

DAY 7 A.M.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

1997 I No.139

Royal Courts of Justice
Wednesday, 8th March 2000

Before:

MR. JUSTICE MORLAND

B E T W E E N :

- (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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Official Shorthand Writers and Tape Transcribers
Quality House, Quality Court, Chancery Lane, London WC2A 1HP
Telephone: (0171) 831-5627

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.

PROCEEDINGS - DAY 7 A.M.

I N D E X

Page No.

MARSHALL, Ms. PENELOPE JANE, Recalled

Cross-examined by Mr. MILLAR, Continued
Re-examined by Mr. SHIELDS

1
8

MERDZANIC, Dr. IDRIZ, Sworn

Examined by Mr. SHIELDS

9

IRVING, Mr. JEREMY PHILLIP, Sworn

Examined by Mr. SHIELDS
Cross-examined by Mr. RUSHBROOKE

18
26

1 Ms. PENELOPE JANE MARSHALL, Recalled
2 Cross-examined by Mr. MILLAR, Continued
3

4 Q Ms. Marshall, when we finished yesterday we had just looked at
5 your report on News at Ten on 6th August and, as the jury and
6 everyone knows, after the report you gave an "as live"
7 interview from Budapest. We will look at that in a moment but
8 presumably you had thought carefully about what you could say
9 and could not say about the camps and what you had found there
10 before you did that interview? A. Absolutely, yes.

11
12 MR. MILLAR: Could we just play that interview? I think we have
13 got it ready to go.

14
15 (Video shown)
16

17 MR. MILLAR: In the second sentence of your interview there you
18 said this: "I don't think we have conclusive evidence that
19 there are mass executions taking place or even extermination
20 camps." What did you mean by "extermination camps"?

21 A. Mr. Millar, if you are going to cross-examine me, could
22 I look at the transcript? It would be very helpful to me.
23

24 Q Certainly. It is at tab 20 in the claimants' bundle and it is
25 at p.18. A. Could you repeat the question.
26

27 Q It is the chunk under your name at the top. A. Yes.
28

29 Q You are asked: "What did you personally make of it?" and you
30 say: "Well, as you say, that was one of the most chilling
31 aspects of this and it is something I think we are all going
32 to remember" -- that is the sheer fear of the witnesses. Then
33 you say this: "I don't think we have conclusive evidence that
34 there are mass executions taking place or even extermination
35 camps." The question I put to you is, what did you mean by
36 "extermination camps" when you said that? A. What I mean
37 is exactly what I said, that I did not think we had conclusive
38 evidence of places where people were being killed on a large
39 scale. That is what I mean by "extermination camps". Because
40 although I had been told that 250 people had been killed at
41 Trnopolje it was hearsay.
42

43 Q You mean camps at which people are being slaughtered on a
44 large scale? A. Yes, indeed, people herded together and
45 then killed.
46

47 Q But you did not have any evidence of that, did you?
48 A. Yes, I did have some evidence. I had hearsay evidence
49 from people at Trnopolje who said that 250 people had been
50 taken away and killed.
51

52 Q From that camp? A. Yes.
53

54 MR. MILLAR: The world took its lead from your reporting, as we
55 have seen, and I want to next just run the lunchtime ITN news

1 broadcast - this is the follow day, 7th August - summarising
2 the reaction around the world to the reports that you and
3 Mr. Williams had put out.
4
5 MR. JUSTICE MORLAND: Where is the transcript of that? Is that at
6 p.1 of 20?
7
8 MR. MILLAR: My Lord, I am not sure we have got that in yet
9 because it is not a transcript of Ms. Marshall speaking or
10 Mr. Williams speaking.
11
12 MR. JUSTICE MORLAND: Right. Are we going to have a transcript of
13 this?
14
15 MR. MILLAR: I am not going to ask questions about the text of it,
16 I am just going to show it.
17
18 MR. JUSTICE MORLAND: Is there a transcript of this?
19
20 MR. SHIELDS: I do not have one in court, my Lord, but I think
21 there may be one I can get hold of.
22
23 MR. JUSTICE MORLAND: Yes, it would probably assist if we are
24 going to have details ---
25
26 MR. SHIELDS: Yes, my Lord, we can have some copies made.
27
28 MR. JUSTICE MORLAND: Thank you.
29
30 (Video shown)
31
32 MR. MILLAR: Did you see that coverage, that report, when you came
33 back from Budapest? A. No, I did not.
34
35 Q When had you first seen that? A. In the course of this
36 legal action.
37
38 Q Right. You knew nothing about it? A. Not specifically,
39 no.
40
41 Q In the Daily Mirror, which we saw yesterday and I do not need
42 to take you back to, the Alic shot was used alongside a shot
43 of concentration camps. A. Do you want me to find it?
44
45 Q Yes. It is in the defendants' bundle, at tab 3. This was the
46 one we looked at yesterday. The second page. Did you see
47 that when you came back? A. I probably did, but I do not
48 have a strong recollection of it, not the inside. I think
49 I probably saw the outside but I would not have looked inside
50 it particularly.
51
52 Q Moving on to tab 6, we know that you saw the Daily Mail
53 coverage the following day because we have seen you on your
54 return to the camp five days later with a copy of the Daily
55 Mail? A. Indeed, yes.

- 1 Q And I think you told us that a colleague of yours had brought
2 it to you or given it to you in Budapest? A. That is
3 correct, yes.
4
- 5 Q If we look at that, as I say it is tab 6, we can see that it
6 is headlined "The Proof", and both on the front page and on
7 p.2 the smaller headline refers to "Behind the Barbed Wire",
8 p.1, and "Behind the Wire", p.2. So you understood from that -
9 and again there is the image of Alic on the front page - that
10 the image of the barbed wire with Alic behind it, but in
11 particular the barbed wire, had assumed some significance as
12 far as other media commentators and newspapers were concerned?
13 A. Well, I understood that the image of Alic had become
14 important because people were appalled by his condition, yes.
15 But you look at the picture and see barbed wire; I look at the
16 picture and see Fikret. That is the difference between us.
17
- 18 Q Yes, but the editorial staff at the Daily Mail there are
19 emphasising the barbed wire, are they not? A. Yes, but
20 you should talk to them about why they did that. They also
21 emphasise in the first paragraph: "The ribs stand out so far
22 you can almost see the bare bones straining against the
23 emaciated flesh. The sunken eyes stare with a mixture of
24 bewilderment and beseeching inquiry from behind the strands of
25 barbed wire." I think a picture of a fence would have had no
26 impact at all.
27
- 28 Q All I am putting to you at the moment is that you understood -
29 you had a copy of this and took it back - that many saw the
30 barbed wire as significant on seeing the barbed wire?
31 A. No, I think -- I do not understand that. I think that
32 many saw a picture of a prisoner in that state as important
33 and they were shocked.
34
- 35 Q Then at tab 7 in the defendants' documents, it is rather a bad
36 photocopy, I am afraid, but again it is the shot of Alic
37 behind the barbed wire fence? A. I have not seen this one
38 before actually. Is this from inside the Express?
39
- 40 Q Yes. If you look at the top right, it is 8th August.
41 A. Yes.
42
- 43 Q You have never seen that? A. No, I have not. No.
44
- 45 Q Then if we move on to tab 8, on the Sunday the Sunday Times,
46 which we have seen before -- you would have seen this,
47 I think? A. Yes, I think so.
48
- 49 Q Indeed, as we will see in a moment, you are quoted in this
50 article? A. Yes.
51
- 52 Q Referring to it as "a death camp scoop", a picture of Alic,
53 and indeed a picture of you there, and a series of
54 introductory paragraphs down the left-hand column referring to
55 the effect the pictures had and the reaction in particular in

1 America, likening them to a throwback to the death camps in
2 wartime Germany? A. I have not read it but if that is --
3 I am not disagreeing with you, I am just saying I have not
4 read it. So if that is your summary, I am trusting you.
5

6 Q It is right that I put it to you. Just below the hole punch,
7 the paragraph beginning "In America":
8

9 "In America full accounts of ITN's harrowing footage
10 were splashed across Newsday headlines 'Bosnia Horror'
11 and the New York Times under the headlines 'Bush urges
12 UN to back force to get aid to Bosnia'. Alan Walker,
13 a spokesman for ABC Television, said: 'The pictures
14 had a huge impact. There was increased pressure on
15 the government to intercede. To see adults starving
16 was like a throwback to the death camps of wartime
17 Germany.' A Berlin newspaper declared: 'Bosnia ...
18 today a new Auschwitz is beginning.' And a front page
19 editorial in the Publico newspaper published in Lisbon
20 accused Europe of washing its hands at this distant
21 insanity."
22

23 Just to complete that article, you are quoted in it. If we
24 look at the second column from the right, next to the
25 italicised appeal at the end. Right down at the bottom we can
26 see you are quoted in this way:
27

28 "'At the second camp, at Prijedor, there were scenes
29 of overwhelming suffering. Some of the guards and
30 officials showed compassion for their prisoners.
31 There was so little to eat. When we left we felt that
32 we had images that would shock and we felt a sense of
33 urgency for the aid agencies and the politicians to
34 see the pictures.'"
35

36 Was that a quote you gave to the journalist writing the
37 article? A. I assume so. Yes, I assume it was.
38

39 Q All of that world reaction and the domestic reaction that we
40 have seen, would you agree, is most certainly not on the
41 understanding that the shot of Alic is through a barbed wire
42 fence surrounding the cameraman, is it? A. Could you give
43 me the question again.
44

45 Q That reaction that we have just seen to the image and the
46 shot is most certainly not on the understanding that the shot
47 is of Alic through the barbed wire fence surrounding the
48 cameraman? A. No, that reaction is a reaction to our
49 reports, which established that detention camps were being run
50 in Northern Bosnia, several of them. Prisoners were being
51 imprisoned within them and maltreated. That is what the
52 reaction was to, not to any picture.
53

54 Q But surely, looking at parallels with Belsen, for example, it
55 must be on the understanding that Alic and the others in the

1 field are caged and surrounded by barbed wire fencing like
2 those people at Belsen? A. No, I think the comparison is
3 because of the condition of the prisoners. Nobody has ever
4 examined whether the barbed wire fence went all the way round
5 Auschwitz or Belsen; it is because the people within it look
6 half dead through clear mistreatment.
7
8 Q You accept that you did not, after that coverage and that
9 reaction to your report, say in public: "Look, hold on here.
10 What happened was we walked into a compound surrounded by
11 barbed wire, a pre-war enclosure, and took that shot", did
12 you? A. No, I certainly did not.
13
14 Q And you could not do that without people beginning to question
15 your reporting, could you? A. I would not have dreamt of
16 doing that. I never thought I was in an enclosure. It was
17 not important as he was imprisoned. People would have thought
18 I was barmy.
19
20 Q Now I want to ask you about events after the article,
21 please. A. Which article?
22
23 Q The article complained of, LM. A. Yes.
24
25 Q As I understand your evidence, you say at the point that
26 article is published you had no recollection of where the
27 barbed wire fencing was in relation to you when the shot was
28 taken? A. No, my only recollection was that Fikret Alic
29 was imprisoned behind it.
30
31 Q So, to put it colloquially, you did not know what
32 Mr. Deichmann was on about when he wrote that?
33 A. Exactly.
34
35 Q The writ was issued in this action on 31st January 1997.
36 So in the light of your state of mind, as you have just
37 described it, when deciding to issue the writ did you go back
38 and review the ITN and Channel 4 rushes and look at them
39 yourself to see if you could make out what Mr. Deichmann was
40 on about? A. Most certainly. This is the most serious --
41 I have thought about this course of action more seriously than
42 almost anything I have ever done in my life. I did not just
43 issue a writ. Yes, I did study every frame.
44
45 Q Of what remained of your rushes and of the Channel 4
46 rushes? A. Yes, and the reports - and I am very proud
47 indeed of the reports - and the rushes, yes.
48
49 Q And the Channel 4 rushes? A. Yes.
50
51 Q All of them? A. Yes.
52
53 Q And you presumably say that you formed the view that they did
54 not indicate that there was a barbed wire fence around you
55 when the shot was taken? A. I do not think there was a

1 barbed wire fence around me in the misleading way that you are
2 alleging, no. It was a broken down enclosure in which we were
3 filming. The scale of the map that Mr. Deichmann presents is
4 misleading. The fence on the left is clearly broken, the
5 fence on the right has got a gate in it and there is no fence
6 at all behind me.

7
8 Q You felt, having looked at the rushes, that they did not
9 support what Mr. Deichmann was saying about that? A. They
10 do not support what Mr. Deichmann is saying about this, and
11 the reason I have brought this action is not because of a
12 fence but because they are trying to ruin Ian and my career on
13 the basis of a map.

14
15 Q Your solicitors wrote a letter which is in the claimants'
16 bundle at tab 5. Could you just turn that up, please.
17 This was on 24th January 1997. Did you see this letter and
18 authorise it before it was sent by your solicitors?
19 A. Actually, I do not think I saw the exact letter but
20 I certainly authorised the message within it, yes.

21
22 Q We have seen, looking at the second page, what your solicitors
23 were requiring on your behalf of LM, and that included the
24 destruction of all copies of the edition of Living Marxism
25 containing the article? A. That is correct, yes.

26
27 Q You knew they were requiring that? A. Yes, that is
28 standard in these proceedings, and we felt the allegations
29 within them were so damaging they should be destroyed. If
30 they had wanted to discuss it with us we were there, available
31 for discussion. They never did.

32
33 Q Turn on to tab 18 in the claimants' bundle. It is right, is
34 it not, that LM put out a press release also on Friday, 24th
35 January, after that letter had been received? A. Yes, it
36 certainly is.

37
38 Q If you look at the first line of that press release, it says:
39 "LM Magazine has received a letter from ITN's lawyers
40 threatening libel action unless we agree to pulp our entire
41 February issue." Did you see this press release? A. Yes,
42 I did. I think they were handing it out outside our office
43 and the national newspapers as well.

44
45 Q You will see at the bottom, in the last paragraph, that what
46 they say is: "There is one simple way to resolve this issue.
47 ITN should show the full, unedited footage which its team
48 filmed at Trnopolje on 5th August 1992. Then everybody will
49 know the truth." A. Uh-huh.

50
51 Q That suggestion was not taken up, was it? A. Certainly
52 not, no.

53
54 Q Do you know why? A. Yes, that I did not want to debate
55 with people who were calling me liars. There was nothing to

1 be gained from having a debate with people who were truly
2 trying to damage Ian and myself and ITN and re-write history.
3 If they had wanted to debate it with us they should have done
4 so before publication and given us a chance to reply. This is
5 seeking maximum publicity and maximum damage to us. It is a
6 malicious attempt to get us to debate with them in public to
7 damage us.
8
9 Q You took that view even though you had looked at the
10 rushes and formed the view that they did not support what
11 Mr. Deichmann was saying in the article? A. Yes, I did,
12 because I thought any publicity on this subject at all would
13 be hideous for me and Ian and ITN, and totally unfair. If
14 they had wanted to debate it they would have asked us before
15 publication. That was not what they were trying to do.
16
17 Q A writ was issued on 31st July 1997, as I have said, seeking
18 amongst other things "an injunction to prevent further
19 publication of the libels or any similar words defamatory of
20 the plaintiff"? A. I am sure that is -- I am not
21 listening to you. I am a bit upset. Sorry, say it again.
22
23 Q Did you understand that the proceedings that were being
24 launched in your name and on your behalf were seeking for an
25 injunction? A. That is stopping publication?
26
27 Q Yes. A. Yes, I do.
28
29 Q And it is right, is it not, that the events that you describe
30 in your evidence, which you described as "the LM campaign",
31 I think, against you, including the reference to the "Golden
32 Gag Award" being presented at a television awards ceremony,
33 followed that, did it not? A. Some of it did but I think
34 one of the press conferences preceded it. But I am not sure
35 when -- I remembered something else last night. They wrote to
36 BAFTA and asked for our awards to be taken away. I am not
37 sure whether that was before or after the writ. That was
38 devastating.
39
40 Q And it all followed the letter of 24th January --- A. No,
41 it did not. There was a press conference. I remember because
42 there was a press conference that one of my friends went to
43 who told me about it, when they said: "Oh, they keep saying
44 they're going to threaten us with a writ but it hasn't arrived
45 yet." And at that stage there were just about every media
46 correspondent from every newspaper there. That certainly
47 preceded the arrival of the writ, although we might have
48 threatened it.
49
50 Q I am sorry, I did not manage to finish the question.
51 I apologise. A. Oh, I am sorry.
52
53 Q That all followed the letter of 24th January requesting that
54 the magazine be pulped, did it not? A. That was not the
55

1 main point of the letter. The main point of the letter was to
2 threaten legal action if they went ahead with it.

3
4 Q The truth is, Ms. Marshall, that you are suing my clients for
5 telling the truth about the fence and the location of the
6 fence, are you not? A. No, I am not, Mr. Millar.

7
8 Q And daring to criticise you for not telling the truth about it
9 after this image had been taken by the rest of the world as an
10 image that Fikret Alic was caged behind the fence? A. No,
11 that is absolutely untrue.

12
13 Q It is clear now, is it not, that that is something you should
14 have explained publicly? A. No, I do not accept that at
15 all.

16
17 MR. MILLAR: I have no further questions.

18
19 Re-examined by Mr. SHIELDS

20
21 Q Just a couple of questions, Ms. Marshall. You were asked
22 earlier in relation to a Serbian cameraman filming at the
23 camp, and it arises from the question from the jury so I would
24 like to clear it up now. Were there two cameramen there?

25 A. Yes. Apart from ourselves there was a Bosnian Serb
26 civilian camera crew, who were covering it for Bosnian Serb
27 television, which was in itself quite a partisan operation;
28 and then there was a military cameraman with a gun in
29 fatigues, who was part of the people who ran the camps.

30
31 Q Was the military cameraman filming while you were filming?
32 A. Almost all the time. It was extremely difficult to
33 operate because he was on my back like a sort of parrot and
34 intimidating the people I spoke to, and indeed intimidating me
35 at times.

36
37 Q Did he film you at times? A. Yes, very much so, in my
38 face.

39
40 Q So yesterday you were shown a film, and in fact you and
41 Mr. Williams have been cross-examined on it. I think it is
42 right that was not taken by Serbian TV, that in fact was taken
43 by -- is it Serbian militia? A. It is taken by a man who
44 is in Serbian militia. He would be Serbian Military Police,
45 yes.

46
47 Q So when we see him -- there is a shot we see, I think, near
48 the community centre of Mr. Irving filming and he is being
49 filmed and you are being filmed? A. Yes, indeed.

50
51 Q Did that happen a lot while you were there? A. All the
52 time.

53
54 Q Would those present at the camp who you were trying to
55 interview have been aware of the presence of the man in the

1 military outfit filming? A. They would have been and they
2 were very frightening, and in fact ---
3

4 MR. MILLAR: My Lord, I am not sure how the witness can say what
5 they were aware of and were not aware of, with respect. The
6 witness could be asked about where they were in relation to
7 the cameraman, and that sort of matter, but she cannot get
8 into the minds of the people on the other side of the ---
9 A. Well, I can -- can I ---

10
11 MR. JUSTICE MORLAND: What effect did you see the cameraman have
12 on the detainees? A. They were frightened to talk in
13 front of him.
14

15 MR. SHIELDS: I am sorry I phrased the question in that way.
16 There is just one final question. You were asked just now
17 about the article and your reaction to it. The letter we saw
18 at tab 5, I think it is right that followed the press release
19 at tab 4? A. Yes.

20
21 10.45 a.m.
22

23 Q And you were asked about your failure to debate the issue.
24 Just so that I get this right, are you aware who that press
25 release was sent to? A. Well, I know it was sent to
26 almost all the people I know and work with, and other
27 organisations, yes.
28

29 MR. SHIELDS: Thank you. I have no further questions.
30

31 (The witness withdrew)
32

33 MR. SHIELDS: My Lord, we now call Dr. Idriz Merdzanic.
34

35 DR. IDRIZ MERDZANIC, Sworn
36 Examined by Mr. SHIELDS (through an interpreter)
37

38 Q Your full name, please, Dr. Merdzanic? A. My name is
39 Idriz Merdzanic.
40

41 Q And your present address, please, doctor?
42

43 MR. JUSTICE MORLAND: Is that necessary?
44

45 MR. SHIELDS: I think it is right that it is not necessary, my
46 Lord, I am obliged. (To the witness): When were you born,
47 Dr. Merdzanic? A. I was born in Kresevo in Bosnia
48 Hercegovina.
49

50 Q When was that? A. 2nd January 1959.
51

52 Q Did you go to school there? A. Yes, I did go to school
53 there.
54
55

1 Q Was that elementary school which took eight years?
2 A. Yes, elementary school that lasted eight years in the
3 whole of the former Yugoslavia.
4
5 Q And did you in 1974 go to medical school in Banja Luka?
6 A. Yes, I finished a medical high school in Banja Luka.
7
8 Q And then from 1978 to 1986, did you study medicine in Banja
9 Luka? A. Yes, I studied and finished medicine studies in
10 Banja Luka.
11
12 Q Was one of your hobbies flying gliders and aeroplanes?
13 A. Yes, my hobby was flying guiders and small sports planes.
14 I used to do a lot of sports.
15
16 Q Did you become a member of the national Yugoslav team flying
17 sporting planes? A. Yes, I was a member of the national
18 Yugoslav team.
19
20 Q After finishing studying medicine were you conscripted in the
21 Army for one year? A. Yes, I was conscripted for the
22 Yugoslav Army, just as everybody else, all the other men in
23 the former Yugoslavia.
24
25 Q Did you then, after that, start work as a medical doctor?
26 A. Yes, I got a job as a GP in Prijedor in the health centre.
27
28 Q Could you just tell us where you worked? A. In the health
29 centre of Prijedor.
30
31 Q And is that called an Ambulancija? A. No, the first job
32 I got was the job at the health centre in Prijedor but the
33 practices all around used to belong to that health centre. So
34 the last job I had was a small village practice in Trnopolje.
35
36 Q Did you work there until 1992? A. Yes, I worked there
37 until the beginning of the war.
38
39 Q Where were you living at the beginning of the war?
40 A. I lived in Prijedor.
41
42 Q Did there come a time when you were taken to a camp at
43 Trnopolje? A. I used to drive to Trnopolje by my car.
44
45 Q But did there come a time when you were taken to Trnopolje
46 camp? A. Yes.
47
48 Q Do you remember when that was? A. On 26th May.
49
50 Q Who took you there? A. Serbian Army from Kozarac took us
51 to Trnopolje.
52
53 Q Did you go there of your own free will? A. No. No, we
54 didn't.
55

1 Q Were you alone when you arrived at that camp? A. No,
2 I wasn't alone.
3
4 Q Who was with you? A. There were other two doctors and
5 some other medical staff who were there in the surgery in
6 Kozarac.
7
8 Q What happened to you when you arrived at the camp?
9 A. When we entered the camp the Serbs, who were from
10 Trnopolje, recognised me. They then took all of us, all of
11 our group to the surgery that was within the camp.
12
13 Q Did they know you were a doctor? A. Yes, they did.
14
15 Q How did they know that? A. As I said, I worked in
16 Trnopolje. They were my patients.
17
18 Q Where did you sleep? A. I slept on the floor in the
19 surgery.
20
21 Q Was there any bed there for you? A. No.
22
23 Q Was there a carpet on the floor? A. No.
24
25 Q Did you have electricity? A. No.
26
27 Q Did you have water? A. No.
28
29 Q How many rooms were there in the surgery area? A. In the
30 area of the surgery there were three small rooms which were on
31 the side. There was a corridor. Then there were toilet
32 areas. Then there was a small room which was supposed to be a
33 lab but it wasn't a lab.
34
35 Q I will ask you about that in a minute. When you arrived at
36 the camp did you have to sign any documents? A. We didn't
37 have to sign anything but the day after we had to give them a
38 list of all of us, of all the names who were there.
39
40 Q Who did you give the list to? A. To Slav Pokalic.
41
42 Q Were you told anything when you gave the list? A. They
43 said they were going to use that list to check on us, that
44 nobody was supposed to be missing. If somebody does go
45 missing, then the others would be responsible for that, would
46 be held responsible for that.
47
48 Q Did you stay in the house or were you allowed to leave where
49 you were? A. We were not allowed to leave unless the
50 guards approved of it.
51
52 Q Were you allowed to get water? A. If we needed water,
53 then we had to ask for an approval to go and get it.
54
55

1 Q Can you remember how many people were at the camp when you
2 were there, when you arrived? A. Nobody really knew the
3 number of people. We are talking thousands here.
4
5 Q Were people allowed to come and see him -- to treat them?
6 A. Only those that the guards would let.
7
8 Q You mentioned a laboratory. A. Yes.
9
10 Q Where was this laboratory? A. It was on the left hand
11 side from the entrance, the surgery entrance.
12
13 Q What happened in that laboratory? A. That room they used
14 for bringing the prisoners for interrogation and beatings.
15
16 Q How do you know that they were being beaten? A. Because
17 our three small rooms were to the right hand side of the
18 entrance. The distance would have been 10 metres. We could
19 have heard. We heard the screams and the beatings. Some of
20 the people that were beat up, they would bring them to us for
21 us to help them, to dress the wounds.
22
23 Q Did this happen regularly? A. What do you mean did this
24 happen?
25
26 Q How often did you hear screams? A. Regularly. Often.
27
28 Q Did you have a camera? A. Azra Blazovic had a small
29 camera.
30
31 Q Who was Azra? A. Azra was a vet. She was together with
32 us in that medical group.
33
34 Q Did you use that camera to take pictures? A. Yes, I did
35 use that camera.
36
37 Q Would you look in this bundle in front of you at tab 3? Just
38 look through to yourself. Do you remember taking these
39 photographs? A. Yes.
40
41 Q Were these of the camp at Trnopolje? A. Yes, that was in
42 Trnopolje.
43
44 Q Can I take you to this picture. A. It is not ...
45
46 Q Did you take that photograph? A. Yes, I took that
47 photograph.
48
49 Q Who was that man? A. Najad.
50
51 Q When did you take it? A. Sometime in June. I couldn't
52 tell you the date exactly.
53
54 Q Do you know how that man got in that condition? A. Najad
55 was beaten in that lab room. It was him with another two that

1 were in there. One of those other two men died from beatings.
2 I don't know what happened to the other one. But Najad came
3 to us.
4
5 Q Do you know what caused those wounds? A. Beatings.
6
7 Q What was used? A. They were using their legs, they were
8 taking their wooden legs from the tables and they would beat
9 people with wooden legs. Whatever they would find there.
10
11 Q Did all the prisoners stay at the camp? A. What do you
12 mean?
13
14 Q Well, did prisoners stay or did some leave the camp?
15 A. Some of the prisoners were taken out of the camp. One of
16 them was taken to Omarska. The same happened with two
17 doctors, Dr. Jusif Pasic and Kusuran Mensur, another doctor.
18 They were both taken to Omarska as well. And Dr. Pasic was
19 killed in Omarska.
20
21 Q Did you see those prisoners again? A. No. Some of them
22 were taken away and we never got to know where they were.
23
24 Q Were there women in the camp? A. Yes, there were.
25
26 Q Did anything happen to the women that you were aware of?
27 A. The women were gathered in this room that we called like a
28 hall, whereas the men would be gathered on the school
29 premises.
30
31 Q How did the Serbian soldiers behave towards the women?
32 A. Some of the women were raped and rapes most often happened
33 during the night.
34
35 Q How do you know this? A. Because some of them -- some of
36 those women would come to me for examination. For those who
37 wanted me to, I first checked with them, but then I reported
38 that to Dr. Dusko Ivic. He is a Serbian doctor. He took five
39 or six women to Prijedor for examinations and it was accepted
40 that all of them were raped.
41
42 Q Now I showed you one photograph. Now would you turn over the
43 page? Is that the same person as the photograph before or a
44 different person? A. That is the same person, taken at
45 the same time after the first beatings.
46
47 Q Would you look at the next two pages? Did you take those
48 photographs? A. Yes, I took these photographs.
49
50 Q When did you take them? A. Moya, the nurse, one day was
51 asked to clean this room where they were beating. Then what
52 we did, first paying attention to the guards so that nobody
53 from the Serb side comes, I entered this room and quickly took
54 a few shots.
55

1 Q What was the position about food at the camps? A. The
2 food wasn't secured. At the beginning when we first got to
3 the camp, then people who lived nearby could bring food.
4 There were Serbs who were bringing food as well. Afterwards,
5 when the population of Trnopolje was sent away from their
6 houses, then they allowed the prisoners from the camp to go to
7 the nearby fields and dig potatoes and prepare food for
8 themselves. After that the international Red Cross arrived so
9 they gave us food.
10
11 Q When you were in Trnopolje did you lose weight? A. Yes.
12
13 Q How much weight did you lose? A. 11 kilograms.
14 Approximately 11 kilograms.
15
16 Q What did you start at before you lost that weight? What was
17 your weight? A. I had 71 kilograms before the camp. At
18 the end I weighed at about 60.
19
20 Q Prior to the arrival of the international Red Cross, is it
21 right that it was the Serbian Red Cross at the camp?
22 A. Yes, that is correct.
23
24 Q Did you have medicine? A. No, we didn't.
25
26 Q Did the Serbians not give you any medicine? A. No, we
27 weren't given any medicine. Once Dr. Dusko Ivic brought some
28 DDT powder which is against the bugs, head lice. That is all.
29 That is all we got.
30
31 MR. SHIELDS: Would that be a convenient moment, my Lord, because
32 I am going to come to the arrival of ----
33
34 MR. JUSTICE MORLAND: Yes. Are you going to deal with the last
35 two photographs?
36
37 MR. SHIELDS: I have just dealt with them.
38
39 MR. JUSTICE MORLAND: Have you?
40
41 MR. SHIELDS: No, I am sorry, my Lord. No, I have not. I missed
42 them. I am obliged to your Lordship.
43
44 MR. JUSTICE MORLAND: Do you wish to?
45
46 MR. SHIELDS: Well, I will deal with them now. I was going to
47 come back to that later, but I will deal with it now. (To the
48 witness): Would you look at the last two photographs? Did
49 you take those photographs? A. Yes, I took these
50 photographs.
51
52 Q Why did you take those photographs? A. I took these
53 photographs hoping that one day we will be able to show these
54 photographs to show everybody what happened.
55

1 Q Do you remember the name of this man? A. No.
2
3 MR. JUSTICE MORLAND: What was he suffering from? A. That man
4 was first beaten. He lost a lot of weight and he had
5 diarrhoea. At the end he died.

6
7 MR. JUSTICE MORLAND: Would that be a convenient moment?
8
9 MR. SHIELDS: Yes. (To the witness): We will have a break for 15
10 minutes.

11
12 MR. JUSTICE MORLAND: Yes, it will be a little longer than 15
13 minutes. I think we will say twenty five to twelve because
14 I have got to deal with another matter, nothing to do with
15 this case. That has to come in at half past eleven. So we
16 will say twenty five to twelve.

17
18 11.15 a.m.

19
20 (Adjourned for a short time)

21
22 MR. JUSTICE MORLAND: Yes, Mr. Shields?

23
24 MR. SHIELDS: (To the witness): Dr. Merdzanic, before the short
25 break I was asking you about the photographs. Whose camera
26 was it you took the photographs with? A. It belonged to
27 Blazovic Azra.

28
29 Q Did the Serbians know that you had a camera? A. No, the
30 Serbs didn't know we had a camera.

31
32 Q Where did you keep the camera? A. There was a water tank
33 in the surgery and we kept it there.

34
35 Q What did you think would happen to you if the camera was
36 discovered? A. I would have probably been killed.

37
38 Q Do you remember the visit of Penny Marshall and the film crew?
39 A. Yes. Yes, I remember.

40
41 Q Did you have any advance notice that they were coming?
42 A. A few days before they came we felt different. There were
43 differences. We could see that there were some changes in the
44 camp. We felt that something was happening. I think that
45 Azra Blazovic was the first one to find out that the
46 journalists were coming and she found that out from a guard a
47 day before.

48
49 Q When Miss Marshall met you, what did you decide to do?
50 A. We decided to give them that film because we didn't know
51 at the time whether that would be the last chance to give that
52 camera and the film to somebody.

53
54 Q How did you manage to do that? A. When Penny entered the
55 surgery she came accompanied by Mice Kobasa.

1 Q Who was he? A. He was a technician. He didn't have one
2 arm, and he was together with Dr. Dusko Ivic. He was a nurse
3 there.
4
5 Q What happened then? A. Because he was there, we couldn't
6 do anything, so we tried to somehow let Penny know that she
7 should tell him to go away. Luckily, she noticed that, she
8 noticed our signs. And after a short discussion with Mice he
9 shortly left to another room. When he got out there was the
10 moment when we gave them the camera.
11
12 Q Did you tell her about what was happening at the camp?
13 A. Some things, we did.
14
15 Q Did she want to take the camera or did she want to take the
16 film? A. She wanted to take the film and give the camera
17 back. We were afraid the Serbs could search the surgery
18 afterwards, so we asked her if she could take both camera and
19 the film. So she took both.
20
21 Q When you first met Penny Marshall was there a cameraman
22 filming you? A. Yes.
23
24 Q When you handed the camera, there was no cameraman?
25 A. I think he was there but he wasn't filming it when we gave
26 the camera.
27
28 Q I would like to show you the film. (Video shown) Is that the
29 man? A. Yes, that is Mice.
30
31 Q Who was he, again? A. He was a nurse who was accompanying
32 Dr. Dusko Ivic.
33
34 Q Did you trust him? A. No.
35
36 Q We saw the medicine on the table there. Was that the medicine
37 you had? A. Those were the medicines that were there in
38 that surgery.
39
40 Q Were they sufficient to treat the kind of illnesses or wounds
41 you had to deal with? A. No.
42
43 11.45 a.m.
44
45 Q After the television crew left the camp, did any changes
46 occur? A. Those days things were changing really fast.
47 Other journalists started to arrive. Some people were coming
48 from some international organisations, so then they ordered
49 the wire to be taken down. People were allowed to go behind
50 wire, behind the actual hall and to the school. Some of the
51 prisoners who had somewhere to go were let go but with a prior
52 written consent. Then they organised a large convoy so that
53 actually the number of the prisoners was a lot smaller. So
54 people could walk around freely, and people could come and
55 visit.

- 1 Q Was there any registration of the prisoners once the
2 International Red Cross arrived? A. Yes, there was a
3 registration but not on the first day when they arrived.
4 I think it took seven days, if not longer, for the first
5 registration to take place.
6
- 7 Q Did registration have any impact, or did it have any
8 significance as far as the prisoners were concerned?
9 A. Yes, registration was important because the people who
10 were registered were not taken by the Serbs, they were not
11 doing that any longer. On one occasion, for example, the
12 Military Police brought five people, that was one afternoon,
13 and the International Red Cross was not present there. Vladen
14 Mizovic together with another soldier, brought those people
15 into that hall and they were beating them. They took them out
16 in the road leading towards the train station. They were
17 beating them on the way with rifles on their legs, and then
18 they killed them when they came to the tracks, the railway
19 tracks.
20
- 21 Q Prior to the registration and the arrival of the Red Cross,
22 had there been any big convoys leaving the camp?
23 A. Convoys regularly left the camp. That was their system
24 of cleansing the population from those areas.
25
- 26 Q Was there any particular occasion you can remember when a big
27 convoy left the camp? A. I can remember more. There were
28 more convoys, there were several. They were only letting
29 women and children - and children being children under 16
30 years of age - on the convoys, and also women and also men
31 older than 65. Sometimes a younger man would be able to get
32 in but of course if they were found out then they would have
33 been beaten up and brought back.
34
- 35 Q Before the arrival of the International Red Cross did any
36 convoys leave the camp taking young prisoners with them?
37 A. When the journalists came and then until the Red Cross
38 came - International Red Cross came - in that meantime a big
39 convoy was there and that for the first time the men were
40 allowed to join. They also let the sick and wounded go.
41 They could have joined the convoy. And then we heard that
42 from that convoy they actually took the young men out and
43 killed them in Vlasic. Five people who survived that or six
44 people who survived that the International Red Cross managed
45 to, and I do not know how, but when we left the Banja Luka
46 camp and when we were on our way to Croatia, the Red Cross
47 managed to smuggle those people into our convoy. I had a
48 chance to talk to those people and that is how I know that.
49
- 50 MR. SHIELDS: Would you stay there, please.
51
- 52 MR. JUSTICE MORLAND: You have no cross-examination, Mr. Millar?
53
- 54 MR. MILLAR: No, my Lord.
55

1 MR. SHIELDS: Thank you, Dr. Merdzanic.

2

3

(The witness withdrew)

4

5 MR. JUSTICE MORLAND: Madam Interpreter, thank you very much for
6 the way you spoke up and gave your interpretation.

7

8 MR. SHIELDS: We now call Mr. Jeremy Irving.

9

10 Mr. JEREMY PHILLIP IRVING, Sworn
11 Examined by Mr. SHIELDS

12

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Q Your full name, Mr. Irving, please? A. Jeremy Phillip Irving.

Q And your address, please, Mr. Irving? A. 2 Barricane, Woking, Surrey.

Q And your occupation, Mr. Irving? A. A freelance cameraman.

Q If I could just ask you some details about yourself. I think you were born in April 1960? A. That is correct.

Q In Chelmsford? A. That is correct.

Q Did you, at the age of 17, go to Salisbury Art College? A. I did.

Q To study film and photography? A. I did.

Q You left there in 1980 and in September of that year you joined ITN as assistant editor and I have got here "ENG cameraman"? A. Assistant film editor.

Q Can you tell me what an ENG cameraman is? A. ENG is electronic news gathering, which is video tape rather than a film.

Q Did you subsequently become a film/ENG sound recordist? A. Yes, in 1982.

Q Then in 1985 you became an ENG cameraman? A. That is correct.

Q It is right that in January 1994, therefore after the events which you are going to give evidence about, you left ITN and became a freelance cameraman? A. That is correct.

Q Would it be right that you have worked for ITN, the BBC, Carlton and most of the major television companies? A. That is also correct.

Q And that you are a married man? A. I am.

- 1 Q And you have two children? A. Yes.
2
3 Q I will just ask you a bit about your experience. It is
4 right that you worked as a war cameraman? Is that right?
5 A. I have.
6
7 Q From 1992? A. Yes. As a sound recordist I was in Chad in
8 1983.
9
10 Q There was a war at Chad then? A. Yes, there was, a civil
11 war. In 1986 I was in Libya when the Americans bombed
12 Tripoli. I went with Desmond Hammond to Sri Lanka in 1987.
13 We won an award for that story.
14
15 Q Is that the Tamil Tigers? A. That is correct. In 1989
16 I was in Afghanistan.
17
18 Q Is that at times a slightly dangerous way to earn a living?
19 A. It is, yes.
20
21 Q Do you have any mementos of your trips abroad? A. Yes, in
22 Sri Lanka I have got a piece of mortar which was still warm
23 when I picked it up. It landed close by.
24
25 Q Did you go out to Bosnia in July 1992? A. I did.
26
27 Q Was that something you did with enthusiasm or with
28 reluctance? A. Yes, war coverage is not my forte.
29 There are some that enjoy it more than I do, but, I mean, you
30 are part of the team, it is your turn, you go and do it.
31
32 Q Who asked you to go? Can you remember that? A. We had
33 either a camera assignments manager or the foreign desk,
34 I cannot remember who would have spoken to me or asked me but
35 ---
36
37 Q You would not always be asked by the news gathering side, it
38 would be the technical side sometimes? A. Well, there
39 would be a film crew assignments manager who would disperse
40 crews as required by the news desk.
41
42 Q Did you know where you were going and why you were going?
43 A. I was made aware of the Maggie O'Kane article and the
44 thoughts of these camps, and to go to Bosnia and find out
45 whether it was true. It sounded a better idea than going to
46 Sarajevo at the time.
47
48 Q Did you know the other members of the ITN crew? A. I did.
49 I had worked with Penny on several occasions, Mickey once or
50 twice.
51
52 Q That is Mickey Lawrence? A. Mickey Lawrence, yes.
53
54 Q You then flew off with the others to Budapest? A. We did.
55

- 1 Q What equipment did you take with you? A. Our standard
2 sort of camera kit - camera and tripod, a box of lights,
3 batteries, tapes, Mickey had his sound kit, a monitor maybe,
4 I cannot remember a monitor, but also a playback adapter.
5 That would have been the standard kit. Oh, and flak jackets.
6 Fortunately that was not standard.
7
- 8 Q Were you optimistic about what you were going to do in terms
9 of this assignment? A. It is -- we are quite conspicuous
10 with our equipment and if you are going to try and do a story
11 like that -- I was a bit sceptical because you cannot sort of
12 wander around. I mean, in Afghanistan we tried to dress up
13 like the Mujahadeen and I cannot grow a beard to save my life,
14 but it is difficult and I was very sceptical at the time.
15
- 16 Q When you arrived in Budapest did you then go to Belgrade?
17 A. We did. There was transport arranged, I cannot remember
18 by whom, but we just transferred all our equipment and luggage
19 into a minibus and went across into Serbia.
20
- 21 Q I think it is at Belgrade you came across the Channel 4 crew?
22 You were all staying in the same hotel? A. We all stayed
23 at the same hotel.
24
- 25 Q Did you know any of those? A. Chris Hease I have known
26 for a long time and James Nicholas I have met once or twice.
27 I had not met Andy Braddel before and I knew Ian Williams.
28
- 29 Q Were you shown a list of camps we have heard about which had
30 been provided? A. I cannot remember being shown but I was
31 aware of a list as such.
32
- 33 Q Did you go and do some filming over the next few days?
34 A. We did. We went out most days. As we were not
35 facilitated with papers to cross over into Bosnia proper
36 directly, whilst we made enquiries to get the right paperwork
37 to go to those places we just went around Belgrade and sort of
38 gradually worked our way out, if you know what I mean, to
39 whatever camps there were around that we could go and have a
40 look at.
41
- 42 Q When you were out on those trips who told you what to film?
43 A. Me. I told myself basically. I mean, we had an idea what
44 we were going to do and you sort of meet the people, try and
45 understand what they are saying and build up a picture of what
46 you want to shoot from there.
47
- 48 Q We know that after several days filming around Belgrade you
49 left Belgrade at short notice. Did you know where you were
50 going? A. Not really, no.
51
- 52 Q Do you remember that helicopter ride to Pale?
53 A. I certainly do.
54
55

1 Q What happened on that journey? A. Well, we were all
2 bundled into this helicopter. There was a very large fuel
3 tank in the centre and we took off -- well, just about, and
4 flew towards what we now know as Pale, only ascending to go
5 over things like pylons. It was "lap of the Earth flying" is
6 the phrase. One hell of a roller coaster ride.
7
8 Q So were you concerned about the presence of the fuel tank?
9 A. Well, the smell and the look of it and the sort of peeling
10 paintwork; it was not a pristine, new helicopter.
11
12 Q As we know, you left Pale and went to Banja Luka. Do you
13 remember going to a press conference? I think it is probably
14 at Prijedor not Banja Luka, but do you remember that and
15 filming there? A. I remember that, yes.
16
17 Q What was the impression you formed as to whether there was
18 enthusiasm for you to visit the camps? A. They were not
19 very pleased to see us and they basically sort of gave us a
20 history lesson of what was going on. They ran this video.
21 There were no smiles, put it that way.
22
23 Q You then went, I think when you were at Pale -- I am just
24 going to go back here in time -- did you go with Penny
25 Marshall and do some filming of other camps? A. Yes, we
26 did. Channel 4 and us split up. We got the short straw, so
27 to speak, and sort of headed down towards Sarajevo itself,
28 near the notorious -- I think "Sniper Alley" was mentioned,
29 which filled us full of enthusiasm, down to, I think it was
30 some sort of POW type camp.
31
32 Q Yes, and did you visit a hospital as well? A. Yes, when
33 we came back to Pale. I think it was a military hospital.
34 It was in Pale itself.
35
36 Q That was my fault for jumping out of chronology. So after
37 Banja Luka and Prijedor you drove in, I think, a minibus
38 actually hired for ITN to Omarska? A. Yes. Yes,
39 I suddenly realised talking to Misha, our translator, when we
40 were waiting for the bus in Pale, I asked him where exactly we
41 were going and he said: "We've got a four hour drive north
42 and then a four hour drive west because of the" -- there was
43 just a -- the Serbs held a sort of finger towards Banja Luka.
44 The front line was around it. He said: "In fact we're
45 driving four hours north and we'll be about two hours from
46 Belgrade", at which point I asked him: "Do you think we could
47 get our minibus there?" and he said: "Well, I'll make a phone
48 call and try", and that is how we picked up our minibus.
49
50 Q So you picked up your own minibus? A. We did.
51
52 Q And it was in your own minibus that you drove from Prijedor to
53 Omarska? A. We did.
54
55

1 Q And en route we have heard there was a reason for the buses
2 and the convoy coming to a halt? Do you remember that?
3 A. Yes. I think we were ahead of the military bus which the
4 Channel 4 crew were in, there was maybe another car, a blue
5 APC Police armoured tank thing in front of us, and we came to
6 a halt there. To my recollection there was part of a tree
7 across the road, or branches, or something like that, and a
8 few gunshots. I think even the APC sort of fired a few
9 rounds. But it just seemed by the sort of body language of
10 the people that this was being sort of staged.
11
12 Q Did you film during this time? A. I did, yes. After a
13 while, yes. I think as we moved through the obstruction.
14
15 Q What position did you adopt? A. Bravely, from inside.
16 I had the door open and kept my head down.
17
18 Q Do you remember arriving in Omarska? A. Yes. Very
19 shortly after that shall we say ambush as such, I personally
20 relaxed a bit because I thought: "Well, why are we having an
21 ambush on the back door of Omarska?" So we then arrived at
22 Omarska, yes.
23
24 Q And did you start filming when you arrived? A. We did.
25
26 Q You were deciding what you filmed? A. I did.
27
28 Q Do you remember seeing the canteen? A. Yes, as we
29 approached the camp, the administration building was on the
30 right and the big sheds were sort of ahead of us and we
31 de-bused and then walked around the right-hand side of this
32 administration and as we walked past we saw through the
33 windows the prisoners starting to have their meal.
34
35 Q Can you remember what impression that made upon you?
36 A. Well, they were very thin men. They were not talking,
37 hollow-eyed; they did not want to talk to us.
38
39 Q What did you do during this period? A. I filmed a
40 compilation of shots to convey the impression that we saw.
41
42 Q Did you after that go up to the camp commandant's office?
43 A. We did.
44
45 Q We do not have the rushes of that. Did you film when you were
46 there? A. I believe so, yes.
47
48 Q You remember that scene? A. Yes, I do.
49
50 Q After that, did you go downstairs over to what would appear
51 to be the living quarters opposite? A. We did, yes.
52 As we ---
53
54 Q Do you remember what happened there? A. Yes, we were
55 stopped from going across. But as we came out of that

1 meeting, I think you can see a shot of a chap standing on a
2 stairwell with a hat. I think we walked past him and through
3 that window we could see the prisoners being marched or
4 running across from the shed, across the other side. And so
5 when we went outside we then proceeded or tried to get towards
6 where they were coming from and were stopped.

7
8 Q As far as you recall were you filming at that stage?

9 A. I would have filmed, yes.

10
11 Q Did you think that by filming it would help in any way in
12 terms of what was --- A. Yes. I mean, if we are stopped
13 from filming you could carry on filming, it sometimes makes
14 them relent a little bit because they do not want to be seen
15 to be stopping the press going about its business.

16
17 Q After that you left Omarska, as we all know, and went to
18 Trnopolje. Would you tell his Lordship and the jury your
19 recollection of arriving at Trnopolje? A. I must say,
20 as we left there I was not aware that we were going anywhere
21 else but as we drove past the camp on the road Mickey Lawrence
22 sort of pointed out to us: "What's that over there?" and
23 I believe he said to the driver: "Stop", and because he was
24 our driver he stopped our vehicle. My recollection is the two
25 or three vehicles, including the APC in front of us, carried
26 on. We stopped, we got out and just headed towards the
27 entrance of the camp.

28
29 Q What happened then? A. Well, from that west road on the
30 southern side you look up and you see just a gaggle of people.
31 We just made a straight line towards them.

32
33 Q And did you film that gaggle of people? A. We did, and
34 the approach to it.

35
36 Q Have you been in court? A. I have.

37
38 Q Did you go up to the fence behind which the gaggle of people
39 were present? A. I certainly did.

40
41 Q And did you film at that fence? A. I did.

42
43 Q When you were taking that film what were you focusing on?
44 A. Well, the prisoners beyond it, and eventually as the
45 Serbian footage has shown us, Mr. Alic was prompted forward
46 and there he was. He was the first -- well, we had seen some
47 emaciated people at Omarska but he was the first one we had
48 seen without his shirt on and the first one that we could see
49 the state that he was in.

50
51 Q When you stopped filming there do you remember where you
52 went? A. I am not sure how we got out of that compound
53 and I am aware of the guard Igor and taking us up the road,
54 seeing the young lad and then seeing his footballing chums up
55 the east road.

1 Q Do you remember filming that? A. I do.
2
3 Q Do you remember after filming Igor what you filmed next? You
4 have seen the rushes? A. Yes, I have seen them. Well,
5 I believe we then went into the medical centre.
6
7 Q Were you present when Dr. Merdzanic was filmed, the film we
8 have seen this morning in court? A. Yes, I filmed him.
9 I was not -- I must admit, I think we stopped at some time for
10 whatever reason. I certainly was not aware that he had passed
11 the camera to Penny until much later.
12
13 Q When did you first discover that? A. Probably in the bus
14 on the way back.
15
16 Q Can you remember how long you were at the camp for?
17 A. Maybe an hour or so.
18
19 Q Did you go back in the bus with the others to Belgrade?
20 A. Yes, we did.
21
22 Q Was there discussion on the bus about what you had seen?
23 A. I am sure there would have been. We would have discussed
24 what we had seen that day, what we thought ---
25
26 Q Do you remember discussion that day? If you do not, say so.
27 A. Not word for word but I remember talking about it, yes.
28
29 Q What happened when you got back to Belgrade?
30 A. I recollect it was about 10.30, 11.00, and we had a
31 meal and I think during that meal Penny and Ian made their
32 respective phone calls and they came down with the joyous news
33 that they were going to clear off very early next morning.
34 Fortunately we were allowed to go a bit later so we had a bit
35 of a lie-in.
36
37 Q At that stage had you or did you use your monitor to view?
38 A. No. I mean, when we flew to Pale we would have taken,
39 you know, a fighting kit, the minimum amount of kit. We
40 would have taken a tripod with us, obviously the camera, the
41 batteries, the charger, some tapes. But as I say, the camera
42 that we had, if you wanted to play anything back you could
43 look through the viewfinder. It would only be in black and
44 white and we rather -- and if you were to monitor your own
45 tapes you would be then using your limited battery powers.
46 You are still in an operational area. You do not know what is
47 going to happen, so you always keep, as I term it, "one up the
48 spout" ready to go.
49
50 12.15 p.m.
51
52 Q Were you conscious of what you had photographed that day?
53 A. I was conscious. I mean, you know, I have been doing
54 camera work for six or seven years, been in the business for
55 twelve. I know what I shoot. A little tally light, little

1 viewfinders, tell me when I am shooting. I know that I have
2 got to make sequences up. I have got to give the ingredients
3 to the editor so that he can make a story out of it. So I am
4 aware of what I have got to shoot. I would have perhaps said
5 to Penny and Ian: "I saw Alic at the fence. I saw him with
6 the other people." I did some tight shots of his torso.
7 I panned up and I did his face. I would have described what
8 I had shot if they had asked me particular things. "When you
9 were in the medical centre, what did you do?", I would have
10 described what I saw and what I shot.

11
12 Q Were you present with Penny Marshall most of the time?
13 A. Most of the time, yes. I think we would have sort of
14 maybe wandered to do an odd couple of shots on our own.
15

16 Q It is right that did you not travel with them to Belgrade that
17 day. Did you travel back to Budapest later? A. We did.
18 Having to cross from Serbia to Hungary the carnet lists for
19 all the equipment would have meant a delay at Customs. So
20 Mr. Nicholas left all his equipment with Mr. Hease and Mickey
21 Lawrence and myself, and we cleared Customs with the equipment
22 so that they could clear through quickly and earlier that day.
23

24 Q When did you first see the ITN broadcast which had gone out
25 containing film that you had shot? A. I believe I saw it
26 the day after transmission. Transmission was on the Thursday.
27 I think I would have seen it on the Friday. We would have
28 arrived in Budapest on the Thursday. If we left around 11.00
29 maybe, we got there about two, three o'clock, something like
30 that. I would think that we -- I am guessing now, that we
31 left Penny and Ian to do their things, keep out of their hair,
32 let them get on with the editing, and didn't see them until
33 after they had completed the report maybe at sort of ten
34 o'clock that evening.
35

36 Q When did you first see the broadcast itself? A. Probably
37 the following day, which was the Friday. I think I probably
38 asked Bill Frost to show me what they had transmitted.
39

40 Q And when you saw it, you were happy with what you saw?
41 A. I thought it was a very good report. I thought it showed
42 the inhumanity and the humanity. It showed Igor trying to
43 help his friends. It showed the little boy, you know, being
44 supposedly used as a shield by his own people. It showed it -
45 - it was crazy. The whole -- I just thought it was a very
46 humane piece.
47

48 Q Ms. Marshall gave evidence in relation to her return trip.
49 Were you asked to go on that return trip? A. I was.
50

51 Q And what was your reaction to that? A. Well, I had been
52 used to working abroad seeing our pictures transmitted on
53 things like CNN and the Friday morning I got up and I turned
54 the television on as I was getting dressed and saw the
55 headlines and wandered into the bathroom and had a shower and

1 came out, and it was still on, and went back in and brushed my
2 teeth and came out and there was another report. Half an hour
3 they were still going on about our story. I was thinking:
4 "What is going on?" Then going down to breakfast somebody
5 said: "Have you heard what Mr. Kinnoch has said?", and then
6 at elevenses, or something like that: "Have you heard what
7 Mr. Major said?", and then in the afternoon: "Have you heard
8 what George Bush has said?", and I am thinking: "Wow, what is
9 going on here today? We have stirred up a right hornets'
10 nest" and ----

11
12 Q Did you want to go back? A. I certainly didn't, no.
13 I thought they would be very cross with us.

14
15 Q Did you go back? A. I did. As a penance I went with --
16 not with a penance towards Mr. Ashdown but I followed Paddy
17 Ashdown back to Pale and did a second helicopter ride, and it
18 is not as much fun the second time as it was the first.

19
20 Q When you went back, did you go back to Trnopolje?
21 A. I don't think we did. We went to other camps in the area
22 but ----

23
24 Q You did not go back to Trnopolje? A. No.

25
26 Q Thank you. Would you stay there, please?

27
28 Cross-examined by Mr. RUSHBROOKE

29
30 Q Mr. Irving, I do not think I need, in the light of your last
31 answers, to play you the shots in the beginning part of the
32 arrival at the camp in the broadcast, because I am sure you
33 are pretty familiar with them. A. Yes.

34
35 Q There is a shot of Ms. Marshall going through a gap ----
36 A. Yes.

37
38 Q -- that seemed to have a pathway of some sort? A. Beside
39 the barn.

40
41 Q Beside the barn. And we can see in that shot the men that you
42 go forward to film in the distance? A. Yes.

43
44 Q Is that your recollection of how you got into the area that
45 you filmed from? A. Yes. We got out of the bus on that
46 southern road and there they were -- you get out of the bus
47 and, sort of, there they are ahead of you. So we just popped
48 through the nearest gap and just went straight towards them.

49
50 Q And it is what, 30 or 40 metres or something up to the fence?
51 A. I should say so, yes.

52
53 Q Do you have a recollection of it? A. Well, it is, you
54 know, a 15 second walk. I filmed all the time going up there.
55

1 Q You remember that? A. I remember because I remember
2 pushing the button because I thought: "Well, if we are going
3 to get stopped, I'm going to get the guard on film stopping me
4 again".
5
6 Q Sure. When you arrived at the fence did you run continuously?
7 A. I did. I mean, as we arrived there, there was that shot,
8 I think, of Penny walking -- she is clear of the shot, it is
9 just the men. She walks into shot and then they are standing
10 back from the fence and eventually one of them is pushed
11 forward.
12
13 Q And it follows that - I am using a phrase I have only recently
14 learned here - you had no time to take establishing shots on
15 the way in ---- A. No, I wouldn't have bothered doing
16 that.
17
18 Q -- of what was going on around you. A. No. We wanted to
19 talk to the prisoners.
20
21 Q Now I want to play the rushes of the footage taken by the
22 Bosnian because I think we can see you doing some filming on
23 that at one point? A. Um hum.
24
25 Q The sequence at the fence, please. Pause there. It is going
26 to flicker, I think when we do this, but that I think is you
27 and Mr. Lawrence? A. It is, yes.
28
29 Q In the blue flak jackets? A. Yes.
30
31 Q If you run it on for a minute, we will see -- you are filming
32 at this point? A. Well, I am pointing the camera, yes.
33 I would assume I would be.
34
35 Q I think you said a moment ago you thought you were filming all
36 the time? A. Yes.
37
38 Q Okay. Can we run it on? Pause there. In fact I think we can
39 see you take a sort of break, at any rate the camera is
40 shifting around on your shoulder and you turn to the left at
41 45°? A. Yes.
42
43 Q Did you film while you were at the fence in other directions
44 other than straight through the fence? It may be that you
45 cannot recall. A. I don't recollect that. No, I can't.
46 We were interested in the prisoners, you know. There were no
47 prisoners to our left.
48
49 Q The rushes that you got of this, did you ever see them?
50 A. I couldn't say either way. Maybe on the Friday when
51 I looked at the cut story with Mr. Frost I may have asked just
52 to see the rushes but ----
53
54 Q You cannot recall? A. No.
55

1 Q Can you just run it on, please? Pause there. Can I take it
2 that you would have been filming at that point? Mr. Irving
3 has got the boom over the man in the black T-shirt?
4 A. Yes.
5
6 Q You look like you are filming? A. Yes.
7
8 Q Run on, please. Pause there. We saw Ms. Marshall introducing
9 herself to this gentlemen Memet? A. Yes.
10
11 Q With the boom coming in over the top. Would you have been
12 filming something like that? A. Yes, I do recall seeing
13 that.
14
15 Q You recall that? A. Pictures of that, yes.
16
17 Q Could you run on, please? Pause there. I am just coming to
18 come to the sequence with Alic coming through, but when the
19 cameraman moved round to his left there, when Penny Marshall
20 was interviewing we could see the front of your camera ----
21 A. That's correct, yes.
22
23 Q -- shooting straight on? A. Yes.
24
25 Q So you would have filmed the whole of this? A. Yes,
26 surely all of this, yes.
27
28 Q Carry on, please. Pause there. Can I take it that the
29 evidence that you gave in chief about seeing his torso without
30 the T-shirt on and filming it, that you would have filmed the
31 whole section of his attendance at the tape? A. Yes.
32
33 Q At the fence? A. Yes. I am sure I would do, yes.
34
35 Q If you could just please take that tape out and put in the ITN
36 report on News at Ten. Just back from there. Pause there.
37 I think if you just run on from here at normal speed. Pause
38 there. That is one of the shots that is from your film, it is
39 not, on the Channel 4 rushes? A. Yes, I believe it to be
40 mine.
41
42 Q The film that we have not got. You can see Mr. Vulliamy on
43 the left? A. Yes.
44
45 Q In the leather waistcoat? A. Um hum.
46
47 Q And Penny Marshall in the middle. There is an interview which
48 we see on the report through the fence with the gentlemen we
49 have just seen, Memet, in the boiler suit? A. Yes.
50
51 Q And the man standing to his right in the green shirt is there.
52 You are standing back a little way here, I think? A. Yes.
53 That is my establisher, as such.
54
55

1 Q That fence? A. Yes. Well, you know, we are talking in
2 sort of generic terms. If you have done the close ups, they
3 have done the interviews, I take a few steps back to do my
4 wider shot, my establisher shot. I think for the next part of
5 the interview or something, we actually -- because originally
6 I was on Penny's right at the fence talking to Memet - was his
7 name?
8
9 Q Yes. A. And Alic. And now I have come back. I think
10 the next part of the interview we see, she is on my right. So
11 maybe it was ... already started this shot.
12
13 Q You have answered the question I wanted to ask you. It is in
14 that sequence that it goes? In other words, what we see in
15 the Bosnian tape, that cameraman, is the immediate arrival of
16 ---- A. Yes.
17
18 Q And there is then a stage at which you come back, you do this
19 wider shot? A. Yes, this wider shot, yes.
20
21 Q If just run back from there, because I think this is out of
22 sequence. Pause there. That, I think, is the shot?
23 A. It either preceded that wide shot or came after it, I'm
24 not sure. I mean, I may have wandered off after doing one
25 interview, to go and do my establishers, and they may have
26 started talking to him again and said: "Come back, we will do
27 another interview". So it may be before or after, I'm not
28 sure.
29
30 Q The point that you were making is that this time you are to
31 the right of Penny Marshall and filming ---- A. This time
32 I am to her left ----
33
34 Q -- left/right of Memet, whereas before you were more directly
35 in front of him? A. Yes.
36
37 Q I just wanted to ask you, having seen those shots of what we
38 have got, and from your recollection, what is your best
39 recollection of roughly how long you had spent at the fence?
40 A. 10 minutes, something like that. It was ----
41
42 Q I am not holding you to an accurate ---- A. No, it was
43 getting long enough because if you watch this bit here,
44 I shuffle the camera because it is probably getting too heavy
45 for my shoulder.
46
47 Q All right. Let us just run it on and see if we can see that.
48 You have been unfair on yourself. And you recall - I do not
49 want to take you through the rest of the rushes apart from the
50 final shots that you took - after then going up what we are
51 calling the east road? A. Um hum.
52
53 Q The road to the right. And you said in your evidence in chief
54 that you were not able to recall how you got out of what you
55

1 describe as that compound when you gave your evidence in
2 chief? A. Yes.
3
4 Q Is that right? A. Yes.
5
6 Q You cannot recall how you got out of it? A. We could have
7 gone back through the gate, jumped over it. I don't know.
8
9 Q Then I want to ask you this just for completeness. When you
10 go up the east road in the area immediately to the north of
11 the north east of the area you had been filming in, in other
12 words you have got the men on your left hand side in the field
13 that you have just been filming in. A. Yes.
14
15 Q Do you know whether you took any shots from that angle of the
16 men in the field? A. No, I think -- I mean, the rushes
17 that we have and have not got with the end of that first tape
18 we are led by Igor up the road, aren't we?
19
20 Q We have lost from a point before you leave Omarska to the
21 point in fact where you are interviewing Igor up at the school
22 with the chap who is his friend, the footballer. A. Yes.
23
24 Q So even the shot of Igor leading up the road, that was on the
25 broadcast we do not have. A. Right.
26
27 Q We do not seem to have anything going up the east road, but it
28 is likely, is it not, that you would have filmed during that
29 period? A. Yes, him guiding us up. I think on the cut
30 piece there is a shot of him walking away with Penny.
31
32 Q Yes. A. Which I would have used as a shot to --
33 punctuation mark in shooting, so to speak. They walk away and
34 then I would have trotted up behind them and find out what
35 they were talking about.
36
37 Q I follow that, and it is filmable and it is likely that you
38 would have filmed that, as we can see, because she is meeting
39 somebody? A. Yes.
40
41 Q And speaking to somebody? A. Yes.
42
43 Q What I was more interested in is the point when you left that
44 area and you were going up the east road, and what you have
45 got on the left hand side of you is the men that you have just
46 spent some time interviewing and filming through the barbed
47 wire fence. It is likely, is it not, that you were taking
48 some shots on the rushes to your left into that field?
49 A. Of them?
50
51 Q Yes. A. I can't recall. I don't know. I mean, Igor was
52 guarding us up there, leading us up there. I suspect I was
53 thinking about what he was going to lead us to.
54
55

1 Q If we could run on in the rushes then, please, and just come
2 to the final shots that you took of the camp. Can you help me
3 with this while it is running on? Again, roughly what is your
4 best recollection of how long you spent at the camp in total?
5 A. An hour, an hour and a half, something like that. An hour
6 and a half.
7
8 Q If we run on and pause, we see a shot we have seen a number of
9 times which is at the end of your rushes. Now, this is down
10 at the bottom of the east road? A. Yes.
11
12 Q Shortly before you leave the camp by your movements and by its
13 location on the rushes? A. Um hum.
14
15 Q If you could just allow it to play on, please. Pause there.
16 That is a shot across the area that you walked into originally
17 when you walked up to the fence, is it not? A. It is.
18
19 Q Have I been correct in assuming that what you are doing there
20 before you leave is taking an establishing shot or a shot of
21 that location so that it is on record? A. Yes.
22
23 Q Because it is something you did not do on the way in?
24 A. That's right.
25
26 Q You hurried in up to the fence? A. That's right. I mean,
27 I think we also, sort of, did exteriors, GV, general views of
28 the school as well, people carrying water in. I mean we have
29 the wide shot of the school, etc., etc. So, yes.
30
31 Q Indeed. And I put it to Ms. Marshall - and I was not going to
32 put it to you, because it is really comment - but on the
33 rushes we do have you seem to be very thorough about recording
34 the locations that you are in? A. Yes, when I've got the
35 time. In fact as a point of information the people on the
36 road there, that is Mr. Nicholas and Mr. Hease, who are just
37 in that shot, looking along the wire, and you were asking --
38 just, you know, if I may say as a point of information, but
39 yesterday asking about -- somebody saying about Penny on the
40 track. ITN at the time had a radio link between the sound
41 recordist and the camera so there were no wires. However, we
42 were working on same frequency so if we have got two crews,
43 one is on a wire, one isn't, and we, Mickey and I, had the
44 luxury, if that is the right term, of having Mr. Hease' sound
45 feed into one channel plus the wire of Michael's equipment.
46 So some of the stuff you have heard in court has not only got
47 my sound but their sound as well.
48
49 Q I have got you. So that snippet that we got: "Penny's gone
50 past" ---- A. When Penny has gone by, I believe Mr. Hease
51 said that so Penny could have been up with them.
52
53 Q I see. Thank you. But you are able to identify them up the
54 road taking that shot? A. Yes. The chap right on the
55 verge in black I think is James. I think it is that shot that

1 you were asking about along the wire the other day. And they
2 are not encumbered by a cable as we were.
3
4 Q Then if you can just take the last couple of shots. Run this
5 on a bit. You move in. Pause there. This is quite a long
6 way to the west of the camp, is it not? A. So I believe,
7 yes.
8
9 Q And that area with the tents and so on there is an area that,
10 as we have seen from the rushes and indeed the broadcast, you
11 filmed in for a while? A. Yes. We are looking directly
12 at right angles to the east road now, are we not?
13
14 Q That is right, to the west. Would I be right in thinking
15 therefore that when you drove away from the camp you drove up
16 the west road and took this ---- A. I believe so, yes.
17
18 Q But did you stop and get out and take it? A. I think we
19 did, yes. Maybe just a snatch, you know, the escort started
20 to move off and I decided: "Well, let's get one more". But,
21 again, it is a very quick shot.
22
23 Q It is a very quick shot. A. It is a very quick shot.
24
25 Q The next one is even quicker. A. The next one is even
26 quicker, yes. No time for tripods, wobbly as hell.
27
28 Q But is it the same principal that you are taking the
29 opportunity to film as an establishing shot or a location shot
30 a bit that you have been in filming on your rushes.
31 A. Yes. Yes, I hate it. Awful shot.
32
33 Q And then if we can just take the last one. We will freeze it.
34 It is not very good on freeze. There. A. Yes.
35
36 Q In the distance. This is the final shot on your rushes.
37 A. Um hum.
38
39 Q If you are in the same location it looks like you are now
40 looking south east? A. Slightly to the right of the last
41 shot, yes.
42
43 Q Down towards the area where the men were? A. Yes.
44
45 Q And, again, the same principle, that is just a distant shot to
46 get ---- A. Yes, I think I have lined up on it and I
47 think I'm doing an exterior -- you know, an establishing shot
48 but it was so far away and so wobbly that it wasn't good
49 telly.
50
51 Q That is all I wanted to ask you on the rushes. You drove back
52 to Belgrade in the same minibus? A. Um hum.
53
54 Q And I think there was some whisky present that had been with
55 you, perhaps to use as bribes if necessary, and you had some

1 whisky, or some of you did? A. Not personally, because
2 I don't drink it. I don't like it.
3
4 Q No doubt there was conversation about what had gone on during
5 that day and what you had seen during that day? A. Um
6 hum.
7
8 Q Do you remember discussion about concentration camps and
9 whether what you had seen could be described as concentration
10 camps? A. Yes, we discussed whether it was. And I think
11 we came to the conclusion that it wasn't per se the 1940
12 version. There were some fat men there, some thin men there.
13 There were some very emaciated distraught men there, but it
14 was not a concentration camp as such.
15
16 Q As I understand it from your evidence in chief, understandably
17 you cannot recall the detail of that conversation at this
18 remove? A. No.
19
20 Q Did you at any stage during that trip review in the small
21 black and white viewfinder any of the film that you had taken
22 of Trnopolje camp? A. I wouldn't have bothered, no.
23
24 Q You would not have bothered? A. No.
25
26 Q Because of the battery point, because of running down the
27 battery? A. No, because I know what I have shot. I know
28 that I've got an idea. I mean, I was in the editing
29 department. I know what is required for the ingredients and
30 I know what I have shot, I know when the red light's on, it's
31 telling me it's shooting. I shoot wide shots, I shoot tight
32 shots, I shoot pans, I shoot tilts. I shoot all those things.
33 If Penny or Ian ask me about something, I would give them a
34 verbal description. Sometimes when they finally get back to
35 the edit booth, they are pleasantly surprised to find that
36 I have understated it.
37
38 Q Can I just get this right? You do not have actual
39 recollection of this? What you are describing is what would
40 be your normal practice? A. I wouldn't look back at it,
41 no.
42
43 Q So you are describing what would be your normal practice?
44 A. Yes. If we are sitting in the vehicle and one of them
45 asked me about: "Did you see so and so?", and I would say:
46 "Yes, I did. I did a pan, a tilt, a wide shot", or whatever.
47
48 Q Now you get back to Belgrade. You have described, I think,
49 getting back you think about 10.30 or 11.00? A. Yes,
50 I thought it was earlier, I must admit. Late, but earlier
51 than ----
52
53 Q Than midnight? A. Yes.
54
55 Q And some of you have a meal and it is at some point that Penny

1 Marshall and Ian Williams go off to make their telephone
2 calls? A. Um hum.
3
4 Q Now, when you get back you have taken the film with the rushes
5 on out of your camera? A. Yes.
6
7 Q In the course of the drive or, at any rate, by the time you
8 get back? A. Yes.
9
10 Q What did you do with the film? Do you remember? Did you give
11 it to ---- A. Well, we would have marked it up, marked
12 the boxes and, yes, we would have given them -- they were
13 probably in our custody, in our room or something. Up until
14 the point that Penny says: "Oh, we are going to Budapest, can
15 I have the tapes, please?" or something, we would probably
16 hang on to them.
17
18 Q Because you were hoping to have a lie-in and you did not want
19 to get woken up at five in the morning to have to do the
20 handover? A. You are right there.
21
22 Q So you would have done it earlier? A. Absolutely.
23
24 Q Now, in your evidence in chief, towards the beginning, you
25 listed what I noted you as saying was standard kit, as the kit
26 you took. A. Um hum.
27
28 Q You said in the things you listed maybe a monitor?
29 A. Yes.
30
31 Q That would be standard, would it not, to take a monitor?
32 A. I was issued with a monitor. I mean, this was my kit that
33 basically was issued to me in 1989, and it stuck with me
34 through thick and thin. We are issued with a 6 inch monitor.
35 That is the screen size, not the box itself. But it is
36 another box, another encumbrance. We also had a little LCD
37 TV. But if you needed to play this back, it meant plugging in
38 a piece of machine called a VA500 which was a -- to keep the
39 camera lightweight, Mr. Sony left half the gubbins which are
40 in that machine there out and incorporated it in a separate
41 box and, however, it was rather fragile and the few times I
42 did want to use it, it was not always working. But I wouldn't
43 bother, I just wouldn't bother looking at. I know, I've got a
44 mental picture, its up to the - I can't do anything about it
45 there and then. Its up to the editor to cut the pictures.
46
47 MR. JUSTICE MORLAND: Mr. Millar, before you ask any further
48 questions, a question from the jury for you. If the shortest
49 route to the prisoners had taken you to the low fence ----
50 A. Yes.
51
52 Q -- and Alic had been there, would he still have made the same
53 impression on you? A. He certainly would, yes.
54
55

1 Q Was it the man, not his position in relation to the fencing,
2 you were trying to get an image of? A. Well, like I said
3 earlier, he was the first man that we saw with a bare torso
4 over that day at Omarska and there he was in all his glory.

5
6 Q at Trnopolje? A. At Trnopolje, yes. It was his
7 protruding ribs.

8
9 MR. MILLAR: To come back to where we were, during the four days
10 or so that you were in Belgrade before you flew to Pale,
11 during which time you were filming around Belgrade, you said
12 to the best of your recollection no one on your crew viewed
13 any of the rushes you had taken during those days?
14 A. No.

15
16 Q On either of these monitors? A. No.

17
18 Q Not at all? A. No. There have been times when I wanted
19 to look at that, just for my own curiosity but on that
20 occasion, no.

21
22 MR. MILLAR: No further question.

23
24 MR. SHIELDS: No further questions. Thank you.

25
26 (The witness withdrew)

27
28 MR. SHIELDS: Would that be a convenient moment before I call the
29 next witness, my Lord.

30
31 MR. JUSTICE MORLAND: Yes. We will rise now, and can we be back
32 at 10 minutes to two?

33
34 (Adjourned for a short time)