s, but 16 since then, how frequently do you meet him?</p> <p>17 A. Not that often. I mean, I -- but he -- as I say, it's 18 a respectful acquaintanceship. I mean, it's not 19 a friendship. It could have been a close friendship, 20 but it isn't. That's just how it's been. I'd have to 21 trawl through my diaries, but I guess I -- aside from 22 when there was policy business to deal with, as there 23 was towards the end of my period at the Ministry of 24 Justice, I probably see him for lunch or so maybe once 25 a year. I might bump into him in other environments.</p> <p style="text-align: center;">Page 11</p>
<p>1 your way is by being involved in all kinds of 2 conspiracies and stuff, and so you -- they employ 3 special advisers who were similarly up to fancy tactics, 4 which led to their boss's share price rising for 5 a period, more than the generality, and then invariably 6 the share price crashed and quite often the ministers 7 themselves ended up having to resign. But this was 8 a long learning process.</p> <p>9 Q. The extent to which your media special advisers acted 10 under your general direction, can you help us with that?</p> <p>11 A. They acted under my complete direction, it wasn't 12 general direction. I knew what they were doing. I knew 13 in real time what they were doing. First of all, they 14 were in and out of the office. They were effectively 15 part of the private office. In each case they were on 16 exactly the same floor, and so, for example, in the 17 Foreign Office, there's one -- although it's an old 18 building, one area which -- so they were just in/out(?) 19 and the same is true in, say, the Ministry of Justice.</p> <p>20 I was thinking about this. If there had ever been 21 a moment where they'd acted inappropriately, then 22 somebody else in this very open environment -- I mean, 23 ring of confidentiality, but very open environment 24 itself, would have told me. The Private Secretary, the 25 Permanent Secretary, a press officer. They just would</p> <p style="text-align: center;">Page 10</p>	<p>1 I mean, I could, Mr Jay, if you wish, trawl through my 2 diaries and ask Mr Dacre to do the same, but -- I was 3 president of the students' union at Leeds in my last 4 year and I think he was very -- obviously a very 5 talented young journalist when he arrived in Leeds and 6 he became the editor of the Union News very quickly, so 7 I think he was in his first year, but we rubbed along 8 and as I say there was, I think, a position of kind of 9 mutual respect there.</p> <p>10 As I said in my evidence, my relationship with him 11 has been made more straightforward because his political 12 views and mine and those of his newspaper are different. 13 I mean, I've never ever held my breath that just because 14 I knew Mr Dacre, somehow or other, in the editorials on 15 election day, saying that people would be insane if they 16 voted Labour, there would be a sort of codicil saying 17 but it's okay in Blackburn. That doesn't happen, I've 18 never expected it. So it's a clean relationship.</p> <p>19 Q. I think your flavour of your evidence is that the 20 exchanges between you are not frequent, or indeed 21 perhaps any text messages, rarely spoke on the mobile 22 telephone, is that it?</p> <p>23 A. With Paul Dacre?</p> <p>24 Q. Yes.</p> <p>25 A. No, I don't think I've ever exchanged a text message</p> <p style="text-align: center;">Page 12</p>

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<p>1 with him. Sometimes I've -- in fact his email -- 2 famously I don't think he does -- he's a bit like 3 Mr Blair in this respect. I don't think he uses 4 computers. So to -- when I wanted to send him something 5 by email, I've sent him that to a PA in his office. 6 I have his phone number on my system, but I can't 7 remember, I don't think I've ever sent him a text.</p> <p>8 Q. Did the relationship change at all when Mr Brown became 9 Prime Minister, because, as we know, Mr Brown is much 10 closer to Mr Dacre than was Mr Blair to Mr Dacre?</p> <p>11 A. Yes, Mr Dacre -- it's for him to say, but I think you'll 12 find that Mr Dacre was sceptical about Mr Blair in a way 13 that -- well, he was less sceptical about Mr Brown.</p> <p>14 It did partly because Mr Brown, before he became 15 leader, with a view to becoming leader, had had 16 conversations with Mr Dacre about Mr Dacre heading up an 17 inquiry into the 30-year rule. I meanwhile, that in 18 a sense was a done deal as Mr Brown became 19 Prime Minister, but I then took on the operational side 20 of that inquiry. And of course subsequently there were 21 a lot of conversations with Mr Dacre and other senior 22 colleagues from the press about Section 55 of the Data 23 Protection Act and the increase in sentences.</p> <p>24 Q. We'll come to the detail of that.</p> <p>25 LORD JUSTICE LEVESON: Just before you go on, can I go back</p> <p style="text-align: center;">Page 13</p>	<p>1 LORD JUSTICE LEVESON: I wasn't seeking to be personal, 2 I was merely seeking to examine whether you'd taken 3 a decision which, in the light of what you said, would 4 be entirely understandable that, well, here was a guy 5 I did get on with, oh, sure, I could try to get to know 6 him, but actually, because I think there is an issue 7 about closeness --</p> <p>8 A. I see, yes.</p> <p>9 LORD JUSTICE LEVESON: -- then I won't. And if you did 10 reach that conclusion, I'd be interested to know is this 11 going back umpteen years, because it's very relevant to 12 the issues that we've been talking about about the 13 extent of closeness of relationships.</p> <p>14 A. My instinct always was not to get too close, so 15 I think -- although I think it was a rather inchoate 16 view of mine at the time, that was my instinct, that you 17 shouldn't get too close. And I was so -- for example, 18 if I was getting worked over in the press, which happens 19 from time to time if you're a minister or opposition 20 politician, sometimes fairly, sometimes unfairly, my 21 view always was not to try and phone up an editor and 22 complain about it because I just thought it would make 23 it worse and it would look pretty weak and with a bit of 24 luck they'd think of something else to write about. You 25 know, you might be lucky. Normally I was. But there</p> <p style="text-align: center;">Page 15</p>
<p>1 to a phrase I rather like: "respectful 2 acquaintanceship". Was that because you or he felt that 3 your respective paths took you in different directions 4 and therefore that was the best way, or was it just 5 a coincidence and that's just how it went and you 6 wouldn't have minded if it had been more? Do you 7 understand the question I'm asking?</p> <p>8 A. Yes, I do. There was no -- I don't think there was 9 anything explicit. At university all of us -- you meet 10 people and I say I was never close to him, it was 11 a respectful relationship, nothing more. Our paths 12 could have crossed more afterwards, but they didn't, and 13 so I think there was quite a period when I was in 14 London, and indeed working briefly at the bar, when 15 I didn't have anything to do with him, so it could have 16 developed.</p> <p>17 I think that it was completely unsaid, but I mean as 18 far as I gather he's pretty private about his family 19 life, we are about ours. We have never turned our 20 houses into sort of salons for politicians, we liked -- 21 almost all of our personal friends, our family friends 22 are not politicians, or journalists for that matter, 23 they're friends. So -- I have no idea who Mr Dacre's 24 circle of friends are, but I suspect they're rather 25 similar.</p> <p style="text-align: center;">Page 14</p>	<p>1 was nothing much to do about it, and I might get the 2 special adviser or the press officer to talk to the 3 journalist concerned, but not to go bleating to the 4 editor, because what's the point?</p> <p>5 Does that answer your question, sir?</p> <p>6 LORD JUSTICE LEVESON: Yes. It's really the inchoate 7 thinking.</p> <p>8 A. Yes.</p> <p>9 LORD JUSTICE LEVESON: Because you're talking now about over 10 30 years.</p> <p>11 A. Yes.</p> <p>12 LORD JUSTICE LEVESON: And one of the interesting issues for 13 me is whether what everybody now concedes has become an 14 overcosy relationship is recent or really endemic in the 15 system, and from what you're saying, I'm getting: well, 16 at least from my perspective it was never endemic 17 because I, perhaps inchoately, perhaps subconsciously, 18 always decided that that wasn't a sensible line.</p> <p>19 A. Yes. I think, sir, that is true. Is it recent? No, 20 it's not recent, and -- I mean it's as old as the 21 popular papers.</p> <p>22 LORD JUSTICE LEVESON: Well, one can go to Beaverbrook and 23 Northcliffe --</p> <p>24 A. Beaverbrook, Hugh Cudlipp, if you think about the 25 relationship between Hugh Cudlipp and the Labour</p> <p style="text-align: center;">Page 16</p>

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<p>1 governments. And when I worked for Barbara Castle, 2 who'd been a journalist, and -- I think the best way of 3 describing Mrs Castle for those who didn't know her was 4 that she was very much the Labour equivalent of Margaret 5 Thatcher. So she had very strong opinions about people, 6 and she kept a list in her head of journalists she liked 7 and was willing to talk to and journalists she detested. 8 I remember there was one called Nora Beloff on the 9 Observer and she used to spit about Nora Beloff, almost 10 literally, and the Lobby, of course, in those days was 11 very -- the press Lobby, with a capital L, was very 12 tight, 60 journalists, sort of Freemasonry, so they -- 13 it was even more incestuous than it is today.</p> <p>14 I'm not saying how I would have operated in that 15 system, except I think that it's a wise politician who 16 just keeps a bit of distance.</p> <p>17 MR JAY: Thank you. Paragraph 34, Mr Straw. You look at 18 the Sun and its particularly important role in the 19 fortunes of the Labour Party. Can I ask you please to 20 elaborate on what you mean halfway down where you say: 21 "Mr Murdoch has played a power game with political 22 leaders." 23 A. Yes. The political leanings of most newspapers in 24 Britain are predictable, so the Daily Telegraph is going 25 to be supporting the Conservative Party, the</p> <p style="text-align: center;">Page 17</p>	<p>1 their readers were and they spotted between 1992 and 2 1997 their readers were going to support Labour so they 3 followed them, but it's a more complicated set of 4 relationships than that, and I think that the perception 5 I've had was Mr Murdoch has enjoyed the fact that he has 6 been willing to play with political leaders in a way 7 that the senior executives of the other papers have 8 not -- you know, have not, because their loyalty 9 ultimately is predictable.</p> <p>10 I hope that explains what I meant there.</p> <p>11 Q. There are three ways perhaps one can analyse power game. 12 One is just a piece of enjoyment that doesn't lead 13 anywhere. The third, and it's the most extreme, it's 14 a game which is deadly serious because underneath it 15 there's an express deal. And then there's something in 16 between, but can I just understand this. You said in 17 return for what he thought he would or could get out of 18 it? 19 A. Yes. 20 Q. Can I ask you to explain what you mean by that? 21 A. I've never had this conversation with him in my life. 22 I've obviously met him but I scarcely have had more than 23 a paragraph of conversation with him ever. This is just 24 my sense. 25 He's very interested in power for its own sake,</p> <p style="text-align: center;">Page 19</p>
<p>1 Daily Mirror is going to be supporting the Labour Party. 2 From recollection, I think there are only two newspapers 3 that are unpredictable. One is the Guardian and the 4 other is the -- three of the four at News International 5 papers. The Guardian normally supports the Labour 6 Party, but except in elections where we really need them 7 to support us, it supports the Liberal Democrats, so it 8 did in 1983 and it did again in 2010. So it's sort of a 9 fair weather friend. It won't support the 10 Conservatives, but it's unpredictable about whether it 11 will support the Labour Party.</p> <p>12 For the Murdoch papers, since Mr Murdoch purchased 13 those papers, the Sunday Times has always supported the 14 Conservatives and it did in 1997. The other -- but what 15 I perceive of Mr Murdoch's approach, particularly with 16 the Sun and the News of the World, was that he reckoned 17 that his political influence would be greater if, as it 18 were, his support was available in return for what he 19 thought he could get out of it, and I don't mean some 20 deal, because I've seen no evidence of a deal, but he 21 thought there was something in it.</p> <p>22 Now, they might -- a benign view of this is that the 23 people at News International took a very -- sorry, I was 24 going -- people at News International like other 25 newspaper executives were very concerned about where</p> <p style="text-align: center;">Page 18</p>	<p>1 because you don't get to that position, running a huge 2 international media empire, without being interested in 3 power, and I think to help him consolidate his 4 non-newspaper interests in this country, and I was 5 struck when he was explaining that the print media 6 titles contribute only 2 per cent -- or James Murdoch 7 did, only contributed 2 per cent or some small 8 percentage of the total revenues of the News Corp -- 9 that there was a degree of disingenuity about the point 10 that was being made, because the power that those print 11 titles provide is much greater than 2 per cent of the 12 total, certainly in the United Kingdom.</p> <p>13 It goes back to the point Mr Adam Boulton made, 14 which is that the print media have the greatest 15 influence of all over the news values and the headlines 16 on all the other media and I mean I've assumed that 17 Mr Murdoch reckoned that if his support for the winning 18 party, which is basically what he's sought to do each 19 time, was available, that would open more doors in 20 government when it came to things like media regulation, 21 licences, regulation of football and so on.</p> <p>22 Q. So is this right, what you're giving us here is 23 an analysis of what you believe his motivations to be, 24 rather than perhaps direct evidence of anything he has 25 told you or others may have --</p> <p style="text-align: center;">Page 20</p>

<p>1 A. No, as I say, I've never had more than say a paragraph 2 of conversation with Mr Murdoch in my life so I have no 3 direct evidence. This is my surmise. But Mr Murdoch is 4 a busy man, he's a very successful man, and like anybody 5 else in a senior position like that he thinks about what 6 he's doing and why he's doing it, and that's the 7 conclusion I've drawn.</p> <p>8 Q. Okay. In paragraph 35 you refer to the "power" of 9 Mr Murdoch's papers. One might note that you prefer to 10 use that word rather than Mr Campbell's "influence"?</p> <p>11 A. Well, it was a -- I mean from a point of view of the -- 12 yes. Certainly those on the receiving end, it felt like 13 power, and, Mr Jay, it may be helpful just to provide 14 a bit of explanation as to why people who were on the 15 front bench in the Labour Party in the 1990s, and 16 particularly had been through the experience of the 1992 17 election, believed that we had to get the papers on 18 side. If I may, I've dug out of my files with me one 19 example of this, which is the main story in the Sun 20 newspaper on 1 April, just -- 1992, eight days before 21 the 1992 election. The main story was this, and I'll 22 put this in as evidence: "I'm all right Jack" and it was 23 saying: 24 "Shadow Education Minister lectures us on the 25 scandal of private education from the luxury of his Page 21</p>	<p>1 defeat. I took that as power. And we were therefore, 2 once Mr Blair had come into office in 1994, we all 3 shared the same view, that if humanly possible, without 4 completely compromising ourselves, we should do our best 5 to get the papers on side. It was better than the 6 alternative. This was -- because I'd been through 18 7 years of opposition.</p> <p>8 Q. I'm sure there was no question of completely 9 compromising yourselves. Some might ask: well, what 10 about partially compromising yourselves?</p> <p>11 A. Well, I thought you were going to ask that as I -- the 12 words came out of my mouth. It's more complicated than 13 that. I mean Mr Blair was very much in favour of the 14 New Labour agenda, let me say so was I, in terms of, 15 say, the crucial decision on that, which was to change 16 clause 4. I mean, I published a pamphlet about that in 17 1993, and nothing whatever to do with the Sun or anybody 18 else. In fact, I think they all regarded the pamphlet 19 as rather boring.</p> <p>20 I don't think there was any compromise of our 21 integrity. Some -- if you take the area that Mr Blair 22 had been involved with between 1992 and 1994 and then 23 I took over between 1994 and 1997, which was law and 24 order and crime, there were people who were saying, our 25 critics on the liberal left, they were saying we were Page 23</p>
<p>1 £300,000 cottage, his £200,000 townhouse and his £40,000 2 flat."</p> <p>3 And I was branded a hypocrite for preaching 4 socialism from the luxury of three homes. Well, it's 5 true, my wife and I between us own three houses and that 6 was perfectly public.</p> <p>7 Now, what the Sun was doing in the 1992 election was 8 working over each senior member of the Labour front 9 bench and this had an effect, and if you were on the 10 receiving end of it, it felt like power. It had an 11 effect in my constituency. I remember doing an open-air 12 meeting that Wednesday and you could feel support 13 falling away, and my majority scarcely moved, although 14 it did not reflect the national swing.</p> <p>15 This was minor, but it had one consequence, let me 16 just say, talking about power. Every burglar in West 17 Oxfordshire knew that the one day of the year we were 18 not going to be in our house in West Oxfordshire was the 19 election night. We got burgled and a lot of property 20 was stolen. I raised that subsequently with the Sun and 21 they got the glazed eye look: that's just one of those 22 things, you get burgled, tough.</p> <p>23 The more important point is that Mr Kinnock, for 24 example, was mercilessly and unjustifiably treated by 25 the Sun over quite a period. It did contribute to our Page 22</p>	<p>1 only doing this because we wanted papers like the Sun 2 and the News of the World on side. That wasn't true. 3 I was doing it, Mr Blair was, because we believed in it. 4 We were -- had been profoundly dissatisfied with the 5 very soft approach which the Labour Party had taken on 6 crime before that, which had lost support of an awful 7 lot of our working class supporters.</p> <p>8 Q. Further social contacts, paragraph 38, Mr Straw.</p> <p>9 A. Yes.</p> <p>10 Q. You say: 11 "During my period as Justice Secretary I would often 12 travel to London on a Monday morning from the West 13 Oxfordshire station Charlbury. Mrs Rebekah Brooks used 14 to use the same train. After a while, we made 15 arrangements to meet up and sit together for the 16 journey." 17 But then you say, I paraphrase, this stopped some 18 time in 2009 when she became chief executive. That, 19 I think, was formally in September 2009.</p> <p>20 In general terms, were the discussions which you had 21 with her on the train other than social or private?</p> <p>22 A. No, they were -- not much of them were social or -- 23 I mean, they were private in the sense that neither of 24 us went out and wrote them up on a blog. They weren't 25 social, they were political. So they were sort of -- Page 24</p>

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<p>1 we'd talk about what was in the papers, what was -- we'd</p> <p>2 gossip about personalities, that sort of thing. A lot</p> <p>3 of the time we'd get on with our work, she had work to</p> <p>4 do, I had work to do, so we weren't nattering the whole</p> <p>5 journey. I never put a figure to it but -- in any case,</p> <p>6 these are crowded trains, so there are all sorts of</p> <p>7 people around earwiggling, so there was a kind of limit</p> <p>8 to what one was going to say either way, otherwise it</p> <p>9 would have appeared in somebody else's newspaper.</p> <p>10 Q. Fair enough. And then you say, amongst many others, of</p> <p>11 course, you attended her wedding in June 2009?</p> <p>12 A. Yes, I did, yes.</p> <p>13 Q. Can I ask you a number of specific points which might</p> <p>14 arise out of relationships with News International?</p> <p>15 Was, as Mr Lance Price has said was the case, the Labour</p> <p>16 Party's policy on cross-media ownership quietly dropped</p> <p>17 within six months of the Hayman Island trip, which was</p> <p>18 in June or July 1995?</p> <p>19 A. I don't know is the answer to that because I didn't have</p> <p>20 any direct involvement in media policy, so I -- no,</p> <p>21 I wish I had, but I hadn't, so I mean I simply -- I have</p> <p>22 no information on why it was dropped at all.</p> <p>23 Q. Mr Dacre has claimed that Labour could not have</p> <p>24 committed British troops to war in Iraq without the</p> <p>25 implacable support of News International newspapers. Do</p> <p style="text-align: center;">Page 25</p>	<p>1 made its decision to go to war, my whole time was spent</p> <p>2 trying to get support of the Security Council for</p> <p>3 a second resolution, and frankly I -- well, who Mr Blair</p> <p>4 was talking to on the telephone was neither here nor</p> <p>5 there. Unless it was about getting support for the</p> <p>6 second resolution.</p> <p>7 LORD JUSTICE LEVESON: But how important was it politically</p> <p>8 to, as it were, get a newspaper on side, because the</p> <p>9 public had to be convinced?</p> <p>10 A. It was certainly important, sir, to have the newspapers</p> <p>11 on side and my recollection is that the</p> <p>12 News International papers were not the only papers who</p> <p>13 were on side, and it is by any means -- yes, of course</p> <p>14 it's far better to have them on side than not have them</p> <p>15 on side so I'm not trivialising it but it was never part</p> <p>16 of any of the discussions I was involved in.</p> <p>17 It's worth bearing in mind that there was widespread</p> <p>18 support for military action. I know there was also</p> <p>19 widespread opposition for military action and the</p> <p>20 opinion was polarised, but what many people are now</p> <p>21 doing is looking at those events with the benefit of</p> <p>22 hindsight, including the failure to find any weapons of</p> <p>23 mass destruction, and the awful aftermath, the chaos of</p> <p>24 the aftermath after the fall of Saddam.</p> <p>25 But if you were looking forward, it was very</p> <p style="text-align: center;">Page 27</p>
<p>1 you agree with that view?</p> <p>2 A. No, I don't. I mean -- and let me say that since I was</p> <p>3 completely inserted and involved in the decision to</p> <p>4 commit troops in Iraq, I can't ever remember</p> <p>5 a conversation along the lines of Mr Dacre's, where we</p> <p>6 were discussing whether we went to war or not and said,</p> <p>7 well, we can or we will because the Sun newspaper or the</p> <p>8 Murdoch press is going to be on side. I mean, it would</p> <p>9 have been disgusting if that had been part of the</p> <p>10 conversation. This is about putting British troops in</p> <p>11 harm's way and bluntly was much, much more serious than</p> <p>12 that. So no is the answer.</p> <p>13 Q. Of course you were Foreign Secretary at this time.</p> <p>14 We've heard evidence, somewhat unclear evidence, about</p> <p>15 three telephone calls, Mr Blair, Mr Murdoch, in March</p> <p>16 2003. Are you able to throw any light on those?</p> <p>17 A. I'm sorry Mr Jay, I'm not. I think I was vaguely aware</p> <p>18 that they'd taken place, but it's quite I think hard to</p> <p>19 get across to those who weren't involved the pace of</p> <p>20 events at this time. I mean, I -- at the beginning of</p> <p>21 March, on 5 or 6 March I went off to New York for what</p> <p>22 turned out to be the last of the series of Security</p> <p>23 Council meetings, and then after that -- I must have got</p> <p>24 back on the Saturday, I guess -- between then, which</p> <p>25 would have been 8 March, and the 17th, when the Cabinet</p> <p style="text-align: center;">Page 26</p>	<p>1 different circumstances, and bear in mind that I mean</p> <p>2 the whole of the international community had said in</p> <p>3 resolution 40 and 41 that Saddam posed a threat to</p> <p>4 international peace and security, that 40 and 41 as far</p> <p>5 as I was concerned and the British government was</p> <p>6 concerned, that had authorised military action if there</p> <p>7 were a further material breach by Saddam, which we</p> <p>8 believed and still believe there was, so -- and there</p> <p>9 was a huge weight of international opinion as well as</p> <p>10 opinion here in favour of it.</p> <p>11 In Europe, half the Member States of the European</p> <p>12 Union were in favour of military action. A very</p> <p>13 considerable number of those put troops in. So this</p> <p>14 wasn't what is now presented as a sort of evil minority</p> <p>15 activity at all. There was a very large consensus</p> <p>16 behind it.</p> <p>17 It's also just worth sir, if I can just mention</p> <p>18 this, bearing in mind that the Conservative Party, not</p> <p>19 all of them but the Conservative Party front bench was</p> <p>20 strongly in support of military action as well and that</p> <p>21 was bound to affect the character of support from the</p> <p>22 newspapers, in practice.</p> <p>23 MR JAY: Mr Straw, I move on to the topic of media</p> <p>24 influences on public policy. First of all, genesis of</p> <p>25 Section 12 of the Human Rights Act. We have the text of</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 Section 12, which is really the end point in the 2 process, under tab 6.</p> <p>3 A. Do you want me to look at it?</p> <p>4 Q. Please. You'll know this virtually off by heart.</p> <p>5 A. I do know it virtually off by heart, but I'll try not 6 to --</p> <p>7 Q. Everybody following this will understand the 8 significance of Section 12. It is a procedural 9 provision dealing only with the circumstances where the 10 High Court is considering whether to grant any relief 11 which might bear on the Article 10 right of freedom of 12 expression.</p> <p>13 A. Yes.</p> <p>14 Q. There are two key points. The first key point is that 15 the High Court won't grant relief unless satisfied that 16 it's more likely than not that publication should not be 17 allowed, which, to be clear, that sets a higher bar than 18 the general law in relation to interim injunctions.</p> <p>19 A. Yes.</p> <p>20 Q. And then the second point is under subsection 4: 21 "The court must have particular regard to the 22 importance of the Convention right to freedom of 23 expression, particularly in journalistic cases, and also 24 will have regard to matters such as public interest, the 25 extent to which it may become available to the public",</p> <p style="text-align: center;">Page 29</p>	<p>1 I think it was called, but anyway, the White Paper was 2 published and the bill -- obviously various interest 3 groups weighed in to say they thought this bill as 4 drafted might adversely affect them and one group was 5 the churches, particularly the Roman Catholic church and 6 the Anglican church were very concerned that it might 7 affect them, so the result of those negotiations was 8 what became Section 13; and the other was the press, and 9 they raised these concerns through representations to -- 10 originally to Lord Irvine who was handling the bill in 11 the House of Lords and -- it started in the 12 House of Lords, not in the House of Commons, and then 13 Lord Wakeham raised them on the floor of the House and 14 he said in his written statement, I think, that he did 15 that not as a representative of the press but to effect 16 his own opinions, but he happened to be chairman of the 17 PCC, and I was very anxious to achieve a consensus on 18 this legislation because I have a principle which is 19 that major constitutional change should only go through 20 if there is some kind of greater legitimacy, either 21 through a consensus in Parliament or through 22 a referendum, and the Conservatives were opposing the 23 bill at second reading and I was anxious to see whether 24 we could reach an accommodation so we could get their 25 endorsement to it.</p> <p style="text-align: center;">Page 31</p>
<p>1 and then importantly "any relevant privacy code."</p> <p>2 A. Yes.</p> <p>3 Q. And the privacy code would be capable of accommodating 4 the PCC editors' code?</p> <p>5 A. Indeed, sure, yes.</p> <p>6 Q. So that's what Section 12 is about. You deal with this 7 in your witness statement at paragraphs 100 to 111, 8 Mr Straw.</p> <p>9 A. Yes.</p> <p>10 Q. Let's see if we can summarise it in this way, that there 11 were two concerns which came from the press, but who was 12 leading the press cause, as it were, was the then chair 13 of the PCC, Lord Wakeham.</p> <p>14 A. Yes.</p> <p>15 Q. First of all there was a concern about a burgeoning or 16 clandestine privacy law which the Human Rights Act in 17 general might herald, or usher in, and secondly there 18 were concerns about pre-action restraint, which is what 19 Section 12 is about.</p> <p>20 A. Yes.</p> <p>21 Q. Could you tell us about how those concerns evolved and 22 how you addressed them?</p> <p>23 A. Yes, and Lord Wakeham himself in his written evidence 24 gives a lot of sort of factual detail about this, but 25 once the White Paper called "Rights brought home"</p> <p style="text-align: center;">Page 30</p>	<p>1 And also I thought a part of what Lord Wakeham and 2 the PCC were saying was reasonable, and if I may just 3 refer you, Mr Jay, to paragraph 103, where I refer to 4 a letter which Lord Wakeham wrote to Chris Smith, the 5 Culture Secretary, on 12 January 1998, he said there are 6 two central problems. He says one is the issue of prior 7 restraint, I thought they had a point there, but Lord 8 Wakeham went on to say there was a second issue, which 9 he described as far more serious, which was whether the 10 PCC should be a public authority within the terms of the 11 bill.</p> <p>12 In facts the PCC was not a public authority within 13 the terms of the bill, but what the PCC were trying to 14 secure was a situation where the media were outwith the 15 impact of the bill so you just drew a ring around them 16 somehow and they be excluded from any adjudication on 17 the conflict between Articles 8 and 10 or anything else. 18 Now, that was just impossible to meet, and I had to 19 explain that to them, and we didn't meet it.</p> <p>20 It's also simply incorrect for anyone now to say 21 that nobody knew that a Human Rights Act would lead to 22 a law of privacy. Of course they did. They said so. 23 But as I brought out in my Gareth Williams lecture, we 24 all knew it was going to do that. That was discussed 25 endlessly in Parliament. But to be truthful the</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 politicians thought they'd like to will the end of a law 2 of privacy but hand the means to The Strand and the Law 3 Lords because it's tricky, if you're a politician, to 4 develop a law of privacy and we thought that their 5 Lordships on the bench would do a better job, so it was 6 really a set question of passing the parcel to them. 7 Everybody knew what was happening. 8 Q. So the PCC wasn't listed as a public authority for the 9 purposes of Section 6 but as a matter of ordinary 10 principles of jurisprudence it would have been so 11 deemed, and Mr Pannick(?) gave an opinion, I think, to 12 that effect? 13 A. There was a great debate about whether in drafting the 14 bill you had a list of public authorities or whether, as 15 we -- as happened with the Freedom of Information Act, 16 for example, there's -- they are schedules, either -- 17 Q. Yes? 18 A. It's a matter of certainty whether an authority's public 19 or not, whereas in the Human Rights Act it's structured 20 in a different way and although I haven't got Section 6 21 in front of me directly, there is reference to 22 a definition of a public authority, but it's much 23 broader than that, but of course the courts are public 24 authorities and what the PCC had worked out was that 25 since the courts were public authorities and would</p> <p style="text-align: center;">Page 33</p>	<p>1 that, possibly it's not relevant for this Inquiry but 2 it's a point worth making, that the flak has been 3 directed to the judiciary rather than to anybody else. 4 A. I accept that, sir, and in -- I also think -- and 5 certainly in my Gareth Williams lecture that we do now 6 need -- there is a need now for Parliament to amend the 7 law so there is a tort of breach of privacy, which 8 applies -- doesn't just apply to public authorities, 9 applies to everybody, so I think it is time for 10 Parliament to accept the responsibility we passed to the 11 judiciary. 12 MR JAY: The immediate genesis to Section 12, if you look 13 under tab 9 to the debate -- 14 A. I wonder if I could -- sorry, to reduce the bundle, 15 I left some of these -- if I could ask somebody to just 16 pass me the other tabs, would that be all right? 17 LORD JUSTICE LEVESON: Of course. 18 A. My researcher there can pass them to me. I made a very 19 poor judgment that I'd never be asked about what was 20 said in them. 21 MR JAY: This is the second reading of the bill in the 22 Commons on 2 July 1998. It's an Internet printout from 23 Hansard. It runs to 21 pages. 24 A. Anyway, if you just go on, I've no doubt I'll find it in 25 due course.</p> <p style="text-align: center;">Page 35</p>
<p>1 therefore have to -- as public authorities have to 2 follow the obligations of the Human Rights Act and the 3 convention articles, they would therefore reflect those 4 in their judgments and therefore indirectly the PCC or 5 its members or anybody else would be subject to the 6 convention and that was what they were worried about. 7 Q. Yes, and the second point that the law of privacy would 8 develop on a case-by-case basis once Articles 8 and 10, 9 as it were, had been incorporated, that was a point 10 which Lord Bingham made at the time in -- 11 A. Yes. 12 Q. -- 1998 and therefore it was -- 13 A. No, I -- and aside from the fact that it frankly suited 14 the convenience of politicians on both sides to have the 15 courts do this job, I also thought they'd do it -- the 16 courts would make a better job of it because this -- 17 it -- this balance to be able to achieve in respect of 18 privacy is so tricky, because what -- as I said in my 19 Gareth Williams lecture, defamation is easy enough in 20 one sense because what you're dealing with is what isn't 21 true. With privacy, what you are dealing with is 22 whether something which is true should nonetheless be 23 kept private, and that is very complicated, and I think 24 the courts have done a good job in developing -- 25 LORD JUSTICE LEVESON: Of course, one of the consequences of</p> <p style="text-align: center;">Page 34</p>	<p>1 LORD JUSTICE LEVESON: No, no, no, I'd rather you -- 2 A. I think I've still not got number 9. 3 LORD JUSTICE LEVESON: Let me give you mine. 4 A. I'm very sorry about this. 5 LORD JUSTICE LEVESON: No, no, don't worry. 6 A. I have 10, I have 3. Thank you. 7 LORD JUSTICE LEVESON: They're normally in order 8 numerically. 9 A. Sir, what I did was -- 10 LORD JUSTICE LEVESON: It doesn't matter. 11 A. -- to reduce the bundle on the train, I thought I don't 12 need those, but that was a very stupid thing to do and 13 I'm very sorry. 14 MR JAY: You were debating what was then clause 13, which 15 became Section 12, and on the second page of 21 at the 16 top, you told the Commons: 17 "As the Committee will know, there was concern in 18 some sections of the press that the bill might undermine 19 press freedom and result in a privacy law by the back 20 door." 21 And then you say that was not the government's view 22 and you've dealt with that issue. 23 A. Yes. 24 Q. But on the issue of prior restraint and what became 25 Section 12, the third paragraph, you say:</p> <p style="text-align: center;">Page 36</p>

<p>1 "We recognise the concerns expressed in the press. 2 As I have made clear, for example in respect of the 3 bill's impact on the churches, we are anxious 4 [et cetera] to deal constructively with them. In the 5 light of those concerns we decided to introduce a new 6 clause specifically designed to safeguard press freedom. 7 We thought long and hard about it ..." 8 And this is clause 13. 9 A. Yes. 10 Q. Then at page 6 of 21, towards the top of the page, you 11 make it clear that there were discussions which involved 12 you, the late Lord Williams and Lord Wakeham, and in the 13 third paragraph: 14 "The new clause [which is 13] was drafted in 15 consultation with Lord Wakeham and representatives of 16 the national and regional press. They have given it 17 a warm welcome." 18 So the upshot is that part of the explanation for 19 the genesis of Section 12, a consultation, agreement, if 20 you like, which you reach with Lord Wakeham, who may 21 well have been speaking for a large section of the 22 press. Is that fair? 23 A. Yes. He certainly was speaking for a large section of 24 the press. Whatever his position in the House of Lords, 25 he was chairman of the Press Complaints Commission.</p> <p style="text-align: center;">Page 37</p>	<p>1 exactly what happened. 2 A. Mm. 3 LORD JUSTICE LEVESON: But it does raise a question ongoing 4 for the future as to whether that is an appropriate role 5 for somebody who holds that position in whatever body -- 6 A. Yes, oh, I see, sorry, I'm being slow. Yes, I agree. 7 I think that if -- for the future if there is, yes, as 8 I hope there will be, a very different system for 9 dealing with press complaints, that that person will, as 10 it were, be in a sort of quasi-judicial position, and 11 that should be very separate from somebody who's there 12 to represent the wider interests of the press and to 13 campaign for changes in legislation, yes, I accept that. 14 MR JAY: Some fairly sophisticated points were made by 15 Mr Garnier. 16 A. He always makes sophisticated points. 17 Q. I think it's fair to say although he was quibbling as to 18 whether Section 12 would have much substantive effect, 19 there was, generally speaking, cross-party support for 20 this clause, is that your understanding? 21 A. Yes, there was, and the added advantage of dealing with 22 Lord Wakeham was because he had been a leading figure in 23 the previous Conservative administrations, and I mean 24 he's -- I had a good -- I still do have a good 25 relationship with him, have high respect for him.</p> <p style="text-align: center;">Page 39</p>
<p>1 LORD JUSTICE LEVESON: No, it's probably the other way 2 around, isn't it? Because he couldn't really do this as 3 chairman of the Press Complaints Commission, which is 4 supposed to be independent, isn't it? But I thought he 5 was doing it in his personal capacity. 6 A. Well, sir, my recollection is that quite a lot of the 7 correspondence was signed by him in the capacity of 8 chairman of the PCC. 9 LORD JUSTICE LEVESON: That itself raises a not 10 uninteresting question. 11 A. Yes. Look -- 12 LORD JUSTICE LEVESON: I'm not going -- it's of historical 13 value only. 14 A. I mean it wasn't a piece of private enterprise by 15 Lord Wakeham. There would have been no purpose served 16 in busy ministers spending their time talking to 17 Lord Wakeham if it was just a sort of personal foible. 18 He had a very influential position and he was tending to 19 speak on behalf of the press. Yes, Mr Jay, you're 20 right. I worked on the basis that if I could square 21 Lord Wakeham, I'd square most sections of the press, 22 which is what I wanted to do. 23 LORD JUSTICE LEVESON: I understand that, and that's how it 24 worked and it's quite clear looking at the documents 25 that you've provided for the relevant period that's</p> <p style="text-align: center;">Page 38</p>	<p>1 I think that, as I said in my Gareth Williams lecture, 2 had his successor as chairman of the PCC been of 3 a similar calibre, then the PCC would not have ended up 4 in the state that it is, but I -- I don't think we ever 5 had this explicit conversation, but I worked on the 6 basis that if Lord Wakeham said yes, he would certainly 7 be delivering the press and almost certainly be 8 delivering the Conservative front bench as well, and 9 that was unsaid but there. 10 Q. What you made explicit, though, Mr Straw, was to 11 underline your government's commitment to the need to 12 preserve self-regulation, because we see that in the 13 third paragraph on page 6 of 21 and indeed the fourth 14 paragraph. Would you agree? 15 A. Yes. And that was a view we were taking at a time, the 16 PCC had been improved, there was -- I mean some good 17 evidence, not least because of the way in which 18 Lord Wakeham was operating, that the PCC was becoming 19 effective. I say we all knew that we were going to end 20 up with a law of privacy, and anyway we all had loads to 21 do. I mean why at that stage start on an agenda which 22 had been unformed about how to regulate the press? 23 I mean there would have been no point. There certainly 24 wasn't in my mind. 25 Q. There certainly wasn't Labour Party manifesto commitment</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 in 1997, and the death of Princess Diana at the end of</p> <p>2 August 1997, did that cause any change of thought or</p> <p>3 not?</p> <p>4 A. Not directly, no. I mean, obviously the sort of media</p> <p>5 surrounding that was terrible, but not -- not directly.</p> <p>6 And I think insofar as we had that conversation in</p> <p>7 government, the view was: let's see where this gets to.</p> <p>8 The PCC plus a developing law of privacy might work.</p> <p>9 Q. Some would say it's the traditional British approach:</p> <p>10 let's see how the law develops. You know it's going to</p> <p>11 move in a certain direction, and the ramifications of</p> <p>12 that can be seen over the forthcoming years.</p> <p>13 A. Yes, I mean it's not -- if I may say so, Mr Jay, it's</p> <p>14 not a bad approach to do things gradually, because the</p> <p>15 risks of disaster are reduced.</p> <p>16 Q. That probably covers the issue on Section 12. May</p> <p>17 I address now the amendments to the Data Protection Act</p> <p>18 1998?</p> <p>19 A. Yes.</p> <p>20 Q. Following the ICO reports of 2006. You pick this up in</p> <p>21 paragraph 82 of your witness statement. This is our</p> <p>22 page 02555. Mr Thomas was arguing very strongly for</p> <p>23 increasing the penalty for a breach of section 25 from</p> <p>24 a fine only to a term of imprisonment and you say in</p> <p>25 paragraph 82:</p> <p style="text-align: center;">Page 41</p>	<p>1 part objective, part subjective test?</p> <p>2 A. The part subjective test came later. I mean, I -- the</p> <p>3 view --</p> <p>4 LORD JUSTICE LEVESON: That was part of the ultimate</p> <p>5 compromise.</p> <p>6 A. That was, sir, it was.</p> <p>7 LORD JUSTICE LEVESON: But the case for an increased</p> <p>8 sanction was if it was purely financial, then the law</p> <p>9 was quite clear on -- I'm on comfortable territory now.</p> <p>10 The law was quite clear that you had to have regard to</p> <p>11 means, and if people of little means broke the law in</p> <p>12 this way, then actually there was very little that could</p> <p>13 be done by way of sanction. And that was so whether you</p> <p>14 were doing it because you wanted to find out about your</p> <p>15 daughter's boyfriend, for example, or whether you were</p> <p>16 doing it for industrial or commercial reasons.</p> <p>17 A. Yes. I mean you're right, sir, you are, if I may say</p> <p>18 so, the expert on sentencing. But my own view is</p> <p>19 that -- I mean the maximum sentences laid down by</p> <p>20 Parliament, although they're very rarely applied by the</p> <p>21 courts, they convey a message about the relative</p> <p>22 seriousness which Parliament and therefore the public</p> <p>23 attach to that particular transgression, and I regret</p> <p>24 the fact that in the Data Protection Act, which is also</p> <p>25 a bill which I put through, we had not spotted that this</p> <p style="text-align: center;">Page 43</p>
<p>1 "HM Government agreed."</p> <p>2 A. Yes.</p> <p>3 Q. Can you tell us why, please, Mr Straw?</p> <p>4 A. Why we agreed? Because we thought the case that he had</p> <p>5 made out was a very good one, that the penalty did need</p> <p>6 to be strengthened because of the evidence of abuse</p> <p>7 which he provided in that report which was in May 2006.</p> <p>8 I just say here, I mean I agreed with this, but for the</p> <p>9 first 14 months, this was handled not by -- I was Leader</p> <p>10 of the House between -- I became Leader of the House two</p> <p>11 days before the publication of this report in the first</p> <p>12 week in May 2006, and stayed in that position until the</p> <p>13 end of June 2007, so this -- the policy therefore is one</p> <p>14 I inherited, but as it happened, I wholly agreed that we</p> <p>15 ought to increase the penalty.</p> <p>16 Q. Was it then government thinking that it was simply</p> <p>17 a question of increasing the penalty rather than</p> <p>18 changing the test in Section 55, because I think at</p> <p>19 subsection 4 the test it is a purely objective one, but</p> <p>20 we know in Section 78 of the 2008 Act it's part</p> <p>21 objective, part subjective, if you take into account the</p> <p>22 reasonable belief of the editor.</p> <p>23 A. Yes.</p> <p>24 Q. Was the government's view: all we need do is increase</p> <p>25 the penalty, without at the same time introducing this</p> <p style="text-align: center;">Page 42</p>	<p>1 penalty was too low, but we hadn't.</p> <p>2 LORD JUSTICE LEVESON: But if I pick up the point that was</p> <p>3 made when we were discussing this I think with</p> <p>4 Mr Graham, that actually, if you're doing it for the</p> <p>5 purposes of business, and at a high volume, it is</p> <p>6 something which society should disapprove of rather more</p> <p>7 than might be for that range of offences that have</p> <p>8 purely fiscal penalties.</p> <p>9 A. I entirely agree. It may be -- this is a very recent</p> <p>10 thought I've had -- that in the light of what we think</p> <p>11 may have happened, that the penalty itself should be</p> <p>12 higher still, tougher still, than two years, but</p> <p>13 certainly I think the case for having a two-year penalty</p> <p>14 maximum was very strong.</p> <p>15 LORD JUSTICE LEVESON: On the basis as you really</p> <p>16 identified, that then the court is in a position to</p> <p>17 calibrate the gravity of the offending, and in</p> <p>18 appropriate cases to discharge or fine or pass</p> <p>19 a community penalty, or ultimately a custodial sentence.</p> <p>20 A. Indeed, sir, yes.</p> <p>21 MR JAY: As you say in paragraph 83, the press objected.</p> <p>22 When you're referring to "the press" there, are you able</p> <p>23 to be more specific?</p> <p>24 A. Well, it was -- I don't know whether -- the people who</p> <p>25 came to see me were Mr Dacre, Mrs Brooks, from the</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 Telegraph normally Murdoch MacLennan, who is the chief 2 executive, and sometimes Guy Black, who had been the 3 secretary of the PCC and I think was working as an 4 adviser to the Telegraph. It was those -- those were 5 the core, but I understood from them that they were 6 representing the views of the national press as a whole. 7 I had no reason to think they weren't. 8 Q. Because these were the most powerful figures, either 9 within the PCC or on the Editors' Code Committee, was 10 that your inference? 11 A. Yes. I never, Mr Jay, said, "Can we see your precise 12 credentials?" They plainly were and are -- were 13 powerful figures who were representing the generality of 14 the -- 15 LORD JUSTICE LEVESON: You knew them and you knew that's 16 what they were? 17 A. Yes. So there wasn't an issue. 18 MR JAY: Paragraph 83, you refer to a meeting that the 19 minister sponsoring the bill, Maria Eagle, had on 20 17 January 2008. We have the note of the meeting under 21 tab 44. I don't think it's necessary to turn it up, but 22 we know that Mr Brett, Mr Garnier had a powerful voice 23 on that occasion. 24 A. Yes. 25 Q. Moving forward, paragraph 84, you met directly with</p> <p style="text-align: center;">Page 45</p>	<p>1 were proposed and strongly argued for by the Information 2 Commissioner to strengthen the protection of 3 individuals' rights to respect for their privacy." 4 And then if I can look six lines into the next 5 paragraph: 6 "But I have reviewed the proposals in the light of 7 the important points which you and others have made. As 8 I explained when we met I was increasingly minded to 9 consider inclusion of provision for the reasonable 10 belief of someone at the time an offence was committed. 11 I understand there will still be considerable anxiety 12 about the potential impact of this measure and that 13 there is, therefore, a case of reconsidering it in 14 slower time." 15 Then you say: 16 "Alongside this, I am faced with the overwhelming 17 need to achieve royal assent for the bill by 8 May 2008, 18 when the existing legal restrictions against prison 19 officers taking industrial action otherwise terminate. 20 Taking all these factors into account, I'm making a 21 further recommendation to colleagues and I will be back 22 in touch." 23 So you're faced here, Mr Straw, with a double pincer 24 movement. On the one hand you have the press stirring 25 up trouble, making the arguments you'd expect them to</p> <p style="text-align: center;">Page 47</p>
<p>1 Mr Dacre, Mr MacLennan, Mrs Brooks, I don't think 2 Mr Hinton? 3 A. Mr Hinton I don't think was there, no. 4 Q. And that is referred to in a letter you wrote on 12 5 February. 6 A. Yes. 7 Q. It's not exactly clear from that letter -- it's under 8 tab 46 -- when the meeting was, whether it was over 9 lunch or over dinner. It may not matter much. 10 A. I don't think the meeting was over lunch or dinner. 11 I think it was in my office. In fact, I'm almost 12 certain it was in my office. It's not -- yes. 13 Q. If we could look at the text of the letter of 14 12 February, you write to Mr Dacre. Under the heading 15 "Data Protection Act" you say: 16 "We're not proposing to criminalise any conduct 17 which is not currently against the law. However, we do 18 understand your and the media's concerns more generally 19 about the introduction of custodial sentences for breach 20 of Section 55. We have no wish to curtail legitimate 21 and responsible journalism, and when the proposed 22 penalties were being designed it was not considered that 23 they would have that effect. We're not aware that 24 Section 55 has caused any problems such as a chilling 25 effect since the DPA came into force. The penalties</p> <p style="text-align: center;">Page 46</p>	<p>1 make, and we can analyse those in a moment, and you 2 would say, perhaps even more importantly, you had to get 3 this bill through by a particular date because there 4 were other provisions in it which were absolutely vital. 5 Is that it? 6 A. Yes. It obviously was extremely hard for others outside 7 or, say, for Mr Thomas to comprehend because it was my 8 problem, not theirs, but it made me recall that at the 9 end of August 2007 the Prison Officers Association 10 called an unlawful one-day national strike, and they 11 gave us 15 minutes' notice of this. It led to huge 12 disruption in Britain's jails, it led to the firing of 13 a whole wing at Lancaster Farms, it led to a breakdown 14 in order in a number of other jails, and it was 15 completely contrary to an agreement which the Prison 16 Officers Association had voluntarily signed called the 17 JIRPA -- please don't ask me what the acronym stands for 18 because I can't remember -- that they had voluntarily 19 signed in return for the statutory bar on industrial 20 action being taken from the statute book. 21 Now, they broke that agreement and also had given 22 notice that they were going to terminate it in any event 23 and the date of termination was 8 May, so the absolute 24 imperative, whatever else happened, was that I got this 25 bill through both houses and into royal assent by 8 May,</p> <p style="text-align: center;">Page 48</p>

<p>1 because we knew anyway, given the state of mind of the 2 leaders of the POA, that they would almost certainly go 3 on strike the next day, and it would be a disaster. So 4 I'm afraid other things then became subordinate to it. 5 That's life, that's politics. 6 So what was in my mind at this stage was that 7 I might have to withdraw the whole provisions to 8 increase the penalty for this legislation and then find 9 another bill to put it in in the following session. So 10 that was what was going on there. 11 LORD JUSTICE LEVESON: Mr Jay, is that a convenient moment 12 just to take a few minutes? 13 (11.25 am) 14 (A short break) 15 (11.36 am) 16 MR JAY: Mr Straw, we understand this is, as it were, a 17 classic case study in realpolitik. Royal assent had to 18 be obtained by a certain date for reasons extraneous 19 really to the merits of the case in Section 55. 20 Had it not been for that consideration and/or the 21 pressure that you were under by the press, would your 22 policy position have been either adhere to the original 23 position, in other words just up the sentence to include 24 a custodial penalty, or were you in fact persuaded by 25 the merits of the argument that the subjective/objective</p> <p style="text-align: center;">Page 49</p>	<p>1 I couldn't have the prisons going into meltdown. That 2 was the difficulty. 3 I'd like to think that even in slower time I would 4 have made the same judgment about the subjective defence 5 that was inserted, but I can't say for certain. 6 Q. What happened subsequently is clearly explained in your 7 statement, paragraphs 86 to 88. There was in effect, at 8 the Prime Minister's instance, a negotiation involving 9 Mr Thomas on the one hand and representatives of the 10 press on the other, and the end point of that 11 negotiation was Section 77 and 78. 12 A. Yes. 13 Q. And the documents substantiate that. 14 A. If I may say so, the one thing that wasn't -- I mean 15 I've always believed and still believe that there was 16 a clear understanding with everybody that these two 17 measures would be introduced at the same time. Now 18 subsequently there have been suggestions that we should 19 have introduced, for example, just the additional 20 defence rather than the penalty as well, and I'm -- 21 although the record's rather defective on this, I am 22 absolutely clear that the two went together, and I mean 23 I regret the fact that I didn't then bring in the 24 amendment to Section 55 before the election, and I think 25 it ought to have been brought in by now, but there we</p> <p style="text-align: center;">Page 51</p>
<p>1 test should be introduced? 2 A. It's a very difficult question to answer, Mr Jay, 3 because I became persuaded, if you follow me, so you 4 have to work out why you were persuaded. If I may just 5 explain this about this deadline, the deadline not only 6 meant that I had less time, but it also changed the 7 balance of forces in Parliament, because although we had 8 a majority in the House of Commons, we never had 9 a majority in the House of Lords and if the 10 House of Lords had decided to block the bill, as they 11 could have done, or to delay it, I would then have been 12 faced with a situation where either I lost the whole of 13 the bill or I dumped this particular part, and indeed 14 I faced exactly that dilemma ten years before over the 15 crime and disorder bill, where a proposal to lower the 16 age of consent for gay people to the same age as 17 heterosexual people was defeated in the Lords, and I was 18 about to lose the whole of that measure, so I had to 19 drop that part of it and introduce it separately. 20 So I mean what would have happened if I'd had more 21 time, if we'd been able to take this bill through in 22 normal time, which would have been to the end of that 23 session, which would have been October 2008, I could 24 have drawn breath and then I think found it easier to 25 satisfy Mr Thomas, who I wanted to satisfy, so</p> <p style="text-align: center;">Page 50</p>	<p>1 are. 2 LORD JUSTICE LEVESON: Well -- 3 MR JAY: I'll come back to that point about activation, but 4 one core participant wishes me to take up with you a 5 point about conditional fee agreements, which you also 6 refer to in the letter of 12 February 2008. 7 A. Yes. 8 Q. Because on the occasion that Mr MacLennan, Mrs Brooks, 9 Mr Dacre saw you, not merely was the DPA discussed but 10 also CFAs, and we can see the views that you held on 11 that matter on the second page of the letter of 12 12 February. 13 A. Yes. 14 Q. First of all, in a nutshell, what were your views about 15 CFAs in media privacy cases in particular, and were you 16 succumbing to press pressure about it? 17 A. Well, first of all, my view about CFAs generally was 18 that they'd not worked as intended and that was why, 19 although this slightly preceded this, I mean there were 20 already discussions with the senior judiciary about 21 establishing what became the review by Lord Justice 22 Jackson. I think that's just slightly later, but it was 23 certainly in the air. 24 On CFAs, I'd received a lot of representations 25 actually from the regional and local press rather more</p> <p style="text-align: center;">Page 52</p>

<p>1 than the national press about the effect on the 2 financing of the regional and local press of the way 3 CFAs were operating, and I recall a case which affected 4 not my own local newspaper, that was the Lancashire 5 Telegraph, but the adjacent one, which is printed and 6 published in Preston, the Lancashire Evening Post, where 7 for a very minor defamation, where I think the payout 8 was £3,000, and even that really wasn't justified, the 9 newspaper had had to pay out thousands and thousands by 10 way of costs, and as just a citizen as well as 11 a politician I'm very concerned that we should not lose 12 the regional and local press.</p> <p>13 I looked at this, whichever -- I think the Society 14 of Editors which represents the regional or local papers 15 as opposed to the Newspaper Society which represents the 16 national ones, but the Society of Editors had made a lot 17 of representations to me, provided a lot of data. There 18 were also strong representations, however, from the 19 nationals as well, and I thought they had a case, quite 20 a strong case, and to cut this short, I then followed it 21 through and I decided that we should reduce the success 22 fee from 100 per cent to 10 per cent. I got ministerial 23 colleagues' agreement to that without any difficulty.</p> <p>24 As it happened, in the rush of legislation as we 25 approached the General Election, that proposal was then</p> <p style="text-align: center;">Page 53</p>	<p>1 The effect of CFAs was to, as it were, move the boot 2 onto the other foot, because then people who did not 3 have money but who could persuade lawyers that actually 4 there was a wrong here that stood to be righted could 5 take it on with massive risk as to costs on the 6 newspaper, because not only was there the success fee, 7 so this doubling up of costs, but also after the event 8 insurance and everything else, I don't need to describe 9 it all to you, but that actually changed the balance, 10 and in a way that not merely impacted adversely on the 11 economics of the press, or indeed the BBC, it doesn't 12 matter who, but also increased the potential scope of 13 the available remedy for those who didn't have money.</p> <p>14 I just wonder whether, by just dropping it to 15 10 per cent -- and it's relevant because I'm looking for 16 ways and thinking about the way in which these sort of 17 issues should be resolved -- or removing it and removing 18 the after the event insurance recovery, all these 19 possibilities, you haven't just moved the boot back onto 20 the foot that originally occupied it.</p> <p>21 One wouldn't be surprised that the press would think 22 that was entirely desirable and in the public interest. 23 Equally, one wouldn't be surprised if those who are 24 concerned about their ability to go to law would be 25 concerned the other way.</p> <p style="text-align: center;">Page 55</p>
<p>1 the subject of what I can only describe as an ambush in 2 the particular committee that looked at it and so it 3 fell. I mean, it would not have fallen but for the 4 election.</p> <p>5 Q. Were you lobbied by those in favour of maintaining the 6 existing panoply of arrangements in relation --</p> <p>7 A. Yes, I was. The people who represented plaintiffs in 8 these actions, I can't remember exactly who -- which law 9 firms it was, but they were lobbying. There were some 10 people in the Commons who were concerned about what 11 I was proposing. And I remember going through a lot of 12 contrasting evidence about the effect of defamation 13 claims on newspaper finances, and I think Lord Justice 14 Jackson had a view about this as well --</p> <p>15 LORD JUSTICE LEVESON: He certainly did, but let me take a 16 point away from Lord Justice Jackson's comprehensive 17 view, not merely of defamation but of costs generally, 18 and ask whether this is a relevant consideration. There 19 has to be a bit of a statement surrounding it.</p> <p>20 Before conditional fees, libel, privacy, defamation 21 was very much only open to the wealthy. Legal aid 22 wasn't available for it, therefore you took on what were 23 perceived to be the wealthy newspapers at your peril, 24 and therefore that area of litigation could be kept 25 comparatively under control.</p> <p style="text-align: center;">Page 54</p>	<p>1 A. Yes, sir. My view was this: I did not want to go back 2 to the situation where the boot was only on one foot, 3 which was the one you described before CFAs came in, and 4 where it was in practice impossible to take proceedings 5 for defamation unless you had a very long pocket 6 yourself, just impossible, and that gave the press too 7 much power. But I also took the view, for reasons I've 8 explained, that I thought the balance had shifted too 9 far in favour of plaintiffs, and some the cases I looked 10 at in some great detail were frankly completely 11 unmeritorious. I mean, they really were unmeritorious, 12 but they nonetheless --</p> <p>13 LORD JUSTICE LEVESON: Then risk of course is the newspapers 14 say, "It's going to cost us £500,000 to fight it, 15 therefore we'll buy it off for a very small sum."</p> <p>16 A. It's a kind of subset of the abuse of the costs system 17 which we've ended up with in motor insurance, which was 18 never intended but it's the way it's come out.</p> <p>19 Just going back to Lord Justice Jackson, I'm sorry 20 I haven't briefed myself on this, but my recollection is 21 that when I was discussing whether it was appropriate to 22 make this change then, and I'm pretty certain that 23 Lord Justice Jackson took a different view from me on 24 this, but I can't remember, he produced or his office 25 produced quite a lot of evidence about whether I was</p> <p style="text-align: center;">Page 56</p>

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<p>1 correct in claiming that the Defamation Act was having 2 this effect, but I looked at all this and I came to the 3 judgment I did.</p> <p>4 You can never be certain when you make a policy 5 change. My view was that it liked to rebalance it 6 reasonably satisfactorily and if it didn't, then three 7 or four years' time you could balance it again. But 8 given the fact that Lord Justice Jackson's proposals 9 overall have now broadly been taken into law, I assume 10 that to a degree, sir, the landscape's changed a bit 11 anyway.</p> <p>12 LORD JUSTICE LEVESON: I think that's right, but the reason 13 that I've gone into that discussion with you and would 14 welcome your view is because at an earlier stage of the 15 Inquiry, one of the things that I have said that I would 16 like to think about is whether whatever mechanism one 17 puts into place, if one changes what is to be proposed 18 in any meaningful way, would be the question of some 19 form of arbitral system which permitted privacy, small 20 libel claims, all that sort of breach of confidence type 21 litigation to be dealt with perhaps inquisitorially in 22 a way that was far cheaper, far quicker, and provided 23 a far better outcome for everybody, with the 24 possibility, of course, that points of law could come up 25 to the courts and be dealt with as usual, and I'd be</p> <p style="text-align: center;">Page 57</p>	<p>1 LORD JUSTICE LEVESON: Well, it is, because if you go back 2 to criminal justice legislation --</p> <p>3 A. The 2003 Act? Yes, it's absurd. And if there were that 4 discipline on ministers and officials, then the laundry 5 list in legislation would be much less and people would 6 have to think through more carefully the consequences.</p> <p>7 MR JAY: Next, please, Mr Straw, general questions about 8 media influence on public policy. It's paragraphs 114 9 and following. Can I just pick up some isolated points. 10 Paragraph 119, our page 02559, where you refer to 11 periods when pressures from the press can be intense, 12 and then you mention Sarah's Law, which I think was 13 a News of the World campaign --</p> <p>14 A. Yes, you're right about that -- sorry, both were pursued 15 by Rebekah Wade as she then was, but on that first 16 occasion when she was editor of the News of the World. 17 So that was wrong.</p> <p>18 Q. In terms of the intensity of the pressure, can you 19 expand on that, please?</p> <p>20 A. It was greater over Sarah's Law than it was over prison 21 ships, but newspapers will decide they want to run 22 a campaign. They judge that's how they sell papers. 23 And in the light of the death of Sarah Payne in, 24 I think, 2000, Mrs Brooks developed a relationship with 25 Sara Payne, her mother, and they put together this</p> <p style="text-align: center;">Page 59</p>
<p>1 very interested in your view on that, and I'm sorry -- 2 I frequently take Mr Jay out of order, and it's too bad.</p> <p>3 A. Would you like my view now off the top of my head or 4 would you like me to submit a memorandum about it?</p> <p>5 LORD JUSTICE LEVESON: I'm very happy for you to defer and 6 consider it, if you're able to, because there are 7 a couple of other hooks in your statement which I intend 8 to pick you up on.</p> <p>9 A. On which I'm going to be impaled, yes.</p> <p>10 LORD JUSTICE LEVESON: All right.</p> <p>11 A. Sir, if you're happy, I will send in a supplementary 12 statement.</p> <p>13 LORD JUSTICE LEVESON: Thank you very much.</p> <p>14 A. Thank you.</p> <p>15 MR JAY: The issue of activation of Section 77 and 78, it 16 never happened.</p> <p>17 A. Yes.</p> <p>18 Q. Is that a matter of regret?</p> <p>19 A. Yes, it is, yes. I wish I'd done it before the 20 election. I can't remember why I didn't, but anyway. 21 I mean, there's a wider issue about activation of 22 legislation and my view is that there ought to be time 23 limits by which sections of legislation have to be 24 activated full stop, because otherwise Parliament's will 25 is undermined. But that's a wider issue.</p> <p style="text-align: center;">Page 58</p>	<p>1 demand for the equivalent of what's in the United States 2 known as Megan's Law, here it became Sarah's Law, which 3 in broad terms would have meant that people in any one 4 area would have been able to access the names of those 5 who were on the sex offenders register.</p> <p>6 I could understand why they wanted to do that. We 7 all want to protect our children. On the other hand, 8 I was pretty certain this would lead to more trouble and 9 more criminality than it was going to resolve and that 10 there were better ways of controlling the predatory 11 instincts of sex offenders than having them bluntly 12 subject to a mob outside their doors.</p> <p>13 So I was resistant to this, and I was strengthened 14 in my resistance when in Portsmouth, as everybody now 15 knows, someone who was a paediatrician was misunderstood 16 to be a paedophile, and -- now, I've seen the effects of 17 sort of understandable concern on the behaviour of 18 crowds of all sorts.</p> <p>19 So that was my view. I thought we should do plenty 20 of other things to strengthen the law against sex 21 offenders but not that. I haven't got all the detail, 22 but we had a disagreement with Mrs Brooks, and I -- as 23 I said right at the beginning of my evidence, I'm very 24 much of the view that people like home secretaries, 25 justice ministers, need to understand and reflect the</p> <p style="text-align: center;">Page 60</p>

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<p>1 concerns of the mass of the population about what it 2 feels like to be a victim of crime and I've tried to 3 live like that all my political life and I don't 4 subscribe to the view of some of the Metropolitan 5 interest groups that you should always give people 6 community sentences, which -- in the sense that there 7 had been too much bias towards the interests of the 8 perpetrator rather than the victim.</p> <p>9 But you have to have a balance here and you have to 10 be able to maintain sort of public order and resort to 11 the mob is not appropriate and we're not the 12 United States. Anyway, as everybody knows, the 13 United States isn't one jurisdiction, it's 51, and what 14 happens in Massachusetts or Maine is not what happens in 15 Texas.</p> <p>16 Q. How persistent was her lobbying of you on this? 17 A. I'm a bit vague on this but it was fairly persistent. 18 This was in the period of the murder of Sarah Payne in 19 2000 and when I left as Home Secretary in June 2001. 20 I mean, and it's worth bearing in mind that at that time 21 they were -- there was sort of a lot of briefing going 22 on I think by my colleagues that they might be able to 23 do a better job, that I was too soft, which I thought 24 was slightly risible, and so on, and others manoeuvring 25 because -- for my position, but anyway, got through all</p> <p style="text-align: center;">Page 61</p>	<p>1 entirely what Mrs Brooks is saying. At the other level, 2 frankly, it is trying to evade responsibility for 3 judgments which have to be an editor's.</p> <p>4 Q. Thank you. The similar sorts of issues arise in 5 relation to immigration. This is paragraph 120. 6 A. Yes. 7 Q. It's probably not necessary to go into that. Is there 8 anything you can help us with on paragraph 123, and this 9 is the Thompson and Venables case? 10 A. Yes. If I can just make this point on immigration, 11 because it's something I've been looking at recently. 12 Everybody, quotes, wants to control immigration and 13 I understand that and interestingly that's the view of 14 my Asian heritage constituents in my constituency as 15 much as the white constituents. But the same newspapers 16 which are calling for restrictions in general, when 17 they're faced with a particular case, will then say, "Oh 18 no, we should make an exception there". 19 Exactly that happened with me when I was Home 20 Secretary, where there was a man who had no case 21 whatever for staying in the country, except that he'd 22 been here evading the law for 12 years, was turned into 23 a hero by the Daily Mail, as it happened, and if you are 24 the person who has to make a decision, it's really 25 really tricky and it also means that public opinion</p> <p style="text-align: center;">Page 63</p>
<p>1 that.</p> <p>2 Q. What about the specific point or indeed the general 3 point that Mrs Brooks was merely representing the views 4 of her readers and therefore it's wholly legitimate for 5 her to bend your ear? 6 A. Oh, yes. It is striking that when one talks to editors, 7 senior executives of popular newspapers, that they 8 believe this. I think that has a truth behind it, but 9 the Sun's or the Daily Mirror's readers are also my 10 constituents and I think you can't have a position in 11 public life, which editors do as much as politicians, 12 and plead as your excuse for an otherwise abject 13 position that you have asked your readers or your 14 constituents what you should do with your conscience and 15 taken their view, because first of all they don't have 16 a single view, and not only -- 17 I mean, a lot of my politics comes from talking to 18 my constituents in organised ways, through open air 19 meetings, through residents' meetings and so on, and the 20 same person may have two views within the space of ten 21 minutes, and what you have to do is to try and make 22 judgments about what they are saying to you. Most 23 people have their lives to lead. They're not people who 24 use argument as day by day as you and I do, Mr Jay, or 25 that journalists do, so I say at one level I understand</p> <p style="text-align: center;">Page 62</p>	<p>1 becomes quixotic.</p> <p>2 Or, for example, you're invited to take a firm 3 position over those who breach the law, and that people 4 ought to be serving the sentences laid down, and then 5 when you get a man who's sentenced to 30 years in jail, 6 escapes from jail after 19 months, spent 36 years on the 7 run, Mr Ronnie Biggs, he is then regarded as some kind 8 of hero and you are accused of being unfair to him when 9 you decide he ought to stay in jail for a bit longer. 10 These things are -- you have to cope with them, but 11 I wish sometimes that the newspapers would hold the 12 mirror up to themselves and compare and contrast 13 positions they're taking in general with those they're 14 taking in particular. 15 On the issue of Thompson and Venables, what happened 16 was towards the end of my period as Justice Secretary, 17 one or other of them, and I'm afraid I can't remember 18 which one, had committed an offence of Internet porn and 19 that meant that they had to be recalled to prison and 20 all the rest of it, but there were demands from the 21 papers for the injunctions, which were lifetime ones to 22 prevent their new identity being released, those to be 23 withdrawn, and for further details to be given. The 24 press were desperate to find these people. 25 Again, I understand that, but if the identities of</p> <p style="text-align: center;">Page 64</p>

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<p>1 these people had been disclosed, they would have been at 2 very serious risk of physical danger, injury, certainly, 3 worse possibly, and yet the papers -- some of the papers 4 simply weren't willing to think about that. But anyway, 5 I mean I stuck to my guns on that.</p> <p>6 Q. You make -- this is out of sequence because this relates 7 to the future -- a useful point in paragraphs 124 to 128 8 about the vices of what you call pre-briefing speeches.</p> <p>9 A. Yes.</p> <p>10 Q. Which of course would include but not necessarily be 11 limited to leaks.</p> <p>12 A. No, I mean the pre-briefing is -- I mean there are leaks 13 of speeches, but we've got too absurd -- may I just 14 start this again and separate statements to Parliament 15 from non-Parliamentary occasions.</p> <p>16 Statements to Parliament, the rules are very clear, 17 which is that Parliament should be the first group to 18 hear what a minister is saying, so you must not 19 pre-brief or publish in advance. That's often, I'm 20 afraid, observed in the breach, and sometimes a draft of 21 a statement, although that's less frequently, is leaked, 22 but more often there is briefing by, say, a special 23 adviser or sometimes a minister concerned about what 24 they're going to do.</p> <p>25 Then there are non-Parliamentary speeches, where</p> <p style="text-align: center;">Page 65</p>	<p>1 A. That bit, certainly the drugs for blood pressure, sir, 2 is not.</p> <p>3 LORD JUSTICE LEVESON: No, no, no, I wasn't thinking of 4 drugs or blood pressure.</p> <p>5 A. No, no, no.</p> <p>6 LORD JUSTICE LEVESON: It doesn't really bite on the 7 relationship.</p> <p>8 A. It makes the relationship more incestuous. The issue of 9 how -- of Parliament enforcing the rules about 10 Parliament learning first is not to do with you, sir, of 11 course. I think it's a symptom of the way this 12 relationship has become.</p> <p>13 LORD JUSTICE LEVESON: Okay.</p> <p>14 A. Too incestuous, so it does to that extent.</p> <p>15 MR JAY: I move on to the police --</p> <p>16 LORD JUSTICE LEVESON: Just before you move on to the 17 police, there are two points just on what you've been 18 saying a moment ago when you were discussing with Mr Jay 19 editors believing they are reflecting the views of their 20 readers.</p> <p>21 A. Mm.</p> <p>22 LORD JUSTICE LEVESON: I'd very much like your view on the 23 sub-argument, or it may be the over-arching argument 24 that also lies behind that, that editors get their 25 legitimacy because nobody needs to buy one of their</p> <p style="text-align: center;">Page 67</p>
<p>1 you're going to make a speech, it's quite an important 2 one, and the -- journalists and the press office then 3 say "We're going to brief this out", I used to be told. 4 I used to go along with it, but I used to also say that 5 I thought this was kind of absurd because you ended up 6 having the speech quotes briefed out. So the people who 7 turned up, had bothered to turn up to listen to you, 8 already knew what you were going to say.</p> <p>9 I just think it would be better if everybody said, 10 look, we're going to make a speech, then if you want to 11 hear it, come along; or, after all with webcams and all 12 the rest of it people don't necessarily have to be 13 there, but it becomes sort of a trick on the public, all 14 this stuff. So you get the Today programme desperate 15 for early sight of the speech so that their man at 6.32, 16 who sets up the political agenda every morning, is able 17 to say breathlessly and confidentially what he'd learnt 18 about what was going to happen later in the day, all 19 this stuff is going on, and I just think it would be 20 a good idea if we as politicians could all agree hang on 21 a second, this is not good for anybody concerned except 22 those who sell drugs for blood pressure. We ought to 23 all calm down.</p> <p>24 LORD JUSTICE LEVESON: Probably that's nothing to do with 25 me.</p> <p style="text-align: center;">Page 66</p>	<p>1 papers on any day, therefore they face an election every 2 single day, and if nobody likes their views, they won't 3 buy the paper.</p> <p>4 A. Well, they certainly get their legitimacy from the 5 aggregate of their readership, because -- for sure. If 6 you're selling 3 million newspapers, you have more 7 influence and authority -- query legitimacy.</p> <p>8 Legitimacy, I think, is a slightly -- I wouldn't use 9 that word, sir. They get their authority and influence 10 from --</p> <p>11 LORD JUSTICE LEVESON: All right, I prefer that.</p> <p>12 A. -- from, say, the aggregate weight and value of their 13 readers. So if you're selling 3 million you're going to 14 have more influence than if you're selling three papers. 15 Although it's not just, as everyone knows, an issue of 16 total numbers because the Financial Times would say they 17 only sell, I don't know, 300,000, but they sell to the 18 right 300,000, I think is how they put it.</p> <p>19 And talking to editors and senior executives, I'm 20 struck almost by their neurosis about what their readers 21 think of their product, and yes, they are tested every 22 day, and it's also the case that this is a -- the market 23 in newspapers in Britain is more competitive almost than 24 anywhere else in the world, we have more national 25 titles, and some titles are doing better than others.</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

<p>1 If you think of the Daily Mirror, I mean it was 2 outselling all the papers 30, 40 years ago, and now it's 3 not. 4 So they're right to be neurotic about this, they're 5 right that their authority and influence comes from 6 this, but I think where it's inappropriate is for them 7 to say therefore, as it were, they should resort to the 8 lowest common denominator of the prejudice of their 9 readers, because I don't think even the readers think 10 that, really. 11 LORD JUSTICE LEVESON: Thank you. The second point, you 12 provided some graphic illustrations of inconsistent 13 approaches, and you said newspapers should hold up 14 a mirror to themselves. That actually raises another 15 question, which is the fact that with very, very rare 16 exceptions, nobody holds the press to account at all, 17 and I'd be interested in your view at some stage about 18 whether that's just a fact of life and everybody just 19 has to live with it, or whether there is force in the 20 view that organisations such as Full Fact should be 21 given a greater prominence in order to just try to 22 improve standards. 23 A. I think it's a cultural issue, this, as much as a kind 24 of issue of regulation. A more effective system of 25 regulation, which as I set out in the Gareth Williams Page 69</p>	<p>1 this, and they have no memory at all. I mean, it 2 doesn't matter what you said before. Previous 3 inconsistent statements can never be adduced against 4 a newspaper, whereas, quite properly, they can against 5 politicians. 6 The other thing, sir, that many newspapers are 7 lacking in is an understanding of what it feels like to 8 have to make decisions. Yes, you need observers in 9 a society, but there is a degree of sort of voyeurism 10 about the British journalists which takes no account of 11 the responsibility of decision-making. I don't use that 12 as an excuse for decisions which I may have got wrong, 13 but they -- I mean they sometimes think that you have 14 had all the time in the world to make a decision. Well, 15 you haven't. You have a box full of papers to make -- 16 to get through. 17 One is conscious, when I certainly was a minister, 18 that if I missed a detail then I could a year down the 19 track, maybe ten years, I'd get rolled over for missing 20 that detail, not least by the press, you have to be very 21 careful, but you have to be very quick, you have to move 22 on but no understanding of that. It goes back to this 23 almost wilful refusal by the press collectively to 24 develop an understanding in the minds of their readers 25 about how governments in this country and democracy Page 71</p>
<p>1 lecture I think has to have a platform of statute, would 2 certainly help and it would more effectively put the 3 mirror to the press where they have breached certain 4 standards, but there is, say, there's a bigger issue 5 here about the culture of newspapers, culture of what 6 happened in newsrooms, where I certainly think that the 7 press need to be more examining of what they are doing, 8 much more examining. 9 I talked earlier in this evidence about how they 10 report politics and Parliament. I'm constantly amazed 11 by the newspapers complaining about low turnouts at 12 elections and even 20 years ago they were much higher, 13 and not understanding that they have contributed to 14 a significant degree to a culture in which politics is 15 seen as boring, it's seen as completely self-serving and 16 is not for smart people to get involved in, even to the 17 point of voting. So of course there's going to be -- 18 and that has an effect and they don't really think about 19 that. 20 They're highly quixotic, so the same newspaper can 21 be praising a politician one day and then -- I can 22 produce cuttings, but I won't, where one month I'm the 23 greatest thing since sliced bread and the next month 24 even your paternity is being questioned in some very 25 great degree, and by the same people who have written Page 70</p>	<p>1 actually works and they reduce it so much to 2 personalities and to conflict, which -- some of it is 3 personality, some of it is conflict, but nothing like as 4 much as they claim. 5 LORD JUSTICE LEVESON: Does that carry into a criticism that 6 Mr Boulton was making yesterday -- or actually I think 7 he was quoting somebody else -- that errors are not 8 simply errors, there's something going on behind them? 9 A. Errors by the media? 10 LORD JUSTICE LEVESON: No, errors by the politicians. In 11 other words, there is some not merely -- I think I used 12 the word yesterday, not merely a cock-up, but actually 13 there's something much more serious underlining 14 a failing. 15 A. Well, I'm sorry, I did read Mr Boulton's written 16 statement carefully. I've not read the oral evidence -- 17 LORD JUSTICE LEVESON: I think it came from a book that he'd 18 written, a piece that he'd written. 19 A. I'm not sure what point he's making because very, very 20 occasionally there may be a conspiracy behind 21 a decision, but I've never taken part in a conspiracy 22 and I never saw any of my colleagues doing this. I took 23 part in plenty of cock-ups, for sure, because that's 24 life. As John Major famously said, the only people 25 who've never made a mistake are the people who have Page 72</p>

<p>1 never made a decision, to which I would simply add: 2 they're called journalists.</p> <p>3 So you do make mistakes, of course. I think when 4 you do, you should seek to apologise for them and move 5 on. But that's life.</p> <p>6 LORD JUSTICE LEVESON: All right.</p> <p>7 MR JAY: Police issues now, Mr Straw.</p> <p>8 A. Yes.</p> <p>9 Q. The detail of what you say in paragraphs 51 and 10 following I'm not going to ask you about. I'm going to 11 ask you about the issue of culture.</p> <p>12 A. Yes.</p> <p>13 Q. Particularly your take on what the culture was as 14 between senior members of the Metropolitan Police 15 Service and journalists.</p> <p>16 A. I have no direct knowledge of this, and as I said in my 17 written statement, I've been through all the records 18 that the Home Office could find of this period as Home 19 Secretary and the issue of media relations itself is 20 very rarely mentioned. I mean, my view from having been 21 briefly in practice at the bar in the 1970s when the 22 evidence was emerging of endemic corruption inside the 23 Police Service, including in London, and having taken 24 a close interest in the whole issue of police 25 accountability from the very first year that I was in</p> <p style="text-align: center;">Page 73</p>	<p>1 and particularly with Lord Condon, Sir Paul Condon, who 2 was the Commissioner -- my Commissioner between May 1997 3 and when he retired, which I think was early 2000, it 4 was absolutely dominant. So I just need to -- what we 5 were dealing with there was much wider failings of the 6 Met, which came out, as they did so dramatically in the 7 course of that inquiry.</p> <p>8 Q. The Lawrence report was, of course, leaked.</p> <p>9 A. It was.</p> <p>10 Q. Are you able to assist the Inquiry as to the 11 circumstances surrounding that?</p> <p>12 A. Yes. Yes. The inquiry report was due to be published 13 on a Wednesday, which I think was 22 February. I was -- 14 I received it the previous week. We were very concerned 15 at the Home Office about the possibility of it leaking, 16 and it was kept very closely under wraps in the Home 17 Office, and I'm absolutely -- I had total confidence in 18 everybody who handled it within the Home Office, the few 19 who did.</p> <p>20 Downing Street people wanted to see it and said they 21 wanted to see something for the Prime Minister's weekend 22 box and I was very resistant to this because I was very 23 concerned about the general culture which had built up 24 in Downing Street of leaking, so I was very reluctant 25 about them seeing anything before the Monday.</p> <p style="text-align: center;">Page 75</p>
<p>1 the House of Commons because I had a private member's 2 bill on that, was that the relationship was not 3 altogether a satisfactory one and I certainly didn't 4 take the view, I worked on the basis that in every 5 police station, every police station, the local or 6 national papers would have a stringer, who was a police 7 officer or member of staff, who they were paying. That 8 was also -- I mean just regarded as a fact of life by 9 senior officers, very difficult to pin down, and -- yes, 10 that was my very clear view.</p> <p>11 The other point I think is very important which 12 I didn't properly bring out in my written statement to 13 take account of is this: the whole of my relationship 14 with the police, particularly the Metropolitan Police, 15 when I was Home Secretary was framed above all by the 16 Lawrence Inquiry. I'd become Home Secretary in very 17 early May, I'd made no commitment about an investigation 18 into Lawrence before the election or at the election 19 because I didn't think that was appropriate, but 20 I then -- one of the first things I did was to call for 21 the papers, look at what had happened or hadn't 22 happened, and then at the end of July 1997, just three 23 months after taking the job, announced this inquiry, and 24 as both Lord Blair and Lord Stevens bring out, I mean 25 that was deeply traumatic for the Metropolitan Police</p> <p style="text-align: center;">Page 74</p>	<p>1 In the event, as I recall, we agreed to produce 2 a summary, but it was a bit of a -- part of it was 3 a paraphrase, and quite deliberately so, and this only 4 went to them.</p> <p>5 Then on the Saturday evening, when I was coming 6 back, as it happens, from Blackburn, I got a call from 7 my private secretary, Clare Sumner, who was on duty, to 8 say that it had leaked, and because I was so concerned 9 about the effect of this leak on the Metropolitan Police 10 particularly and on the Lawrence family and also on 11 Parliament, because we'd been under great criticism for 12 pre-briefing, which I didn't go in for myself but with 13 government in the frame, I sought and obtained an 14 injunction to stop the presses of the Sunday Telegraph.</p> <p>15 And then that subsequently had to be lifted because 16 they'd already printed some of the copies and there was 17 a huge rumpus that I was trying to gag the press, which 18 was nothing of the kind because the whole thing was 19 going to be published the following Wednesday.</p> <p>20 LORD JUSTICE LEVESON: I've had that problem too, in the 21 Inquiry.</p> <p>22 A. Indeed. It was absurd. Nonsense. If I was intending 23 not to publish the report, of course there would have 24 been a public interest in publishing it, but this was 25 about whether one newspaper was entitled to publish</p> <p style="text-align: center;">Page 76</p>

1 extracts.
 2 **And for all sorts of reasons, not least the fact of**
 3 **the summary, which was written solely for Number 10 and**
 4 **didn't go anywhere else, and for other reasons, I had**
 5 **not -- that leak came from Number 10, didn't come from**
 6 **Alastair Campbell, I don't believe he knew about it, but**
 7 **it came from somebody in Number 10 and I know who that**
 8 **person -- there was a leak inquiry, which took some**
 9 **time, we weren't able to take disciplinary action**
 10 **against them but we knew who they were, and they**
 11 **subsequently left working for Downing Street. But I was**
 12 **very angry about it indeed. Furious.**
 13 Q. Can I ask you about the general topic of spin and New
 14 Labour.
 15 A. Yes.
 16 Q. Some observers would say that you were either tangential
 17 to or outside the spin circle and therefore can assist
 18 us sort of looking in.
 19 A. I take that as a compliment, if they do, and I hope
 20 I was.
 21 Q. Your statement suggests that generally speaking you
 22 were, but as you say you're not perfect?
 23 A. Well, none of us is perfect, but I disliked that --
 24 I understood why it happened, but I thought that it was
 25 bound to blow up in our face, which indeed it did, and

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1 I also just thought it was unnecessary, because if we
 2 just got on with being ministers and telling Parliament
 3 what we were doing, it would mean -- to use the share
 4 price analogy, of course the price wouldn't be puffed as
 5 much as it was, but it wouldn't go down as badly as it
 6 did, and it might have meant that we, instead of winning
 7 400 seats in 1997 and 401 in 2001, if those were the
 8 numbers, we'd won 30 or 40 fewer, but that probably --
 9 I mean, without -- that would probably -- I think might
 10 have been a good thing for the Labour Party as well as
 11 for our democracy.
 12 Q. In terms of its causes, though, how would you analyse
 13 those?
 14 A. The spin? Well, it goes -- it partly, Mr Jay, goes back
 15 to our concern to develop a close relationship with the
 16 papers, which arose particularly during the 1980s and
 17 the 1992 election, and to the highly competitive nature
 18 of the British press. So what I saw was that gradually
 19 some newspapers or some journalists on some newspapers
 20 were being favoured by Downing Street or some particular
 21 ministers, and they were involved in kind of --
 22 conspiracy is too strong a word, but had these little
 23 groups. It was very, very incestuous, I think very
 24 unhealthy.
 25 It suited the ministers or Number 10 concerned at

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1 the time. It also suited those journalists because they
 2 had privileged access to information, so they were
 3 getting exclusives over their colleagues in the same
 4 newsroom and over other newspapers, but I think it was
 5 a bad idea. I didn't like it, and I tried to get on, as
 6 far as I could, doing things in a different way.
 7 Interestingly enough, Alastair Darling did too, and
 8 I think there was some connection with the approach we
 9 adopted and the fact that we survived in that government
 10 whilst others didn't.
 11 Q. Arguably there are two polar positions one sees in
 12 commentaries. There's the position that someone like
 13 Mr Osborne adopts, and we'll be seeing his piece. It's
 14 all the fault of the political classes, if one can put
 15 it in one sentence. And the position of Mr Campbell is
 16 more: it's the fault of the fourth estate, culture of
 17 negativity, everything else. Do you have a different
 18 position, a mid-position or --
 19 A. Right, as I've indicated I think the truth lies in
 20 between and I think there are high responsibilities on
 21 both journalists and the media and on politicians. I'm
 22 not trying to be sort of Pollyanna-ish here, although
 23 probably that's the wrong metaphor, but anyway, I'll
 24 think of the correct one a moment, but yes, the right
 25 approach always lies in the middle, but I think we fed

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1 each other. I think Mr Osborne is completely off the
 2 wall in what he writes, but Mr Campbell is not correct
 3 either.
 4 Q. One can debate the diagnosis, but what if anything can
 5 be done about it in a free press and a mature democracy?
 6 A. I think the process of this Inquiry is, quotes, doing
 7 something about it, just as the process of the Lawrence
 8 Inquiry, the process of it, leave aside the specific
 9 recommendations, changed the nature of policing, because
 10 you saw over the period of that inquiry aspects of
 11 policing which the public didn't generally know about
 12 and the police -- it was a mirror for the police. Now
 13 this Inquiry, this whole process, is a mirror for
 14 journalists and many journalists are very serious
 15 people, intelligent, bright, thoughtful, and concerned
 16 about the future of journalism in our democracy, and
 17 they want this -- they want to think about this.
 18 So that's one part of it.
 19 I think changes in the system of regulation will
 20 also help, in fact I'm pretty certain they will, because
 21 they will end this -- with luck -- sorry, sir, I'm
 22 anticipating your recommendations, but my view is that
 23 you have to have some external regulation of the press
 24 and that's not, as Mr Dacre would claim, I think, that
 25 this would be the end of freedom of the press as we know

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<p>1 it. Far from it. It's to protect the freedom of the 2 press. But the press can't go on, as they have been, 3 claiming that every other institution in the land 4 requires external regulation, which includes the legal 5 profession, and they were right at the front of claiming 6 that the legal profession couldn't continue to regulate 7 itself, it includes the City, and again they were in the 8 front of saying the City couldn't go on regulating 9 itself, but they then say, "But hang on a second, the 10 press ought to be able to regulate itself", when 11 palpably it has failed, and also it has to be taken into 12 account that the only reason that any changes in 13 regulation have ever been made, ever been made, in terms 14 of self-regulation have been a late response by the 15 press to the possibility that they will at long last be 16 subject to statutory regulation.</p> <p>17 You go through all the post-war inquiries, including 18 the Younger one and then Calcutt and all of those, so 19 they only shifted under -- well, when they saw a tank 20 coming down the road, and I think, frankly, the last 50 21 years' experience shows that those days have gone and 22 you have to have something external, and I think it 23 would be good for the press as well because most 24 journalists want much higher standards.</p> <p>25 Q. You gave expression to some of these views in the Page 81</p>	<p>1 A. And one other point which I make in the preceding 2 paragraph is that -- and the subsequent ones is that 3 some people in the press have presented self-regulation 4 versus external regulation as a kind of four legs good, 5 two legs bad dichotomy, and implied that at the moment 6 there is no external regulation anyway. There is 7 actually quite a lot, in terms of the law of defamation 8 and indeed the law of privacy, and what you have is 9 simply -- it's principally about what sanction you can 10 get for failure of substantive law above the -- at the 11 top of it, which is the system of self-regulation. 12 I didn't make that very clear, but you may want to go 13 on, Mr Jay.</p> <p>14 Q. On page 4 you deal with the issue of privacy. 15 A. Yes.</p> <p>16 Q. Which you describe as intellectually, procedurally and 17 politically much more difficult to handle. 18 A. Yes.</p> <p>19 Q. We're not dealing with inaccuracy, we're dealing with 20 truth. 21 A. Yes.</p> <p>22 Q. Which should remain private. Is this your position now 23 that consideration should be given to a separate privacy 24 tort? 25 A. Yes, it is, and indeed I say that in the course of this Page 83</p>
<p>1 Gareth Williams memorial lecture. One sentence, of 2 course, was extremely propitiously timed, 12 July, so it 3 was right in the eye of the storm. It's under our 4 tab 2.</p> <p>5 A. Yes, I have that.</p> <p>6 Q. We're not going to read it out, Mr Straw. We've had the 7 chance to pre-read it. But can we pick up a number of 8 key themes and see the extent to which at all you wish 9 to modify those in the light of events which have 10 occurred since July of last year?</p> <p>11 LORD JUSTICE LEVESON: Or indeed what's happened in the 12 Inquiry. Not external events, but to such extent as 13 you've picked things up from the Inquiry.</p> <p>14 A. Indeed.</p> <p>15 MR JAY: First of all, the concept -- the reality indeed of 16 self-regulation, which you begin to touch on on page 3 17 on the internal numbering.</p> <p>18 A. Yes.</p> <p>19 Q. You describe it, I think, as a weak substitute at the 20 margin for a legal structure.</p> <p>21 A. Yes.</p> <p>22 Q. I think you probably have already explained it as one in 23 the context of the --</p> <p>24 A. Yes.</p> <p>25 Q. -- historical context. Page 82</p>	<p>1 lecture later on, that there ought to be -- we ought to 2 pick up what Calcutt proposed, which was that -- for 3 a separate tort. And I've -- later on --</p> <p>4 Q. Page 8, isn't it? 5 A. Sorry?</p> <p>6 Q. Page 8. 7 A. Yes. And I mean there isn't -- and for the reasons 8 which I set out, that the public have a right to expect 9 the same explicit protection available to them as they 10 do in respect of defamatory statements, breach of 11 copyright, and every other tort. At the moment we're 12 getting to it by a kind of side door.</p> <p>13 Q. Might two things be said? The creation of a privacy 14 tort might create primacy of Article 8 over Article 10, 15 and secondly, what is wrong with the development we've 16 seen over the last 14 years, namely what the highest 17 courts have done, creating not so much a privacy tort 18 but de facto principles, or indeed perhaps de lure 19 principles which amount more or less to the same thing? 20 A. I think on your first point, Mr Jay, you can deal with 21 that by drafting of the legislation, so I don't -- 22 I think you can overcome that.</p> <p>23 On your second point, the answer isn't -- what would 24 be the difference? Not much, is my answer. I accept 25 that, and it's implicit in what I say at page 8. Page 84</p>

21 (Pages 81 to 84)

<p>1 It's really -- the only inference is really a point 2 of principle. You may say the principle's not worth it, 3 and you could also say, well, the torts which are 4 available for people where a remedy is available to them 5 directly, for example, defamation, have themselves been 6 developed by the courts rather than by Parliament, and 7 broadly that is true, so why not leave, as it were, the 8 living law, the common law, to develop in the same way? 9 And I -- there is a strong argument on that side. 10 As I say, my judgment, and it's a balanced one, not 11 a -- is that to get a -- first of all, I think that 12 Parliament needs to take this job on now. I mean -- 13 I say -- and Lord Justice Leveson has made the point in 14 an interrogatory way that the effect of us, as I -- to 15 use the analogy here, the passing of the parcel, the 16 development of a law of privacy was to put the judiciary 17 unfairly in the frame for being criticised for this, 18 when in fact it was Parliament which had done this. So 19 I think we ought -- it's an issue of responsibility, and 20 just of Parliament saying -- making a statement to 21 everybody that as citizens they do have a right to have 22 their privacy protected, not absolutely, but generally. 23 Q. On page 8, before you deal with privacy, you muse over 24 what was then going to to be a non-statutory inquiry 25 into the culture, practices and ethics of the press.</p> <p style="text-align: center;">Page 85</p>	<p>1 A. So far that's there, and it's -- the whole sort of 2 politics of this are now very different from where they 3 were before. 4 LORD JUSTICE LEVESON: I'm pleased you say that, because 5 I think I heard from Mr Campbell on Monday that he 6 doubted whether there was still the same support. I am 7 not trying to get into any political debate here. 8 A. No, I know. 9 LORD JUSTICE LEVESON: I want to make this as politically 10 neutral as possible to make it easy for all parties to 11 decide a common way forward. If you like, it's the 12 consensus politics to which you referred earlier. 13 A. I think that really -- it -- you could only make 14 progress, I think, on a -- in an area like this by 15 consensus. That doesn't mean without any argument, but 16 it does mean there has to be backing for the principle 17 and backing for where you get to in the end. 18 I mean, at the moment, if you look at what's going 19 on in Parliament, of course there is a lot of partisan 20 argument over, for example, the issue of the B Sky B bid, 21 and I won't go into any further detail on that, but that 22 is obvious, but behind that, I think that what I divine 23 is clear understanding by all the parties that we got 24 too close to the papers, and that applies particularly 25 to the two main parties, and that it's not healthy for</p> <p style="text-align: center;">Page 87</p>
<p>1 A. Yes. 2 Q. And a few days later it ceased to be that. 3 A. Yes. I was struck how much this is a piece of ancient 4 history when I reread that paragraph. 5 Q. The "kicking into the long grass" point may or may not 6 be valid, whatever the -- 7 A. Well, I hope not. 8 LORD JUSTICE LEVESON: But that again is going to be 9 a matter for Parliament. The great difference between 10 what I am doing now and what I normally do for a living 11 is normally I decide cases, and that's the end of that. 12 The decision is there, and if you don't like it, off you 13 go to the Supreme Court. Here, everything I do will 14 take the form of recommendations. 15 A. No, I understand that. 16 LORD JUSTICE LEVESON: They don't have to be picked up or 17 not. 18 A. I understand that, sir, and there will then be 19 a responsibility on the body politic, in my view, to 20 ensure that your labours have not been wasted. 21 LORD JUSTICE LEVESON: It is one of the reasons why I've 22 been very, very keen to ensure the Inquiry could 23 maintain the cross-party support -- 24 A. Yes. 25 LORD JUSTICE LEVESON: -- that it had when it started.</p> <p style="text-align: center;">Page 86</p>	<p>1 anybody, least of all is it healthy for the press, so 2 with luck, there will be that continuing momentum for 3 change, and some of us are going to do our best to 4 ensure that it takes place. 5 LORD JUSTICE LEVESON: I'm pleased to have asked you the 6 question, because listening to Mr Campbell the other 7 day -- I don't say it was very depressing, but it 8 certainly created a concern. 9 A. Look, I'm not in any doubt, sir, that there will be 10 a concerted effort by some of the newspapers to argue 11 against any form of more coherent regulation than you 12 have today, and I think Mr Dacre has made clear he holds 13 a perfectly honourable view, which I respect but don't 14 share, about what he thinks will happen if there is 15 coherent regulation. But I hope and believe that even 16 he recognises that the landscape has changed completely, 17 and what the public are willing to tolerate has changed 18 completely. 19 LORD JUSTICE LEVESON: He certainly said that last September 20 when he attended the seminar. 21 A. Yes. 22 MR JAY: Mr Straw, on other matters, the issue of prior 23 notice, page 10. 24 A. Yes. 25 Q. You don't favour an absolute requirement, you favour</p> <p style="text-align: center;">Page 88</p>

22 (Pages 85 to 88)

<p>1 a presumption.</p> <p>2 A. Yes.</p> <p>3 Q. And you indicate why.</p> <p>4 The third issue, the make-up and underpinning of the</p> <p>5 reconstituted regulator --</p> <p>6 A. Yes.</p> <p>7 Q. -- which you would like to be called the Press</p> <p>8 Commission, but I'm sure the label doesn't matter.</p> <p>9 First of all, its normative force, are you envisioning</p> <p>10 a statutory underpinning, and, if so, why?</p> <p>11 A. Yes, I am. One discrete reason for having statutory</p> <p>12 underpinning is that if you don't, if it continues to be</p> <p>13 voluntary, there's no way that I can perceive by which</p> <p>14 you can then bring in those newspaper groups that don't</p> <p>15 want anything to do with the regulator. It used to be</p> <p>16 a matter for speculation but now it's a matter of</p> <p>17 reality because of the position the Express Newspapers</p> <p>18 decided to take to just extract themselves from the PCC.</p> <p>19 That's one reason.</p> <p>20 Secondly, if you leave it to self-regulation, we end</p> <p>21 up with this absurd situation where they are judge and</p> <p>22 jury in their own cause. As I think has become clear in</p> <p>23 the course of this, I do have very high respect for</p> <p>24 Paul Dacre -- I've known him for a very long time and so</p> <p>25 on, and none of that is soft soap, but I simply do not</p> <p style="text-align: center;">Page 89</p>	<p>1 the ministers and Parliament, who set them up, becoming</p> <p>2 more subject to account.</p> <p>3 Q. We've heard the argument advanced that once you have</p> <p>4 a statute there, it's easy to amend it, and a less</p> <p>5 benign government in years to come will amend it in</p> <p>6 a way which is inimical to the interests of the press.</p> <p>7 Do you see any force on that?</p> <p>8 A. No, I mean, on that basis you should never change the</p> <p>9 law at all because it could be changed again. It's not</p> <p>10 easy to amend primary legislation. I mean, for -- it's</p> <p>11 quite -- I mean, I've obviously -- in abstract theory</p> <p>12 it's easy, because you introduce a legislation and you</p> <p>13 pass it, but in practice it's very difficult. You have</p> <p>14 to get parliamentary time to do so, you have to make</p> <p>15 a case for it, you then -- if you're the minister, you</p> <p>16 have to go before the House of Commons and explain why</p> <p>17 you're doing it, and then it's -- it will proceed</p> <p>18 through its stages. It always takes a long time, which</p> <p>19 is a necessary part of the process. And I just think</p> <p>20 it's absurd to argue that you shouldn't do one thing</p> <p>21 that is right today for fear that something may happen</p> <p>22 in the future.</p> <p>23 I mean, either, I think we should look at the case</p> <p>24 on its merits and if it's correct, then go for it. If</p> <p>25 it isn't, don't go for it.</p> <p style="text-align: center;">Page 91</p>
<p>1 believe that anybody could or should be placed in the</p> <p>2 position of adjudication which he and senior colleagues</p> <p>3 have over the standards of the press when the</p> <p>4 adjudication's taking place of them. That seems to me</p> <p>5 to defy all known principles of justice.</p> <p>6 So -- and the moment you accept that proposition</p> <p>7 that I've made, you then have to accept that this body</p> <p>8 will have to externally be imposed because there's no</p> <p>9 other way of doing it, the press simply aren't going to</p> <p>10 be able to do it themselves.</p> <p>11 I believe that they should calm down about the</p> <p>12 effects on their autonomy from politicians and ministers</p> <p>13 and have regard to all these other institutions which</p> <p>14 Parliament has set up and sustains which aren't remotely</p> <p>15 in the pockets of ministers or Parliament. The most</p> <p>16 obvious one is the judiciary. I mean, it's entirely</p> <p>17 sustained by Votes, with a capital V, of money from</p> <p>18 Parliament, but we're a free society and wouldn't dream</p> <p>19 of trying to constrain what happens here or in the</p> <p>20 Supreme Court, but there are plenty of other</p> <p>21 institutions now which we've more recently established,</p> <p>22 which, for example, include the United Kingdom</p> <p>23 Statistics Authority, the Independent Parliamentary</p> <p>24 Standards Authority. These are recent creations which</p> <p>25 have made our society more pluralistic and have led to</p> <p style="text-align: center;">Page 90</p>	<p>1 LORD JUSTICE LEVESON: The editor of the Times --</p> <p>2 A. Mr Harding?</p> <p>3 LORD JUSTICE LEVESON: -- proffered that argument and when</p> <p>4 I came back and pointed to section 3(1) of the</p> <p>5 Constitutional Reform Act, which enshrines in a statute</p> <p>6 the independence of the judiciary, he decided that he</p> <p>7 had brought a knife to a gun fight and, as it were,</p> <p>8 retired from the debate.</p> <p>9 A. Yes.</p> <p>10 LORD JUSTICE LEVESON: But that's an identification of</p> <p>11 a principle -- I think it would be quite difficult</p> <p>12 judicially to review something on the basis of</p> <p>13 an alleged breach, but do you see a value or a detriment</p> <p>14 in having a similar sort of declaration of principle, as</p> <p>15 it were, to put the position beyond doubt and to</p> <p>16 demonstrate that if somebody did want to change it,</p> <p>17 they'd have to change the principle, which actually</p> <p>18 couldn't be just done through an "and or an or"</p> <p>19 amendment, as it were, but would require a fundamental</p> <p>20 rethinking of the structure?</p> <p>21 A. Yes, I think a statement like that is of -- would be of</p> <p>22 value. I'm sure it would be. And I mean picking up</p> <p>23 your point about the Constitutional Reform Act, the</p> <p>24 2005 Act, not only -- I know you are familiar with its</p> <p>25 terms -- is there this requirement about the</p> <p style="text-align: center;">Page 92</p>

23 (Pages 89 to 92)

<p>1 independence of the judiciary, but there also parallel 2 requirements on the Lord Chancellor of the day to uphold 3 the independence of the judiciary. Indeed, you have 4 to -- there's a further oath that the holder of the 5 office has to swear in the Lord Chief's court here. 6 I don't think anybody ever anticipated that 7 certainly the section relating to the Lord Chancellor 8 would be the subject of judicial review here, but I have 9 to say, as the person who was subject to those 10 obligations between 2007 and 2010, they were in your 11 mind, and had any of my ministerial colleagues ever 12 said, "You should be doing this or you should be doing 13 that", which I felt was -- conflicted with that duty, 14 I would have said, so. 15 Moreover, that explicit statutory duty there helped, 16 in my view, to underpin the non-statutory duties in this 17 regard which are in the Ministerial Code, so there are 18 all sorts of sort of ripple effects from declarations 19 like that, and for sure, in extremis, I suppose I could 20 have been subject to judicial review as well, so there's 21 always that happy prospect, so I think it would be 22 a good idea, yes. 23 MR JAY: I invite you, please, to look at paragraphs 45 and 24 46 of your witness statement. This is page 03551. In 25 45 you say you take seriously the concern that any</p> <p style="text-align: center;">Page 93</p>	<p>1 understand is that we tend to talk about the 2 News International papers as a single body, but what is 3 striking in my dealings with these papers over 30 years 4 is that although for sure they're all owned by the same 5 group, they are very different and you've had the Sun, 6 which was -- has been without question the most powerful 7 paper and the one I think Mr Murdoch has used as the 8 agent of his power, right out front, and then not far 9 behind, the News of the World. And then the 10 Sunday Times, which in a sense, although it shares 11 a name with the Times, is a very, very different animal 12 from the -- works in a different market. And I put 13 those three together in one bracket, they're sort of 14 partisan vehicles, and quite separately you have the 15 Times. And I have just to say, because I declare a sort 16 of interest because I've written for them on and off 17 over the last 30 years, that the Times has a very 18 different culture from these other papers, and in my 19 lengthy experience maintains high standards. I mean 20 I just say that. So I think it's quite important that 21 they shouldn't all be tarred with exactly the same 22 brush. 23 LORD JUSTICE LEVESON: It bears the weight of its history. 24 A. Yes, and it has -- it's really interesting that in that 25 building, the one at Wapping and now the other one, they</p> <p style="text-align: center;">Page 95</p>
<p>1 system of statutory regulation could lead to an 2 unacceptable degree of state control: 3 "I do not believe that these concerns negate the 4 case for a statutory system. Rather, it has to be 5 constructed with great care." 6 And then you explain how to do this in paragraph 46, 7 it's all done arm's length. 8 A. Yes. 9 Q. What about the concern though that there is a seepage or 10 the perception of seepage that there might be state 11 control over the content of what newspapers can do? 12 A. I don't think there will be state control over the 13 content of what newspapers can do. I mean, by what 14 process could the state -- I mean -- control what they 15 were doing? They would be still free to publish 16 anything they wanted within the general law. If I may 17 say so, Mr Jay, I don't know who said this, but I think 18 it's nonsensical, it's a fantasy. 19 Q. I think that's clear. 20 Unless you have any points you wish to develop in 21 relation in particular to the future, those were all the 22 questions I had for you. 23 A. Can I say, sorry, it was triggered in my mind by 24 Lord Justice Leveson's reference to the Times. The only 25 thing-- probably I think it is quite important to</p> <p style="text-align: center;">Page 94</p>	<p>1 just have a very different culture, even though they're 2 only a floor apart. It's just how it is. And, of 3 course, you might say that it's what their readers 4 expect. 5 LORD JUSTICE LEVESON: Paragraph 50 of your statement. 6 A. Yes. 7 LORD JUSTICE LEVESON: If that's not an invitation, I don't 8 know what is. 9 A. I will, sir, provide you with more details. 10 LORD JUSTICE LEVESON: I would be very grateful. The reason 11 I would find it valuable, let me make it abundantly 12 clear, much criticism has been addressed, at least 13 initially, I hope not so much now, to the fact that my 14 background is as a lawyer and latterly as a judge, and 15 I have been parachuted into a world that is not mine, 16 and expected to identify all the pitfalls and all the 17 solutions, and the suggestion is that that simply isn't 18 practical or feasible. 19 You bring a very different experience to bear, and 20 I've said this to a number of people, and therefore any 21 assistance that I can get to try to come to terms with 22 the terms of reference that I have and to produce 23 a solution that is practical, effective, and properly 24 balances the legitimate interests of society where 25 a free press is critical, of the press who have the</p> <p style="text-align: center;">Page 96</p>

24 (Pages 93 to 96)

<p>1 commercial problems that they have to face with the 2 Internet, and the public is quite a task. 3 A. Yes, I accept that. 4 LORD JUSTICE LEVESON: And therefore I would welcome 5 enormously the assistance of you and indeed, as I've 6 said to others and will continue to say, to provide 7 input. I'll come up with the recommendations and then 8 everybody can do with them what they will, but 9 I wouldn't want to fail to take up a point for want of 10 the humility of asking. I am humble in this area. 11 A. Yes, sir. Of course I'll do that, and if I may, I'll 12 reflect on it and prepare a written statement. 13 I was also just reflecting on the experience of 14 setting up the Independent Parliamentary Standards 15 Authority, because it's a -- which I had -- fell to me 16 to do, and that's been a very interesting institution 17 because here is a body which has considerable power over 18 Members of Parliament, which is the sovereign Parliament 19 in the land, and to begin with, it caused conflict and 20 friction between the members of the House of Commons and 21 this body, but it's sort of gradually settled down and 22 there are mechanisms there by which the -- so the 23 members of the authority, the five members, are 24 appointed at arm's length from people in the House of 25 Commons, and I think it works. Of course I'll --</p> <p style="text-align: center;">Page 97</p>	<p>1 going up to 1,400, who may have this view, that their 2 business is to emasculate the press. I've yet to meet 3 them, it has to be said, and I don't think they've ever 4 put their views on record. 5 In any case, I'm afraid I think that this prediction 6 is completely unfounded. 7 What are we talking about here? We're talking about 8 a body which will be hopefully statutory, but whose role 9 would be very narrow. What is it there for? It's to 10 provide remedies for -- which would be hopefully 11 fast-tracked for defamation and maybe for breaches of 12 privacy. 13 LORD JUSTICE LEVESON: And also maintain standards. 14 A. Yes, and we query whether the adjudicatory body would 15 also do the standards, you might have to do that 16 separately. 17 LORD JUSTICE LEVESON: I agree, and I talk about three 18 limbs. 19 A. So if we're talking about the -- I mean let's deal with 20 that part of this body or that body which has 21 enforcement mechanisms. What it is enforcing there is 22 behaviours which are found to be in breach of the 23 general law. They're not -- I am not proposing any 24 change in the substantive law here in terms of either 25 defamation or privacy, and put aside my point about</p> <p style="text-align: center;">Page 99</p>
<p>1 LORD JUSTICE LEVESON: There are a couple of things you've 2 agreed to look at. 3 A. Yes. 4 LORD JUSTICE LEVESON: And I'm very grateful. Let me just 5 ask one further question, if I might, really picking up 6 on something that Lord Hunt said, which Lord Wakeham 7 agreed with, which -- 8 A. Lord Hunt, the chairman of the PCC at the moment? 9 LORD JUSTICE LEVESON: Yes. Lord Hunt put it this way: oh, 10 well, if you introduce legislation, then members of both 11 the House of Commons and the House of Lords will do 12 their level best to really try to emasculate the press. 13 That's my summary, not his words. And they will want to 14 use the opportunity to impact on the freedom of speech 15 and expression and the press, which I have constantly 16 espoused. 17 Another witness said: well, I'd like to know who 18 these people are. 19 A. Yes. 20 LORD JUSTICE LEVESON: But then Lord Wakeham said: oh no, 21 there are certainly people like that. 22 If you have some sense of that, I'd be interested to 23 know it. 24 A. Well, I mean there could be people in the House of 25 Commons and the House of Lords, who after all number</p> <p style="text-align: center;">Page 98</p>	<p>1 having a separate tort because I've agreed with Mr Jay 2 it wouldn't make that much practical difference, so 3 you're just talking about provision of remedies, and 4 what you're trying to do is effectively to make the 5 current purpose of the PCC, which is to provide 6 fast-track remedies in situations like this, far more 7 effective in the circumstances in which certainly I've 8 come to the conclusion that the PCC cannot do it by 9 voluntary behaviour. 10 So that's what you're doing. There's no way in the 11 world that process is going to lead to control of the 12 press. It's completely nonsense. And I mean who are -- 13 so you have a press commission, let's call it that. 14 They have an office, you have adjudicators, they have 15 power to require publication of corrections and 16 apologies, they may have power to award damages. And 17 query, although I think's it's a really tricky area, 18 this, whether they have power to restrain publication in 19 advance of publication in privacy cases. Okay. 20 But how would any of that lead to -- 21 LORD JUSTICE LEVESON: Yes, I ought just to say so I can 22 test you on the question of restraint, prior restraint, 23 you suggest there should be a presumption -- 24 A. Yes. 25 LORD JUSTICE LEVESON: -- of provider notification. Was it</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

1 in your speech --

2 **A. Yes, it was.**

3 LORD JUSTICE LEVESON: -- that the answer to that might be

4 in default, exemplary damages?

5 **A. Yes.**

6 LORD JUSTICE LEVESON: It was in your speech?

7 **A. Yes, it was, page 10. I mean I didn't come to a --**

8 **I thought about this a lot and talked to a lot of people**

9 **before I wrote that paragraph, and it is -- and of**

10 **course well informed by a lot of the discussions I had**

11 **over in the Ministry of Justice. It's a really**

12 **complicated area; you know it, sir, better than I do,**

13 **about whether you should have an absolute requirement of**

14 **prior notification or whether it should have some**

15 **qualification.**

16 **And in the discussions I've had with serious senior**

17 **editors, there could be cases where it was in the public**

18 **interest for essentially the subject to be ambushed.**

19 **Not very many, but they may be very serious cases. So**

20 **I was trying to find a way through, and I think my**

21 **suggestion there was you make this presumption and then**

22 **if they can't meet the test, public interest, then it**

23 **would be open in very serious cases for there to be an**

24 **award of exemplary damages against them so they have to**

25 **take that into account when they make a risk assessment.**

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1 LORD JUSTICE LEVESON: Yes. The other possibility that

2 I think I asked somebody about was that there is some

3 mechanism for an editor to go to the Commission and say,

4 "We don't want to notify", so there's an independent

5 view --

6 **A. That would be a very good idea, I think, yes.**

7 LORD JUSTICE LEVESON: Of course you couldn't force people

8 to do it. It would be evidence that would be relevant

9 to the court to consider if you had or you hadn't.

10 **A. Yes.**

11 LORD JUSTICE LEVESON: And if you'd ignored the advice --

12 **A. That you were given.**

13 LORD JUSTICE LEVESON: -- then that's relevant.

14 **A. No, I think that's a very good idea, yes, and I think**

15 **that would work too.**

16 **Just going back to this issue of state control,**

17 **I mean the Commission is not going to be sending around**

18 **Gauleiters into the newsrooms of newspapers, or even**

19 **explaining to editors they won't get honours or**

20 **invitations to Ascot at the end of the -- at the**

21 **appropriate time. The way our society works, which is**

22 **very pluralist anyway, isn't like that, and we are --**

23 **I mean, my observation -- far more open than many, not**

24 **all but many European jurisdictions. I don't think**

25 **anything's going to change in respect of this.**

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1 LORD JUSTICE LEVESON: Well, you mean our society isn't

2 going to change?

3 **A. Sorry, my sentence rather tailed off. I don't think**

4 **that the pluralism is going to change, just because you**

5 **have a press commission which is backed -- has a few**

6 **powers and enjoys public confidence, which the current**

7 **arrangement palpably doesn't.**

8 LORD JUSTICE LEVESON: I think that's probably a very

9 convenient moment at which to conclude, Mr Straw. Thank

10 you very much.

11 **A. Thank you very much, sir.**

12 LORD JUSTICE LEVESON: Right. Well, you shrug, Mr Jay.

13 You've allowed me to have an afternoon to do some work.

14 Thank you very much indeed. We'll say 10 o'clock

15 tomorrow morning. Thank you.

16 (1.02 pm)

17 (The hearing adjourned until 10 o'clock the following day)

18

19 MR JACK STRAW (sworn)1

20

21 Questions by MR JAY1

22

23

24

25

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