

DAY 8 A.M.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

1997 I No.139

Royal Courts of Justice
Thursday, 9th 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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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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1 MR. JUSTICE MORLAND: Yes, Mr. Shields?
2
3 MR. SHIELDS: I now call Mr. Stewart Purvis, my Lord.
4
5 Mr. STEWART PETER PURVIS, Sworn
6 Examined by Mr. SHIELDS
7
8 Q Your full name, please? A. Stewart Peter Purvis.
9
10 Q And your address, please, Mr. Purvis? A. Ashdown, Vale of
11 Health, London N.W.3.
12
13 Q And your present position, Mr. Purvis? A. I am chief
14 executive of ITN.
15
16 Q I just want to ask you a bit about yourself. Is it right you
17 were born in 1947? A. Yes.
18
19 Q And you went to the University of Exeter? A. I did.
20
21 Q And you began your career as a presenter at Harlech
22 Television? A. I did.
23
24 Q You joined the BBC in 1969? A. That is correct.
25
26 Q And moved to ITN in 1972? A. Correct.
27
28 Q Have you been with ITN ever since then? A. Absolutely.
29
30 Q You became a programme editor in 1979 and a producer during
31 the 1980s? A. I did.
32
33 Q In 1983 you were appointed editor of ITN's Channel 4 News and
34 in 1986 you left Channel 4 News to become overall deputy
35 editor of ITN? A. That is correct.
36
37 Q And you became editor in February 1989 and editor in chief in
38 March 1991. So you were in fact editor in chief at the time
39 of the matters which are the subject of this action?
40 A. I was.
41
42 Q I would just like to ask you a bit about that. When did you
43 first become aware of the decision to send an ITN Channel 4
44 crew to Bosnia? A. I think it was shortly after both
45 teams had left. I should explain that the structure is that
46 I leave the editors to make the main decisions and they would
47 just keep me abreast of what they have then done.
48
49 Q And shortly after the teams had left? A. Yes.
50
51 Q Do you know why they had gone out there? A. I know they
52 had gone out to investigate the allegations of camps.
53
54
55

- 1 Q When did you next hear anything about that trip? A. Not
2 until they were actually on their way back or had actually
3 returned to Belgrade.
4
- 5 Q Were you involved on 6th August on how the story was to be
6 covered on both ITV 3 and Channel 4? A. I saw my job as
7 coordinating the output across Channel 3 and Channel 4, yes.
8
- 9 Q In the course of that day did you have any conversations with
10 either Mr. Williams or Penny Marshall? A. I spoke to
11 Penny Marshall once. I do not remember speaking to Ian
12 Williams.
13
- 14 Q Can you remember that conversation with Penny Marshall?
15 A. I spoke to Penny Marshall just before she recorded her
16 audio interview for the lunchtime news and in a sense the
17 brief I gave her was to just say what she had seen and what
18 she had not seen and what she had not been able to see.
19 I also made the point that I did not think that whatever she
20 had seen or Ian had seen that ITN itself should announce that
21 it had visited concentration camps. I said I thought the
22 phrase had mixed historical connotations and that the word
23 "concentration camps" might come up in the coverage in some
24 form or other but it was not for ITN to say that these were
25 concentration camps.
26
- 27 Q I think you told us that you left the actual contents of the
28 broadcast to the individual editors, is that right?
29 A. Yes. I mean, my main role, as I saw, was first of all to
30 try to ensure that across the two channels there was fair
31 play. This was a cooperative venture and I wanted to make
32 sure that at the end of the day those channels got a fair
33 opportunity on the story. I also saw my responsibility as
34 ultimately being editorially responsible for all the output,
35 for making sure that all the rules and regulations under which
36 we worked from the statute of the land to the Broadcasting
37 Regulations were followed, and occasionally that would involve
38 detailed intervention but generally I would leave it to the
39 editors to edit.
40
- 41 Q Were you made aware that Channel 4 had obtained an interview
42 with Dr. Radovan Karadzic? A. Well, I was particularly
43 interested in that issue because one of our statutory
44 obligations is to fairness and balance and that is one of the
45 issues I took a particular interest in. Was he going to give
46 an interview? What were the arrangements by which he gave and
47 interview? Was he going to turn up for the interview? Would
48 it be live or recorded? All those sorts of issues.
49
- 50 Q Did there come a time - I am leaving that day - when ITN were
51 asked to provide rushes for the War Crimes Tribunal?
52 A. Yes. I think that was in 1994.
53
- 54 Q Were the rushes provided? A. Well, first of all I had to
55 make a decision whether to release the rushes or not and I did

1 make that decision to release the rushes. When the rushes
2 were sent for from the archive it was found that at least one
3 tape was missing. That was the first I had heard of it and
4 obviously I was concerned about that. I have to say that at
5 that time it was not uncommon for tapes to go missing. The
6 system has been tightened considerably since, but I was not in
7 fact entirely surprised but I was disappointed because
8 I wanted to provide the fullest evidence both to the
9 prosecution and the defence in that case.

10
11 Q Now I would like to come down to the publication of the words
12 complained of. When were you first made aware of the issue of
13 the press release which we find at tab 4? A. It was after
14 the press release had been issued. I should explain that a
15 few days before this press release my mother had died and
16 I have been involved in the arrangements for her funeral, so
17 I was not actually in a sense completely operating then as the
18 chief executive of ITN, I was slightly part-time. But also on
19 the day the press release occurred I was attending the board
20 meetings of two companies of which ITN is a shareholder.
21 So in a sense I was out of the office when the press release
22 first happened and it was brought to my attention when
23 I returned to the office.

24
25 Q Do you remember who brought it to your attention?
26 A. I think it was Richard Tait.

27
28 Q What position did he hold then? A. He had succeeded me as
29 editor in chief when I had become the chief executive.

30
31 Q Did you receive any communications from anybody regarding that
32 press release? A. Not on the day and I decided that the
33 matter would be best dealt with by Richard as the editor in
34 chief. But the day after, I think it was, I was called by the
35 London Bureau chief of CNN.

36
37 Q CNN stands for? A. Cable News Network, which is obviously
38 now a worldwide news organisation. He told me that his
39 organisation was obviously concerned about the allegations
40 because they had actually transmitted the pictures around the
41 world and in a very sort of serious voice he sort of brought
42 these allegations to my attention, and I then realised that
43 this was not just a kind of random press release by a small
44 magazine but in a sense the amount of lobbying that they were
45 doing in support of the press release was bringing it to the
46 attention deliberately of international news organisations and
47 the significance of it therefore was much greater than it
48 might have first appeared.

49
50 Q Did you yourself have any contact with any supporters or
51 executives of Living Marxism? A. I did not at first,
52 although I then became the target of particular incidents
53 involving Living Marxism supporters.

1 Q Were you present at the RTS Awards in 1997 with Penny Marshall
2 and her husband? A. I was.

3
4 Q What were you doing there? A. Well, as then a senior
5 executive of ITN I would host a table for those who had been
6 nominated for awards and Penny's husband, Tim Ewart, was
7 nominated for an award so she was on my table. We had just
8 arrived in the hall. You could not get into the hall normally
9 unless you actually were taking part in the Awards but somehow
10 a supporter of LM had got into the hall and just as I was
11 sitting down at the table with Penny Marshall they rushed up
12 to me and sort of put something in my hand. I was not quite
13 sure what it was but it appeared to be some sort of award for
14 gagging, I suppose they said it was. I thought actually at
15 the time that Penny had not noticed this and I kind of pushed
16 it under the table, but we have now heard subsequently that
17 she did notice. But I was also stopped in the street at least
18 once outside the office by supporters of Living Marxism and
19 heckled, as indeed I actually was heckled outside this court
20 the other day by a supporter of Living Marxism.

21
22 Q Were you party to the decision to authorise proceedings in
23 this action? A. Yes, I was.

24
25 Cross-examined by Mr. MILLAR

26
27 Q Mr. Purvis, I think the first time that you saw any of the
28 footage that was taken by the ITN crew was when you saw the
29 news clip or the feed for the teatime news, is that right?
30 A. That is correct.

31
32 Q On the day they were broadcast? A. Yes.

33
34 Q Did you see the clip or the feed? A. I saw the feed.

35
36 Q I am sorry, I am being sloppy there. Did you see the clip or
37 did you see what was actually broadcast? A. I saw the
38 material being sent from Budapest by the satellite.

39
40 Q As we have heard and seen, that is put into a short item which
41 is shown on the teatime news? A. That is correct.

42
43 Q Alongside the information that the full report is coming up on
44 the News at Ten? A. Yes, and indeed coming up on Channel
45 4 News as well.

46
47 Q Yes, and part of the purpose of showing that clip on the
48 teatime news is, I think, to draw attention to the fact that
49 these full reports are coming up later? A. Well, it in
50 part served that purpose. Actually the primary reason for
51 doing it that way was in part to get a fairness between the
52 two channels in terms of who transmitted what, when. But it
53 was also to make sure that people had enough time to do their
54 edits. Now, as you have subsequently heard, actually there
55 was an equipment problem and I wanted Penny Marshall to have

1 enough time to do her edit, so it actually served a number of
2 purposes and the purpose you outlined was almost a tertiary
3 issue of actually promoting later programmes.
4

5 Q But it is right, I think, that in the course of the day -- we
6 do not have it but ITN put out a press release itself to draw
7 the media's attention to the broadcast that you were going to
8 show on Channel 4 at 7.00 and on News at Ten? A. Yes,
9 although I have to say people were not particularly interested
10 at the time.
11

12 Q That is standard practice, is it not, if you have got a good
13 story coming out to put out a press release to draw attention
14 to it? A. Yes, but basically what we were drawing to
15 their attention was at the lunchtime news Penny Marshall would
16 make an audio report and that they should in a sense follow
17 the coverage throughout the day.
18

19 Q Indeed that is a standard practice that does not just apply to
20 television programmes such as yours, a lot of magazines and
21 newspapers would trail a good story coming up by putting out a
22 press release? A. That is correct.
23

24 MR. MILLAR: Thank you. I have no further questions.
25

26 MR. SHIELDS: I have no re-examination.
27

28 (The witness withdrew)
29

30 MR. SHIELDS: I call Richard Tait.
31

32 Mr. RICHARD GRAHAM TAIT, Sworn
33 Examined by Mr. SHIELDS
34

35 Q Your full name, please? A. Richard Graham Tait.
36

37 Q And your address please, Mr. Tait? A. 30 Doneraile
38 Street, Fulham, London.
39

40 Q I think it is right you were born in 1947? A. That is
41 correct.
42

43 Q And did you study history at Oxford University? A. I did.
44

45 Q Then after doing some post-graduate research you joined the
46 BBC in 1974 as a research assistant on the Money Programme?
47 A. Yes.
48

49 Q Would it be right that you worked for 13 years in the BBC
50 Current Affairs Department? A. Correct.
51

52 Q And you became the editor of the Money Programme in 1983?
53 A. Yes.
54
55

- 1 Q And then you became editor of Newsnight in 1985?
2 A. I did.
3
- 4 Q Did you join ITN in 1987? A. Yes.
5
- 6 Q And it is right that you have been with them ever since?
7 A. I have.
8
- 9 Q You became editor of Channel 4 News in 1987? A. Correct.
10
- 11 Q Which is a position you held from 1995? A. Yes, I did.
12
- 13 Q And you have now become editor in chief of ITN? A. I am.
14
- 15 Q So you were editor of Channel 4 News when this matter was
16 broadcast? A. Yes, I was.
17
- 18 Q Although I think it is right to say that you were abroad
19 during the week when the events we have heard about
20 unfolded? A. Yes, I was, and I was also abroad for the
21 weeks before that. I was away for three weeks.
22
- 23 Q You were away for three weeks, so you cannot give any direct
24 evidence on those issues. Just make sure you keep your voice
25 up. A. I will.
26
- 27 Q I want to take you forward to January 1997. When did you
28 first become aware of the press release or the decision to
29 publish the story by LM? A. Someone in the ITN press
30 office brought to me a copy of the wire story which the PA and
31 the wire service 210 was running on the Living Marxism press
32 release.
33
- 34 Q Did you read that story? A. I did read it.
35
- 36 Q What was your reaction when you saw it? A. I was
37 astonished that it was the first I had heard of it and that
38 nobody had attempted to contact me or anyone at ITN about it
39 before.
40
- 41 Q What was your feeling about the fact that it was being run on
42 a PA service? A. Well, this wire service is run by the PA
43 and it distributes press releases and it is used by virtually
44 every major news organisation in Britain. The PA is the
45 standard press agency for all newspapers, radio stations and
46 television companies. So my first thought was that while
47 I was reading it virtually everybody else in British
48 journalism could be reading it as well.
49
- 50 Q What was your reaction on reading it? A. I thought it
51 was a wicked lie.
52
- 53 Q What did you do then? A. I spoke to the reporters
54 involved. It took me a while to find Ian, who was, I think,
55 in Hong Kong. I got out the tapes of our original programme,

1 although I was very familiar with those reports, just to
2 remind myself of what we had said, and I think I contacted
3 ITN's lawyers.
4

5 Q Was it your decision on behalf of ITN that the letter
6 which we have seen in our bundle should be sent to LM?

7 A. I consulted Stewart Purvis, who was the chief executive,
8 but it was at my recommendation that we did so, yes.
9

10 Q We have seen that letter. Just so that we remind ourselves of
11 it, that is at tab 5. Do you recall that letter? A. Yes.
12

13 Q In that letter on the second page, at tab 5, you asked, among
14 other things, for the publication of an appropriate agreed
15 apology, an undertaking not to repeat the allegations and
16 the destruction of all copies of Living Marxism. When did
17 you actually first see a copy of Living Marxism, can you
18 remember? A. I think I first saw a copy of the magazine
19 as a whole the following week. I did get a faxed photocopy of
20 the article, I think the following day. I think someone at
21 the BBC sent it to us at ITN. I did not see the magazine as a
22 whole, I think, until the following week.
23

24 Q So when you saw a copy of the article was it your view that in
25 fact it had already been published by then? A. Well, it
26 clearly had been published because someone at the BBC had a
27 copy of it in a form that looked like it was an extract from a
28 magazine, not a draft or a typescript, it clearly was the
29 magazine article as appeared in the magazine.
30

31 Q Did you then see the LM response, which I think is at tab 10,
32 to the letter which we have just referred to? "ITN tries to
33 gag LM." A. It has actually disappeared from my bundle.
34

35 Q I am sorry, tab 18. A. Yes. Yes, I saw it.
36

37 Q What was your reaction to that? A. Well, I then realised
38 that they were not interested in our side of the story, or in
39 talking to us about their allegations.
40

41 Q Did anyone else contact ITN about that time? A. Yes, we
42 had a number of press inquiries. I was told by the press
43 office that Nick Hyam, the media correspondent at the BBC,
44 had been in touch with Penny and had been given access to
45 Mr. Deichmann's rushes and Mr. Deichmann had apparently been
46 to see him with his tapes, and that they were very interested
47 in the story.
48

49 Q Did anyone else draw the article to your attention?
50 A. I was contacted both before the weekend and over the
51 weekend by other people who had read it who wanted to know
52 what my reaction was to it, yes, both friends and also people
53 who are in the industry and also some of ITN's partners and
54 colleagues.
55

- 1 Q Were there any other steps taken by LM or its supporters which
2 was brought to your attention or which you became personally
3 aware of? A. At what stage?
4
- 5 Q During the next few months? A. Oh, yes. Well, the next
6 thing that happened over the weekend was the Independent on
7 Sunday published the allegations and they too had not
8 contacted us.
9
- 10 Q Were there any other steps taken by them in public that you
11 were aware of? A. Yes, they had a press conference at the
12 Cafe Siberia in London, where Mr. Deichmann played his tapes,
13 where Mr. Hulme repeated the allegations against ITN, against
14 Penny and Ian, and called on the awards which organisations
15 like the RTS had given us to be reviewed.
16
- 17 Q Were you present at the dinner we have heard about?
18 A. I was.
19
- 20 Q You were present? A. Yes.
21
- 22 Q What was the reaction from other employees of ITN to these
23 allegations? A. They were shocked because they know Penny
24 and Ian to be reporters of great integrity. They were worried
25 because they were coming to work with pickets from LM outside
26 the office handing out copies of the article and they wanted
27 to know what ITN was going to do about it.
28
- 29 MR. SHIELDS: Would you stay there, please.
30

31 Cross-examined by Mr. MILLAR
32

- 33 Q Mr. Tait, you told us that you authorised along with
34 Mr. Purvis your solicitors Biddle & Co. to send the letter of
35 24th January, that is at tab 5, asking for all of the copies
36 of the edition of Living Marxism to be burned, destroyed?
37 That is right, is it not? A. Yes, I did.
38
- 39 Q And you have been asked to look at the press release of the
40 same day, tab 18, and it is the case, is it not, that that was
41 put out by LM following receipt of the letter that you had
42 authorised Biddle to send? A. I assume so, yes.
43
- 44 Q We can see that from the first paragraph: "LM Magazine has
45 received a letter from ITN's lawyers threatening libel action
46 unless we agree to pulp our entire February issue." I just
47 wanted you to look at the last paragraph. It says:
48
- 49 "We stand 100% behind Thomas Deichmann's article.
50 There is one simple way to resolve this issue. ITN
51 should show the full unedited footage which its team
52 filmed at Trnopolje on 5th August 1992 then everybody
53 will know the truth."
54
55

1 I think you said this press release indicated to you that LM
2 were not interested in your side of the story. Do you
3 remember saying that? A. Yes.

4
5 Q Surely what they are saying there at the end of the press
6 release is not simply that ITN should take the opportunity to
7 show the rushes in public but should say what they think the
8 rushes show, correct? That is what they are saying, put your
9 side of it? A. No, I do not read it like that at all.
10 I read it that they had published a press release which made
11 untrue and defamatory allegations about Penny Marshall, Ian
12 Williams and ITN, that they had already printed it and they
13 were distributing it to our competitors and to other media
14 organisations and they were not going to withdraw it. That is
15 how I read that.

16
17 Q But it is an invitation to show the rushes in public, it is as
18 simple as that, is it not? A. That is part of their
19 campaign of vilification against ITN.

20
21 Q I see. So that invitation to do that is a campaign of
22 vilification, is it? A. Well, the implication is there is
23 something wrong with the rushes and I think everyone has seen
24 in court there isn't anything wrong with the rushes.

25
26 Q Well, they are asking you to show them. They are asking you
27 to let people form their own view about what the rushes show,
28 are they not? A. If they had been interested in that sort
29 of debate they would have approached before they defamed us.

30
31 Q Did you at this time, whether before sending the solicitors'
32 letter or having received this invitation in the press
33 release, review the rushes yourself? A. I reviewed the
34 rushes the week after reading the press release with ITN's
35 lawyers.

36
37 Q By which time, as I understand it, you had read a copy of
38 the full article that had been sent to you by somebody at the
39 BBC? A. I had.

40
41 Q Did you consider or reconsider, once you had seen them, that
42 invitation to show them in public? A. Not at all. My
43 review of all the material relating to the camps, of the
44 rushes, my discussions with Penny and Ian and the crews made
45 me all the more certain that there was not a shred of truth in
46 this allegation and that we should defend the integrity of our
47 reporters.

48
49 Q And not show the rushes? A. I think showing the rushes is
50 completely irrelevant.

51
52 MR. MILLAR: Thank you.

53
54 MR. SHIELDS: I have no re-examination.

55

1 (The witness withdrew)

2
3 MR. SHIELDS: My Lord, that is the case for the claimants.

4
5 MR. JUSTICE MORLAND: Thank you. Yes, Mr. Millar?

6
7 MR. MILLAR: Members of the jury, let me first say a word of
8 introduction about my clients. Informinc (LM) Limited, is
9 the company that publishes the magazine that you have seen,
10 LM. At the time of this article in January 1997 LM had a
11 circulation of only 10,000 copies. Around half were sold to
12 subscribers. Mr. Hulme is and was at the time the editor of
13 LM. Mr. Hulme and his colleague, Helene Guldborg, who has
14 been with him during the trial here, accept that they jointly
15 published the press release complained of and I want to deal
16 initially with the question of the reference to ITN that was
17 raised by Mr. Shields in his opening.
18

19 As you are now well aware, the claimants are ITN
20 Television News Limited and the two reporters, Mr. Williams
21 and Ms. Marshall. I will explain my clients' case in defence
22 to the claims brought by the reporters in a moment. First
23 I want to explain what we say about the claim brought by ITN.
24

25 Our case is not that the article and press release did
26 not refer to ITN at all. We are concerned that you should
27 understand that. Clearly they did. In the press release
28 Ms. Marshall is identified as an ITN reporter. She is also
29 identified in this way in the article. The article states
30 that her editors at ITN sent her to northern Bosnia to get
31 "the story" and that the two news reports were broadcast by
32 ITN on 6th August. But we do dispute that the words
33 complained of contained defamatory meanings as far as ITN is
34 concerned. The defamatory meanings which we say are in those
35 words are about two reporters. Why is it defamatory for a
36 large news gathering organisation to say that it was keen for
37 its two reporters to get a story that the whole world was
38 interested in? After all, as Mr. Shields put it in opening,
39 there was considerable world attention as to whether the
40 concentration camp allegations could be substantiated. You
41 may think that the paragraph and the article that Mr. Shields
42 took you to in opening, which will be numbered 12 to 15 in
43 your numbered version, say nothing more than that the ITN
44 editors were doing their job. Indeed, the suggestion that the
45 reporters were told to pursue "the story" comes from Mss
46 Marshall's own account of events in the Sunday Times on 16th
47 August 1992. We have seen that. It is at Tab 19 of the
48 claimant's bundle and this is what she said:
49

50 "On this story especially the editors of ITN and
51 Channel 4 News seemed to deserve more credit than we
52 did. They had set Ian Williams and myself loose with
53 an open-ended brief to find and visit the detention
54 camps and with orders to file nothing until we came up
55 with the story".

1 10.45 a.m.
2

3 So, members of the jury, we have not set out to prove that
4 there was some sort of conspiracy to compile misleading
5 reports involving all the ITN employees, whoever had anything
6 to do with these reports, whether in London or in Bosnia, or
7 indeed any of them. We have not set out to do this because
8 the words complained of do not say this. Look at them
9 closely. Where is this said? The word "conspiracy" does not
10 appear anywhere in the article.
11

12 The article and the press release correctly focus upon
13 the role of the two television news reporters. It was
14 Mr. Williams and Ms. Marshall who had the responsibility for
15 ensuring that the reports of Trnopolje which they sent back in
16 their names and with their voices, did not mislead. They had
17 spent something like an hour going round the camp at
18 Trnopolje. Those in London had not even been there. Nor had
19 the two ITN editors who were sent out to Budapest to help
20 Ms. Marshall edit the footage. They all relied on the
21 reporters to ensure that their reports did not mislead. As
22 Ms. Marshall put it, "the reporter carries the can". As
23 responsible journalists, their role was to establish the
24 facts.
25

26 So what were the facts that we ask you to find? We
27 will invite you to find that the shot of Alech through the
28 barbed wire fence was taken from within an old, pre-war
29 enclosure to the south of the camp. In the centre was a barn
30 which had long since been surrounded by the barbed wire
31 fencing we see in the shot. At the time it was taken it was
32 the two crews who were surrounded by the barbed wire fencing,
33 not Alic and the other men who were shot.
34

35 We would also ask you to find that the reporters were
36 well aware of this when they compiled their reports. We do
37 not suggest that the ITN crew went into the compound to get a
38 particular shot, or that at the time Jeremy Irvin took the
39 shot of Alic for anything other than the reasons he gave in
40 court. But when the reporters compiled their reports, they
41 must have been fully aware that the barbed wire fencing was
42 around them when the shot was taken, and not Alic.
43

44 They had not only left the compound to go around the
45 camp, they had walked past it on their way back to their van
46 coming down the east road. How could seven professional
47 members of two news groups have left the camp without
48 realising that the shots through the barbed wire fencing were
49 taken from within the enclosure surrounded by the barbed wire
50 fencing? It is inconceivable that they left without
51 understanding this. Even if, which we do not accept, they did
52 not appreciate it then, they must have appreciated it when
53 they came to review their rushes. Yet when they came to file
54 their reports, neither reporter said this. Neither of them
55 told the viewer, whether by words or pictures, that the shots

1 seen of this thin man through barbed wire fencing was taken by
2 a crew standing in an enclosure by the camp which is
3 surrounded by the pre-war barbed wire fence. Neither of them
4 made clear that this barbed wire fence was there surrounding a
5 barn. It was not enclosing Alic and the other men the viewer
6 was seeing.
7

8 If they had said that, of course, the image would have
9 lost its impact. Or, as Mr. Williams suggested, its "symbolic
10 status". Most importantly, it would cease to be reminiscent
11 of a wartime shot from outside the perimeter fence of a
12 concentration camp. We ask you to find that that was
13 precisely why they were so keen to use it; because it was an
14 image reminiscent of a concentration camp. They used it as a
15 sensational image of suffering knowing that it would leave in
16 the viewer's mind the thought that this camp was parallel with
17 the concentration camps. And, members of the jury, as we have
18 seen, that was precisely how the world saw it.
19

20 I want to turn to the question of meaning. We say the
21 words complained of meant that in putting together their
22 reports on 6th August 1992, Mr. Williams and Ms. Marshall
23 compiled television footage which deliberately misrepresented
24 an emaciated Bosnian Muslim, Fikret Alic, as being caged
25 behind a barbed wire fence in a Serbian-run Trnopolje camp on
26 5th August 1992 by the selective use of video taped shots of
27 him.
28

29 Again, you will read the words complained of very
30 carefully. Nowhere do the words "applicated" or "falsify"
31 appear. Nowhere do they say that the footage was not genuine.
32 The criticism is of how they used it in compiling the reports.
33 We say that the words complained of also meant that the
34 reporters failed to explain publicly that the shots were of
35 Fikret Alic standing outside the barbed wire fence which
36 surrounded the area from which the cameraman was filming.
37 When the misleading image of Fikret Alic was widely
38 interpreted as evidence that the Bosnian Serbs were running
39 Nazi-style concentration camps. And, thirdly, that they ought
40 in those circumstances to have given such a public
41 explanation, but discredibly failed to do so.
42

43 Members of the jury, we say those meanings are true.
44 If the last one to comment rather than a statement of fact, it
45 was their comment. We have set out in our defence the
46 misleading impression that the reports convey. Both of the
47 reports were written and compiled in such a way as to give the
48 misleading impression that Fikret Alic was imprisoned and
49 caged inside and by the depicted barbed wire fence. I will
50 repeat this. That Fikret Alic was imprisoned and caged inside
51 and by the barbed wire fence. The key words, which have not
52 been emphasised when this has been referred to in the course
53 of the claimant's case, are "and" and "inside".
54
55

1 We do not say that the reports gave a misleading
2 impression that he was imprisoned, full stop. The misleading
3 impression created by the reports was that he was "inside" a
4 barbed wire enclosure -- i.e. caged -- and imprisoned by the
5 barbed wire enclosure. When asked to do so by the claimants
6 before this hearing, we made clear that it is no part of the
7 defendant's case that Alic and the other men on the other side
8 of the barbed wire were or were not imprisoned. This remains
9 our position.

10
11 You may ask yourself, if they are imprisoned and have
12 suffered, what is wrong with presenting them as caged inside
13 the barbed wire fence where we can see them in a framed shot?
14 Members of the jury, you will hear Mr. Hume give evidence and
15 he will explain why he ran Mr. Deichmann's article in the
16 magazine. He will explain, probably better than I can, what
17 he saw as being wrong about that. In short, however, he
18 believes as we have argued at this trial, that this shot
19 presented in this way would create a link in the viewer's mind
20 between Trnopolje on 5th August 1992 and the holocaust and
21 that the reporters must have known it would have this effect.
22 He believes passionately that it was wrong of the reporters to
23 do this, however concerned they may have been about the plight
24 of these men as victims in the civil war in Bosnia. When he
25 published the article he had considered Mr. Deichmann's
26 research, including the ITN and Channel 4 rushes, just as you
27 will at the end of this trial. He published the article in
28 the genuine belief that the facts were as we have invited you
29 to find them. He did not have any improper motive in doing
30 so. There was no malice.

31
32 Lastly, you will hear evidence from Mr. Deichmann, in
33 particular as to the investigations he made on his visit to
34 Trnopolje when he was researching the article. I shall now
35 call Mr. Hume.

36
37 Mr. MICHAEL WILLIAM HUME, Affirmed
38 Examined by Mr. MILLAR

- 39
40 Q Mr. Hume, can you give the jury your full name and address,
41 please? A. Michael William Hume, 63 Avant Road, London
42 E17.
43
44 Q What is your occupation? A. I am a journalist and
45 editor.
46
47 Q Are you married? A. Yes, I am married with two children.
48
49 Q When were you born? A. On 3rd December 1959.
50
51 Q Did you go to school in Woking County Grammar School?
52 A. Woking County Grammar School for boys, yes.
53
54 Q Did you go to university at Manchester University?
55 A. That is correct, yes.

1 Q I want to ask you first of all about the magazine Living
2 Marxism in which the article which is complained of in this
3 case was published. We know by now of the fact of the
4 relaunch of that magazine in January 1997 by the edition that
5 the court has seen containing the article complained of. Can
6 you tell the court how and when the magazine Living Marxism
7 started out? A. Yes. Living Marxism was first published
8 in November 1988 under the title not LM but the full title
9 Living Marxism. It was published then by the old
10 revolutionary Communist Party.

11
12 What happened was, right at the end of the Cold War
13 when Soviet Communism was in its kind of death throes, we had
14 the bright idea of launching a magazine called Living Marxism.
15 The idea being that it was an attempt to demonstrate that
16 Marxism didn't have to be associated with the decrepit and
17 repressive regimes in the East. I had always been a staunch
18 opponent of Soviet Communism of the Soviet Union and all of
19 its satellite regimes in Eastern Europe. What we were trying
20 to say, whether we were successful or not, by launching this
21 magazine at that time was that Marxism could be about freedom
22 and progress rather than repression and poverty as it existed
23 in the East.

24
25 Q When the magazine started out, was it a small, medium, large-
26 scale operation? A. You mean in terms of editorial
27 staff? Very small. Really me and whatever voluntary help
28 I could get.

29
30 Q In the early days, after it had started out, how did you
31 obtain copy for the magazine, to put in the magazine? Who
32 wrote it? A. It was written by people who supported the
33 general aims of the magazine.

34
35 Q Did you write any of it? A. Any of the magazine?

36
37 Q Any of the magazine? A. Yes, I always wrote the editorial
38 and probably because of the shortage of staff I would end up
39 writing two or three other articles in the magazine as well.

40
41 Q How did you style those articles when you were writing two or
42 three of them in a single edition? A. I always wrote my
43 editorials and so on under my own name, I have always written
44 them under my own name as Mick Hume, but I would use the pen
45 name Eddie Veale sometimes for other articles, simply because
46 I thought it was a bit embarrassing to have too many articles
47 under the same name in the same issue of the magazine. These
48 days we have a much wider pool of contributors and I am able
49 to keep Eddie Veale for embarrassing articles about football
50 and so on because I do not think the editor should take a
51 position in support of a particular football club and I use
52 Eddie Veale for that.

53
54 Q Can you tell us how the magazine developed from its inception
55 throughout the 1990s? A. Yes. Obviously a year or so

1 after we launched at the end of 1988 the Berlin Wall came down
2 and international politics and the whole world changed
3 fundamentally. Through the 1990s I felt we were living in a
4 very new era when the old kind of political rules didn't apply
5 any more. Being left or right wing didn't seem to mean very
6 much any more and we were in kind of unchartered waters, so
7 the magazine began to develop in a very new direction dealing
8 with all kinds of issues which would not normally be
9 considered to be within the Marxist rubric. All kinds of
10 cultural, social, medical, popular issues, as well as
11 conventional politics.
12

13 Q What about the historical link, if I can put it that way, with
14 the old Revolutionary Communist Party? A. We were still
15 formally published by the Revolutionary Communist Party
16 because it needed the money, it was subsidised and it still
17 carried a small label on the contents page saying it was
18 published by the Revolutionary Communist Party, but in
19 practical terms it was developing in a much more autonomous
20 direction under my supervision. It wasn't like full of
21 documents of the RCP or anything. In fact the RCP was
22 increasingly rarely mentioned in Living Marxism. The last
23 time it was mentioned in an article, I looked it up actually,
24 was in February 1995, it was a report of an RCP conference.
25

26 Q Where did that lead you or what did that lead you to think as
27 the editor of the magazine as it developed in that way?
28 A. We were obviously living in a very different time and
29 I felt a different kind of magazine was necessary to deal with
30 the new issues in the new era. Any kind of party political
31 link, it seemed to me, was becoming increasingly inappropriate
32 so by the time of the mid-90s we had really started thinking
33 seriously about relaunching the magazine under an entirely
34 different, independent basis.
35

36 Q With or without such a link? A. Without such a link. As
37 it happens, in 1996 -- I wasn't alone in drawing these
38 conclusions. It was fairly obvious to everybody that the RCP,
39 which was a political organisation founded, came out in a
40 radical way in the 1970s, wasn't really a suitable kind of
41 political organisation for the late 1990s. So in 1996 the
42 members of the RCP actually wound it up as an organisation.
43

44 Q It ceased to exist? A. Yes, it ceased to exist in 1996.
45 The title of the magazine was then sold to Informink Limited.
46

47 Q When did that happen? A. At the end of 1996.
48

49 Q That is the Living Marxism title. A. Yes. The last
50 edition of Living Marxism to carry the little RCP monocle was
51 the December 1996 issue.
52
53
54
55

- 1 Q Who was the magazine title sold to? A. It was sold to
2 Informink which is basically two women, Helene Guldberg who is
3 here in court and Claire Fox, who are the co-publishers of the
4 magazine.
5
- 6 Q That brings us to the January 1997 edition and I will ask you
7 about that in a moment. A. It was the February issue, the
8 end of January. We needed the time to reorganise things.
9
- 10 Q Thank you. But looking over that period since the relaunch
11 and the changes that you have described, just give us an idea
12 again of the magazine and its operation. Does it employ
13 staff? A. Yes. A shoe string operation is a kind of
14 luxurious way of describing it. It is me and a couple of
15 part-time helpers if I am lucky. No one who writes for the
16 magazine ever gets paid. All the national newspaper and
17 magazine authors who write articles for the magazine are never
18 paid. They do it because they are given a platform to say
19 what they like and say what they want to say. And it is
20 subsidised, basically it is funded by the sales, which is
21 completely insufficient to fund it, so it is subsidised by
22 events that we organise like we have organised some successful
23 conferences over the last couple of years, and by a fund-
24 raising kind of scheme we have called Friends of LM, which is
25 basically people who support the magazine, give regular
26 donations to keep it going. For a small, independent cultural
27 kind of current affairs magazine it would be unheard of for it
28 to make money. It just doesn't happen. They are always
29 subsidised by somebody, normally they have one wealthy
30 benefactor who will subsidise them. I unfortunately do not
31 have any wealthy benefactors but I have a few hundred kind of
32 moderately well off benefactors who can all find a few pounds
33 a month to meet the deficit and that is the way we keep going.
34 It is still we are on the verge of going under in most months.
35
- 36 Q You described how you get contributions. Are they people who
37 had contacts with the RCP or who were in the RCP? A. Some
38 of them, but less and less so. I mean, I have a much wider
39 pool of contributors now than ever in the past. As I say,
40 many of them are people who write for nationally recognised
41 papers and magazines on a regular basis.
42
- 43 Q The magazine, as you told us, was relaunched in February, by a
44 February 1997 edition. I think we have got in court which
45 everybody has seen, some copies of the original edition. It
46 has not formally been produced to the jury yet. Can you
47 produce it and confirm that this is the first relaunched
48 edition? A. That is, I can tell from here.
49
- 50 Q It will be handed up to you. A. Yes, that is it. That is
51 the first one.
52
- 53 Q If I could just take you to the inside page where there is a
54 contents list, and to the right of it an introductory comment,
55 "Welcome to the new look LM". If I could just ask the members

1 of the jury to read that through to themselves, it is not too
2 long, to see what was said in the opening edition of the
3 magazine. Who wrote that introductory passage in the first
4 edition? A. Me. Sorry, I did.

5
6 Q Whose views are being expressed there? A. Mine.

7
8 Q I want to turn to and deal with Mr. Deichmann from whom we are
9 going to hear evidence, who was the author of the article
10 complained of. At the time the article was run in this
11 edition, in early 1997, how long had you known Mr. Deichmann?
12 A. I think I first met him right at the end of the 1980s on a
13 casual basis and had known him better since the early 1990s.

14
15 Q Was he a journalist? A. He was, yes.

16
17 Q Where? A. In Germany.

18
19 Q Was he connected with any particular magazine? A. He had
20 -- this is how I got to know him better actually -- he had,
21 after I met him, become involved in a magazine, a very small
22 magazine even smaller than our magazine, in Germany called
23 Novo, which I think he had been partly inspired by what we
24 were trying to do in Britain. He was trying to do something
25 similar with this magazine in Germany. He would reprint in
26 Novo on a regular basis translations of articles which I had
27 carried in Living Marxism during the 1990s.

28
29 Q Had the opposite ever happened? Had he offered you articles
30 he had run in the Novo for publication in LM? A. Yes,
31 some, occasionally for himself and like me he tended to spend
32 most of the time editing other people's things. It was a one-
33 man operation. I certainly published articles by him in
34 Living Marxism.

35
36 Q What was your understanding of Novo and its character? Was it
37 connected with any political party? A. I don't think so,
38 no.

39
40 Q How would you have understood it? A. I suppose as an
41 independent critical magazine, very much like the same thing
42 I was trying to do with Living Marxism and LM over here.

43
44 Q Again at the point you published his article in Living
45 Marxism, how did you regard him as a journalist and author of
46 articles? A. I knew him as a very reliable researcher, a
47 good journalist. He has the method that is characteristic of
48 many people from his part of the world. He is very systematic
49 in everything that he does and he had a very good track record
50 already, one I was rather envious of actually, in publishing
51 his articles in prestigious publications across Europe, German
52 national papers like De Tante, De Rucker and Gruner and Sedan
53 in Holland, The Standard in Austria, many national newspapers
54 and magazines in those countries.

1 Q You were aware of that, were you? A. I was aware of that,
2 yes. He would make me aware of it when he had some success in
3 that respect.

4
5 Q How did he do that? A. By ringing me up and often faxing
6 me, even though I couldn't read them, to show me his name was
7 on them.

8
9 Q I am going to come on to the article now. I do not know
10 whether that is a convenient point or whether you want to go
11 on. It will take more than a few minutes.

12
13 MR. JUSTICE MORLAND: Very well, we will have a break.

14
15 (The jury retired)

16
17 11.20 a.m.

18
19 MR. JUSTICE MORLAND: Mr. Millar, thank you for your note of your
20 opening. I have just a query about the second complete
21 paragraph on the second page, whether as a matter of law
22 anything in Ms. Marshall's account of events in the Sunday
23 Times is admissible on either the question of reference or the
24 question of meaning. Whether that was intended or not, I do
25 not know.

26
27 MR. MILLAR: It was not intended, no.

28
29 MR. JUSTICE MORLAND: No, but it clearly, I would have thought, is
30 not admissible for either purpose.

31
32 MR. MILLAR: My Lord, I am content that that should be made
33 available ---

34
35 MR. JUSTICE MORLAND: Yes. I am not going to make it clear now.
36 Right, 25 to 12.

37
38 (Adjourned for a short time)

39
40 (In the presence of the jury)

41
42 MR. MILLAR: Mr. Hume, when did you first see - and what did you
43 see when you saw it - a version of Mr. Deichmann's article?
44 A. Oh, well, to just go back a little before that, in the
45 late autumn of 1996 he contacted me to let me know that he was
46 working on the story and he thought he had something very
47 interesting, and he sent me the transcript of an interview
48 that he had done with Professor Mischa Wladimiroff, who is a
49 leading Dutch legal advocate, who was acting for the defence
50 at the War Crimes Tribunal.

51
52 Q For whom? A. The defence for Dusko Tadic, his name was.
53 Professor Wladimiroff, who, as I say, is a leading Dutch legal
54 advocate, was acting as the defence advocate and he had got
55 Mr. Deichmann, Thomas, to do a report for him as an expert

1 witness of German media coverage of the conflict. While he
2 was there Thomas had interviewed Professor Wladimiroff and he
3 sent me a transcript of this interview, in which Professor
4 Wladimiroff had some very interesting things to say about the
5 famous barbed wire fence at Trnopolje, and a shortened version
6 of that interview is published in this magazine eventually.
7 So that is when I first heard about it, sometime in November
8 '96 - that he was onto the story.

9
10 Q And when you say "a shortened version", that is what appears,
11 I think, in a box on p.27? A. That is correct.

12
13 Q A sort of grey box alongside the article? A. That is
14 correct. Professor Wladimiroff had been -- sorry, did you
15 want me to ---

16
17 Q Did you know anything more at that stage in the latter part
18 of 1996 about the work he was doing on the article or the
19 investigation? A. He told me he was going to Bosnia to
20 investigate it himself in early December, having, as I say,
21 been alerted to the story by Professor Wladimiroff, who had
22 been doing his own investigations into it as part of his
23 activity at the War Crimes Tribunal at the Hague.

24
25 Q For the defence case? A. Yes.

26
27 Q Had he at this stage indicated there might be an article in it
28 for you? A. Yes, he suggested that if it was to come to
29 fruition, if he found a good story, would I -- you know, it
30 was the kind of thing that he hoped I might be interested in.

31
32 Q I come back to the question I asked originally then. Did
33 there come a stage where you saw a version of the text of what
34 became the article that was published? A. Yes, after he
35 returned from Bosnia very early, I think, in December 1996 he
36 sent me an e-mail version of his article, or a translation of
37 the article. He wrote an article in German, got it translated
38 and sent me a translation, middle to late December 1996.

39
40 Q And did you read it? A. I did, yes.

41
42 Q When you read it, what did you see as the substance of what he
43 was saying? A. It took me a long time to read it. I have
44 heard people complain about this article being long. The
45 German articles are always a bit longer than that. But when
46 I sifted through to find the core of it, it seemed to me that
47 he was not making any wild allegations. There were really two
48 points he was raising about those famous ITN pictures. One
49 was that the ITN broadcast had given a misleading impression
50 of the situation at that camp, that the journalists had been
51 surrounded by an old, broken down in places, barbed wire
52 enclosure and they had been inside the enclosure rather than
53 the men in the camp when those pictures were taken; and that
54 presented in the way that they were they had wrongly convinced
55 the world, as we have seen many times with the press coverage

1 over the last two weeks, wrongly convinced the world that the
2 Bosnian Serbs were running Nazi-style concentration camps.
3 That was the first and substantive allegation he was making
4 about the compiling of those reports.
5

6 The second thing he was saying was that he felt that
7 in the light of the reaction to those reports the journalists
8 should have clarified the situation and had not done.
9

10 Q I want to ask you, as it were, about the mechanics of
11 getting from that point to the publication of the article
12 in the February edition of Living Marxism. Did you contact
13 Mr. Deichmann after you had read the draft of the article?
14 A. I did. As soon as I read it I contacted him.
15

16 Q What did you do after you had contacted him and what did you
17 say to him? A. Well, I told him that in principle I was
18 interested in publishing the story or an edited version of it,
19 but I would have to be absolutely certain that we could stand
20 it up as far as the facts were concerned. I certainly would
21 not be interested in publishing it unless we could do so to my
22 satisfaction.
23

24 Q What steps did you take to satisfy yourself that you could
25 stand it up, or it could be stood up? What do you mean by
26 "stand it up"? A. Well, that the facts that underpinned
27 his case would stand up -- would stand up to serious
28 examination by myself and by anybody else who was coming to it
29 as an independent minded reader.
30

31 Q What steps did you take to satisfy yourself that you could
32 stand it up? A. Well, I had already, I think, by then
33 taken steps to get hold of the broadcast. That was the first
34 thing. I obviously needed to be sure that the facts were
35 correct, that there was a case to be made.
36

37 Q When you say "the broadcast" what are you referring to?
38 A. The ITN and Channel 4 broadcast of 6th and 7th August
39 1992.
40

41 Q Where did you get that from? A. They were got through my
42 office from a student supporter from one of the many media
43 studies departments that are proliferated around the country,
44 that kind of collect news coverage.
45

46 Q And did you look at those? A. Oh, I did, yes - very, very
47 carefully.
48

49 Q Did you obtain anything from Mr. Deichmann? A. Yes,
50 I obtained a great deal of material from Mr. Deichmann.
51 He sent me everything that he had, I think, more or less,
52 to support his argument. He sent me -- the main, most
53 interesting thing he had in the first instance was the rushes
54 shot by the ITN and Channel 4 crews at the camps in August
55 1992.

1 Q Are those the ones we have seen in court? A. Yes.
2
3 Q So you have the interview he had sent you with Professor
4 Wladimiroff? A. Yes.
5
6 Q You had the rushes? A. Yes.
7
8 Q What else did you have to do with the camp as far as evidence
9 was concerned? A. He then had the evidence he had
10 accumulated through his own trip to Bosnia in December 1996
11 and the interviews he had done with local people, both his
12 own -- well, first of all, he had his own evidence that he had
13 seen, the photographs that he had taken while he was there of
14 the area that is in question on what had been the camp in
15 1992, the interviews with local people, all of whom, I think,
16 are quoted in the final version of the article. He had -- as
17 I say, very methodically he had the taped interviews in
18 Serb/Croat with a translator, which were then transcribed into
19 German and some of the bits of it were transcribed into
20 English, and he sent it all to me.
21
22 Q How did you try and find out whether the translation was a
23 good one? A. Well, first of all, he sent me a sworn --
24 I suppose it would be in this country an affidavit although
25 it was not done legally but by his translator, the local
26 translator who had worked with him in Bosnia. It is a
27 declaration that all the transcripts and quotes that he had
28 seen were a true representation of what had been said on those
29 tapes. I did tell him, Thomas, despite that, that I wanted
30 him to double-check the quotes between the tapes and the
31 transcripts, which he did.
32
33 Q Okay. Did you have any other material from Professor
34 Wladimiroff? A. Yes, we also had the material, the video
35 which Professor Wladimiroff himself had shot during his trip
36 to what had been the camp, Trnopolje.
37
38 11.45 a.m.
39
40 Q Did you have any material about the layout of the camp,
41 graphic material? A. Yes. Thomas also sent me the
42 American - I think they are called - split line drawings, one
43 of which we have been looking at a lot during the case as
44 evidence of the layout ----
45
46 Q Pause there for a moment. A. Yes.
47
48 Q Have you got the defendants' bundle? Is that the document we
49 have been looking at, at tab 1 in the defendants bundle?
50 A. Yes.
51
52 Q So you had that? A. Yes.
53
54 MR. JUSTICE MORLAND: The question I have had from the jury, which
55 I suppose I should really address you to, Mr. Hume, is:

1 "Don't you think Mr. Deichmann's map of the camp in
2 his article is misleading as it suggests the barbed
3 wire fence surrounding the barn is complete and does
4 not show the hedge beside the garage or the entry
5 point used by the news teams?"
6

7 I do not know whether you want to answer that question now,
8 Mr. Hume, but probably while it is in the jury's mind it would
9 be a good idea if you did. A. Yes. Well, no, I don't
10 think it is inaccurate. I mean, the article makes clear that
11 the barbed wire enclosure was broken down in places. There is
12 no suggestion that it was complete around the -- impossible to
13 get in and out. It makes the point that there was a gap there
14 that they went through and that the wire was broken down in
15 other places. So I don't think there is any attempt to
16 deceive with the map. I think that Mr. Deichmann did the best
17 that he could with the material he had. It has turned out, as
18 we have reviewed the rushes, to be, on the whole, a strikingly
19 accurate, I think, representation.
20

21 MR. MILLAR: Did you have any other material from Mr. Deichmann
22 that you can recall? A. I'm trying to think now. He had
23 a letter from the American Embassy verifying that these were
24 what they purported to be, these split line drawings at that
25 time as well.
26

27 Q Looking at the plan and the article, we can see there is a
28 graphic on the opposite page of what is said to be ----
29 A. Yes.
30

31 Q -- Dragan Opacic's draft layout of the camp? A. Yes.
32

33 Q We have not really looked at that. Can you just tell us where
34 that came from? A. Yes. This is how Professor
35 Wladimiroff at first looked into the story which he alerted
36 Mr. Deichmann to. There had been a witness at the war crimes
37 tribunal, Dragan Opacic - I think witness L he was known as -
38 who had given evidence about what had gone on at Trnopolje and
39 had said that the barbed wire fence surrounded the camp and
40 this was the drawing he made in court to show the war crimes
41 tribunal that there was a barbed wire fence encircling the
42 entire camp. That long line stretching from the bottom right
43 hand corner around. He had in the course of that trial been
44 exposed as a liar, professional almost, when the relatives who
45 he said had been killed in the war were produced in court. So
46 his evidence collapsed. And he said -- the article explains
47 that he had been schooled in his evidence and that one of the
48 things he had been shown from which he had drawn this
49 conclusion that he should say that there was a barbed wire
50 fence surrounding the camp was the ITN broadcast.
51

52 Q Just pause there. Your understanding of that ---- A. I'm
53 sorry, yes, that's my understanding.
54
55

1 Q Where did that come from? A. That came from Thomas
2 Deichmann but also from Thomas Deichmann's interview with
3 Professor Wladimiroff. That was the main source of it. It is
4 from Professor Wladimiroff.
5
6 Q Defence counsel? A. Yes.
7
8 Q As far as your own researches are concerned, you have told us
9 about obtaining the video tape copies of the broadcasts. Did
10 you make any further investigations in this country to look
11 into what reaction there had been to those broadcasts?
12 A. Yes. I think it was important -- I mean, particularly the
13 second part of the -- well, both really allegations centrally
14 addressed the question of the reaction to the broadcast and
15 how the world had interpreted those pictures and so I reviewed
16 a lot of the material we have been looking at this week, the
17 newspaper coverage, the Belsen 1992 headlines and so on, the
18 death camp headlines and articles which follow those ITN
19 broadcasts, kind of convinced myself that that was right in
20 terms of how the world had -- I mean, I remembered it to be
21 the case in any case because I had written or published -- not
22 written but published articles about it in Living Marxism at
23 the time even in 1992, that reaction. But I did review all
24 that material to make sure that I was right and that Thomas
25 was right. I should say that Mr. Deichmann's accumulation of
26 evidence was a most painstaking piece of investigative
27 journalism, especially as one-man operation without any back
28 up. It was a highly impressive piece of work.
29
30 Q Now, did there come a point where you came to edit the
31 translated version of the text that was given you?
32 A. Yes. Yes, indeed.
33
34 Q When did you do that? As you went along or at the end? How
35 did you do it? A. Probably when we had all the material
36 I started editing it and I would have edited it several times
37 before I was happy with it, between the end of December and
38 when we went to -- sent the magazine off to press, to be
39 published, which I would think was 15th January. So sometime
40 in that fortnight, as well as trying to put together the rest
41 of the magazine, you understand. It is not like I can
42 dedicate myself to one thing. I was doing all these things as
43 well. But I spent a lot of time editing this article in that
44 period.
45
46 Q How did you edit it? On screen, on paper? A. On screen,
47 yes. On screen. I mean, it is a very -- there are two
48 considerations apart from making sure that everything in it
49 could be backed up as far as we knew by the facts that we had
50 available, there are two important considerations. One is
51 that when something is sent in translation, especially when it
52 is not the author himself who has translated it, you have got
53 to be very, very careful about translation. It is very easy
54 for people to make mistakes. So, for example, I remember that
55 the draft translation Mr. Deichmann sent me, early on in that

1 text the picture is referred to as a fake. That is how the
2 translator had translated his version. And I remember
3 contacting Thomas and saying this was not -- I didn't think
4 that was a word that could be used in relation to the evidence
5 that we had. There was no question of it being a fake in the
6 sense of it not being a real picture, and was it a correct
7 translation. And we established that in fact it was not a
8 correct translation, and so I was able to remove that. But
9 things like that you have to take great care with in terms of
10 the translation to make this particular -- it is another kind
11 of hurdle to get over. I was also of course dealing with the
12 situation as far as the British libel law is concerned, which
13 I know is very different from the European one, so I had to
14 take great care in the editing process.

15
16 Q Now, were you in contact with Thomas Deichmann during this
17 period and speaking to him about the article? A. Yes.
18 Frequently, yes. I gave him a very hard time about it.

19
20 Q What was the content of those discussions in general terms?
21 A. To make sure that he had checked and double checked every
22 fact and quotation we were using so we could be absolutely
23 satisfied that it was accurate.

24
25 Q Now still on the mechanics of the article and how it ends up
26 in the magazine in that form, did you at some stage, before
27 doing that, start to think about how you would use it and
28 present it in the magazine once you had got the text?
29 A. Yes.

30
31 Q What decisions did you take about that? What was your
32 thinking about that? A. I decided that it was such a
33 strong story. My first impression of it was, as I say, of a
34 tremendous piece of investigative journalism and such a strong
35 story that I felt we had to lead on it, and so I decided we
36 would make a cover story for that first relaunch issue of the
37 magazine, which has now been restyled as LM.

38
39 Q The complaint that is made against you in court in this case
40 makes reference to - the jury will have seen it - an editorial
41 on p.5 under the headline "First Casualty?" Who wrote that?
42 A. Me. I did.

43
44 Q If we can just pause, perhaps the jury could just have a look
45 at the editorial - it is very short - and read it through. Is
46 it starts with: "What is the responsibility of a war
47 reporter?" (After a pause): Now we can see that in the
48 editorial in the left hand column you refer to, by a quote or
49 a couple of quotes, something said by Mr. Martin Bell, the
50 former BBC correspondent, now MP? A. Yes.

51
52 Q To this effect:

53
54 "I do not believe we [that is journalists] should
55 stand neutrally between good and evil', Bell told the

1 prestigious News World '96 conference in Berlin in
2 November. 'My answer is what I call the journalism of
3 attachment, journalism which cares as well as knows."
4

5 What was your thinking in raising this issue and that quote in
6 the editorial? A. Well, obviously this editorial, if you
7 like, spins off Thomas Deichmann's article but, as often with
8 an editorial, it is not about the subject of a particular
9 article, it is raising the wider themes which revolve around
10 that issue. I wrote this in the context of something that had
11 been concerning me for some time and was just beginning at
12 this time to be a major subject of debate, which is about the
13 role of war reporters, the responsibilities of war reporters,
14 the ethics of war reporting, objectivity in war reporting,
15 these kind of issues. And a lot was being written and said
16 about this at this time. Martin Bell had coined the phrase
17 "journalism attachment". As I say here, only in November 1996
18 at the major Berlin News World '96 conference, and various
19 other things had been written which I was aware of. So
20 I wanted to raise my concerns about what I saw as this
21 cohering new school of war reporting.
22

23 Q If we look at the right hand column in the second paragraph
24 down, at the end of the first paragraph this is what is said:

25
26 "The role of objective reporter of fact sits uneasily
27 with that of moral crusader.
28

29 "If they are not very careful, journalists who have
30 some kind of emotional 'attachment' to one side can
31 end up seeing what they want to see, rather than what
32 is really there."
33

34 Were those your views you were expressing there? A. Yes,
35 they are. Yes.
36

37 Q On this issue characterised by Mr. Bell's quote?

38 A. Indeed, yes. There is a problem with reporters, war
39 reporters in particular, when their emotions get mixed up with
40 the evidence and when they start taking a moralistic stand on
41 questions of good and evil rather than questions of fact. And
42 I thought those are problems raised by the points Mr. Martin
43 Bell had been making and by many other journalists at the same
44 time.
45

46 Q Now, the complaint against you is also based upon a press
47 release that was put out in advance of the article being run
48 in the magazine. That is at tab 4 in the claimant's bundle.

49 A. Yes, this was the other decision I took when considering
50 the article, what to do with it. We decided to put out a
51 press release to publicise the fact that we had it.
52

53 Q So, one, you decided to run it as the lead article in the way
54 that we have seen on the front page? A. That's right.
55

1 Q Two, you wrote the editorial that, as you put it, span off the
2 article? A. That's right.
3
4 Q About journalism attachment? A. Raising the wider themes
5 concerned. But I was concerned about in particular -- the
6 editorial was about -- it's really more about the reactions to
7 the broadcasts than the broadcasts themselves. It's about the
8 way in which the world media was waiting for the story that
9 would fit the pattern of Serbs are Nazis, Muslims are Jews,
10 that kind of easy black and white, good versus evil framework
11 and leapt upon it in this way because they really wanted to
12 believe that, and I felt that was a very strong impulse behind
13 much of the press and media reaction to the story that we have
14 seen.
15
16 Q The third decision was to put out a press release in advance
17 of the article? A. Yes.
18
19 Q Is that something you had done before as an editor for stories
20 in the magazine? A. I had, yes. But I felt particularly
21 with the new magazine we wanted to -- we had a good story, we
22 wanted to lead on it.
23
24 Q Now, who was responsible for the press release and putting it
25 out? A. Well, I didn't write it, it was written by the
26 press officer but I had checked it and so I am responsible.
27 I was responsible for it.
28
29 Q As the editor? A. Oh, yes.
30
31 Q The press officer is identified at the bottom as Jan McVarish?
32 A. That's correct, yes.
33
34 Q Right at the bottom of the press release there is a quote in
35 your name. It reads:
36
37 "If they are not very careful journalists who have
38 some kind of emotional attachment in a conflict can
39 end up seeing what they want to see rather than what
40 is really there. Taking sides cannot be an excuse for
41 taking liberties with the facts."
42
43 A. Yes.
44
45 Q Can you explain how that quote comes to be in the press
46 release? A. Well, when this press release was put
47 together that is just a scissor and paste job from the
48 editorial that was cut out and stuck in there. So when I was
49 checking it through I came across this as a quote that has
50 been chosen and it struck me that it needed slightly amending
51 because clearly being read in this context of this press
52 release it could be taken as referring to the reporters, Penny
53 Marshall and Ian Williams, rather than, as it refers to in the
54 editorial, other journalists who had interpreted their story
55 in a certain way. I understood that.

1 Q Pause there. If we have open in front of us the press release
2 and also the editorial at p.5, when we saw scissors and paste
3 job ---- A. Yes.
4

5 Q -- is the cut and paste coming from the passage we have seen
6 in the second column beginning "If they are not very careful"?
7 A. Yes, and then from the last line of the editorial. There
8 are two sentences cut out of the editorial and kind of seeped
9 together and pasted in the bottom of the press release.
10

11 Q But is the scissors and paste job complete? Is the whole
12 thing just transposed into the press release? A. Well, it
13 was originally but when I saw it, as I say, I understood that
14 stuff on a press release like this, it would be taken as a
15 reference to these ITN journalists, rather than, as the
16 editorial is talking about, the wider media response to their
17 reports. So I have made one small change which is that you
18 notice in the sentence at the top of the second last paragraph
19 of the editorial it says:
20

21 "If they are not very careful journalists who have
22 some kind of emotional attachment to one side can end
23 up seeing what they want to see rather than what is
24 really there."
25

26 In the press release I change that to:

27 "If they are not very careful" --
28
29

30 When I read through I just made this change to the press
31 release I was presented with.
32

33 "Journalists who have some kind of emotional
34 attachment in a conflict ..."
35

36 So, in other words, as this one said "emotional attachment to
37 one side" in the editorial, I changed it in the press release
38 to "emotional attachment in a conflict". It is a small
39 difference but to me it was a significant one because, whereas
40 in the editorial I am talking about the fact that there were
41 many journalists in the Bosnian civil war who took sides with
42 the Muslims and took sides against the Serbs, I feel that is
43 an undeniable truth about the press coverage, and even Martin
44 Bell himself makes that point, that most British journalists
45 who went there never met the Serbs and, you know, their
46 reports reflected that and many of them were crusading on
47 behalf of the Muslims. In fact I think it was characterised
48 that anti-Serb bias amongst journalists in Bosnia was the
49 secret shame of the journalism community. That was said.
50 That anti-Serb bias was the secret shame of the journalism
51 community was said by Nick Gowing, who was the Channel 4 news
52 diplomatic editor at the time that these reports were made,
53 and about the only person, apart from the tea lady, from
54 Channel 4 we have not heard from in the last two weeks. But
55 that is what I was talking about in the editorial.

1 MR. JUSTICE MORLAND: You are beginning to make a speech.
2 A. I'm sorry. I'm sorry, my Lord. That is what the
3 editorial was about. I did not feel -- I was not interested
4 in alleging that Penny Marshall and Ian Williams had taken
5 sides with the Muslims in some kind of political sense. There
6 was no allegation of that ever made.
7
8 Q Mr. Hume, what you cannot do is give evidence as to the
9 meaning of the press release or the meaning of the article.
10 A. Can I say what I meant it to mean?
11
12 Q You can say what you meant it to mean. A. Yes.
13
14 Q Because you are accused of malice. But only in that respect
15 can you say what you meant it to mean. A. Okay.
16
17 Q What it meant is a matter entirely for the jury on reading the
18 article and the press release. A. I understand. What
19 I meant the press release to mean was that I felt that these
20 two reporters were guilty of taking sides not with the Muslims
21 but with victims, and this is really what Martin Bell was
22 talking about several years later about a reporter's job being
23 to side with the victims. And I felt that as Miss Marshall
24 herself said in one of her interviews, that they had developed
25 an emotional involvement with the story and had presented a
26 sensational image of the suffering of those victims by
27 presenting them as being imprisoned behind barbed wire,
28 knowing that it would be taken as an image of concentration
29 camps.
30
31 MR. MILLAR: Now, can you explain your thinking behind the
32 decision to publish the article? You have explained how you
33 saw the article and the facts and what it was saying.
34 Editorially, why did you decide to run it? A. Well, in
35 the first instance because I thought it was a great story, as
36 I think I have already made that point. I thought it was a
37 very, very powerful story, a great piece of investigative
38 journalism that deserved to be published. I was very happy to
39 have it on that basis. Having said that, however, obviously
40 ----
41
42 Q Pause. A. I'm sorry.
43
44 Q So that is the article as a piece of journalism on its merits.
45 A. Yes.
46
47 Q What about the issues it raised? A. Well, clearly, as
48 with all other publications, LM is more interested in some
49 stories than others. I think that would run for every
50 publication from The Sun to The New Statesman. There are some
51 stories which are more your kind of story than others. This
52 was my kind of story, I felt, not only because it was in line
53 with what we have read earlier as being my kind of mission
54 statement for the new magazine in terms of speaking
55 uncomfortable truths, which I think is an important function,

1 but also it related to issues that I felt very strongly about,
2 one of which was to do with journalistic standards that I have
3 already touched upon. But the other one was to do with the
4 use and really the misuse of the holocaust in the discussions
5 of the Yugoslav civil war and other conflicts around the
6 world.
7

8 Q What was your concern about that? A. I feel that there is
9 a tendency today to make easy and casual comparisons between
10 the holocaust and civil wars that are happening at the moment
11 to find, as the Daily Mirror said in its front cover "Belsen
12 '92, horror of the new holocaust", in fact it is a response
13 which characterises the reporting of many conflicts around the
14 world today. We are always being told that there is genocide,
15 there is another holocaust, there are new Nazis on the march.
16 I think that is a very dangerous trend in the discussion of
17 these kind of issues.
18

19 Q Was this issue one that the magazine had addressed before?
20 A. Oh, yes indeed. It is one that we had addressed for
21 several years and in fact the very first articles in the old
22 Living Marxism that we ever published about the civil war in
23 Yugoslavia were precisely about this issue, about the use of
24 the holocaust and the parallels being drawn between that
25 conflict and the Second World War.
26

27 Q You ran other articles on the holocaust in this magazine?
28 A. In many same issues, yes, because it is an issue that is a
29 very, as I say, central concern of mine.
30

31 Q Why did you do that? A. They were not related to this
32 article, they were just issues that happened to be in the news
33 at the same time. One article talking about what I have just
34 mentioned, the new kind of obsession with the holocaust,
35 another one about the debate about whether holocaust denial
36 should be banned or not, which is another live issue in this
37 whole discussion.
38

39 Q I think those cover six pages between pp.32 and 37, inclusive,
40 of the magazine? A. They do, yes. I think that is a sign
41 of the kind of seriousness with which I take that issue,
42 something that I feel very strongly about for two reasons that
43 I find it very worrying. One is that it distorts the present
44 and the other is that I feel it distorts the past, and I feel
45 even more strongly about that. I think I -- shall I explain?
46

47 Q What you mean by distorting the present and the past, yes.
48 A. Briefly, I think it distorts the present because if you
49 reduce a complex civil war like the one in Yugoslavia to a re-
50 run of the Second World War where the Serbs become the Nazis,
51 it really is an over-simplification to the point where you
52 cease to understand anything. You don't have to worry about
53 the local complexities of the role of different factions, you
54 don't have to worry about whether outside intervention is part
55 of the problem or part of the solution. It becomes a simple

1 black and while moral issue, and that worries me because
2 I think that really becomes an excuse for ignorance to
3 characterise these as now genocides and new holocausts and new
4 Nazis.
5

6 Even more than that, what worries me, and the civil
7 war in Yugoslavia has been a prime example of this, is that it
8 really distorts and degrades our view of the past. The
9 holocaust is an absolutely unique horror in history, the great
10 crime of the 20th century, and if you start putting it on a
11 par with civil wars of today you can only diminish its horror,
12 I think, and you do a disservice to the victims of the
13 holocaust but making those kind of inappropriate comparisons.
14 As I say, that has been our magazine's concerns about
15 Yugoslavia from the start.
16

17 Q Was your thinking in publishing the magazine anything to do
18 with views that you held about the civil war that had gone on
19 in Bosnia? A. No. My attitude to the civil war in Bosnia
20 had from the first been - and the civil war in Yugoslavia
21 which began, the Croatia/Serbia conflict began the year
22 earlier in 1991 - entirely non-partisan. I had never taken
23 any side in the war in Yugoslavia and nor had my magazine ever
24 taken any side. And in fact there are many, many articles
25 published, the very first thing I ever wrote on the subject
26 makes the point that it is a squalid civil war between equally
27 unattractive bunches of nationalist politicians in which no
28 side has fairness or justice on its side. That was our
29 attitude to the Yugoslav war from the very first in our
30 magazine. So my interest in writing about it wasn't to do
31 with the local conflict itself so much as the way in which the
32 discussion of that conflict was raising other problems I was
33 worried about, particularly the two I have just mentioned.
34

35 Q Now, in the claimants' bundle referred to in opening are, by
36 their text earlier, a number of articles, three, that appeared
37 in your magazine, 7, 8 and 9. I want you, if you will,
38 please, first of all, to produce - and, my Lord, it may be
39 easiest to insert them in the same tabs - the actual page
40 proofs for those articles because all we have at the moment in
41 the claimants' bundle is a printout of the text of the
42 article. We do not have the pages of the magazine. Can we do
43 them again in a bunch rather than do them one by one. (After
44 a pause): The first one is "'White niggers' of the new world
45 order". The second one ----
46

47 MR. JUSTICE MORLAND: Well, that is how it was printed, was it?
48 Like this?
49

50 MR. MILLAR: Yes. You see what has happened, my Lord, is that the
51 second page has led to a headline on the printout but that is
52 in fact on the second page of the article.
53

54 MR. JUSTICE MORLAND: I see, yes. Would not the right thing be to
55 put it in behind the 7 we have got?

1 MR. MILLAR: Yes, exactly. So that the jury have both versions in
2 the tab.
3
4 MR. JUSTICE MORLAND: Yes, in the same tab. (After a pause):
5
6 MR. MILLAR: (To the witness): I think, Mr. Hume, at the moment
7 if you just keep them loose in front of you, they can be
8 inserted in the witness bundle over the lunchtime.
9 A. Yes.
10
11 Q The first one in time, which is at tab 7, has the drawing or
12 cartoon of a soldier with "Serbian irregular" on it and if we
13 look at the second page of the article the same depiction
14 appears in what is described as "Serbs as seen by the
15 Independent" on 29th May 1992. A. Yes.
16
17 Q Where did that come from, the image in the box? A. That
18 is a cartoon reprinted, as it says, from the Independent
19 newspaper, 29th May 1992.
20
21 Q With "evolution" a picture on the left in a little box of a
22 monkey, and the caption underneath "Man is descended from this
23 monkey", and then 1992, a picture of the soldier with the
24 badge "Serbian irregular" and the same or an attempt to
25 reproduce the same sort of facial image? A. Yes. This
26 ----
27
28 Q Pause, please. A. Sorry.
29
30 Q If we look back on the front page, the author is given as
31 Eddie Veale? A. Yes.
32
33 Q Is that you? A. That was me, yes.
34
35 Q This was back in 1992, I think? A. Yes.
36
37 Q But this is your article? A. Yes. The reason I did this
38 was as Eddie Veale was it was the cover article. We put it on
39 the cover. And the way the magazine worked at that time was
40 when you opened it you would have the editorial, then the
41 letters page and then the lead article, which would be this
42 one. And I didn't want it to be Mick Hume, letters, Mick
43 Hume. It would just seem too much like a one-man show and
44 that is why I used Eddie Veale for this article. Not in any
45 sense an attempt to distance myself from the content, which
46 I would have been quite happy to publish under Mick Hume, as
47 I have done similarly many times.
48
49 12.15 p.m.
50
51 Q I do not want to take you through it in any detail, but we can
52 see it is headed "How and why America, Britain and Germany
53 have constructed the Serbian demon", and the phrase, "White
54 niggers" in quotation marks "in the new world order", in the
55 first column on the second page. Can you just explain to us

1 why that phrase was used? A. Yes. I wanted to very
2 starkly, it is my headline, make the point that the Serbs
3 I felt, as the Bosnian war developed, were being talked about
4 and illustrated and demonised in a way that was really a kind
5 of new version of the old-fashioned politics of racial
6 inferiority or being depicted as being sub-human. "Niggers"
7 is a word that was historically used to degrade black people.
8 I felt the Serbs were being given the same kind of treatment
9 and that is why I called them "The White Niggers of a new
10 world order".

11
12 I feel this cartoon to me just says it all; it just
13 sums it up. A monkey and a Serb do the same thing. I just
14 think we have seen that picture before, people depicted as
15 monkeys, black people as monkeys; Irishmen as apes; Japanese
16 as chimps. There is a historical projectory of treating
17 people that you want to demean and deal with underfoot as
18 being somehow less than human, that cartoon to me said all of
19 that. It summed it up. Worst still, it said it not in some
20 racist rag, but in the Independent which I thought was a
21 particularly worrying sign of what was happening with the
22 British press at the time.

23
24 Q What is the broad theme of the article? I do not want to take
25 you through it. A. That Serbs have been demonised in this
26 way to suit a political purpose in the west and it has really
27 very little to do with the local realities of the conflict.

28
29 Q The second article in time, the one entitled, "What's a war
30 crime between friends?", you are not Eddie Veale. You appear
31 in all your glory with a photograph and your name, Mick Hume.
32 A. Yes, a very young looking photograph.

33
34 Q Is this an editorial? A. It is, yes.

35
36 Q Again, I don't want to take you through this in detail but is
37 the theme in the article the issue of war crimes as the
38 headline says? A. It is, yes.

39
40 Q What is it broadly that the article deals with? A. The
41 central and first issue addressed is the issue of double
42 standards in international law and my feeling that the
43 International War Crimes Tribunal, not only the one in
44 Yugoslavia but also the one set up to deal with Rwanda, were
45 really institutionalising a double standard of international
46 law. It had been 50 years since anybody had been put on trial
47 for war crimes when the Nazis were dealt with after the Second
48 World War. After a 50-year gap we suddenly have war crimes
49 tribunals trying people from these civil wars and it seemed to
50 me that in the intervening period there had been many, many
51 questionable acts and even atrocities carried out by soldiers
52 from countries which were members of the NATO alliance,
53 members of the 1980 Security Council, none of which had ever
54 been alleged to have been war crimes. I am really making the
55 point that it seemed to me that what was defined as a war

1 crime wasn't to do with what happened or how many people were
2 killed, but with who was doing the killing and who was being
3 killed. It always seemed to be the people over there, in the
4 East or in Africa who were war criminals, whereas the people
5 over here in the west were always peacekeepers or otherwise
6 servants of humanity.
7

8 Q We can see if we look at the first page of the article, at the
9 bottom of the first column, down the second column and through
10 to the top half of the right-hand column that you deal with a
11 series of what you are saying are examples of that in
12 Hiroshima, Nagasaki, Vietnam and Cambodia and the bombing of
13 those countries by the Americans in the Vietnam war. British
14 occupation in Malaysia, Kenya and Aden and the Falklands War.
15 Reference to British presence in Northern Ireland over the
16 past 25 years and lastly the apartheid regime's slaughter of
17 black South Africans in Sharpeville and Soweto; the Israeli
18 army's role in the El Salvador massacre in the Lebanon.
19 A. Yes. I don't think those are by any means exclusive.
20

21 Q No, indeed you end up with El Salvador and East Timor.
22 A. Yes.
23

24 Q Then the last in time of the three articles is the one
25 entitled -- can we just get the dates. The first is 1992.
26 A. Yes, that is when the Bosnian civil war develops.
27

28 Q That was a point made in opening, that although the printed
29 out version the jury had originally was dated 1997, it was in
30 fact an article published in 1992. "What's a war crime" is
31 1995. A. Yes.
32

33 Q Then the third one, "Time to put the War Crimes Tribunal in
34 the dock", when was that published? A. That was in the
35 summer, as I remember, of 1997.
36

37 Q This one is not one of yours. It is written by somebody
38 called Helen Searls. A. Yes.
39

40 Q Who is Miss Helen Searls? A. She was at that time working
41 in my office. She is now a journalist in Washington.
42

43 Q We can see there is a photograph of proceedings at the War
44 Crimes Tribunal in the Hague, Tadic, who we spoke about
45 earlier on. A. Yes.
46

47 Q If we look at the right hand column on the first page and go
48 down from that, we can see a series of points being made in
49 the same vein, starting in the first paragraph in the right
50 hand column,
51

52 "It was not long before Dusko Tadic was being
53 discussed in the same breath as convicted nazi war
54 criminals, butchers like Herman Goering, Rudolph Hess
55 or Klaus Barbie".

1 Then a bit further down that page,

2
3 "You could be forgiven for assuming that it had
4 something to do with the uniquely brutal character of
5 the Bosnian war. The conflict was, after all,
6 frequently described in terms reminiscent of Nazi
7 brutality. A reasonable assumption maybe, but a wrong
8 one".

9
10 Then over the page, and I just want to take you to this in
11 particular right at the top,

12
13 "one thing is clear. While terrible things happened
14 on all sides in Bosnia, there is simply no comparison
15 between Dusko Tadic and the nazi butchers tried at
16 Nuremberg".

17
18 Then further down, about two-thirds of the way down that
19 column,

20
21 "Tadic was convicted of involvement in violent
22 beatings, and the court heard harrowing testimonies
23 from men who suffered severe pain, fear and indignity.
24 But however brutal such tales, when compared with the
25 actions of the men who previously occupied the
26 defendant's seat in a war crimes tribunal, Tadic's
27 actions seem mundane and insignificant. In fact when
28 you consider the fact that the Prijedor region was in
29 the midst of a fierce and bloody conflict, it is hard
30 to believe that Tadic's actions were in any way
31 exceptional".

32
33 A. Yes.

34
35 Q And "the men who previously occupied the defendant's seat" was
36 a reference to whom? A. To the Nazis, to the Nazi
37 leaders.

38
39 MR. JUSTICE MORLAND: I have a question from the jury and Mr. Hume
40 you are the man to answer the question: "You said your
41 magazine is non-biased. Couldn't the "white niggers" article
42 be seen as biased and sympathetic towards the Serbs?" That is
43 a question from the jury. A. Yes. Not in my opinion.
44 I feel there is a difference between being against the
45 demonisation of the Serbs, that has always been my position
46 very strongly, and being pro-Serb. Those are two quite
47 distinct things. To say that one side in the war should not
48 be demonised or Nazified in this way, that we should have a
49 more balanced perspective on the causes and consequences of a
50 conflict, is not the same thing as saying I am on one side or
51 the other. I am on no side in the Yugoslavian civil war.
52 I have no connections with any side there and never have had.
53 My concern was only that this imbalanced presentation of it
54 was distorting the reality of what was going on in Yugoslavia
55 and had implications for the way in which we see history. To

1 call the Serbs Nazis is a disservice to both past and present.

2
3 MR. MILLAR: Looking at the war crimes tribunal article as we
4 were, if we go further down the page, you say this about Dusko
5 Tadic:

6
7 "Is he really the first combatant to have done that".

8
9 Let me take you further back:

10
11 "Tadic was convicted of war crimes because he was
12 found to have inflicted cruel treatment on individuals
13 who were not at the time taking part in hostilities;
14 in other words, he was found guilty of beating male
15 prisoners. Is he really the first combatant to have
16 done that in the middle of a war over the past 50
17 years? A candid chat with British soldiers involved
18 in wars against the Argentinians, Iraqis or Irish, or
19 with US troops who fought in Vietnam, Grenada or
20 Panama would surely reveal the brutal treatment of
21 prisoners to be far more commonplace than the Tadic
22 judgment implies".

23
24 Was that an expression of your view? A. It is an
25 expression of Helen Searls view and I thought it was a good
26 article. The point I felt she was making in the article
27 wasn't that Dusko Tadic was innocent; that isn't the issue.
28 The point she was making was that there was no doubt that
29 atrocities were committed by all sides in the Yugoslavia civil
30 war and in the Bosnian civil war. There is no question but
31 that the Serbs, like the others, committed atrocities. That
32 has never been put to doubt ever in my magazine or by me. But
33 to equate what had gone on there and what someone like Tadic
34 had done with what the Nazis did she felt again was a loss of
35 perspective and a loss of balance in the way that the war was
36 being seen.

37
38 Q Lastly, we see in the right hand column on that page, the last
39 bit I wanted to take you to,

40
41 "The end result of equating political discrimination
42 with racial discrimination is evident in the
43 tribunal's findings. The political struggle between
44 different nationalist factions in Bosnia is redefined
45 as an outburst of ethnic hatred between people of
46 different religions, a race war that can be widely
47 talked about in the same breath as the Nazi genocide
48 against the Jews".

49
50 So that is the same point being made. A. I think so, yes.

51
52 Q Then where the article moves to on the next page in the right
53 hand column, beginning "If the Tribunal", is a point you
54 mentioned about the status of the tribunal in international
55 law,

1 "if the Tribunal was simply concerned with justice
2 then the UN would surely have paid more attention to
3 its own legal procedures to ensure that justice was
4 done. For a start, somebody could have seriously
5 asked whether such an international tribunal has any
6 legal basis on which to intervene around the war in
7 the former Yugoslavia. Under its own rules the UN
8 cannot just walk into civil conflicts within its
9 member states and lay down the law. The principle of
10 non-intervention is still written into international
11 law. During the Bosnian war, the UN Security Council
12 justified setting up its Tribunal on the bogus basis
13 that this was not a civil war but an international
14 conflict".
15

16 Again, are those views you would concur with? A. Yes.
17 I think the view she essentially makes is that somebody could
18 have asked this. In fact, a lot of people have asked it.
19 There is an international discussion about the legal basis of
20 the War Crimes Tribunal. My view, as I felt the article
21 expressed by Helen Searls, is that there is a danger of
22 politics being mixed up with justice in these circumstances;
23 that these war crimes tribunals are set up for largely a
24 political purpose and serve a political purpose and do so by
25 really trampling on international law as it has already been
26 established. It wasn't really set up by the United Nations.
27 It was set up by the United Nations Security Council and even
28 within the United Nations Security Council are clearly the
29 Americans who pushed to have it set up in the face of
30 opposition even from their closest allies.
31

32 Q Did you run this article or indeed any of the three articles
33 we have seen because you were siding with the Serbs or were
34 pro-Serb? A. No, in no sense. In fact, as far as the
35 war crimes tribunals are concerned I should say that I have
36 also run a series of articles by international lawyers, one of
37 whom is a former Attorney-General of the United States,
38 criticising the War Crimes Tribunal in Africa in the Rwandan
39 conflict as well on the same basis, that it is a case of
40 politics being mixed up with justice. There are, so far as
41 I know, no Serbs involved in the Rwandan conflict.
42

43 I would like to make it clear that I have no
44 connection with any side in the Yugoslav civil war. I have no
45 connection with the Serb authorities, with the Bosnian Serb
46 authorities or with any party from that part of the world.
47 I have never been to the former Yugoslavia, I have never been
48 to Serbia. I know two people from the former Yugoslavia,
49 neither of whom is called Milosevic or indeed Karadzic.
50 I have never taken any side in that conflict nor do I have any
51 interest in doing so. I find it hard to understand why
52 someone would think I would be pro-Serb or what reason I would
53 have for that.
54
55

1 Q Now I want to turn to the publication of the article and the
2 events thereafter. Can you recall the sequence of events that
3 started with the publication of the press release that is
4 complained of and that involved the two documents that I have
5 referred a number of witnesses to, namely the letter from
6 Biddle & Co. of 24th January, which is at tab 5 of the
7 claimants' bundle, and the "ITN tries to gag LM" press
8 release, which is at tab 18 in the claimants' bundle. Do you
9 have a recollection of sequence of events? A. I think so,
10 yes, I do.

11
12 Q Can you tell us how, according to your recollection, they
13 went. First of all, the press release, when did that get put
14 out? A. On 23rd January 1997, which I think was the
15 Thursday when the magazine came back from the printers.

16
17 Q What came next? The Biddle letter or the - because they are
18 both the same date - or the press release? A. The Biddle
19 letter came the next day, on 24th January.

20
21 Q Were you involved in putting out the press release at 18, "ITN
22 tries gag LM"? A. Yes, I was. There is a quote from me
23 on it.

24
25 Q Why did you put it out? A. I think there has been a
26 confusion in the discussions so far. I have heard my motives
27 in this publication and this issue being described as a
28 campaign and as a personal campaign against two ITN
29 journalists. I would just like to make it clear I have no
30 personal malice or grudge against any journalists, certainly
31 not in the way that was described earlier against western
32 journalists. I am a western journalist. What I am concerned
33 about is the standards of western journalism. But I certainly
34 have no personal campaign against anybody. What there was in
35 the first instance, there wasn't a campaign, there was an
36 article in a magazine and a press release promoting it. There
37 was no campaign. That was it, an article and a press release
38 promoting. It then I got a letter from Biddle on behalf of
39 the claimants demanding that we pulp every issue of my
40 magazine, a magazine which they had not even seen, they had
41 not even seen the article. It is a letter they sent me on the
42 basis of having seen the press release, demanding that I pulp
43 every issue of the magazine.

44
45 And at that stage there became a campaign, if you
46 like, amongst supporters of my magazine against their attempt
47 to suppress our story. The campaign is a free speech campaign
48 against the attempts of the claimants to silence LM magazine.
49 The campaign is not a personal campaign against the two ITN
50 journalists or anybody else. The way that it has been
51 discussed, the sequence of events so far in this court, it has
52 kind of confused those two things. I published an article and
53 a press release, then I was threatened with legal action if
54 I didn't destroy every copy of my magazine. Then we took a
55 stand for free speech and put out this press release and

1 others against ITN's attempt to gag our magazine and suppress
2 what we saw as being the truth.
3

4 Q Looking at 18 and your quote at the end, why did you say that
5 in the press release, not the first bit but the second bit.
6

7 "There is one simple way to resolve this issue. ITN
8 should show the full unedited footage which its team
9 filmed in Trnopolje on 5th August 1992 and then
10 everybody can learn the truth."
11

12 A. Well, my concern after publishing this article was to have
13 the broadest, widest possible discussion of these issues.
14 That was why we published it, to try and start a public debate
15 about these issues. And my feeling was that rather than
16 trying to suppress that debate with what was effectively a
17 threatened gagging order, that ITN should facilitate it, show
18 the rushes and let people judge for themselves. And instead
19 of which they attempted to, as I say, have my magazine
20 completely destroyed. I just felt that anybody who saw the
21 rushes - I will leave them to judge themselves - but I felt,
22 having seen the rushes myself, sorry, having seen the rushes
23 myself, very carefully and studied them very, very carefully
24 and all the other material Mr. Deichmann had accumulated, that
25 it was beyond reasonable doubt, as far as I was concerned,
26 that those journalists were inside that barbed wire enclosure
27 when they took those shots. It was beyond reasonable doubt.
28 And I also felt that it was beyond reasonable doubt that they
29 must have known it. They must have known it. Because the
30 only alternative I could draw, having seen the scale of the
31 evidence pointing in that direction was that they were stupid,
32 and if there is one thing that those two journalists clearly
33 are not is stupid. So I felt that showing the rushes would be
34 a very powerful way of vindicating Thomas Deichmann's article
35 but also of facilitating a public debate on these issues, and
36 that has been my concern from this moment on.
37

38 Q Now it has been said against you in opening and in the
39 evidence that has been given that you did not contact ITN or
40 Mr. Williams or Miss Marshall before you started all this off
41 by publishing the press release and the article. Can you
42 explain why you did not do that? A. Yes. First of all,
43 let me say that the presentation of this as being a golden
44 rule of journalism that one would always do that, is not true.
45 There is only one golden rule of journalism and that is that
46 you tell the truth as you understand it. If you look at
47 something like the International Journalists Charter, that is
48 the first rule. You must observe truth and the public's right
49 to know the truth. And I published this article very much in
50 line with that, publication of the truth as I understand it,
51 to let the public see the truth as I understand it. That is
52 the only golden rule of journalism.
53

54 There are obviously many situations where you would
55 ring, contact those that you were mentioning or criticising in

1 an article for their reaction. I have done it myself in
2 relation to many articles that we have published in our
3 magazine. And it was an important consideration in this case
4 as to whether we did it or not, and we weighed up the options
5 and thought very long and hard, very long and hard, about
6 whether they should be contacted for reaction. My decision
7 not to contact them was based really on two things. First of
8 all, as I have already said, I felt -- and it has been
9 suggested that I should have contacted them to find out
10 whether what I was saying was true or not, but I felt the
11 evidence I had was overwhelming that what I was saying about
12 that enclosure was true, and I think the rushes themselves
13 speak for that, in my opinion, when I saw them.
14

15 But, secondly, the second thing was really you have to
16 understand the relationship between a magazine like mine and
17 an institution like ITN. My concern was to publish the truth
18 as I understand it and to get that truth into the public
19 arena. Mine is a very small magazine with a circulation of
20 10,000. In order to have a hearing I have got to get my
21 magazine into the public arena and I was worried that if I was
22 to contact an institution like ITN for their reaction that
23 they would attempt to suppress that story before it was ever
24 published. It is not unheard of, after all, for the rich and
25 powerful to use their power in that way. I had in mind at
26 that time particularly the John Major injunction against the
27 New Statesman and the Scallywag a couple of years earlier that
28 had prevented the publication of an issue of their magazine
29 and indeed used the same firm of solicitors as ITN have used
30 in this case. And I was very concerned. You know, I was very
31 worried about the possibility of being "Biddled" on from a
32 great height and that was a serious concern of mine, that
33 I felt they would do what they could -- because this article,
34 whilst I 100% say that it does not have defamatory remarks
35 about ITN as such, it was clearly going to be embarrassing to
36 ITN that we were publishing these revelations. It was clearly
37 going to embarrass them and I was worried that that action
38 would be forthcoming.
39

40 That is why, in the end, I decided on balance not to
41 contact them, and I feel subsequently that decision was
42 entirely vindicated because as soon as they got a sniff of the
43 article, not even seeing the article but one look at the press
44 release, they demanded through their lawyers that I pulp and
45 destroy every copy of the magazine, and I felt that was a
46 vindicated stand actually, on reflection, three years on. And
47 since then have done everything in their power to suppress
48 this story and make sure no one mentions it. Anybody who has
49 mentioned it -- it has been talked about so far as if it had
50 been reported in every paper in the country. Any time there
51 has been any hint of it, there has been a threat of legal
52 action from ITN and their lawyers.
53

54 Q Thank you. Now, one of the things that has been put in
55 evidence against you as part of the campaign or aggravation of

1 the damage caused by the article is reference to letters
2 written to BAFTA and the RTS about awards given for the
3 reports. What happened? A. Yes. This, again, is
4 something which appears entirely subsequent to the legal
5 proceedings starting. This is by the middle of February that
6 I wrote a letter, you know, when we were trying to publicise
7 the fact that ITN was trying to suppress our magazine --
8 I wrote a letter to both BAFTA and the RTS, very polite
9 letters, suggesting that they reconsider those awards.

10
11 Q Were you involved in the presentation to Mr. Purvis of the
12 Golden Gag? A. No, I wasn't. No, I didn't know anything
13 about that until had happened.

14
15 Q Did you ever write to ITN asking for anybody to go dismissed?
16 A. Absolutely not. That would be completely unconscionable
17 for me to request that anybody be dismissed, any journalist be
18 dismissed from a job.

19
20 Q Were you ever involved in the making of a phone call to Penny
21 Marshall's home? A. Absolutely not. I have no idea where
22 Penny Marshall lives or what her home number is.

23
24 Q Thank you. Could you wait there, please? I have no more
25 questions.

26
27 Cross-examined by Mr. SHIELDS

28
29 Q Help me, Mr. Hume. Is it your case that Mr. Fikret Alic and
30 the other inmates in that field were free to leave Trnopolje
31 on 5th August 1992? A. No, it has never been my case.
32 I think the circumstances of Mr. Fikret Alic are pretty clear
33 now, having watched the rushes and discussed the case at such
34 great length.

35
36 Q You watched the rushes, did you not, before you published the
37 article? A. Yes, I did.

38
39 Q So I will ask you the question again. Is it your case that
40 Mr. Fikret Alic and the other inmates in the field were free
41 to leave Trnopolje on 5th August 1992? A. No, it is not
42 my case. He is in a field surrounded on two sides by low wire
43 fencing, outside of which there are armed guards, the north
44 side of which abuts the community building and the south side
45 of which abuts a barbed wire compound within which the ITN
46 crews were filming and within which there are other armed
47 guards. I think that's abundantly obvious.

48
49 Q I will ask you once again. Was he free to leave Trnopolje on
50 5th August 1992? A. That is not part of my case, no.

51
52 Q I will ask the question one more time, and I will leave it:
53 was he free to leave Trnopolje on 5th August 1992?
54 A. I have never said he was, no.

55

- 1 Q Do you or do you not accept the evidence of Dr. Merdzanic
2 given in this court yesterday? A. I think that was -- as
3 to the general circumstances at the camp I think the fact that
4 Mr. Millar did not cross-examine was clear, that there has
5 never been any question in my opinion or in the article that
6 I published that this camp was anything other than a grim
7 place at which there were beatings, there were killings and
8 there were rapes. There has never been any question of that.
9 We have never argued contrary to that. And I took exception,
10 Mr. Shields, in your earlier remarks where you were telling
11 the court that we had tried to make out it was a nice safe
12 haven - I think were the words which you used, which I felt
13 were a real misrepresentation of what our case has actually
14 been.
15
- 16 Q Do you accept the evidence of Dr. Merdzanic in its entirety,
17 Mr. Hume? A. I can't remember it in its entirety.
18
- 19 Q You were present in court, were you? A. Yes.
20
- 21 Q Were you moved by it? A. Yes. Human suffering would move
22 anybody.
23
- 24 Q And do you think the people who did the kind of things he
25 talked about should be punished for it? A. I don't have
26 any problem with punishing people who are guilty of atrocities
27 in war.
28
- 29 Q You do not have any problem with punishing people who are
30 guilty of atrocities in war? A. What I have a problem
31 with is the double standard which singles out some acts of war
32 and says those were atrocities and lets others go by and says
33 those are not. That, I think, is, as I have tried to
34 indicate, a confusion of politics with justice.
35
- 36 Q Would you look at your press release, please, at tab 4. That
37 is your quote at the bottom, is it not:
38
- 39 "Mick Hume, LM editor says 'If they are not very
40 careful journalists will have some kind of emotional
41 attachment to a conflict and end up seeing what they
42 want to see rather than what is really there. Taking
43 sides cannot be an excuse for taking liberties with
44 the facts.'"
45
- 46 A. Yes.
47
- 48 12.45 p.m.
49
- 50 Q So you are critical of anyone who takes liberties with the
51 facts? A. I hope so.
52
- 53 Q Then let us look at what you wrote in your editorial, "First
54 Casualty?", at the end of tab 6. It is the last page, just
55 before tab 7. A. It does not appear to be there, sorry.

1 Q Are you in tab 6? A. Yes, I am in the article.
2
3 Q After the article, is there a little tab 2 or something
4 there? A. I am sorry, there is not in this file.
5
6 Q It has just been read to you, I thought. A. I had the
7 original.
8
9 Q I apologise. Would you be more comfortable with the
10 original? A. That is fine, no problem.
11
12 Q Look at the bottom of the first column:
13
14 "Once journalists see fit to appoint themselves as the
15 judge of who is 'good' and who is 'evil' in a conflict
16 such as Bosnia, you know you are in trouble. The role
17 of objective reporter of fact sits uneasily with that
18 of moral crusader.
19
20 "If they are not very careful journalists who have
21 some kind of emotional 'attachment' to one side can
22 end up seeing what they want to see, rather than what
23 is really there. When truth is deemed to be in the
24 eye of the beholder, the line between reportage and
25 propoganda can get stretched thinner than a string of
26 barbed wire.
27
28 "If every picture tells a story, then it is surely
29 part of a war reporter's job to ensure that story is
30 true. Here at LM we see nothing wrong with taking
31 sides. We tend to be something of a partisan
32 publication ourselves. Taking sides, however, cannot
33 be an excuse for taking liberties with the facts."
34
35 You wrote that? A. Yes.
36
37 Q That was directed at the journalists here, was it not?
38 A. No, as I have explained, in terms of trying to explain the
39 difference between the editorial and the press release, the
40 editorial was relating to the wider issues raised by the
41 discussion, which was taking off in a serious sense at that
42 time about the different -- about what were war reporters'
43 responsibilities.
44
45 Q Well, presumably anyone who read that piece was also going to
46 read the article, were they not, "The Picture that Fooled the
47 World"? A. Yes. There are 20 pages between them but they
48 are clearly on related things, yes.
49
50 Q So in effect you are accusing Penny Marshall and Ian Williams
51 of taking liberties with the facts, are you not? A. No,
52 not in this editorial. I am talking more generally about the
53 reaction to their reports, about the willingness of the world
54 media to take it at face value as being proof of Nazi-style
55 concentration camps.

1 Q You will remember I asked you in my very first question in
2 cross-examination whether it is your case that Mr. Alic was
3 free to leave Trnopolje on that day? A. I do, yes.

4
5 Q Let us look at what you wrote about that in your press
6 release. Let us look at tab 4.

7
8 "Journalists expose the truth behind Bosnia
9 death camp photograph."

10
11 Do you have that? A. I do.

12
13 Q Then we have: "Deichmann on a visit to Trnopolje has also
14 seen unused video footage which shows how this ... he found
15 that." Look at the second thing he writes there, which is
16 your document, is it not? That is your emphatic statement
17 of fact? "The camp was a collection centre for refugees, not
18 a prison." Now, do you stand by that statement of fact or
19 not? A. Yes, I do. Can I explain what I mean by that?
20 I think that the camp was what it was. Now, in the first
21 instance I should say - and this is what I would like
22 everybody to understand more than anything else - this
23 article that I published, written by Thomas Deichmann, was
24 not about -- its primary purpose was not to enter a discussion
25 about what this camp was, it was about what the camp was not,
26 a Nazi-style concentration camp, which the world took it to be
27 on the strength of those ITN reports. That is what the
28 article is about. It is about what the camp was not. It was
29 not a Nazi-style concentration camp. When it comes to finding
30 a definition for "Well, what is it then?" I think it is very
31 difficult. I think a collection centre for refugees is
32 reasonable. Paddy Ashdown called it a refugee camp. I think
33 the expression that Penny Marshall used at one stage in her
34 report was "collection centre for refugees". Many other
35 reports talked about it in similar terms. "A refugee transit
36 camp" I have called it elsewhere.

37
38 I think the overwhelming impression from listening
39 to the evidence of those who were there, from looking at the
40 rushes, is one of chaos, that camp. There were men there like
41 Fikret Alic who had been brought there that day and did not
42 know what their status was or what was going on. There were
43 other people there who made it clear they had come of their
44 own volition. There were people in that field with Fikret
45 Alic who clearly had access to buildings behind. There were
46 others who probably did not. There were children there eating
47 yoghurt, there were women there sheltering under a tree in the
48 compound. There was a clear absolute chaos going on in a very
49 grim place. So I have never attempted to belittle the horrors
50 of what it must have been like to be there.

51
52 Q Would you read the next paragraph:

53
54 "The refugees in the camp were not surrounded by
55 barbed wire but barbed wire surrounded the news team,

1 who were filming from inside the small enclosure next
2 to the camp."
3

4 Do you agree with me that the impression that will convey is
5 that people could come and go as they please? A. No, it
6 conveys the impression that the men in that field were not
7 surrounded by a barbed wire fence. And there is an important
8 distinction here, that men behind chicken wire is not an image
9 that would shock the world in the same way that men behind
10 barbed wire -- those component parts of that image which
11 pressed the button which convinced the world that they were
12 Nazi-style concentration camps. The barbed wire was an
13 absolutely essential part of that. I think it is no
14 coincidence that the most important shots that the two ITN
15 teams exchanged were both shots of the barbed wire, the Fikret
16 Alic shot and the last shot of the barbed wire. Those are the
17 two that they shared, apart from the doctor sequence. They
18 were the two shots of the barbed wire. They knew what the
19 significance of that wire was.
20

21 Q This article, you told his Lordship and the jury, was a
22 tremendous piece of investigative journalism?

23 A. I certainly thought so, yes.
24

25 Q And you were absolutely certain you could stand it up before
26 you published it? A. Yes.
27

28 Q Let us now look at the article in this context. Tab 6,
29 please. "The Picture that Fooled the World". Let us just
30 read the first four paragraphs.
31

32 "The picture reproduced on these pages is of Fikret
33 Alic, a Bosnian Muslim, emaciated and stripped to the
34 waist, apparently imprisoned behind a barbed wire
35 fence in a Bosnian Serb camp at Trnopolje. It was
36 taken from a videotape shot on 5 August 1992 by an
37 award-winning British television team, led by Penny
38 Marshall (ITN) with her cameraman Jeremy Irvin,
39 accompanied by Ian Williams (Channel 4) and the
40 reporter Ed Vulliamy from the **Guardian** newspaper.
41

42 "For many, this picture has become a symbol of the
43 horrors of the Bosnian war - 'Belsen '92' as one
44 British newspaper headline captioned the photograph
45 (**Daily Mirror**, 7 August 1992). But that image is
46 misleading."
47

48 Now let us look at how you put the facts.
49

50 "The fact is that Fikret Alic and his fellow Bosnian
51 Muslims were not imprisoned behind a barbed wire
52 fence. There was no barbed wire fence surrounding
53 Trnopolje camp. It was not a prison, and certainly
54 not a 'concentration camp', but a collection centre
55

1 for refugees, many of whom went here seeking safety
2 and could leave again if they wished."
3

4 Right, let us break that down and let us just find out what
5 your case is on this: "apparently imprisoned", so you are
6 saying he was not imprisoned? A. No, it says "apparently
7 imprisoned behind a barbed wire fence".
8

9 Q Well, I am breaking it into parts. A. Well, I think that
10 is illegitimate. You cannot break a sentence into parts and
11 say, "I am complaining of this part of it", surely? It says
12 he is "apparently imprisoned behind a barbed wire fence" in
13 that camp. The distinction that I have made from the first,
14 and which I will continue to make, is that it is no part of my
15 case to try and minimise the horrors of being stuck in a place
16 like Trnopolje camp; it is to make the point that Trnopolje
17 camp is not comparable to a Nazi-style concentration camp, and
18 that is the impression left by an image of him being
19 surrounded by barbed wire.
20

21 Q I am sorry, just putting it -- it is absolutely right that you
22 accept they were imprisoned? A. I accept that they were
23 not free to leave at that moment. But I feel that the
24 overwhelming thing about that camp is the uncertainty of
25 anybody's status.
26

27 Q So do you stand by the sentence in the third paragraph,
28 "but a collection centre for refugees, many of whom went
29 there seeking safety and could leave again if they wished"?
30 A. Well, it is certainly undoubtedly the case that many of
31 them went there seeking safety. I think there is no question
32 about that.
33

34 Q Safety from what? A. From the war zone that they were
35 living in.
36

37 Q What about this line "and could leave again if they wished"?
38 A. Yes, in the context of the article the point that is being
39 made is they were there because of the war raging around them,
40 not that they would all like to -- that they would all wander
41 off into the sunset happily, but they were in the middle of a
42 civil war. They were in the middle of a bloody civil war
43 zone, and that was what was keeping them there. And the irony
44 was, as Mr. Deichmann suggests, that hellish though this camp
45 was it had become something of a refuge for them from the war
46 zone in which they found themselves. That is a point not only
47 made by Mr. Deichmann but by other international authorities.
48

49 MR. JUSTICE MORLAND: A note I have had from the jury, which
50 really may be a matter of argument rather than evidence, is as
51 follows: "As Ian Williams's and Penny Marshall's reports show
52 the low fences clearly as well as the barbed wire fences,
53 couldn't it be argued that if anyone is trying to mislead
54
55

1 anyone it will be the tabloids, who only used the still of
2 Alic behind the barbed wire fence in their reports?" Would
3 that be a good moment to adjourn until 2 o'clock?
4

5 MR. SHIELDS: I think it would.
6

7 (Adjourned for a short time)