

**DAY 3 P.M.**

IN THE HIGH COURT OF JUSTICE

1997 I No.139

QUEEN'S BENCH DIVISION

Royal Courts of Justice

Wednesday, 1st March 2000

Before:

MR. JUSTICE MORLAND

BETWEEN:

- (1) INDEPENDENT TELEVISION NEWS LTD.
- (2) PENNY MARSHALL
- (3) IAN WILLIAMS

Claimants

- and -

- (1) INFORMINC (LM) LTD.
- (2) MICHAEL HUME
- (3) HELENE GULDBERG

Defendants

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MR. T. SHIELDS Q.C. and MR. M. BARCA (instructed by Messrs. Biddle) appeared on behalf of the Claimants.

MR. G. MILLAR and MR. A. HUDSON (instructed by Messrs. Christian Fisher Solicitors) appeared on behalf of the Defendants.

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DISCUSSION re video

Mr. SHIELDS

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1 2.00 p.m.

2  
3 (In the absence of the jury)

4  
5 MR. JUSTICE MORLAND: I gather you wanted me in without the jury?

6  
7 MR. SHIELDS: I know your Lordship would prefer to deal with these  
8 matters at 4.30, I am conscious of that, but if I could just  
9 raise this matter now, my Lord.

10  
11 MR. JUSTICE MORLAND: Yes.

12  
13 MR. SHIELDS: My Lord, at the outset of the proceedings my learned  
14 friend - and I make no criticism of him - showed, as your  
15 Lordship will recall, a video tape taken by the Serbian crew  
16 who were also present.

17  
18 MR. JUSTICE MORLAND: Yes.

19  
20 MR. SHIELDS: That video contained material which I have never  
21 seen before, my Lord, and it obviously was a matter of concern  
22 to me that it contained material particularly in relation to  
23 the appearance of Fikret Alic which I had never seen before.  
24 Not that I was concerned that it may be prejudicial to my case  
25 but I had never seen it before.

26  
27 MR. JUSTICE MORLAND: Yes.

28  
29 MR. SHIELDS: My Lord, we then caused inquiries to be made and  
30 what happened was this. In July, I think, of last year my  
31 learned friend's solicitors served a supplemental list which  
32 referred to a Serbian tape. My instructing solicitor  
33 requested a copy of it, which was produced to him. Copies  
34 were then made by ITN and it appears that the original may  
35 have come down to me but in any view there is no reason to  
36 suspect that I do not have any interest in editing the tape.  
37 We have looked through a copy of the video ---

38  
39 MR. JUSTICE MORLAND: And it does not include this passage?

40  
41 MR. SHIELDS: It does not include the passage at the end or the  
42 passage at the beginning, and we are somewhat concerned  
43 because your Lordship will see at the end ---

44  
45 MR. JUSTICE MORLAND: Yes. Well, what are you asking me to do in  
46 the absence of the jury?

47  
48 MR. SHIELDS: What I am asking is that in a sense your Lordship  
49 should direct this afternoon that the defendants' solicitors  
50 at least come up with an explanation as to why the tape which  
51 we have got appears to be different to the tape which was  
52 played.

53  
54 MR. JUSTICE MORLAND: We can deal with that at some time after  
55 4 o'clock but so far as the progress of the evidence ---

1 MR. SHIELDS: Yes, my Lord, the progress goes on but I wanted to  
2 raise it with your Lordship now because if I see two separate  
3 tapes, my Lord, I do not know whether there may be other  
4 material which I have not seen.  
5

6 MR. JUSTICE MORLAND: Yes. Well, no doubt the defendants'  
7 solicitors will check between now and 4 o'clock what is the  
8 position.  
9

10 MR. SHIELDS: I am obliged, my Lord.

11  
12 MR. JUSTICE MORLAND: Can we have the jury back, please.  
13

14 (In the presence of the jury)  
15

16 Mr. IAN KEITH WILLIAMS, Recalled  
17 Cross-examined by Mr. MILLAR, Continued  
18

19 Q We were on the Channel 4 rushes in that gymnasium and if we  
20 could just run forward, please, perhaps quickly because  
21 I think there is a bit of stuff here in that gymnasium, to the  
22 next shot outside. Right, start playing it. Pause there.  
23 There is a man walking from a road into what looks like the  
24 front of a building with water and a queue of men for water.  
25 That is the front of, I think, the school building, is it not?  
26 At the top, fronting onto the east road? A. I cannot  
27 recall exactly where that is.  
28

29 Q Did you get to this part of the camp? A. I cannot recall  
30 if I was with my cameraman at this point or not.  
31

32 Q Do you see the fence around that building? As I say, we think  
33 it is the school. It is a sort of wrought iron fence, a sort  
34 of decorative wrought iron fence, or metal fence. Does that  
35 ring any bells? A. No. I mean, the clip of the water is  
36 familiar because the Serb guards were allowing them out in  
37 groups, I think, of three or four at a time to go and collect  
38 water. But I cannot recall precisely where that particular  
39 shot was taken.  
40

41 Q Right. So you witnesses some of the water collecting?  
42 A. Yes.  
43

44 Q Okay, if we run on at normal speed. Halt there, please.  
45 It is a guard. We say that that shot, taking -- well, taking  
46 either of them but taking Mr. Deichmann's plan, is up at the  
47 top of the east road, somewhere in front of the school  
48 building looking down past the community building, is that  
49 right? A. I could not say for certain. I think that is  
50 probably a fair assumption but I could not confirm that.  
51

52 Q Let us see if we can be clear about one thing. In the  
53 vicinity of the camp there are only two roads, are there not,  
54 the two that intercept at the bottom? A. Yes, they would  
55 certainly be on that east road.

1 Q And you did not go onto what I am calling the west road to do  
2 any of your filming because that is some way away from the  
3 camp? A. No, we did not.  
4  
5 Q Right. So any roads we can see like that when you are filming  
6 we can take it that is the east road? A. Yes, we can.  
7  
8 Q All right. Can you run on a bit, please. If you pause there,  
9 we can see there is another fence. There appears to be a lamp  
10 post in front of it, right in the middle of the camera on the  
11 other side of the road. Again, some sort of low fence and  
12 there are men in the area in the background. Does that ring a  
13 bell? A. Again, I cannot recall precisely where this is  
14 and whether I was with James at this point.  
15  
16 Q Right. Can you run on quickly because we go through what  
17 I think everyone will remember, quite a long shot of some  
18 water being pumped, which I think is somewhere in this area,  
19 I am not sure. Maybe you were not there. Go back a bit, to  
20 the beginning of this sequence where the water finishes. Just  
21 there, and just run it at normal speed and I will tell you  
22 when to stop. Stop just there. Now that is the women looking  
23 over the fence and we can see in the background the tall  
24 building that we saw right at the start when you arrived at  
25 the camp? A. I believe so.  
26  
27 Q We can see to the right of it in the background that lower  
28 lengthy shed building that obscured your camera shot when your  
29 vehicle first arrived? A. It is difficult. I could not  
30 confirm that. I mean, there were a number of derelict  
31 buildings there. That is what we would call a long shot taken  
32 on a long lens, I guess, and which would compress everything.  
33  
34 Q Okay. I am going, at the end of this piece of cross-  
35 examination, to finish again with the shot we looked at at the  
36 start, the ITN camera panning round past the barn, which  
37 starts with a shot of that further down the road. So if you  
38 and the jury, and his Lordship, just bear in mind that basic  
39 layout, the tall building on the left and then the shed-like  
40 building on the right with a corrugated iron roof. We will  
41 come back to that. But we say at this point, looking at the  
42 plan, the camera is yet a bit further down the east road. You  
43 can see it on the plan, looking diagonally from the east road  
44 in the direction of what is marked on the plan as "garage and  
45 transformer". So just out of shot to the right would be the  
46 barn. We are going to see this more clearly in a moment, do  
47 not worry, I am just enabling you to get you bearings for what  
48 I am going to ask you. But keep an eye on the woman in the  
49 white top, the white vest and the blue jeans who is talking  
50 over the fence, the second one to the left.  
51  
52 MR. JUSTICE MORLAND: The sleeveless vest?  
53  
54  
55

1 MR. MILLAR: Yes. Could you just run on a bit. Pause there and  
2 just run on a bit. There we are, stop there. Right. Now,  
3 there is the newer low wire fence, yes? A. Yes.  
4  
5 Q On the east road, and in the background we say the darker  
6 poles that you can see - we are going to see these more  
7 closely in a minute - are the poles of the fence running  
8 across east-west at which Alic was filmed. So what we say we  
9 are looking at here is, looking at Mr. Deichmann's diagram,  
10 the north-east corner of what he has got as the compound  
11 surrounded by a barbed wire fence at the point the low fence  
12 comes down to meet it but from the other side from where we  
13 saw it last time, where the three fences met. If you look in  
14 the background behind that lady's head, in fact intersecting  
15 the head of the lady behind, you can see a strand of barbed  
16 wire, sagging a bit but running across. Do you see that?  
17 A. Yes.  
18  
19 MR. JUSTICE MORLAND: You are putting it is the north-east corner,  
20 are you?  
21  
22 MR. MILLAR: Yes. We see the transformer in the background.  
23 Does your Lordship see on Mr. Deichmann's drawing where the  
24 long arrow, low fence, ends up?  
25  
26 MR. JUSTICE MORLAND: Yes.  
27  
28 MR. MILLAR: Then there is the road on the other side of it.  
29 It is that section of low fence running down to the  
30 intersection of the barbed wire.  
31  
32 MR. JUSTICE MORLAND: Well, if you say so.  
33  
34 MR. MILLAR: Well, that is our case. Can you run it on a bit,  
35 please. Pause there. We will see these more clearly in a  
36 shot in a moment. If you look just down at the area below  
37 the left hand of the lady in the white vest, there are the  
38 building blocks that we looked at in the shot, the grey  
39 building blocks, when we were looking at this the other way  
40 round. As I say, we will see them more clearly in a later  
41 shot because there is somebody sitting down by them. But they  
42 would be in the south-east corner of the field where Alic was.  
43 You can see some building blocks there, grey building blocks,  
44 below her arm? A. Yes.  
45  
46 Q Can you run on a bit, please. Now, this is the canopy,  
47 I think, at the side of the school building -- the community  
48 building, I beg your pardon. Stop there. Now, that is a shot  
49 that should be familiar to you now. It has got that rather  
50 strange, raised first floor sloping canopy that we saw from  
51 the side when we were looking across the field where Mr. Alic  
52 was, correct? A. I guess so. It is difficult to confirm  
53 absolutely but that does look like the canopy that we could  
54 see from the other side, yes.  
55

1 Q Well, is it your recollection that the community building  
2 fronted onto the road? A. Yes, it did.  
3  
4 Q And that the school fronted onto the road? A. The  
5 building that we were referring to at the back of the compound  
6 in which the men are enclosed, that building fronted onto the  
7 road, yes.  
8  
9 Q Right, as did the middle building, the admin/community hall?  
10 A. I cannot confirm precisely where that fronted.  
11  
12 Q All right, that will be for the jury. But we say that is the  
13 canopy that we saw from the side of that building many times  
14 earlier on, and we can see there is an open gate into that  
15 area with, again, the low decorative wrought iron fence?  
16 It is a rusted red colour. Do you see that? A. Yes.  
17  
18 Q Does that accord with your recollection of being the front of  
19 the building? A. I believe so, yes.  
20  
21 Q And that shot is taken from the road, is it not? A. Yes.  
22  
23 Q Okay. Could you run on, please. Right, we can run through  
24 the water gathering across the east road. I am sorry, we have  
25 gone too far. If we could just go back to the end of the  
26 sequence where water is being gathered. Now if you could do  
27 what you just did again, slowly go forward. Just pause there.  
28 That is the very top of the old red poles with barbed wire  
29 fencing around? That is what it looked like, is it not?  
30 It is one of the things that we can see on the shot of Alic  
31 through to the field, that barbed wire fencing?  
32 A. It appears to be. Quite where it is I do not know but  
33 it certainly appears to be barbed wire linked between poles.  
34  
35 Q Okay. Run it on at normal speed, please. Stop there.  
36 Just so that we can get our bearings, I think we are going to  
37 go back to where we just were, that shot of the barbed wire  
38 fence with some water being handed through into the field.  
39 But I think it will become apparent as we go through the  
40 next sequence, which is quite important in the light of your  
41 earlier evidence, a man walking up to a barbed wire fence;  
42 and we say that this gentleman here with the gun, this guard,  
43 is sitting at the side of the barn we saw right back at the  
44 beginning, facing the field, in the shade. He is facing  
45 towards the fence that Alic was filmed through. So on the  
46 plan he is on the northernmost side of what is the barn,  
47 sitting down at the side of it, and we say that in the  
48 background you will see the other side of the compound with  
49 barbed wire around it. Now, can you just run on at normal  
50 speed to a man walking across, up to the fence, with some  
51 buckets of water. Stop there and run back again to the guard  
52 sitting down and do it again. I want to stop it. Okay, start  
53 it now and pause there. You can see in the background behind  
54 that man there are poles with the same sort of fencing, two  
55 strands of barbed wire at the top and some other fencing lower

1 down. You will see it more clearly in a minute, I think. Do  
2 you recall that? A. I have no recollection of precisely  
3 where this is. It is a little confusing.  
4  
5 Q Well, if you look behind -- your cameraman, you see, has been  
6 on the east road, has he not? A. He has been on the road.  
7  
8 Q In the previous shots, and it is important to make the point  
9 this video is sequential. He is recording as he goes along  
10 during the hour that you are there, is he not? A. Yes.  
11  
12 Q He is not running back over the film and re-filming things.  
13 So we are getting a chronological or a sequential impression  
14 of his movements around the camp. And I think you had  
15 accepted that he was on the east road and indeed seemed to be  
16 coming down the east road? A. He was on the east road  
17 when the previous sequences were taken, yes.  
18  
19 Q Right, okay. If you just run it, and you can see a  
20 wheelbarrow there inside the fence on the far side and some  
21 things hanging over the top of the fence. And in the  
22 background one thing we can be sure of is it is not the way  
23 Alic was filmed, is it, because the community building is not  
24 there? There are bushes and trees in the background. That is  
25 not the field back there, is it? A. No, it is not.  
26  
27 MR. MILLAR: The field is flat and mown grass with the community  
28 building in the back. So we say -- do you want to have a look  
29 at it on Mr. Deichmann's plan -- that what we are looking at  
30 here and about to watch is a shot from the north-east corner  
31 of what Mr. Deichmann has got as the barbed wire compound,  
32 looking across the compound to the other side and the  
33 cameraman is walking up to the fence where Mr. Alic was  
34 filmed. So he is walking up in the same way that the crew has  
35 walked up. Can you run it on.  
36  
37 MR. JUSTICE MORLAND: Are you saying the fence to be seen in that  
38 photograph, not this fence but the back fence, is the fence  
39 running on the west side, north side?  
40  
41 MR. MILLAR: Yes. It is the only side of the fence that we have  
42 not seen yet in any detail. We have seen the south side ---  
43  
44 MR. JUSTICE MORLAND: Yes, that is where it says "barn" on  
45 Mr. Deichmann's plan, to the right of that and slightly  
46 below it.  
47  
48 MR. MILLAR: That is right. (To the witness): If you look at the  
49 word "barn" on this plan, exactly, and then just follow the  
50 arrows we are a bit further up then that because we are not  
51 being obscured by the barn. The guard is sitting in front of  
52 the barn. He is walking forward and your cameraman is on the  
53 east road filming across that top section of the area enclosed  
54 by the barbed wire fence. What I want you to look at in the  
55 background in particular is whether you can see the area that

1 you have described to us earlier in your evidence out of which  
2 you went or through which you went from the fence to get to  
3 your location to the west of the low fence. Do you understand  
4 what I am asking? A. Yes. Yes, I do.  
5  
6 Q So run it on. Watch the poles and watch what is going on  
7 between the poles. Right, shall we see that again. Let us  
8 see it again all the way, following this man and looking at  
9 the background. You tell us where the area is that you went  
10 around the corner, as you described it, of the pole at the  
11 north-west side of Mr. Deichmann's compound to get to the west  
12 fence. Where is it? A. I am still not entirely clear ---  
13  
14 Q Stop there, please. A. If the location that you are  
15 saying this is taken at is correct then we should be able to  
16 see a low chicken wire fence across behind them and I cannot  
17 see that fence.  
18  
19 Q Run it on a bit, please. Do you see it now, there. Play it  
20 again. Look at the sheet hanging in the background. Pause  
21 there. Look hard at the sheet. Do you see it? Look on the  
22 left near the pole, where the sun is hitting that -- the  
23 green, where there is a light patch of green, and then look  
24 down from that. A. There is something there. It is not  
25 terribly clear.  
26  
27 Q All right. Well, it is a matter for the jury what they can  
28 see there but we say that is the mesh fence that we saw from  
29 the other side.  
30  
31 3.25 p.m.  
32  
33 MR. JUSTICE MORLAND: But is there anything below the strand of  
34 barbed wire to the left, that is on the north, south, west  
35 side fence, that is anything below here. That is the barbed  
36 wire, is not?  
37  
38 MR. MILLAR: It is.  
39  
40 MR. JUSTICE MORLAND: There is no chicken wire, is there, below  
41 there?  
42  
43 MR. MILLAR: Well, we think we can see it.  
44  
45 MR. JUSTICE MORLAND: You think you can see it. Well, it a matter  
46 for the jury to decide.  
47  
48 MR. MILLAR: It is a matter for them to decide. But I just want  
49 to ask. Can you run it back and do it once more. Normal  
50 pace.  
51  
52 MR. JUSTICE MORLAND: One of the strands of barbed wire looks as  
53 if it has been raised up.  
54  
55 MR. MILLAR: Yes, and one is sagging.

1 MR. JUSTICE MORLAND: Yes, and then another one.  
2  
3 MR. MILLAR: The last section, in fact you can see it there, is  
4 sagging down.  
5  
6 MR. JUSTICE MORLAND: Could you go back a section?  
7  
8 MR. MILLAR: Could you go back for his Lordship, please? Do it  
9 again.  
10  
11 MR. JUSTICE MORLAND: There.  
12  
13 MR. MILLAR: Yes. It criss-crosses there. It gets tangled.  
14  
15 MR. JUSTICE MORLAND: You think that may be open?  
16  
17 MR. MILLAR: Well, if you follow it from there, you can follow it  
18 all the way, it begins to sag down.  
19  
20 MR. JUSTICE MORLAND: Here?  
21  
22 MR. MILLAR: Yes. You can see the start of the sagging and then  
23 you can see it sagging at the other end. (To the witness):  
24 Do you see that? A. (No audible reply).  
25  
26 Q What I am puzzled by is where is this place that you were  
27 describing this morning that enabled you to get round that  
28 corner that may have had some barbed wire there in the past?  
29 A. Well, frankly, it is very difficult to see clearly from  
30 this picture. All I would do is repeat that when I travelled  
31 round that corner, if indeed that is the corner, I never had  
32 to vault over a tall barbed wire fence. I travelled ----  
33  
34 Q I did not put it to you that you had to vault over ----  
35 A. But I travelled around that corner straightforwardly.  
36 I didn't have to leave an enclosure, as you put it. In fact  
37 I was never conscious of being in an enclosure. But I was  
38 able to travel around that corner if indeed that is the  
39 corner.  
40  
41 Q Can we run it up then to the point where we are looking along  
42 the barbed wire fence and he is handing the water over. Stop  
43 it there. That is the corner that we saw from the other side  
44 because the wheelbarrow is there. I know you say you cannot  
45 see the mesh fence on the other side, but that is our case at  
46 any rate. Just so that I have got your evidence clear on  
47 this, do you say that when you, as you put it, went around  
48 that corner to get to the mesh fence, the low fence on the  
49 west side, that what we are seeing there behind the bottle he  
50 is holding is where you went round? A. I travelled around  
51 that corner. Whether I had to backtrack slightly to do so or  
52 whether I stepped over the debris of a fence I cannot recall.  
53 But I went round that corner close to that point and I was not  
54 conscious of either being in an enclosure and certainly  
55 I didn't have to backtrack out around the road as you suggested.

1 Q But it looks like there is, all the way along there, sagging  
2 or twisted and crossed? A. Well, I would ----  
3  
4 Q It is fairly unpleasant barbed wire? A. Well, I don't  
5 think it is very clear what is there. It certainly didn't  
6 provide an obstacle for myself or my cameraman or my team to  
7 travel around that corner.  
8  
9 Q I see. All three of them will confirm that you travelled  
10 around as a group round that corner? A. I'm not saying we  
11 travelled as a group because we were doing our own thing at  
12 various times when we first arrived at that camp. As I say,  
13 interviewing, talking to people, filming. We weren't all  
14 travelling together in one group. So I cannot confirm whether  
15 we all went around at that same time.  
16  
17 Q I see. Well, could you look at the fence then? And can I ask  
18 the jury and his Lordship to look at it, and when at later  
19 stages in the trial, which we no doubt will, we come to look  
20 at the shot of the Alic fence, note that what we see in the  
21 Alic fence is exactly that, it is some fencing coming up from  
22 the bottom, brown rusty poles and two strands of barbed wire  
23 going across, which we have seen already. One is fairly new  
24 and one is fairly rusty. That is the arrangement we see at  
25 the Alic fence. Correct? A. Yes.  
26  
27 Q And those are men in the field? A. Yes.  
28  
29 Q Receiving water in the field? A. Yes.  
30  
31 Q Presumably from a water source near the barn or somewhere  
32 behind the barn where the man is coming from.  
33 A. Presumably, yes.  
34  
35 Q Can you run on a bit, please? We see he turns and walks away.  
36 Stop there. That is a shot of the women at the fence on the  
37 east road looking the other way, looking up the east road?  
38 A. That's right.  
39  
40 Q In the corner we can see the community building? A. Yes.  
41  
42 Q Looking this way rather than the tall transformer building  
43 which we saw when we were looking at the woman with the white  
44 vest and the blue jeans. I think, as you say, you came down  
45 that road as the last part of your visit to the camp? A.  
46 Yes, going back up the road towards where the camera is at the  
47 moment, past where those soldiers are.  
48  
49 Q Can you run it on, please? Pause there. That is our guard  
50 who a moment ago was sitting in the background there, do you  
51 remember, with his gun in his lap, in the shade. That is the  
52 background. He is now leaning against the gate that we saw  
53 right back at the very beginning, which is the entrance into  
54 the compound from the east road. Do you see that? Do you see  
55 that gate and the barn behind it? A. It is difficult to

1 tell because it is such a tight shot but it may well, yes, be  
2 that gate on to the road.  
3

4 Q If you look at it, can you see there is a pole on the right  
5 with some wire coming up to it? A. Yes.  
6

7 Q The bottom half of which is our old friend the six-sided  
8 chicken wire and then there is a strand of barbed wire above  
9 it. That runs out and there is a gap, moving to the right,  
10 and then a gate, a wrought iron gate, with another strand of  
11 barbed wire across the top. Yes? A. Yes.  
12

13 Q We are going to see it again, as I say, at the end of this  
14 cross-examination about the camp because we are going to go  
15 back and have a look - although the operator will not thank me  
16 for it - at the original ITN tape that we started with at the  
17 end of their rushes which shows this section of the road and  
18 the barn. But that is your crew shooting the gate into the  
19 area around the barn from the east road? A. That is my  
20 crew yes.  
21

22 Q What I have got to put to you is that you walked down the east  
23 road at the end of your visit to the camp, past this gate, and  
24 it must have been blindingly obvious to you that the barbed  
25 wire fence was part of a pre-war compound designed to protect  
26 the barn in the middle? A. No, it was not blindingly  
27 obvious. During my entire stay at this camp my focus was on  
28 the people imprisoned in the compound. Part of the wire  
29 imprisoning them was barbed wire. Frankly, I was  
30 concentrating on those people, not on the different make up of  
31 the wire surrounding them.  
32

33 Q You see, if we look at Mr. Deichmann's plan, Mr. Williams, you  
34 will recall where we came into this, or at any rate on our  
35 case where we came into this, which was driving up to the  
36 southern part of this, parking somewhere on the western road  
37 behind what he has got as the garage, the long building that  
38 has obscured your camera as the vehicle drove in, and you have  
39 accepted that you went into the compound at the little gap in  
40 the fence to the right of the electricity transformer.  
41 Correct? A. We entered the compound by the speediest and  
42 most direct route after we got out of the green military bus  
43 we were travelling in.  
44

45 Q Exactly. And that route being through the gap at the right of  
46 the transformer building, it must mean that you parked around  
47 there. Yes? A. I would guess so. I cannot confirm  
48 precisely where we parked.  
49

50 Q Well, it is not a question of guessing. You just put the two  
51 pieces of evidence together. You told us you went through  
52 that gap, a long time ago now, and you have just said you went  
53 to the quickest entrance near to where you parked?

54 A. I said I was not conscious about entering through any gap.  
55 I said when I got out of the coach I went by what I thought

1 was the speediest and the most direct route to where I could  
2 see many, many men behind wire in a field.

3  
4 Q Mr. Williams, let us not get into a dispute about the word  
5 "gap" or semantics. We have been through this. There was a  
6 well worn path, it appears on the ITN News at Ten broadcast.  
7 To the left of it was tall transformer building, to the right  
8 was the barbed wire fencing, and you walked through it after  
9 the film crew had gone through. A. I am not disputing the  
10 fact that I walked through the gap. What I am saying is I  
11 didn't jump out of the van and say: "Gosh, there is a gap,  
12 let us go for it". I got out of the van and saw the vision of  
13 a lot of people in a field and I wanted to get there as  
14 speedily and as quickly as I could, and the most direct way.  
15 I was not really paying attention to the appearance of a barn  
16 or whatever else happened to be to my left as I made that  
17 journey.

18  
19 Q I did not put it to you that you said: "Gosh, there was a  
20 gap", I just thought we were trying to agree as to where your  
21 car was parked? A. I think we were trying to establish  
22 what I was trying to do. I wasn't looking for where the gap  
23 was or what it was made of. I was going to get in, cover a  
24 story, film what I could see, get down and see where those men  
25 were behind wire.

26  
27 Q Okay, Mr. Williams, but you left the area as well as arriving  
28 at the area, did you not? A. Yes.

29  
30 Q And you left in the same vehicle that you arrived in, did you  
31 not? A. Yes.

32  
33 Q And the vehicle did not move between your arrival and your  
34 departure, did it? A. That's true.

35  
36 Q Right. You are coming down the east road. So at the end of  
37 your visit you are walking down the east road, the men in the  
38 field who have pre-occupied you, as you have described, during  
39 your visit ---- A. Yes.

40  
41 Q -- are behind you, and you are going round the corner of that  
42 area to get back to your vehicle? A. Yes.

43  
44 Q Have I got that right? A. Yes, I believe that's right.

45  
46 Q So they are no longer pre-occupying you, they are no longer  
47 even in your eyeline, are they, at that point? A. Well,  
48 not when I am going back to my vehicle, no.

49  
50 Q So did you at that point notice that to your right hand side  
51 was a compound with a barn in it surrounded by this barbed  
52 wire fencing? A. I didn't notice that, no. At that point  
53 I was concentrating on getting quickly back by the quickest  
54 possible route then of available to me to where our coach was  
55 parked, conscious that we had some very strong material, we

1 had visions of inhumanity, and intent, frankly, of getting out  
2 of that place as soon as possible before anybody deprived us  
3 of those tapes. I didn't have the benefit of Mr. Deichmann's  
4 map with me, I am afraid, so I was ----  
5

6 Q Mr. Williams, you had the benefit of 60 minutes, an hour ----  
7 A. 60 minutes is a very short time. This is ----  
8

9 Q -- to go round an area the size of a football pitch?

10 A. Well, it wasn't a written invitation and a set timetable  
11 with some rather welcoming hosts to give a little tour of  
12 their domain. We were there trying to pick up what footage we  
13 could of a desperate situation, a reasonably confused  
14 situation but one where it was clear that people were being  
15 treated in the most abysmal manner and we needed to capture  
16 that and capture the interviews that went with it. I mean,  
17 this was not ----  
18

19 Q I have got that. We have got that. But you are a fact-  
20 gatherer, are you not? You are a news reporter? A. Yes.  
21

22 Q And you aim to set out accurately in your reports, presumably,  
23 you say, the facts? A. We do.  
24

25 Q And it must be the case, must it not, having found this camp  
26 and seen what you have seen, having been there for an hour,  
27 and gone round it in the way you have described -- it must be  
28 quite important as a fact-gatherer who is going to go off and  
29 cut a film about it to have established in your mind a  
30 reasonably clear impression of the layout of the camp, must it  
31 not? A. I had a reasonably clear impression of the layout  
32 of the camp. So this is an old enclosure. It did not appear  
33 to me at the time as an enclosure. I wasn't aware of it being  
34 an enclosure. It was not part of the camp in the sense of it  
35 being a place where prisoners were being kept. Certainly part  
36 of the old barbed wire was being used to enclose those men,  
37 but given the inhumanity that I could see before me, frankly,  
38 the existence of an old barn and a transformer and a gate did  
39 not really seem very relevant.  
40

41 Q So can I just ----  
42

43 MR. JUSTICE MORLAND: Mr. Millar, you are descending into argument  
44 and inevitably Mr. Williams is also descending into argument.  
45

46 MR. MILLAR: I apologise, my Lord. (To the witness): But can  
47 I just check the evidence you have just given? Is it now  
48 that, having been through this exercise that we have been  
49 through in court today and studied the rushes in this way,  
50 that you accept there may have been a barbed wire fence  
51 creating a compound around that barn? A. At some stage in  
52 the past there may have been a barbed wire fence enclosing  
53 some sort of enclosure at the back of what is now the camp.  
54 It does appear from what you have taken us through, yes.  
55

1 Q Well, yesterday when your counsel was taking you through your  
2 evidence in chief, you said that that suggestion to the extent  
3 it appeared in the article that you complain of was absurd.  
4 Do you remember saying that? A. I said it was absurd to  
5 suggest that I had deliberately gone into an enclosure  
6 surrounded by barbed wire and filmed a distorted image,  
7 fabricated an image out of that enclosure in full knowledge  
8 that I was in the enclosure. I found that offensive and  
9 untrue, and I still do.

10  
11 Q But it would not be absurd on the basis of this footage and  
12 looking at it closely to suggest that there was at the south  
13 of the camp a barn with a barbed wire fence around it from  
14 pre-war days forming a compound? A. At the time that  
15 I was there and at the time that I was gathering information,  
16 gathering pictures, making this report, I was not aware --  
17 I was not conscious of either being in an enclosure, as you  
18 put it, or of the existence of an old -- whatever that  
19 enclosure may be. My focus was on those men beyond the barbed  
20 wire and the physical condition that they were in and I was  
21 determined to find out why they were there and how they had  
22 got into that situation.

23  
24 Q I am sorry, Mr. Williams, I am going to move on. I want to  
25 ask you this question once again because it may be important.  
26 Just a simple question. On the basis of the rushes that we  
27 have seen and looking at them closely, which we have done in  
28 court today, it would not be absurd, would it, to assert  
29 anywhere in the article or anywhere else that there was an  
30 area to the south of the camp with a barn in it with barbed  
31 wire fencing around it? A. I think it is less than clear  
32 the extent to which that barbed wire fencing extends. I don't  
33 think it is clear at all what that may have been, let alone  
34 what it was at the time that we were there in August 1992.

35  
36 Q All right. Can we finish the rushes, please? Just run them  
37 on at normal time. Just pause there so that we complete the  
38 picture. That is the cameraman on the east road looking at  
39 those bricks that we saw earlier, just inside the field at the  
40 south east side, is it not, where the women are talking to  
41 them through the fence? A. Again, the shot is too tight  
42 to really be able to see it in context.

43  
44 Q Can you run it on, please? Pause there. Can you see it now?  
45 That is the camera looking up the east road? A. Yes.

46  
47 Q With the bricks on one side of the fence and the woman sitting  
48 down at the side of the fence? A. Yes.

49  
50 Q Okay. Now, could you take the Channel 4 tape out, please, and  
51 just put in the Serb film which we saw this morning. Because  
52 you will have to run it forward. I do not want to show what  
53 we looked at this morning again. Can you run it forward fast?  
54 Just normal time, please. This is the east road, is it not?  
55 Pause there. One of the buildings on the east road.

1 A. I don't know. These aren't pictures shot by my cameraman.  
2  
3 Q Run on a bit and I think we will see where you are in relation  
4 to this, which should help you. Can you run it on at normal  
5 time? Pause there. It is not very good, I am afraid. Just  
6 run it on. This is Miss Marshall and you? A. Yes.  
7  
8 Q And you are heading off down the east road? A. Yes.  
9  
10 Q As it pans round we can see where you are going, heading off  
11 past the community building? A. Yes. That is very much  
12 the other side of the community building.  
13  
14 Q Yes. But that shows you at the beginning of your walk down  
15 the east road, and you have accepted that you ended up down at  
16 the bottom? A. Yes.  
17  
18 Q Okay, thank you. That is all I wanted to ask you about the  
19 rushes. What I would like to do now is turn and look at the  
20 circumstances as they were when you were sent to Bosnia to get  
21 this story. On 19th July 1992 the American journalist Roy  
22 Gutman published an article in News Day about Manjaca?  
23 A. Yes.  
24  
25 Q The camp at Manjaca. If you look in the claimant's bundle at  
26 tab 10, will you see a copy of that article. As we see from  
27 the first paragraph he had visited northern Bosnia with a  
28 photographer called Andre Kaiser. A. Yes.  
29  
30 Q We have only got the text of this but there had been some  
31 photographs accompanying this, had there not? A. That's  
32 right.  
33  
34 Q This article, you said, was faxed to you before you went to  
35 Belgrade? A. Yes.  
36  
37 Q It was presumably faxed in the original copy form, not like  
38 this? A. Yes.  
39  
40 Q As a cut from a newspaper? A. I can't recall in what form  
41 it would have been faxed to me but I imagine it is more likely  
42 to have been a cutting yes.  
43  
44 Q Over the page we can see at the top of the second page what  
45 Mr. Gutman was writing about in relation to Manjaca was that  
46 it was:  
47  
48 "... one of a string of new detention facilities [this is  
49 the second paragraph down] which an American Embassy  
50 official in Belgrade, the Serbian capital, routinely  
51 refers to as concentration camps. It is another example  
52 of the human rights abuses now exploding to a dimension  
53 unseen in Europe since the Nazi Third Reich."  
54  
55 You read that before you went? A. Yes.

- 1 Q And his story in News Day, this piece, was regarded as  
2 something of a scoop, was it not, around the world? A. It  
3 was regarded as an important story, yes.  
4
- 5 Q And indeed subsequently won a Pulitzer Prize, I think,  
6 Mr. Gutman's recording in July and August 1992? A. I am  
7 not sure about that.  
8
- 9 Q Closer to home, on 29th July 1992, tab 11, a reporter called  
10 Maggie O'Kane of the Guardian wrote a front page piece for the  
11 Guardian "... long hot Yugoslav sun". You will see in the  
12 text to the left of the article on the front page it says, the  
13 fifth line up from the bottom, that she saw the camps. Do you  
14 see that? A. Yes.  
15
- 16 Q But I think had you agreed with your counsel, and this is  
17 certainly my reading of the text of the article, that in fact  
18 she had not seen the camps, she was in Banja Luka giving an  
19 account of the camps on a hearsay basis? A. Yes. I think  
20 it was predominantly secondhand evidence that she had.  
21
- 22 Q If you look at that photograph at the top, look at the caption  
23 for the photographer, bottom right, "Photograph Andre Kaiser".  
24 That is Mr. Kaiser's photograph of Manjaca? A. Yes.  
25
- 26 Q From the Gutman article. If you just look at the second and  
27 third columns of the O'Kane article, look first at the second  
28 column, the second paragraph up from the bottom, she says:  
29  
30 "... her husband and their son to Trnopolje concentration  
31 camp."  
32
- 33 Do you see that? A. Yes.  
34
- 35 Q Then just across from that in the third column:  
36  
37 "Of the four concentration camps in this area of what was  
38 once Bosnia, now the Serbian Republic, Trnopolje is the  
39 best one to be sent to."  
40
- 41 So she was asserting that Trnopolje was a concentration camp,  
42 was she not? A. Yes.  
43
- 44 Q Again, you were sent this before you flew out? A. Yes.  
45
- 46 Q But, as I say, it looks from the article as though she had not  
47 been there and indeed there was no suggestion at that stage  
48 that any western journalist had been to Trnopolje? A. No.  
49 It was one of the reasons why we felt it so necessary to  
50 ascertain for ourselves what was happening in that part of  
51 Bosnia, because there had been so much rumour, so much  
52 accusation of atrocities from both sides that we wanted to  
53 establish the truth of it and, yes, you are right, most of  
54 what had appeared in the paper was indeed secondhand evidence  
55 from people who claimed to have been in the camps.

1 Q In the light of the issues raised by those reports, Channel 4  
2 decided to mount its own investigation, and an approach was  
3 made to Dr. Karadzic when was in London and a promise was  
4 obtained from him to give access to a Channel 4 crew to  
5 whatever they wanted to show, to show that there were no  
6 concentration camps. Correct? A. I don't know the  
7 precise mechanics of the Karadzic challenge but, broadly  
8 speaking, yes, that is what happened.  
9

10 Q Now I was going to remind you at this point how you described  
11 this in your evidence in chief, but it may be that I do not  
12 need to, because you have just done it again. You describe it  
13 as a challenge, your last answer? A. Yes.  
14

15 Q That was how you regarded it, was it not? A. As I say,  
16 the mechanics of it I'm not totally up to speed with because  
17 it happened in London while I was in Moscow. So I don't know  
18 precisely how it came about. All I know is that, yes,  
19 Karadzic said: "Come and see for yourself", and ITN, Channel  
20 4 news took him up on that.  
21

22 Q I was more interested in your perception of it as a challenge.  
23 I shall tell you what you said yesterday. This was of your  
24 conversations in Belgrade with Mr. Karadzic's representatives.  
25 You said: "We made it clear that we wanted to take up the  
26 challenge"? A. By which I meant that we wanted to hold  
27 him to his word, hold him to his invitation and go and see at  
28 his invitation what was happening in that part of Bosnia.  
29 That is what I meant.  
30

31 Q Well, I what I have got to put to you, and it seems plain from  
32 the words you have now used twice, that your perception was  
33 that his offer was a challenge to find camps where Muslim  
34 prisoners were being mistreated? A. No, I mean, it is not  
35 a question of semantics. He had invited Channel 4 to go and  
36 see for themselves. Channel 4 said: "Yes, we will do that".  
37 That is the nature of what we were doing.  
38

39 Q But if you could show in a report that there were camps in  
40 northern Bosnia unlike the ones you have described in and  
41 around Belgrade within Serbia, where Muslims were being  
42 mistreated, then you could show that Dr. Karadzic did not  
43 control the Bosnian Serbs in that area of northern Bosnia and  
44 he was a fool to issue the challenge, was he not?  
45 A. Well, that was not the way I was thinking at the time. At  
46 the time this conversation with Karadzic was followed by a  
47 conversation with my foreign editor. The evolution of our  
48 trip there was rather more complicated than that.  
49

50 Q At any rate, Channel 4 were keen that you should respond to  
51 the challenge swiftly. You were telephoned in Moscow by Sue  
52 English and she asked you, I think, to go immediately to  
53 Belgrade? A. That's right.  
54  
55

- 1 Q Around on to northern Bosnia to investigate the camp, and it  
2 was regarded as so urgent that you in fact delayed a holiday  
3 arrangement? A. No, that is not right. My conversation  
4 with Sue English urged me to go as speedily as possible to  
5 Budapest and on to Belgrade in order to meet Karadzic's people  
6 in order to ascertain whether allegations that had been made  
7 were true or false. At that stage it didn't just concentrate  
8 on northern Bosnia because there were other areas and other  
9 centres of alleged atrocities which we thought it equally as  
10 important to check out in the course of our investigation.  
11 The brief was rather more complicated, sir.
- 12
- 13 Q But there was a degree of urgency about it? A. Yes, there  
14 was a degree of urgency.
- 15
- 16 Q And the urgency was because - and I want to put your own  
17 counsel's words in opening - there was considerable world  
18 attention as to whether concentration camp allegations could  
19 be substantiated? A. Yes, there was urgency because we  
20 wanted -- people wanted to see whether they could be  
21 substantiated but also because we had Karadzic's offer and  
22 that needed to be acted upon very speedily before he let it  
23 slip away.
- 24
- 25 Q Now the challenge, as you have described it, was given  
26 substance by the list of alleged concentration camps, alleged  
27 by the Muslims that is, which was faxed to you I think before  
28 you went to Northern Bosnia. A. It was faxed to me in  
29 Budapest.
- 30
- 31 Q Yes. If you turn to tab 1 in the claimants' bundle, you will  
32 see the list. We can see, if we look at the second page,  
33 although the photocopying is not very good but one can get it  
34 from the numbering down the left-hand side, that there were no  
35 less than 57 locations or camps alleged by the Bosnian Muslims  
36 to be concentration camps. A. That's right.
- 37
- 38 Q If we look back at the first page, we can see at the top of  
39 the list of names concentration camps controlled by the  
40 aggressor. I just want you to look down that list on the  
41 first page. Number 22 Loznica - Sportski centar 1,380 people.  
42 That was the location that you described yesterday as having  
43 visited the Belgrade area, I think. A. Yes.
- 44
- 45 Q Before you got access to Omarska and Trnopolje. A. Yes.
- 46
- 47 Q Then, if you look further down to No. 29, somebody has marked  
48 "Serbia" next to it, "Belgrade" the Fourth of July Barracks.  
49 A. Yes.
- 50
- 51 Q I am having a stab at translating it but I think that is the  
52 one it is, 2,500 people. A. Yes.
- 53
- 54 Q Then, over the page, we can see Trnopolje and Omarska, right  
55 at the end of the list 54 and 55. A. Yes.

1 Q And would it be right to say that by the time you got to the  
2 two camps on that day you were conscious, indeed very  
3 conscious, of the fact that you as a group were the first  
4 Western journalists to get to these two camps? A. Yes.  
5  
6 Q Indeed, if we have listened carefully to the rushes of your  
7 interviews in Trnopolje it is a point you make to a number of  
8 people in your interviews. A. That is right.  
9  
10 Q We are going to look at a moment at the Sunday Times article  
11 that was written after your return after the broadcast of your  
12 report, but they describe your report from Omarska and  
13 Trnopolje as "A Scoop". Do you remember that article?  
14 A. I remember the article; I can't recall the terms they  
15 used.  
16  
17 Q We are going to look at it in a moment. But it would be right  
18 to say that you would have been conscious at that stage that  
19 potentially you had a scoop on your hands having got access to  
20 the camps. A. Conscious, yes, but, you know, there was a  
21 lot going through our minds at that time.  
22  
23 Q Now, it was a point that was of importance that if you could  
24 prove the challenge was issued foolishly or wrongly, in other  
25 words that you could find camps where there was mistreatment  
26 of Bosnian Muslims, that you would be able to say, Look. Dr.  
27 Karadzic has no control over this area; that was an important  
28 point, it was part of your thinking, was it not? A. No.  
29 That was only one aspect of it. If we couldn't find camps at  
30 which atrocities were being committed of the nature that had  
31 been suggested in those articles earlier, then that in itself,  
32 the fact that so much of this was propaganda would have been a  
33 story as would the fact that places like Loznica and the  
34 Fourth of July Barracks in Belgrade were not what they had  
35 been made out to be by the Bosnian Muslim Government.  
36  
37 Q But if you turn to tap 14, page 9, which is the transcript of  
38 your broadcast on 6th August, this is you being interviewed  
39 from the studio immediately after the report has been shown by  
40 the studio presenter. Yes? A. This is at the end of my  
41 report.  
42  
43 Q Pick it up at 7, "End of report". A. Oh, yes.  
44  
45 Q "Studio Williams, studio Williams." A. Yes.  
46  
47 Q At 9 we can see the point is actually being made by you  
48 immediately after the report, he says: "Does this lead you to  
49 believe that he", that is the leader of the Bosnian Serbs,  
50 Radovan Karadzic, "who gave you permission to enter there is  
51 not in full control of the people who are running these  
52 camps", and you say, "I believe that could be the case."  
53 A. Yes.  
54  
55

1 Q And it was an important point; it was a matter of concern.  
2 It would mean that the people who were running these camps  
3 were effectively doing it off their own bat, without any sort  
4 of control, as far as one can see. A. Well, it is  
5 debatable about where the control might have been coming from  
6 but, yes, it was an important issue as to whether those in  
7 Banja Luka responsible for these camps were doing it locally  
8 or whether they were being controlled from either Pale or  
9 Belgrade.

10  
11 Q And I have to put it to you, despite what you said in the  
12 previous answer and I hope I do not sound flippant in this but  
13 I have to put this to you, "Camps to which Dr. Karadicz  
14 invites ITN crew to see turn out to be okay", is hardly a  
15 story, is it in the climate created by the Gutman and Okane  
16 articles. A. Well, you do sound flippant and that would  
17 not be the way in which it would have been presented. Even  
18 camps that turned out not to have the sort of examples of  
19 gross inhumanity that we found in Northern Bosnia were  
20 themselves important - for instance, Loznica which I described  
21 on the Channel Four News Bulletin the following day was  
22 important; it was a refugee centre, there was no sign of  
23 abuse, but it did demonstrate clearly the extent of the ethnic  
24 cleansing that was taking place at that time, with people  
25 being evicted from villages across the border. So, no, there  
26 would have been a story to tell which would certainly not have  
27 carried your headline.

28  
29 Q Now, you see, we are coming to the point, are we not, because  
30 you had been to Loznica and the Fourth of July Barracks before  
31 going to Omarska and Trnopolje whilst you were in Belgrade and  
32 they were okay, as far as mistreatment of Muslims was  
33 concerned, were they not? A. That is right.

34  
35 Q And you did file a report about Loznica on 7th August, the day  
36 after the report that we are talking about. But you did not  
37 file an urgent story about either of those camps when you  
38 found them in the way that you did with Trnopolje and Omarska,  
39 did you? A. No.

40  
41 Q So you reversed the sequence of events. Your report about  
42 those camps came after you had found these two camps and put  
43 out your report about these two camps. A. When we visited  
44 Loznica and also when we visited Belgrade in the course of the  
45 weekend in the course of the Monday's trip to Pale we were  
46 still gathering information, gathering evidence. It would  
47 have been irresponsible to have gone to air with a report  
48 based on just two camps on a list of 57. We were still  
49 investigating, we were still looking into the matter when we  
50 arrived in Parlay and subsequently when we got up to Northern  
51 Bosnia. When we got the images, the story out of Northern  
52 Bosnia, that seemed to us a story of gross inhumanity rather  
53 more urgent to get on air than the story of what was happening  
54 in Loznica, which nevertheless we ran the following day in  
55 order to be able to put it in a wider context. In fact

1 I raised what we had seen at those other camps in my interview  
2 at the end of the film about Northern Bosnia in order to give  
3 it more balance and to describe what we had seen.  
4

5 Q I am sorry, I may have missed something here. You said it  
6 would have been irresponsible. A. Yes.  
7

8 Q To report on the two camps that you saw when you saw them that  
9 were okay. But I thought you said earlier when you reported  
10 on 7th August on Loznica it was an important story because it  
11 was evidence of ethnic cleansing and people being moved from  
12 their village. A. It was an important story but it was  
13 the first or second of the camps on this list that we visited,  
14 two out of 57; we felt we had not seen enough at that time in  
15 order to be able to draw or make a conclusion about the  
16 allegations that were being made. It would have been  
17 irresponsible to have tried to make a conclusion about the  
18 Bosnia and Muslim allegations on the basis of seeing one  
19 refugee camp on the border and one barracks in Belgrade,  
20 especially when at that time in conversations with aid  
21 workers, the UN, it was becoming increasingly obvious that the  
22 area for concern was in Northern Bosnia.  
23

24 Q Exactly. It was not the story that you really wanted to get.  
25 The story you really wanted to get involved access to camps in  
26 Northern Bosnia that had been described as concentration  
27 camps. It was a reasonable follow-up story the next day but  
28 it did not merit a report at the time, did it? A. There's  
29 no question of the story we really wanted to get. We were  
30 there investigating - I mean, this is basic journalism. We  
31 were there investigating serious allegations that had been  
32 made. We were there following up an invitation from Dr.  
33 Karadzic. It was important that we properly investigated  
34 those allegations and it was important that we did it in a  
35 methodical and responsible way.  
36

37 MR. MILLAR: My Lord, I am moving on to another sector of cross-  
38 examination; I do not know whether your Lordship wants to  
39 take a break.  
40

41 MR. JUSTICE MORLAND: A good time, Members of the Jury? Right.  
42

43 (Adjourned for a short time)  
44

45 MR. JUSTICE MORLAND: I am sorry I am a few minutes late. I had  
46 to deal with some administrative problems in another case.  
47

48 MR. MILLAR: I want to deal with as the next section the events  
49 leading up to and involving the compiling of the report, which  
50 we touched on a bit and I am not going to go back over old  
51 territory when we get to that. You left the camp Trnopolje  
52 and you all, i.e. all of the Channel 4, the ITN team and  
53 Mr. Vulliamy, is this right, drove back to Belgrade in the  
54 minibus that ITN had got? A. That is correct.  
55

1 Q And I think, understandably, there was some whisky knocking  
2 around and you had a drink of whisky? Do you remember that?  
3 A. I cannot recall.  
4  
5 Q I am not saying there is anything wrong in that at all.  
6 I think we are going to hear some evidence about that. Did  
7 you talk about what you had seen? A. We did talk about  
8 what we had seen.  
9  
10 Q Did you talk about what you had seen at Trnopolje?  
11 A. We talked about what we had seen at both of the camps on  
12 that day.  
13  
14 Q You arrived at Belgrade around midnight. I am not sure we  
15 ever had sort of rough timings of when you were at Trnopolje?  
16 A. I cannot recall the precise time. It was a long drive and  
17 it was very late by the time we checked in, in Belgrade.  
18  
19 Q Right. So you are leaving Trnopolje sort of early evening,  
20 are you, 5.00, 6.00? A. Late afternoon, yes.  
21  
22 Q So it is 6 plus hours, the drive? A. Yes.  
23  
24 Q And you then all went out to dinner, I think, in Belgrade in  
25 the evening? A. I think we had dinner in the hotel.  
26  
27 Q Right. A. It was very late by the time we got in there.  
28  
29 Q Now of course what you would have discussed during that period  
30 was that you had seen what we know you had seen at Omarska,  
31 the shots inside the camp and in the canteen, the men eating  
32 and the men walking in file and then being moved on from the  
33 camp; and you had seen what we have gone through in some  
34 detail at Trnopolje. Did you discuss during the course of  
35 that time on the drive or in the evening what might make the  
36 best news report in terms of --- A. Well, it was clear  
37 that the news report was the very fact that we had access to  
38 and pictures from these camps and evidence of inhumanity in  
39 those camps. It was not a question of what would make the  
40 best news report, it was self-evident.  
41  
42 Q I am sorry, I think it was my fault. I trailed off at the end  
43 of the sentence. I said in terms of footage. What would be  
44 the best footage that you had obtained, for instance?  
45 A. We did talk broadly, I recall, about the visit and what  
46 was most moving and the strongest of what we had.  
47  
48 Q Was there any discussion about the barbed wire fence?  
49 A. There was no discussion about the barbed wire fence.  
50  
51 Q None at all? A. No.  
52  
53 Q In all of that time? A. No.  
54  
55

1 Q You drove to Budapest on the morning of 6th August - you,  
2 Mr. Nicholas and Penny Marshall? A. That is right, and  
3 Andy Braddel.  
4  
5 Q And Andy Braddel, that is right, leaving Messrs. Hease,  
6 Lawrence and Irvin behind? A. That is right.  
7  
8 Q In your evidence in chief you were giving evidence about this  
9 drive to Budapest and you said you discussed the power of the  
10 images that you might have and how you should "define", was  
11 the word you used, what you had seen in your reports? Do you  
12 remember saying that? A. Yes.  
13  
14 Q Can you just tell me what you meant by "define"? A. Yes.  
15 I mean, I think there were two aspects. We knew that we had  
16 seen some examples of inhumanity. We knew that we had seen  
17 people who had been made to suffer in terrible ways and we  
18 knew that we had the first-hand evidence of that. We also  
19 knew that there had been talk of concentration camps and we  
20 also discussed the importance, as we felt it, of not using  
21 that term in the context of what we had seen because although  
22 we had clearly seen examples of suffering and inhumanity we  
23 could not say that we had seen Nazi style concentration camps  
24 and we were very sensitive about representing what we had in a  
25 responsible way. Indeed, the very power of the images that we  
26 had encouraged us to treat them in a cautious and responsible  
27 way, and we agreed that it was important to treat them -- in  
28 putting reports together we felt that we should be doing it in  
29 a way that told no more than what we could -- than what we had  
30 seen and what we had been told. We both agreed that we should  
31 be extremely cautious in the way we presented them.  
32  
33 Q I am sorry, that was a long answer but could I just be clear  
34 what your answer to the question is. What did you mean by  
35 saying how you should define what you had seen?  
36 A. That we would not call them concentration camps.  
37  
38 Q That was what you meant by that? A. Yes.  
39  
40 Q You were not suggesting that you discussed what sort of image  
41 you might use as symbolic of what you had seen in the camps?  
42 A. No, not at all.  
43  
44 Q So you really mean describe? A. Yes, how we would  
45 describe what we had witnessed.  
46  
47 Q In my note - it may well be wrong - in chief when you were  
48 dealing with this conversation I have a note of you originally  
49 saying that you discussed the fact that the shots or the  
50 pictures were so powerful and had to be treated cautiously  
51 and then you corrected yourself and said that you thought  
52 they would be very powerful but you were not going to see them  
53 until --- A. Yes, we had not seen them yet so we were  
54 working on the basis of what we had witnessed personally and  
55

1 assuming that that would be translated and be seen on the  
2 video tape when we came to view them in Budapest.  
3  
4 Q Right. I am sure I am about to portray my ignorance as a  
5 camcorder user here, but you told us you took 200 kilos of  
6 equipment with you, that is the ITN team? A. Yes.  
7  
8 Q But of course we all have video play-backs on our camcorders.  
9 Are you saying that the video tape you took on the cameras  
10 of these camps you did not have within that 200 kilos of  
11 equipment something to enable you to play it back, as we can  
12 see on a camcorder? A. We did not have the equipment  
13 until we got to Budapest to view the pictures that we had.  
14  
15 Q Nothing at all? A. No.  
16  
17 Q That enabled you to view, even in that sort of way?  
18 A. No. These are on VHS. You would need to -- the tapes  
19 that are shot on a video recorder -- on a Betacam television  
20 camera are very different sort of tapes and they need  
21 specialist equipment to play them back.  
22  
23 Q Right. So I have portrayed my ignorance. You cannot sort of  
24 run them back like a camcorder? A. No.  
25  
26 Q You then get to Budapest and in the course of 6th August  
27 you are compiling your reports. I just wanted to ask you  
28 about a document. We are now, I think, going to come to the  
29 defendants' bundle, which is number 12 because it got filtered  
30 but it is immediately behind the first document, the split  
31 line drawing. It will not mean a great deal to the jury at  
32 this stage. This is why I want to ask you about it. Have you  
33 seen this document before? A. Which one?  
34  
35 Q It is the second page. It has got "10" in the corner of it  
36 and it follows the plan. A. Yes.  
37  
38 Q Have you seen that before? A. I have not, no.  
39  
40 Q If you look at the middle chunk of it, just at the top hole  
41 punch there is a line running across and it has got the date  
42 of August 6th. It is in Dutch, I think. Do you see August  
43 6th, about two-thirds of the way along? A. Yes, I do.  
44  
45 Q 1815, that is 6.15 p.m? A. Yes.  
46  
47 Q What is set out in the chunk below - have a look at it -  
48 I think is a series of description of the logged shots on the  
49 footage that you took at Trnopolje on 5th August, and indeed  
50 at Omarska? A. Yes.  
51  
52 Q Is that right? A. Yes, that looks like what it is.  
53  
54 Q I understand that this is what is called a dope sheet in the  
55 trade? A. Yes, as far as I know.

1 Q Yes? A. Yes.

2  
3 Q Put out by an agency or an organisation called WTN?  
4 A. Yes.

5  
6 Q Do you know what WTN is? A. Well, I do not think they  
7 exist any more. They were a television news agency.

8  
9 Q Did ITN work in conjunction with them in 1992?  
10 A. I am not sure how closely ITN was then working with them.  
11 I believe that ITN owned a small chunk of them, but I am not  
12 sure. I mean, there are several agencies including Reuters.  
13 I could not say how closely ITN was working with them.

14  
15 Q What is the purpose of a dope sheet -- of an organisation like  
16 this putting out a dope sheet? A. I am not familiar with  
17 the way agencies work, I am afraid. I would guess it is to  
18 list the contents of pictures which they are distributing.  
19 I have not worked for an agency. I am not closely familiar  
20 with the way they work and how they compile the sheets.

21  
22 MR. JUSTICE MORLAND: Could you indicate, if you can - and if you  
23 cannot say you cannot - is there any witness that you know  
24 that may be called that could answer these questions?  
25 A. I think there is, yes.

26  
27 Q Who might be that person? A. My colleague Andy Braddel is  
28 now working for an agency and may be more ---

29  
30 MR. JUSTICE MORLAND: Yes. Good.

31  
32 MR. MILLAR: I will leave that and move on. I again thought a  
33 reporter might know that. But just back in the editing suite,  
34 the information on here, the shots, the logged shots at 6.15  
35 on that day has been fed through so do you, when you are in  
36 the editing suite, feed through to London the logged shots  
37 that are available with a description of them? A. No, we  
38 do not. I mean, I would guess that this was compiled as the  
39 report came in, perhaps, or I think we fed the report at 18.30  
40 Budapest time, which would have been 17.30 London time. But  
41 we certainly did not supply anything like this from Budapest.

42  
43 Q In Budapest we have dealt with the mechanics of your  
44 decision to use the Alic clip in your broadcast, in your  
45 report. I just wanted to pursue another point with you.  
46 You had to feed your report by 6.30, as I understand it?  
47 A. At 6.30. There was a satellite booked. We send the  
48 report back by satellite. Typically for a lengthy report like  
49 this we would book, perhaps, quarter of an hour of satellite  
50 time and it is more or less instantaneously sent up, comes  
51 back down and is recorded in London.

52  
53 Q And you had seen the Alic clip on the 5.45 feed to London by  
54 ITN? A. Yes.

55

- 1 Q Your decision to incorporate it was, as it were, at the last  
2 minute, in the last three-quarters of an hour? A. I am  
3 not sure at what stage in the afternoon we would have seen --  
4 when I say their feed, their cut spot prepared to feed to  
5 London. I cannot say precisely at what time I would have seen  
6 it during the afternoon but yes, it would probably have been  
7 fairly late in the afternoon.  
8
- 9 Q So you took a fairly late decision to take this feed and use  
10 it in your report because something about it was powerful or  
11 so powerful that you felt it merited doing that? A. Well,  
12 it was not so late because we did not start editing, I think,  
13 until after lunch and the section on Trnopolje was the latter  
14 part, the second part of our report. So the incorporation of  
15 the Fikret Alic clip was actually well down our report and not  
16 terribly far from the end of it. So it may well be that that  
17 is why we -- we were still editing at that point when we saw  
18 it.  
19
- 20 Q When the clip was seen that evening and reported in the media  
21 it was represented in a certain way and I just want to take  
22 you through one or two of the examples of that. Still in our  
23 bundle, if you would turn over from the dope sheet, I think we  
24 have seen the front page of this, p.1. This is the Mirror of  
25 7th August, the better copy as it happens in your bundle, but  
26 only p.1. Do you have that? A. Of the Mirror?  
27
- 28 Q Yes, that is at 92. A. Yes, I do.  
29
- 30 Q "Horror of the new Holocaust", and then in the second  
31 paragraph: "The haunting picture of these illegal captives  
32 evokes the ghosts of the Nazi's Belsen concentration camp  
33 during the Second World War." A. Yes.  
34
- 35 Q Then over the page, the inside page of p.2, the same sort of  
36 theme: "Oh, God, not again!" "Fury at Bosnian death camps  
37 spilled over last night as fears of a new holocaust haunted a  
38 horrified world." End of comment. "We must not fail now to  
39 stop this bloody birth of a new holocaust." Do you see that?  
40 A. Yes.  
41
- 42 Q Perhaps most importantly, if you look at this p.2, have a  
43 look at the two pictures that are juxtaposed on p.2 by the  
44 editorial staff at the Mirror. There is a picture from 1945  
45 of victims of the Nazi holocaust caged by barbed wire, above  
46 which is a shot of Fikret Alic and the other gentlemen through  
47 the barbed wire fence at Trnopolje. So the Mirror, or the  
48 people who put the Mirror together, saw the image as  
49 reminiscent of concentration camps? A. Yes.  
50
- 51 Q And again if we look at the Mail, which is best, I think,  
52 in tab 15 in the claimant's bundle, the red bundle. I am not  
53 sure that these are paginated. It is two or three of the  
54 article ... it is the one of the proof that you were taken to  
55 in chief. A. I am familiar with the ---

1 Q It is that one, your Lordship, the proof. "Behind the barbed  
2 wire" then it says underneath there:  
3

4 "Some eyes stare with a mixture of bewilderment and  
5 beseeching inquiry behind the strands of barbed wire.  
6 They are the sort of scenes that flicker in black and  
7 white images from a 50 year old film of the Nazi  
8 concentration camps."  
9

10 Then with considerable apologies to your Lordship and the jury  
11 I just want to take you lastly to the second page of the Mail,  
12 which is actually again back in our bundle because we only  
13 have the front page, in tab 15. If one goes on from the  
14 Mirror you should go through the Star. If you look two pages  
15 from the Mirror, the Star and then the Express ... photocopy  
16 and then the one we have just looked at in a rather worse  
17 photocopy, proof, and over the page, at p.2 of the Mail on the  
18 7th the headline again "Behind the Wire". Do you see that at  
19 the top? A. Yes.  
20

21 Q It is clear from p.1 and p.2 of the Mail that the editorial  
22 staff also took this powerful image to be reminiscent of  
23 images that they knew and understood that we would know from  
24 Nazi concentration camps, correct? A. Some of them did  
25 that, yes.  
26

27 Q Indeed - and we do not need to do anything to this but I am  
28 sure everyone will remember it - across the world there was  
29 a comparable reaction. We saw Channel 3, the ITN lunchtime  
30 broadcast on the following day, 7th August, and if you  
31 remember early on there was a clip from ABC in America headed  
32 "A Glimpse into Genocide", carrying the shot? A. I recall  
33 that, yes.  
34

35 Q Then we saw a number of other representations of it around the  
36 world. What I must put to you is that it was no coincidence  
37 that all of those news organisations, newspapers, ABC, and so  
38 on and so forth, drew a parallel between that image and the  
39 concentration camps. There is an obvious parallel, is there  
40 not? A. They are very powerful images of inhumanity.  
41 There is a parallel, yes.  
42

43 3.50 p.m.  
44

45 Q The parallel lies in the image of somebody very emaciated and  
46 apparently caged behind barbed wire in a camp? A. Well,  
47 there was a selection ----  
48

49 Q That is harrowing, is it not? A. There was a selection of  
50 images used, I recall, in the papers that I looked at.  
51

52 Q But that is the parallel, is it not? It is a thin person  
53 caged behind barbed wire in a camp? A. Many of them made  
54 that parallel. They were indeed emotive pictures and people  
55 reacted emotionally to them.

1 Q I have got to put to you that you and Penny Marshall,  
2 experienced news reporters, following a story,, the back drop  
3 to which is: is there evidence to substantiate evidence of  
4 concentration camps, must have at some stage, looking at that  
5 image of Fikret Alic, drawn that parallel in your minds, must  
6 you not? A. No, I never drew that parallel.  
7

8 MR. SHIELDS: My Lord, with respect, that has got to be broken  
9 down at some stage, that question.  
10

11 MR. JUSTICE MORLAND: Well, you will have plenty of time to do it  
12 in re-examination.  
13

14 MR. MILLAR: (To the witness): Not once? A. No.  
15

16 Q Not once in any of the conversations that took place about  
17 this up to the filing of those reports on the evening of the  
18 6th did you think or did you discuss with anybody that this  
19 shot was reminiscent of the images we carry from Nazi  
20 concentration camps? A. No. We were aware we had very  
21 powerful, very emotive, very moving footage showing the most  
22 awful inhumanity, but, no, I do not think sit down at any time  
23 and say: "Look at that. There is a parallel with Belsen".  
24

25 Q I did not say anything about sitting down. I just asked you  
26 whether in your mind at any stage there were ---- A. No,  
27 I did not.  
28

29 Q All right. But you tell us, you said it was so powerful that  
30 you had to take it at 5.45 and put it in your report, and we  
31 are going to see how you use it and what you say about it in  
32 due course. You tell us what it was, if it was not that, that  
33 was so powerful about it? A. It was a very good shot.  
34 There was a man who was emaciated, imprisoned behind barbed  
35 wire. That is what I had seen. That is what we showed.  
36 Simple as that.  
37

38 Q I think you are saying you took it as symbolising the  
39 suffering, that was why you made a point of taking it and  
40 putting it in your report? A. I thought it was a very  
41 good shot. I thought it was appropriate in my report in the  
42 section on Trnopolje and, yes, if you like, I think it does  
43 symbolise the suffering of those behind that -- in that field.  
44 But that was not the reason I decided to put it in my report.  
45 It was a much more practical reason because I thought it was a  
46 good shot, I thought it represented what we had seen.  
47 I thought it was important.  
48

49 Q Well, I have to put it to you that it is inevitable that in  
50 the course of that day you would have done precisely what all  
51 these other news organisations did when you looked at that  
52 image and drawn that parallel in your mind? A. I was  
53 looking at many images, some which I regarded as equally, if  
54 not more, powerful than that one image, particularly from the  
55 Omarska camp. At no time did I sit down, look at Fikret Alic

1 and say: "This is reminiscent of a Second World War  
2 concentration camp".  
3  
4 Q That was precisely why, even though it was not your shot or  
5 your cameraman's shot or something you had seen, you decided  
6 to take it at the last minute and put it in your report?  
7 A. That is not the case at all.  
8  
9 Q The position of the television war reporter, I think we can  
10 agree on this, please - someone back in London cannot verify  
11 your report and what it seems to be saying, can they?  
12 A. What do you mean by verify?  
13  
14 Q Well, someone who receives it through the feed at 6.30 for  
15 broadcast at 7.00 cannot establish whether the impression it  
16 gives is correct or truthful, they take it as a piece of your  
17 work and broadcast it accordingly? A. Well, there is a  
18 whole process of discussion with editors in London during the  
19 course of the compiling of a news report. It is a lengthy  
20 process, people are involved in every stage of it. But  
21 I cannot see how anybody anywhere can second guess the impact  
22 of a particular image.  
23  
24 Q I am not saying second guess. Let me put the point rather  
25 more explicitly. You are representing in a short television  
26 report a place, in this instance a camp ---- A. Two  
27 places, yes.  
28  
29 Q Two places. The one we have been looking at is Trnopolje.  
30 You were there, they were not. Correct? A. Yes.  
31  
32 Q So they are not in a position to judge from their own  
33 knowledge, any knowledge of theirs, whether it is a fair and  
34 accurate representation of that place, Trnopolje camp, are  
35 they? A. They are in a position to be able to take a  
36 judgment about me as an experienced news reporter and about  
37 the advice that I give them about what I have and the way  
38 I obtained it.  
39  
40 Q Exactly. So they rely on you for that? A. It is a two-  
41 way process.  
42  
43 Q You would accept, would you not, in the arrangements that  
44 exist for preparing these reports and putting them out that we  
45 have looked at, a war reporter like you in those  
46 circumstances, that it is the reporter who writes the script.  
47 Correct? A. Of course.  
48  
49 Q And it is the reporter who bears the ultimate responsibility  
50 for the combination of words and pictures as put out that  
51 represent the report? A. Yes.  
52  
53 Q Now, I want to look at the broadcast that you put out and  
54 I want to do it in conjunction with the transcript of the  
55

1 report. The jury have the transcript available to them at tab  
2 14.

3  
4 MR. SHIELDS: I think there may be a corrected transcript.

5  
6 MR. MILLAR: For these purposes, I am not too worried about it.  
7 I think it is self-evident when you look at this in  
8 conjunction with what you hear that one or two errors have  
9 been made.

10  
11 MR. JUSTICE MORLAND: Yes. If there are any important  
12 distinctions, remind us of them in case we do not get them.

13  
14 MR. MILLAR: Yes. Now while the operator, and I apologise if  
15 I have taken him by surprise on this, gets us to that point,  
16 can you open tab 14, please, because I just want you to look  
17 with the jury at the text, the introduction. I understand and  
18 appreciate that this is not your work and not your  
19 responsibility, but you would have seen this, would you not,  
20 at some stage after your return to London? A. I cannot  
21 recall the first time I saw what we call the PAB, the  
22 programme as broadcast. It may well indeed have been after  
23 this action began.

24  
25 Q I see. So even though you saw it created that sort of stir,  
26 you did not at any stage at the time after you came back look  
27 at what had been broadcast? A. I looked at some of what  
28 had been broadcast. I cannot recall how much of what has been  
29 broadcast I looked at, how complete a programme tape I looked  
30 at.

31  
32 Q Well, it says:

33  
34 "Good evening. For several weeks now the Serbs have been  
35 hotly denying growing evidence of ill treatment to  
36 civilians in detention camps in Bosnia. Channel 4 news  
37 reports exclusively from two detention centres [that is  
38 how they are described] where the terrified Bosnian  
39 inmates clearly suffer from malnutrition, beating and  
40 inhuman and degrading conditions. We will be challenging  
41 the leader of Bosnia's Serbs to open the camps up for  
42 international inspection."

43  
44 Now, that representation of the camps as two detention centres  
45 containing inmates, Bosnian inmates, would that have come from  
46 you? A. I think I referred to them also as detention  
47 centres in my ----

48  
49 Q You did. A. Yes.

50  
51 Q So that is not something you discuss in advance with them.  
52 They would take their summary of ---- A. No, it would be  
53 something discussed as well during the course of the day.  
54 I would give them a description of what I had found and they  
55 would incorporate that into what they called the lead-in.

1 4.00 p.m.

2  
3 Q And we can see after the chunk about Barclays Bank towards the  
4 bottom of the page:

5  
6 "ITN has gained exclusive access to the Serbian-run  
7 detention camps ..."

8  
9 There is an error there, I think.

10  
11 "... in Bosnia which were at the centre of persistent  
12 allegations of torture in institutions."

13  
14 Then over the page, the visit to Omarska, the top of the  
15 second page:

16  
17 "... restricted access. They saw prisoners, some with  
18 shaven heads and emaciated and were too terrified to  
19 talk. At the second camp, Trnopolje, men behind barbed  
20 wire told our reporter of beatings."

21  
22 Now, again the same question, would that have been them taking  
23 that from something you had said in the report or would you  
24 have discussed with them ---- A. I cannot recall ----

25  
26 Q -- the men being interviewed in the field were behind barbed  
27 wire? A. I cannot recall the precise mechanics of how  
28 that would have come about.

29  
30 Q We will see when we come to your report that phrase "behind  
31 barbed wire" is used in your report, so can you just run  
32 through what we have got. Up to the - I am not sure you use  
33 the technical phrase for it - the caption that leads into your  
34 report. This is what this presenter has just said so I do not  
35 think we need to look at that. We have just looked at it.  
36 Pause there. I am sorry, just run that back and run it on to  
37 that image inside the camps. Stop it there, please. Now that  
38 presentation of your report as a report about two detention  
39 camps that we have just discussed with you reporting from  
40 inside the camps, is that something you would have discussed  
41 with the people ---- A. The lead-in, the words that you  
42 have just listened to?

43  
44 Q Yes. A. I cannot recall in what detail I would have  
45 discussed that. It was a fairly frantic afternoon in  
46 Budapest. I clearly would have discussed with my programme  
47 editor and my foreign editor but I cannot say precisely how  
48 the lead-in is made. They clearly take account of what I say  
49 in my report and what I say in my conversations.

50  
51 MR. JUSTICE MORLAND: Do I understand this? You do not recollect  
52 whether you specifically chose this image to introduce the ---  
53 A. I didn't. This would have been chosen in London.

54  
55

1 MR. MILLAR: It is the Alic image behind the barbed wire fence.  
2 A. Yes, it is.  
3  
4 Q But you did not know that was being chosen in that way to  
5 introduce your report? A. No, I didn't.  
6  
7 Q What the viewer of course is being told, can you agree with  
8 me, from the intro and that shot there of the inside of the  
9 camps is that the viewer is about to see your report of two  
10 detention camps, Omarska and Trnopolje, which you have got  
11 inside of? A. Yes.  
12  
13 Q Could you run it on through Omarska, please. Could you stop  
14 it there, please? If we look at p.4 of your transcript, that  
15 is Omarska, you would agree, would you, just to recap on that,  
16 that what is being shown there is you inside Omarska?  
17 A. Yes.  
18  
19 Q That is the impression that is being given, you are inside the  
20 camp? A. Yes.  
21  
22 Q Then in the middle of p.4, this is what we are going to go on  
23 and hear, about how you introduced the viewer to the camp at  
24 Trnopolje:  
25  
26 "We had asked to be taken to a second camp at Trnopolje  
27 in the same area to which several hundred prisoners from  
28 Omarska had that day been transferred and which has also  
29 been at the centre of allegations of atrocities."  
30  
31 So you are telling the viewer that we are about to see a  
32 second prison camp - correct? A. Yes.  
33  
34 Q That it is at Trnopolje, and the impression that is left,  
35 consistent with what we have seen at Omarska in the intro, is  
36 that we are going to be shown pictures of you inside Trnopolje  
37 camp, as with Omarska and as indicated in the introduction.  
38 A. Well, the impression that we are now going to Trnopolje  
39 camp, yes.  
40  
41 Q That we are going to be showing you inside the camp?  
42 A. Yes.  
43  
44 Q If we read on, and we are going to see it in a moment, we see:  
45  
46 "Conditions at this camp were appalling. In 100 degree  
47 heat hundreds of men were forced to eat and sleep outside  
48 ..."  
49  
50 Forced to eat and sleep outside - those were the men in the  
51 field that we dealt with earlier on in cross-examination?  
52 A. Yes.  
53  
54 Q "... in a field behind barbed wire."  
55

1 If we could just run that next part of the tape. In fact we  
2 can run through the interview which follows in a reasonable  
3 way and just watch that. That is where you feed in the Alic  
4 shot into your film. Yes? A. Yes.

5  
6 Q And if we are looking at it on the transcript, we have got it  
7 on p.6. You say:

8  
9 "Away from the camera there were allegations of routine  
10 beatings and executions. Several prisoners told us of  
11 retaliatory killings. One instance in which they claimed  
12 150 of their fellow prisoners had been killed following  
13 the death of 10 Serbian soldiers in a Muslim village."

14  
15 Now, that is - you will be familiar with the text of your  
16 report ---- A. Yes.

17  
18 Q -- I think it is right to say - I will be corrected if I am  
19 wrong - far and away the most serious allegation of atrocity  
20 in your report - 150 men being killed? A. That was the  
21 worst allegation, I believe, that was made to us.

22  
23 Q Was that allegation about 150 people being killed at Trnopolje  
24 camp? A. It was at Trnopolje camp.

25  
26 Q 150 people being killed at Trnopolje camp? A. Yes.

27  
28 Q You have used - that is certainly the impression that is given  
29 in the report - the shot of Fikret Alic at precisely the point  
30 in the report where you bring the viewer to far and away the  
31 most serious allegation of atrocity about Trnopolje camp, do  
32 you not? A. There are a number of allegations which I am  
33 making at this point that were made to me off camera. By  
34 definition you are not going to be able to illustrate a  
35 killing, a rape or a beating. So it is necessary to show  
36 footage of people who are in a pretty bad way.

37  
38 Q So are you saying - I take you to be saying - that your  
39 decision to use the Alic clip at that point in that way was  
40 because it sat as a symbol or image of awful atrocity  
41 comparable with the 150 people being killed in the camp?  
42 A. I was describing allegations that had been made to me of  
43 atrocities and it was appropriate to show people who were in a  
44 very poor physical condition and clearly had been subjected to  
45 inhuman treatment.

46  
47 Q You see that would, would it not, the climate in which your  
48 report is being put out, you touched on -- those words about  
49 the camp, that allegation in conjunction with this shot,  
50 suggest camps similar to concentration camps, 150 people being  
51 killed in an execution in a place where there are emaciated  
52 people behind barbed wire, would it not? A. People could  
53 reach that conclusion.

1 Q Do you not agree with me that that is the impression they  
2 would take with them? A. (No audible reply).  
3  
4 MR. JUSTICE MORLAND: I think the witness may have thought it was  
5 a comment rather than a question.  
6  
7 THE WITNESS: Oh, sorry.  
8  
9 MR. JUSTICE MORLAND: Would you like to put the question again?  
10  
11 MR. MILLAR: Yes. (To the witness): Do you not agree with me  
12 that those words in conjunction with the picture would have  
13 led people to take this thin man behind barbed wire in a camp,  
14 atrocity on that scale, as comparable to a concentration camp?  
15 A. No, I don't think anybody watching this report in its  
16 entirety and listening to the commentary would pick out on a  
17 single image and a single piece of commentary that went under  
18 it. I think this was one of several pictures of people being  
19 treated in an appalling manner and, yes, they are emotive  
20 pictures and responses are likely to be emotional but this is  
21 appalling inhumanity. It is no wonder people reach  
22 conclusions that something very horrible was going on there.  
23  
24 Q Can you run it on to the end, please? Pause there. That is,  
25 as we discovered earlier, upstairs in one of the buildings  
26 adjacent to the field. A. I believe so, yes.  
27  
28 Q This is the point on the broadcast at which you distinguish  
29 the men in this sports hall from the men in the field ----  
30 A. Yes.  
31  
32 Q -- as being proper refugees ---- A. That's right.  
33  
34 Q We have dealt with the basis upon which you draw that  
35 distinction. I just wonder why you say this is on one side of  
36 the camp? A. Because it was on the other -- it was away  
37 from where we had filmed the people in the field. It was a  
38 separate part as far as I could ascertain.  
39  
40 Q Because that is the impression that is being given here, is it  
41 not, that this is a separate part of the camp? A. It is a  
42 separate part of the camp.  
43  
44 Q The jury will decide. Run it on, please. Pause there. Can  
45 just run back? That is the end shot that we discussed before,  
46 showing the viewer an area of ground with the barbed wire  
47 fence on one side of it, soldiers with guns in the middle who  
48 appear to be guards, and a barbed wire fence on the other side  
49 with men behind it. Correct? A. Yes.  
50  
51 Q The impression that gives is, is it not, that this is an area  
52 around the camp where the guards patrol between two sections  
53 of barbed wire? A. I think it is a pretty accurate  
54 impression actually.  
55

1 Q You think that is an accurate impression? A. There are  
2 armed guards, there are prisoners, there is barbed wire.  
3  
4 Q The impression it gives is that an area around the camp, there  
5 are two barbed wire fences around the camp and an area in the  
6 middle that is patrolled by guards? A. Well, I don't  
7 think that is the impression, no. The impression it shows is  
8 of a prison, is of people, yes, behind barbed wire, people  
9 being kept in there by armed guards, imprisoned in there.  
10 That is what that image says to me, and that is a perfectly  
11 accurate, appropriate image with which to end a report.  
12  
13 Q I want to finish in a moment because it has been a long day  
14 and we are at quarter past four, but I want to just finish  
15 this part of the report in cross-examination since the jury  
16 have just seen it. There is nothing in your report, is there,  
17 in terms of the narrative to the report, to suggest to the  
18 viewer anything other than that you have got behind the barbed  
19 wire fence when you are seen or heard in the report ----  
20 A. I think there is an awful lot more in there to suggest  
21 that we saw, listened to and filmed a great deal.  
22  
23 Q Listen to the question. The viewer is told you are inside the  
24 camp. That is how it is introduced. You say the men are  
25 imprisoned behind barbed wire and the shot finishes like that.  
26 There are some shots of you in it talking to men, or clips  
27 where you are clearly talking to men. There is nothing in it  
28 to suggest anything other than what the intro suggests, you  
29 have got inside the camp. A. At Trnopolje? I am sorry?  
30 Yes, at Trnopolje.  
31  
32 Q There is nothing in it to suggest anything other than that you  
33 got inside the barbed-wire behind which the men were ----  
34 A. I have never suggested that I have got behind the barbed-  
35 wire with the men, no.  
36  
37 Q Turning it round the other, there is nothing in the report to  
38 suggest that in getting inside the camp, you have done  
39 anything other than get behind the barbed-wire with the men  
40 behind. A. I am sorry, I don't understand your question.  
41  
42 Q You tell the viewer that the men are behind barbed-wire. You  
43 are inside the camp, an interview which started inside the  
44 camp. A. I tell the viewer that the men are behind  
45 barbed-wire, because they are, and I show the viewer many  
46 pictures of the different types of wire which imprison the men  
47 as well as the heavy guard that keeps them in there, and ample  
48 evidence of the fear and mistreatment which is all around  
49 there; that is what I show.  
50  
51 Q The impression left is that you with the men are behind the  
52 barbed-wire when we see you on the film. A. That is not  
53 the impression I have.  
54  
55

1 Q It is a matter for the jury. My Lord, is that a convenient  
2 moment?  
3  
4 MR. JUSTICE MORLAND: Is that the end of cross-examination?  
5  
6 MR. MILLAR: It is not but it is very nearly the end of cross-  
7 examination.  
8  
9 MR. JUSTICE MORLAND: Well, how much longer will it last.  
10  
11 MR. MILLAR: Probably about half to three-quarters of an hour.  
12  
13 MR. JUSTICE MORLAND: I see. Right. You prefer to defer that  
14 until tomorrow. Right, Members of the Jury, if you would like  
15 to leave now, and we will commence at half-past ten tomorrow.  
16 I am going to deal with a few administrative matters, so if  
17 you would like to leave and there is no reason why  
18 Mr. Williams should stay in the witness box; he can go home  
19 too. You realise, Mr. Williams, that you cannot discuss the  
20 case with anyone overnight. You are still in the middle of  
21 giving your evidence.  
22  
23 (The witness withdrew)  
24  
25 MR. JUSTICE MORLAND: Yes.  
26  
27 MR. SHIELDS: My Lord, there are two matters I would like to  
28 raise. The first one is a matter I touched on after the  
29 midday adjournment. I understand the position to be this,  
30 that as it has taken my learned by surprise ... the film. He  
31 wants to look into the matter overnight and I cannot dispute  
32 that. Obviously your Lordship realises my concern is I have  
33 seen for the first time here the Serbian video, which is  
34 actually different from the Serbian video which was disclosed  
35 to us because it has got different footage on it, and your  
36 Lordship also has to realise this. If it is the case, as we  
37 assume, it is in fact two Serbian camp crews, I believe,  
38 filming a considerable amount of footage while we were there,  
39 we are concerned, when we are given just one video of that  
40 footage, just one, and the one we are given is then different  
41 and contains less material than the one which is then shown to  
42 the court. We start wondering whether there may be more  
43 Serbian film we have not seen.  
44  
45 MR. JUSTICE MORLAND: As I understand it, Mr. Millar is going  
46 to take instructions and will let you know as soon as he  
47 receives instructions as he thinks of libel and put you in the  
48 picture ---  
49  
50 MR. SHIELDS: I am obliged to your Lordship.  
51  
52 MR. JUSTICE MORLAND: -- and it should not concern me further,  
53 I hope.  
54  
55 MR. SHIELDS: I hope not.

1 MR. JUSTICE MORLAND: If any Serbian footage that is in the  
2 possession of the defendants that you have not seen, I have no  
3 doubt it will be disclosed to you immediately.

4  
5 MR. SHIELDS: I am obliged to your Lordship.

6  
7 The second matter is this. I know your Lordship hates  
8 counsel getting up in the course of evidence and I can keep  
9 pretty still and your Lordship gently chided me and said I  
10 could leave these matters to re-examination. Can I make just  
11 one brief submission on this, my Lord. The reason I got up  
12 was this, because in the course of the cross-examination of  
13 Mr. Williams about, in effect, his state of mind in relation  
14 to going to Omarska and Trnopolje, a trail might be thought to  
15 be led to suggest that he went there with a predisposition to  
16 find something which was prejudicial, in the sense he was  
17 going there to find detention centres and camps at their worst  
18 and, therefore ----

19  
20 MR. JUSTICE MORLAND: That, as I understood it was the tenor of  
21 the cross-examination.

22  
23 MR. SHIELDS: Exactly, my Lord. It is the tenor, but your  
24 Lordship well knows that phrase we always use, prepare to  
25 wound but afraid to strike, and that is what worried me, my  
26 Lord, and I left that but it was not put directly, and when we  
27 then came to the allegation, I am anxious if it is going to be  
28 put, for example, that the two conspired together to produce a  
29 false image, having set out beforehand to create that image  
30 and having ignored the true position of the camp, then really  
31 that has to be put, because it is not my duty in re-  
32 examination to put that. That was why I got up, my Lord,  
33 because I ----

34  
35 MR. JUSTICE MORLAND: Mr. Shields, I have always taken the view  
36 that it is for counsel to decide how he puts his case. If he  
37 does not put his case as his opponent thinks he should put it,  
38 of course, his opponent can comment upon that in final  
39 speeches. If it is not put specifically that Mr. Williams and  
40 Penny Marshall conspired together to mislead the public, you,  
41 of course, can say that it is not suggested, it has not been  
42 put to them. I do not think it is for me to direct Mr. Millar  
43 as to how he should cross-examine.

44  
45 MR. SHIELDS: No, that ----

46  
47 MR. JUSTICE MORLAND: If he omits to put something, I may  
48 comment upon it in my summing-up; you may comment upon it  
49 in your ----

50  
51 MR. SHIELDS: I am very happy to take your Lordship's guidance to  
52 that because, as your Lordship knows, I am a very regular  
53 appearer in courts 13 and 14.

54  
55 MR. JUSTICE MORLAND: Yes.

1 MR. SHIELDS: And judges react in different ways and I can only  
2 speak from my own experience before some of your Lordship's  
3 illustrious predecessors. The point may be has in the past  
4 been taken against one if one has not got up and said "Well,  
5 I want this case put", and I know that different judges take  
6 different attitudes, and I thought it was better is better  
7 I aired it now, otherwise I can see ... for 17 more witnesses  
8 thinking, well this has never been put, and when your Lordship  
9 says to deal with it in re-examination, although I accept the  
10 chide, I actually respectfully suggest that it would not be a  
11 question I think I could properly ask in re-examination  
12 because I can put to somebody in re-examination "It has been  
13 alleged against you" when it has never been put. That is all.  
14

15 MR. JUSTICE MORLAND: No, no.

16

17 MR. SHIELDS: As long as your Lordship understands why I did what  
18 I ----  
19

20 MR. JUSTICE MORLAND: Well, I hope my position is clear.

21

22 MR. SHIELDS: I think it is now.

23

24 MR. JUSTICE MORLAND: Yes. Any comment you want to make or  
25 submission, Mr. Millar?  
26

27 MR. MILLAR: No, my Lord.

28

29 MR. JUSTICE MORLAND: Right. Thank you. I gather that -- Who is  
30 your next witness?  
31

32 MR. SHIELDS: My next witness is Mr. Braddel, and then I have  
33 Mr. Nicholas; and I think, taking it as we are, Mr. Braddel  
34 will probably be either starting or in the middle of his  
35 cross-examination tomorrow. I will try and speed up the  
36 witnesses ----  
37

38 MR. JUSTICE MORLAND: Yes, but how long do you think his cross-  
39 examination will be, because, if in fact there is only half an  
40 hour or so to go, it seems a bit absurd that the cross-  
41 examination is broken off until Monday.  
42

43 MR. SHIELDS: Well, in which case the answer might be, with  
44 respect to your Lordship, that we stayed later tomorrow night.  
45

46 MR. JUSTICE MORLAND: Yes. The difficulty about that is, I fear  
47 the papers for Friday are probably going to arrive at a very  
48 late hour tomorrow.  
49

50 MR. SHIELDS: I quite understand that, my Lord ----  
51

52 MR. JUSTICE MORLAND: Nothing has arrive yet.  
53

54 MR. SHIELDS: Well, in a sense ----  
55

1 MR. JUSTICE MORLAND: And I know on Friday I am starting sitting  
2 at 9.15 in other matters.  
3

4 MR. SHIELDS: I know, I heard about that. I know your Lordship  
5 has a very full day. I actually have a personal anxiety about  
6 just coming in for half an hour because, in a sense, of the  
7 impact it might have on the Jury and also it is not fair to  
8 either counsel really to cross-examine against the clock,  
9 although I know under the new system we all have to have  
10 mental clocks.

11  
12 MR. JUSTICE MORLAND: Yes. Right. The present plan will be in  
13 this case, we will not sit at all on Friday.  
14

15 MR. SHIELDS: And Mr. Braddel, I think, will have to live with the  
16 fact that he will be back here on Monday.  
17

18 MR. JUSTICE MORLAND: Thank you.  
19

20 (Adjourned until 10.15 a.m on Thursday, 2nd March 2000)