Q. At the second bullet point you set forth your position. You said:  
"The PCC is not able to act as a general regulator."  
What did you mean by that?
A. I think what I had in mind there was a notion that we should in some way take on the work of the Information Commissioner by virtue of being a Press Complaints Commission, and this is what I wanted to reject. The point I always made to Mr Thomas, apart from my insistent demands on beef, was to suggest that we had to work in a complementary way. He did his thing, but there were things that we could do to help him, and I've described them in the -- before lunch. And I think as a consequence of this precise meeting, it led to direct contacts between the Code Committee and Mr Thomas, which led to a change in clause 10 on subterfuge in the code of practice.  

Q. I think your position is -- and you articulated it this morning -- that you believe that the PCC is correctly called a regulator, but you've qualified that in language which we've heard.
A. Yes.  
Q. Which, of course, is a position somewhat different from that taken by Mr Toulmin and Mr Abell yesterday, isn't it?
A. Indeed.
call in the editor, or one of the editors or some of the
editors near the top of the list, and ask for an
explanation?
A. I was not in the business of calling in editors to
explain actions that were perfectly legal. The beef had
to be an indication of which newspapers and which
journalists had actually hired inquiry agents to procure
information illegally. Then we would have been in
a different ball game, but we never got there.

Q. But that's a misunderstanding, I think, Sir Christopher,

1. of the table in the second report. The table in the
second report evidenced, in Mr Thomas' view, probably
illegal transactions. So the point I'm putting to you
is: on the basis of that table alone and assuming that
Mr Thomas it is acting in good faith and has evidence,
as he must be doing, why not call in some editors and
ask for an explanation?
A. He can have all the good faith in the world, but like
the chairman of the Select Committee himself, I wanted
to see the beef. Then we had something to say to the
editors. And it wasn't just me; it was also the Select
Committee itself wanted to know the answer. He couldn't
give it. So by definition, there was a limit to what
could have been done. We could have done more --

LORD JUSTICE LEVESON: It may be he couldn't give it because

Page 5

that itself would breach the data protection
legislation.
A. My Lord?

LORD JUSTICE LEVESON: Well, it may be he couldn't give it
because he would be disclosing information in breach of
data protection.
A. Well, then that is a very curious situation to find
yourself in when you're giving evidence under
parliamentary privilege.

MR JAY: Well, Sir Christopher, the position under
Section 59 of the Data Protection Act, as Parliament
itself pointed out, probably correctly, is that there
wasn't an impediment on Mr Thomas giving the information
to the newspapers, should the newspapers request it --
and eventually they did, after a number of years -- but
I think there was a recognition that there was a problem
in giving it to you, that information, because that
would not be justified under Section 59.
A. Well, in which case, I have to say, why was it then in
his letter of November 2003 that the
Information Commissioner suggested that in certain
circumstances he would be prepared to give me that
information?
Q. Yes, but he made it clear that that would have to be
under very specific conditions, didn't he?

Page 6

A. Absolutely, and we could have done that at the Select
Committee as well. We could have closed the meeting,
chucked the public out, and done it in a different way.

Q. I think your position, though, is really one of partial
disbelief. Because he didn't provide you with the
evidence, you doubted his conclusions. You said, in
terms in your memorandum to the Select Committee, that
the evidence was old and incomplete, and that, for you,
was enough. You didn't need to cause any further
investigations?
A. A lesser --

Q. That's the true position, isn't it?
A. No, it's not that at all. A lesser consideration was
the fact that the information went back to 2002 and
2001, so it was several years old. That was a lesser
consideration. The main consideration, as I've said
several times now in this hearing, is that I needed
actionable information. That was never given.

Q. Move off that topic to a different one. Mr Desmond, he
doesn't pay his subscriptions to the MPA, I think, in
2008, and you write a letter to him -- it's probably not
necessary to turn up the letter -- asking for a meeting
and a discussion. Was there any discussion with
Mr Desmond in relation to that?
A. No, there was no meeting, and there was no discussion
Page 7

with him. I don't think he was interested in having
one.

Q. Why was that, do you think?
A. Well, you'll have to ask him.

Q. Did you try and engage him further in discussions?
A. Well, no, for the very good reason that, if I remember
rightly, I wrote that letter in January 2008, and then
on 19 March of that year, the court ruled against the
four Northern & Shell titles. I spoke relatively
mildly, considering the circumstances, to the media, and
from then, I think, as far as Mr Desmond was concerned,
I was the devil incarnate, so there was no point of
engaging in any kind of dialogue with him.

Q. He didn't rejion the PCC through the mechanism,
I suppose, of repaying his subscriptions until after you
left in May 2009; that's right, isn't it?
A. Yeah, I think that's right. I think once I had gone, he
felt that an impediment had been removed to his resuming
relations to the PCC, which also included paying his
subscription to the MPA. I think that's what had
happened.

Q. Yes. At the very least, then, there was some bad
feeling from his point of view -- not necessarily, of
course, from yours -- in relation to the handling of the
McCann case, wasn't there?

Page 8

2 (Pages 5 to 8)
<table>
<thead>
<tr>
<th>Page 10</th>
<th>Page 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q. There was extremely bad feeling from Mr Desmond about that, which I think he expressed even at this Inquiry.</td>
<td>A. I said it was just silly, didn't I, something like that?</td>
</tr>
<tr>
<td>3 A. There was extremely bad feeling from Mr Desmond about that, which I think he expressed even at this Inquiry.</td>
<td>Yeah. Well, it was silly, and it also contradicted her first paragraph, in which she said:</td>
</tr>
<tr>
<td>3 Q. Maybe I was guilty of understatement on that occasion.</td>
<td>&quot;As you know, the Sun is strongly committed to the code of practice -- and opposed to any form of discrimination, on health or any other grounds.&quot;</td>
</tr>
<tr>
<td>4 May I ask you, please, to look at file 5, which I think is in a lever-arch file in front of you, which says B5 to 9.</td>
<td>Q. It's fair to say that on the next page, there is an acceptance that the Sun made the mistake.</td>
</tr>
<tr>
<td>7 A. I don't see a 5 here. What is this I have? No, I -- do I have that? No, I don't think I do.</td>
<td>A. Yes.</td>
</tr>
<tr>
<td>9 Q. I think there's a composite bundle which is 5 to 9.</td>
<td>Q. But then they go back into the offensive, really, by saying:</td>
</tr>
<tr>
<td>10 A. This is 10. Something weird about -- oh, what's this? Oh, sorry, I couldn't read the label. My apologies.</td>
<td>&quot;Whenever we do, our rivals, in particular the BBC and some of the broadsheets, are ready to stir the pot. Respectfully, I think it would be a mistake to dance to their tune every time a tabloid slips up.&quot;</td>
</tr>
<tr>
<td>12 Q. If you kindly turn up tab 1.</td>
<td>Again, what do you make of that?</td>
</tr>
<tr>
<td>13 Q. Is this a letter you write quite early on in your term as chairman to the editor of the Sun? Do you remember this one, Sir Christopher?</td>
<td>A. Silly and sillier, really.</td>
</tr>
<tr>
<td>17 Q. 26 September 2003: &quot;Dear Rebekah ...&quot;</td>
<td>Q. Your note says, after pointing out it's silly and that the broadsheets would have got a similar letter from you had they transgressed in an identical way -- you say: &quot;Another lunch for the new year.&quot;</td>
</tr>
<tr>
<td>19 A. Yes, section 6. I've found it. What was the tab again?</td>
<td>22 A. Yeah, that's absolutely right, and as I said to you in early evidence, I tried to see each national editor once a year over lunch. We were setting up the programme, I suppose already, in October 2003, 2004, and obviously Page 9</td>
</tr>
<tr>
<td>20 If I can paraphrase -- it's a letter which has been redacted. 39320 is the number.</td>
<td>Q. Okay. You gave an interview to the Guardian, I think, when you left -- or about the time when you left -- on the expiry of your second term. It's at B6, tab 12, so I think probably the same file you're looking at, section 6 of that file?</td>
</tr>
<tr>
<td>22 A. Yeah, I'm looking at it.</td>
<td>16 A. B6, tab 12?</td>
</tr>
<tr>
<td>23 Q. It relates -- I mean, it may be that we're being too coy over this since we all remember the particular incident. It relates to the use of the word &quot;bonkers&quot; in the context of a sportsman -- let's put it neutrally, in that term -- who unfortunately was suffering from mental illness at the time, and therefore the use of the term &quot;bonkers&quot; was entirely inappropriate. You pointed out that that was right, and you asked for reassurance that breaches of the code of this nature would not occur; that's correct, isn't it?</td>
<td>23 A. This is -- oh, the 6 is embraced by the 5 to 9, yes.</td>
</tr>
<tr>
<td>25 A. That's absolutely right.</td>
<td>19 LORD JUSTICE LEVESON: You'll find --</td>
</tr>
<tr>
<td>Q. And then the reply is at tab 3 at page 39323.</td>
<td>A. Yes, section 6. I've found it. What was the tab again?</td>
</tr>
<tr>
<td>10 A. Yeah, I'm getting there.</td>
<td>21 MR JAY: 12.</td>
</tr>
<tr>
<td>11 Q. It's not particularly contrite, is it? The point -- A. No, I remember this. Yes.</td>
<td>22 A. I'm sorry.</td>
</tr>
<tr>
<td>12 A. Oh, I'm looking at it.</td>
<td>Q. A piece in the Guardian written by -- it's</td>
</tr>
</tbody>
</table>
| 13 Q. The point is made in the final paragraph of this first page: "I hope you will not mind my adding one final thought about your letter. I consider you a constructive and interested critic of the newspaper industry and value your opinion; but the tone and style of a newspaper is a matter for an editor. If the readers object (and a few certainly did in this case), they have the option of buying another newspaper to read."

How would you characterise that reply? We can see what you thought about it at the time, I know, because there's a manuscript annotation -- | Professor Greenslade, isn't it? |
| 23 Q. Yes. | A. It is Professor Greenslade. |
| 24 A. Yeah, I'm looking at it. | A. Silly and sillier, really. |
| 25 The first paragraph, in which she said: "Whenever we do, our rivals, in particular the BBC and some of the broadsheets, are ready to stir the pot. Respectfully, I think it would be a mistake to dance to their tune every time a tabloid slips up." | Q. Your note says, after pointing out it's silly and that the broadsheets would have got a similar letter from you had they transgressed in an identical way -- you say: "Another lunch for the new year." |
| 26 A. Silly and sillier, really. | 18 A. This is -- oh, the 6 is embraced by the 5 to 9, yes. |
| 27 Q. 26 September 2003: "Dear Rebekah ..." | 19 LORD JUSTICE LEVESON: You'll find -- |
| 28 A. Yeah, I'm looking at it. | A. Yes, section 6. I've found it. What was the tab again? |
| 29 Q. It relates -- I mean, it may be that we're being too coy over this since we all remember the particular incident. It relates to the use of the word "bonkers" in the context of a sportsman -- let's put it neutrally, in that term -- who unfortunately was suffering from mental illness at the time, and therefore the use of the term "bonkers" was entirely inappropriate. You pointed out that that was right, and you asked for reassurance that breaches of the code of this nature would not occur; that's correct, isn't it? | 21 MR JAY: 12. |
| 30 A. That's absolutely right. | 22 A. I'm sorry. |
| 31 Q. It's not particularly contrite, is it? The point -- A. No, I remember this. Yes. | Q. A piece in the Guardian written by -- it's |
| 32 Q. The point is made in the final paragraph of this first page: "I hope you will not mind my adding one final thought about your letter. I consider you a constructive and interested critic of the newspaper industry and value your opinion; but the tone and style of a newspaper is a matter for an editor. If the readers object (and a few certainly did in this case), they have the option of buying another newspaper to read."

How would you characterise that reply? We can see what you thought about it at the time, I know, because there's a manuscript annotation -- | Professor Greenslade, isn't it? |
<p>| 33 A. This is -- oh, the 6 is embraced by the 5 to 9, yes. | A. It is Professor Greenslade. |</p>
<table>
<thead>
<tr>
<th>Q.</th>
<th>30 March 2009.</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Q.</td>
<td>The headline &quot;Watchdog or lap dog?&quot;</td>
</tr>
<tr>
<td>A.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Q.</td>
<td>Can I just deal with a few points you raised. His commentary I don't think we need -- we can read it. The second page at the top is quite interesting. Do you see this:</td>
</tr>
<tr>
<td>A.</td>
<td>Absolutely.</td>
</tr>
<tr>
<td>Q.</td>
<td>So presumably, then, your position is: not a lot is wrong, not a lot needed to be changed in March 2009, and perhaps not a lot needs to be changed now; is that right?</td>
</tr>
<tr>
<td>A.</td>
<td>Yes, and I would rest on those words even now.</td>
</tr>
<tr>
<td>Q.</td>
<td>You've made it absolutely clear that one of your objectives was to ward off statutory legislation to enhance the status of the press, following what many regarded as its Wild West period of the late 1980s when tabloids were misbehaving on a regular basis. I think it's improved a great deal over the last six years. I'm not saying we've reached a state of grace but it's in a state of permanent evolution and it's done jolly well.&quot; So you're pretty pleased with how well you've done, and you might well be entitled to be, but that's what you're telling Professor Greenslade, aren't you?</td>
</tr>
<tr>
<td>A.</td>
<td>Yes, and I would rest on those words even now.</td>
</tr>
<tr>
<td>Q.</td>
<td>You've made it absolutely clear that one of your objectives was to ward off statutory legislation; is that right?</td>
</tr>
<tr>
<td>A.</td>
<td>Of course.</td>
</tr>
<tr>
<td>Q.</td>
<td>Can I ask you just another point or two. At the bottom of this page:</td>
</tr>
<tr>
<td>A.</td>
<td>Of course.</td>
</tr>
<tr>
<td>Q.</td>
<td>And I have had this debate going back to when I started at the PCC in 2003.</td>
</tr>
<tr>
<td>Q.</td>
<td>I think you're rejecting the proposition which may have been implied through Professor Greenslade's remark or question, that the whole system is loaded or skewed in favour of achieving a mediation, a resolved settlement, as it were, rather than an adjudicated solution; is that right?</td>
</tr>
<tr>
<td>A.</td>
<td>Well, there was a -- there is a philosophical difference between Roy Greenslade and myself on this. If you go back to the original Calcutt insight into the then new PCC, the notion of mediation was a the centre of his recommendations. Now, if you can bring a complaint to a successful conclusion -- don't forget we moved fast when I was chairman. We could generally turn this around within a month, give or take a few days, so it wasn't a protracted process. If you could do that to the satisfaction of the complainant, job well done. If you couldn't, then you would go to adjudication.</td>
</tr>
<tr>
<td>Q.</td>
<td>But there's a sense, though, of attribution here, that a lot of the energy comes out of the complaint, it's in the interests of the newspapers to get a mediated settlement rather than adjudication, so all the pressures are on sorting it out &quot;amicably&quot;, rather than reaching a decision of the PCC itself. Is that not so?</td>
</tr>
</tbody>
</table>

---

4 (Pages 13 to 16)
1 | Q. I understand that:  
2 | "... but he's much more reticent when I ask him  
3 | about his failures and his regrets."  
4 | Was that a fair comment?  
5 | A. Where is in? Which paragraph?  
6 | Q. Bottom of the page.  
7 | A. Oh, very bottom? I'm sorry, I'm on the wrong page.  
8 | I do apologise. I was looking at the first page. Oh,  
9 | yes. About his failures and his regrets?  
10 | Q. Mm.  
11 | A. Well, what is your question? Is your question: what are  
12 | my failures and what are my regrets?  
13 | Q. No, I didn't ask that question. It's whether Professor  
14 | Greenslade has correctly characterised your position,  
15 | which was reticence, on that occasion?  
16 | A. I think I might -- sorry, I don't want to sound  
17 | arrogant. Maybe I was scratching my head trying to  
18 | think about failures and regrets. But I mean, it's  
19 | a fair interview, this. It's a good interview in which  
20 | he does a decent job and I'm not going to quibble with  
21 | him at all on anything.  
22 | Q. The final point is that Professor Greenslade asked you  
23 | about the Mosley case. That's on the last page of this  
24 | interview.  
25 | A. Yes.

Page 17

Page 18

1 | Q. Page 4 of 4. Halfway through:  
2 | "When Anthony Lester QC [of course, it was, I think,  
3 | Lord Lester by then] asked him what had happened if  
4 | Mosley had gone to the PCC instead, Meyer said he  
5 | couldn't predict what the PCC would have said as it  
6 | would have weighed up issues of privacy against freedom  
7 | of expression."  
8 | Well, that's correct, isn't it?  
9 | A. Yeah.  
10 | Q. "Lester said, just like [that should be  
11 | 'Mr Justice Eady', in fact]-- when I asked directly  
12 | whether he agreed with Eady's judgment, he simply said  
13 | that the matter would have led to a big debate amongst  
14 | the commissioners."  
15 | A. Yes.  
16 | Q. Is that what you said to --  
17 | A. Absolutely. So I was less frank to him than I have been  
18 | to you.  
19 | Q. Fair enough.  
20 | Can I ask you, please, about your time as press  
21 | secretary to the then Prime Minister between 1994 and  
22 | 1996. Is this right: those were the days before you had  
23 | a professional director of communications or spin  
24 | doctor, whatever you want to call them? You had  
25 | a distinguished civil servant to act as your press

Page 19

Page 20

5 (Pages 17 to 20)
Q. Sorry?
A. So I was pretty skeptical about the power of newspapers.
Q. Were there particular organisations, editors and proprietors who were especially courted?
A. Well, by the time I turned up in Downing Street in early 1994, the government of John Major was in some trouble, and in the two years that I was there, that trouble got worse. Polls got worse, new Labour leader made things worse, and so the number of editors who could be counted on to be, how can I put it, supportive, diminished with every month that passed. So there was a natural courting of those who supported the Prime Minister, to make sure they stayed on board.

The issue was always: to what extent should one try and turn newspapers and their editors who were hostile to the government? My own personal belief was: if you're going to go in for this kind of practice, you should have everybody in. That is how things progressed in my two years there.

Q. I think if I can put the question in a perhaps more loaded way. Was there particular attention paid to the Murdoch papers?
A. Of course not.

Q. I'm talking more about the behind-the-scenes activity --
A. I -- I think what I have to say to you, particularly as I wasn't present at the dinner.

Q. I'm trying to drill down into what your evidence is.
A. Well, I'm drilling. Right now I'm drilling!
Q. Okay.
A. I think, to be fair, I wasn't expecting that question, but you've lobbed it at me.
Q. You're right, I didn't give you warning of it and given the nature of the question, I can see why it may not be appropriate for you to want to answer it without thinking very carefully --
A. Quite.
Q. -- about what you're going to say.
A. Yeah.  I mean, it is an accurate reflection of my memory, which I think on this is pretty accurate.  Do you wish me to repeat this -- what I said in the witness statement?
Q. Well, I don't think there's a need to repeat it.  It's whether you want to elaborate it.
A. No, I don't think so.  This thing had been rattling around Whitehall for god knows how long, a draft White Paper.  I inherited it from my predecessor, Gus O'Donnell, and it had manifold problems.  Problems of drafting, of concept, of defining public interest -- all kinds of problems in there, and I think it reached a pitch where the Prime Minister anyway had lost interest in something he'd been quite keen on, so I was told before I arrived in Downing Street, and lost interest, and anyway thought the moment had passed and he did not want to antagonise people.
Q. Sir Christopher, I have been asked to put to you one question in relation to the evidence you gave to the Select Committee back in 2003.
A. Yeah.
Q. You said a number of things, all consistent with each other. You said: "These things ..." That's to say the publication of the correction or the negative adjudication.
A. Yeah.
Q. "... should be at least as prominent as the transgression."
A. I do.
Q. Then you said: "Most people agree with that."
A. Yeah.
Q. And then you said, in answer to one MP's question -- the question was: "You're going to continue to encourage apologies to be much firmer?"
A. "Answer: Yes, otherwise it's ridiculous. They should be, as I said, at least as prominent as the original transgression."
Q. Then in answer to a point about front-page splashes, as it was put, you said: "What I'm saying is this: if we go to formal adjudication, you come out with a formal adjudication and there has been some hideous transgression on the front page, then I would expect the adjudication to be published, or at least to start on the front page, depending on how long the adjudication was going to be.
I think that would be entirely reasonable."
Q. Is it your evidence to the Inquiry, so we're clear about it, that those notions were carried through in practice between 2003 and 2009?
A. With difficulty.
Q. Right.
A. With difficulty.  You referred earlier on, Mr Jay, to -- you suggested I was rash, so early in my career as chairman, making a number of ex cathedra statements, having had very little experience in the job, and I suspect that applies to those remarks in conveying the optimism that I seemed to express that I could achieve this very soon.
In fact, over those six years, we did reach a position where we had front-page tasters for adjudications, which we'd never had before, and I have referred already in this hearing to the way in which adjudications, apologies and all that sort of thing moved up towards the single digit pages of the newspaper.
So there was progress, but against that rather -- those rather absolutist statements that you've just quoted to me, it fell short of what I aspired to.
Q. Okay.  Of course, the difference is that whereas your pronouncements on Section 55 were properly understood ex cathedra, this was a pronouncement which I think, to use the Latin, was ex curial, because this did fall precisely within your jurisdiction, didn't it?
A. Yes, it did, but the difference between my ex curial statement and my ex cathedra statement was two years, and two years is a long time in the life of the PCC.
MR JAY: Yes. Thank you very much, Sir Christopher.

LORD JUSTICE LEVESON: Could I just ask one question? It arises out of the evidence that you gave in relation to the political sphere. I'm not concerned about the extent to which an editor or proprietor wished to seek to persuade the government or politicians of any persuasion to a particular policy for which they were advocating, but I am interested in a slightly different type of policy, and that is the extent to which the press used their links in to government and politicians to affect policy insofar as it affected them. That might be for business reasons. It might be for their own views as to privacy or whatever. Privacy is one example. Another might be in relation to the business interests of a particular newspaper group. Because that happening sub rosa, under the surface, may give rise to slightly greater concern than editors pushing policies for which they were well known in their newspapers.

A. You see -- yeah, I see exactly what you're saying, my Lord. The first thing to say is that politicians should be grown-ups. They know with whom they are supping and they know the boundaries of what is permissible and what is not permissible. So they have to make a decision -- they, the politicians, have to make a decision about how close or how not close they're going to be with whichever newspaper group, be it the editor or proprietor. That's the first thing to say, and I say it as a general proposition.

In my own external experience, looking back to those two years when I was working with John Major, actually, the only subject I can remember in which I was, to a degree, directly involved was on the matter of a possible privacy law. Before I was appointed -- yes, before I took up the job of press secretary, somebody from News International came out to see me while I was still in the embassy in Washington and said, "Please, we don't like a privacy law", and I said, "I haven't even got my feet under the desk yet. I hear what you say but we'll see."

So the press at that time was lobbying very hard not to have a privacy law. Now, that would have been a factor in the final calculations by the Prime Minister about whether or not it was wise to go ahead with a privacy law, but in my own view, looking back on it, the intrinsic difficulties of drafting that White Paper -- leave aside the attitude of editors and proprietors -- was already sufficient to kill the project.

LORD JUSTICE LEVESON: That's a slightly different point, as I'm sure you'll appreciate.

MR JAY: All right, thank you very much indeed.

A. Thank you, my Lord.

LORD JUSTICE LEVESON: Thank you. The next witness is Lord Grade, please.

LORD MICHAEL IAN GRADE (sworn)

MR JAY: Thank you very much. We're not going to need, fortunately, any of those documents around you; only your witness statement, which you've given us. It's dated 15 September of last year, and you've signed it. This is your evidence to the Inquiry.

You've also provided us with a CV. Your career in broadcasting is well-known, of course. You were chairman of the BBC for two and a half years between 2004 and 2006. Then you were appointed executive chairman of ITV where you stayed for about three years; is that correct?

A. Correct.

Q. Then you moved on to various companies, and in January of last year, you went to the House of Lords as Lord Grade of Yarmouth, and you take the Conservative whip; is that correct?

A. Correct.

Q. I'm going to ask you some general questions which are
targeted less at your witness statement but more general
issues. Can I ask you, please, about your appointment
to the PCC? Can you remember when that was, please?
A. I think it was May last year.
Q. The appointment process, obviously a lot of it you don't
know about, but you do know about the interview,
obviously. Were you asked about your commitment to
freedom of the press and the principles of
self-regulation?
A. I was asked whether I supported statutory regulation or
not, and I outlined some reasons why I didn't favour
statutory regulation.
Q. We're going to cover those reasons in a moment.
A. Yes.
Q. Were you asked about the need or desirability to balance
the interests of free speech, including the democratic
constitutional right of the press to express themselves
freely, against private rights of individuals?
A. I don't recall being asked that question at all, no.
Q. Okay. You've mentioned statutory regulation in the
context, I think, of not agreeing with statutory
regulation. Can we elaborate why you take that
position, please, Lord Grade?
A. I don't take the view that statutory regulation would
be -- would have a chilling effect on investigative
journalism. Investigative journalism is alive and well
in broadcast television, which is heavily regulated,
licensed and so on. I don't take that view at all, and
we are happily past the days when the politicians of the
day used to pack the boards of the regulators with their
friends and supporters, such as my time as a controller
of BBC One when, in the days of then Mrs Thatcher's
government, where the board of the BBC were packed with
her friends.
We've moved on from then. We have a Nolan process.
We have a political culture of much more independent
regulation, which I think has been very, very healthy.
So those are not my objections.
My principal objections to statutory regulation:
15 once you have statutory regulation, you have the
prospect of judicial review post-judgment, and at that
point, that means that the regulator has to be painfully
methodical in its processes in order to ensure that it
isn't judicially reviewed. That slows the process up
and means -- I'll give you an example. When the BBC got
into trouble over the Jonathan Ross/Brand broadcast, the
BBC Trust, not being a statutory body, was able to send
for the Director General, sort the matter out, get
a correction and an apology all done within a space of
I think a week or ten days.
Q. The appointment process, obviously a lot of it you don't
know about, but you do know about the interview,
obviously. Were you asked about your commitment to
freedom of the press and the principles of
self-regulation?
A. I was asked whether I supported statutory regulation or
not, and I outlined some reasons why I didn't favour
statutory regulation.
Q. We're going to cover those reasons in a moment.
A. Yes.
Q. Were you asked about the need or desirability to balance
the interests of free speech, including the democratic
constitutional right of the press to express themselves
freely, against private rights of individuals?
A. I don't recall being asked that question at all, no.
Q. Okay. You've mentioned statutory regulation in the
context, I think, of not agreeing with statutory
regulation. Can we elaborate why you take that
position, please, Lord Grade?
A. I don't take the view that statutory regulation would
be -- would have a chilling effect on investigative
journalism. Investigative journalism is alive and well
in broadcast television, which is heavily regulated,
licensed and so on. I don't take that view at all, and
we are happily past the days when the politicians of the
day used to pack the boards of the regulators with their
friends and supporters, such as my time as a controller
of BBC One when, in the days of then Mrs Thatcher's
government, where the board of the BBC were packed with
her friends.
We've moved on from then. We have a Nolan process.
We have a political culture of much more independent
regulation, which I think has been very, very healthy.
So those are not my objections.
My principal objections to statutory regulation:
15 once you have statutory regulation, you have the
prospect of judicial review post-judgment, and at that
point, that means that the regulator has to be painfully
methodical in its processes in order to ensure that it
isn't judicially reviewed. That slows the process up
and means -- I'll give you an example. When the BBC got
into trouble over the Jonathan Ross/Brand broadcast, the
BBC Trust, not being a statutory body, was able to send
for the Director General, sort the matter out, get
a correction and an apology all done within a space of
I think a week or ten days.

The same complaint, because there's a joint
jurisdiction here, went to Ofcom, and Ofcom came to the
same conclusion, but it took them, I think, three
months. It certainly took them many months to go
through their processes because they have a statutory
obligation, and they are a statutory body.
So I worry about the time -- when people complain
about what's written about them, what's published about
them, they want speedy -- they want a speedy response
and a speedy redress, and I think the statutory
framework would slow that rather unpleasantly, and I'm
a sceptic.

The second reason I would give is I would be very
worried about a statutory body taking over that function
of the PCC which is extraordinarily effective, which is
its ex-ante intervention prior to publication and in
fact stopping publication, which the staff of the PCC
are absolutely brilliant at, and I would worry about
a statutory and politically appointed body having the
powers to stop publication. That would worry me
considerably.
Q. Yes. Can you explain, Lord Grade, why a statutory
scheme created imposed or created by legislation would
be inconsistent with the PCC carrying out its
anti-harassment and equivalent work?
A. The worry -- I hope I'm on the same point here. My
worry would be that the influence that the PCC currently
has to stop publication, to stop harassment, could be
abused by a statutory body with -- you know, if it was
captured politically in some way or another, could be --
it could be -- stopping publication of a story could be
misunderstood, and I don't think the public would have
confidence in a politically appointed body having the
powers to stop publication.
LORD JUSTICE LEVESON: Are we using the concept of statutory
regulation in slightly different ways here? I can
easily visualise precisely what is you're talking about.
If you had a statutory regime which set up the whole
thing and sought to control the whole thing, that indeed
could give rise to that risk.

But how about a slightly different approach -- and
I'll give the standard warning that I've not got there,
I'm not in this position, but I am just exploring what
you're saying -- that recognises the existence of
a body, maybe to give some carrots for membership, but
leaves appointment, the management and the adjudicative
responsibilities entirely to that body and does not
prescribe approaches but leaves it to the body, so that
there it is a framework -- but only a framework -- which
allows an independent body, independently appointed --
and there are lots of bodies that fit into that category -- to do the work in a more structured way than is possible when it is purely consensual?

A. I have no doubt that if the structure that you have described, sir, were to go into Parliament at one end and come out exactly in that form as an Act, then I think that could indeed be workable, and I'm a great believer in incentives for publishers to be members of PCC2 or whatever it's going to be called, and being part of a recognised body that, let's say, judges could take into account in a case involving a newspaper. If a newspaper goes down on a particular case, the fact that they're a fully paid up member of a functioning and statutorily recognised PCC and so on, I think that would be very, very helpful.

What worries me is the parliamentary process of getting a structure such as you described through both Houses of Parliament.

LORD JUSTICE LEVESON: I must let Mr Jay continue and pick it up at the end, but at the moment, certainly I was very concerned to ensure that there was a political consensus for the work of this Inquiry, because it simply couldn't work if there wasn't. I have not seen that there's a broad consensus. What happens thereafter, after I've produced a report, may actually be just as much a matter for you, wearing a different hat, as anybody else.

A. Mm. I understand that. I understand that.

I think the devil of the template that you've just described -- I won't say "recommended" but described as an option -- the devil of that will undoubtedly be in the detail, but statutory recognition of a -- provided that the PCC2 is entirely seen to be and operated on a basis that is entirely independent, both of government/Parliament and also of the proprietors and publishers, seems to me a very important way forward.

LORD JUSTICE LEVESON: Can I say -- and I suppose I have to forgive me, when you say "statutory regulation", we're talking about a more interventionist model than that which his Lordship has described just now?

Q. Probably, yes.

A. Yes, okay.

Q. -- is that statutory regulation in that sense is objectionable because it might prevent the press from being partisan, which is its right. Of course, broadcasters have a statutory duty not to be partisan. Do you give any weight to that argument?

A. None at all.

Q. And why not?

A. Broadcasters are licensed. They are licensed in order to give them access to a nationally owned resource, the spectrum that belongs to the nation. They pay for that in various ways and they are regulated accordingly.

Now, on that primary requirement, to be impartial and not to be partisan like newspapers, where there are no barriers to entry, we are in -- sorry, I'm rushing through this. There are no barriers to entry today to broadcasting, really, because the spectrum is almost infinite, the spectrum available. It wasn't in the days when broadcasting regulation was first put in place and the requirement for impartiality -- on that washing line of impartiality was hung taste and decency, family watersheds, producer guidelines, journalist guidelines -- these have built up because of caselaw over decade and decades, so we are where we are as a part of history.

For newspapers to feel that their ability to be partisan as a result of statutory regulation without statutory obligation to be impartial seems to me -- just doesn't hold water. There is a statutory obligation on broadcasters to be politically impartial and independent.

Q. Okay. Now the issue of sanctions. Would you be in favour of a new body, a successor body, having what some have called more substantial teeth, including the power...
A. I think that's essential for a regime of
quasi-regulation or regulation, whatever you want to
call it, to have visible, tangible, painful means of
a sanction, yes. Once you give the newspaper -- the
PCC2 the powers of sanction, how do you then keep the
publishers inside the tent? The Northern & Shell issue.
That's a difficult one, which I think you can only solve
by creating means by which it is also in their interest
to remain inside the tent.

Q. Yes, and by "interest", that would include or might be
primarily commercial interest, it may be seen more
widely. How would one create the necessary carrot, as
it were, to keep people who might have a tendency to
want to stay out within the tent?

A. If I was a publisher and I was in court -- let's take
a defamation case. I'll declare an interest in a second
on that. I've sat on the all parliamentary
pre-legislative scrutiny committee on the reform of the
Defamation Act, so just to declare an interest there.
But let's say a newspaper is in court and there's
a libel case, and let's say the newspaper goes down and
the judge at the end of that says, "Look, I've looked at
this. You're a member of the PCC. You're a good
member, in good standing. You consulted -- you know,
you went to your lawyers, you did everything you could
at the time. Actually, I'm finding against you, but
I take it that you're a responsible newspaper because of
your attitude to the PCC2, and therefore the damages --
I'm going to mitigate the damages", or -- I'm not
a lawyer so I'm not quite sure --

LORD JUSTICE LEVESON: We'd do it the other way around.
We'd say if you were not, then you were at risk of
higher damages.

A. Absolutely, absolutely, and I think that would be
a hugely important incentive, a carrot -- if you're
going to give PCC2 the stick, there ought to be a carrot
as well, and I think it would be well worth newspapers
remaining signed up as good members in good standing of
the PCC, if that was going to be taken into
consideration if they did go down, even on cases of
public interest, privacy, defamation and so on. I think
that would be a huge incentive.

MR JAY: Instead of some sort of statutory regulatory model,
which I know, for the reasons you've given, you don't
espouse, I think you favour some sort of contractual
model; is that correct?

A. I think that's worthy of exploring. The devil again
will be in the detail. The only issue that concerns me
about the contractual model -- I think it does put it on

LORD JUSTICE LEVESON: It's quite difficult to see how you
would define it because a carrot could only be justified
by law.

A. Yes.

LORD JUSTICE LEVESON: Contrary to popular opinion, judges
don't actually simply decide what they want to decide.
They follow the law. So once there is a law that
provides you with any sort of carrot, there has to be
a definition of who gets the carrot, and to define who
gets the carrot has itself complexities if the only body
that is entitled to the carrot is bound together solely
in a private contract.

A. I see.

LORD JUSTICE LEVESON: Well, that's a question which I'm
really asking, and you say, "Well, thank you very much,
I'm not the right person to ask."

A. Indeed. I'll look to my learned friends for expensive
Day 34 - PM    Leveson Inquiry     31 January 2012

1 A. It's barely resourced to do what it does now. It's been
2 starved of rations, really. I think it gets a minuscule
3 increase each year, which is hard-fought and hard-won.
4 The staff work ridiculous hours. Bear in mind that
5 they're getting calls from editors or night editors and
6 news editors at 11, 12 o'clock at night, all across the
7 weekend. It's extraordinary what they do. They're
8 underpaid, overworked, overstretched, and the newspapers
9 do not recognise the work that they do, and the budget
10 is ridiculous.
11 Q. Are you able to assist the Inquiry with some sense of
12 the dynamic of PCC meetings, particularly when
13 adjudications are being discussed? Is there any sense
14 in which the editors line up on one side and the
15 independent public members on another side? Could you
16 help us with a flavour of--
17 A. I've never experienced that. I must have attended now
18 eight or nine meetings. Where a case is going against
19 a newspaper, where the recommendation of the officers is
20 that there's been a clear breach of the code--
21 such-and-such a clause in the code, the editorial
22 figures on the board, who are in a minority, are the
23 first to speak out in condemnation and say, "I can't
24 believe they did that, that was a--" you know, it's
25 a very, very honest debate. A very, very honest debate.

Page 47

Page 45

Page 46

1 isn't enough -- there should be total separation between
2 the finances of the PCC and the operation of the PCC,
3 and it should be for the independent members -- it
4 leaves the question open as to who appoints them -- it's
5 for the independent members of PCC1 and PCC2 to decide
6 who they appoint and to be part of the process in
7 appointing the chairman and so on and so on, which it
8 isn't at the moment.
9 And the fact that PressBoF controls the purse
10 strings leaves them in the position where -- which they
11 either do or they don't abuse -- I don't have enough
12 experience yet, but it leaves them in the position where
13 they can have a huge influence on the constitution and
14 the running of the organisation. I don't think that's
15 healthy.
16 So there has to be complete separation. The
17 publishers are going to have to pay for the new body,
18 but they must be more than arm's length away from
19 influencing appointments and so on.
20 Q. In your view, from what you've been able to observe,
21 Lord Grade, is the PCC resourced to do more than that
22 which it does now, namely to deal with complaints, to
23 provide valuable, as you've explained, ex-ante advice
24 and interpret compensation and the add-on activities we
25 have also heard evidence about?

Page 48
<table>
<thead>
<tr>
<th>Page 49</th>
<th>Page 50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 34 - PM</td>
<td>Leveson Inquiry</td>
</tr>
<tr>
<td>1 of before and so on and so on. Quite often those</td>
<td>1 A. Yes, exactly, yes. Yes.</td>
</tr>
<tr>
<td>2 debates end up with -- it's possible they get passed</td>
<td>2 &quot;Oh yes, I'm in favour of statutory regulation, full</td>
</tr>
<tr>
<td>3 back by the Commission to the Code Committee to look at</td>
<td>4 self. I mean, I might be interested in your view,</td>
</tr>
<tr>
<td>4 and clarify and rewrite the code. So it's a very</td>
<td>6 that you've seen all the perspectives. In your</td>
</tr>
<tr>
<td>5 effective forum.</td>
<td>8 experience, is what the PCC does truly regulating at all</td>
</tr>
<tr>
<td>6 MR JAY: Yes. Thank you very much, Lord Grade.</td>
<td>10</td>
</tr>
<tr>
<td>7 LORD JUSTICE LEVESON: I have a couple of more points to</td>
<td>11 resourced to do any more than be a disputes resolution</td>
</tr>
<tr>
<td>8 raise.</td>
<td>12 vehicle, which it does extremely well. It's just not</td>
</tr>
<tr>
<td>9 I'm interested that you said you were asked about</td>
<td>14 resourced to do any more, and I think that one of the</td>
</tr>
<tr>
<td>10 your belief in self-regulation but not asked about the</td>
<td>14 role has been and what its remit has been.</td>
</tr>
<tr>
<td>11 balance between Article 10 and Article 8. You</td>
<td>15 It doesn't have the powers -- no, it doesn't have</td>
</tr>
<tr>
<td>12 understand what I mean by that?</td>
<td>15 the resources. You don't need the powers. If you want</td>
</tr>
<tr>
<td>13 A. An individual's right to privacy versus the public's</td>
<td>15 to go and investigate something, you ought to be able to</td>
</tr>
<tr>
<td>14 right to know?</td>
<td>15 go and do it, but if you haven't got the resources to do</td>
</tr>
<tr>
<td>15 LORD JUSTICE LEVESON: Correct.</td>
<td>15 it, you just can't do it.</td>
</tr>
<tr>
<td>16 A. Yes.</td>
<td>16 LORD JUSTICE LEVESON: You can ask your editors to provide</td>
</tr>
<tr>
<td>17 LORD JUSTICE LEVESON: Because isn't part of your job, your</td>
<td>17 the information.</td>
</tr>
<tr>
<td>18 adjudicative role, entirely based to balancing freedom</td>
<td>18 A. You certainly can, yes.</td>
</tr>
<tr>
<td>19 of expression against privacy or similar rights? Is</td>
<td>19</td>
</tr>
<tr>
<td>20 that a fair analysis of your adjudicative role?</td>
<td>20</td>
</tr>
<tr>
<td>21 A. Absolutely. When I -- let me answer, if I may, the</td>
<td>21</td>
</tr>
<tr>
<td>22 point about the interview. I think my track record and</td>
<td>22</td>
</tr>
<tr>
<td>23 my career has been as an editor-in-chief of a number of</td>
<td>23</td>
</tr>
<tr>
<td>24 broadcasting organisations with huge editorial</td>
<td>24</td>
</tr>
<tr>
<td>25 responsibility, and therefore I think the interview</td>
<td>25</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Page 51</th>
<th>Page 52</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 panel would have known that I'm pretty well -- my life</td>
<td>1 LORD JUSTICE LEVESON: And wait and see if they say no.</td>
</tr>
<tr>
<td>2 has been doing that. I've been doing that as a career</td>
<td>2 A. But have you got the people to process that information?</td>
</tr>
<tr>
<td>3 for 30, 40, years.</td>
<td>3 LORD JUSTICE LEVESON: I understand.</td>
</tr>
<tr>
<td>4 LORD JUSTICE LEVESON: Yes.</td>
<td>4 A. And have you got the resources to pay them? The answer</td>
</tr>
<tr>
<td>5 A. When I enter the Commission board meeting, I always feel</td>
<td>5 is: no, you haven't.</td>
</tr>
<tr>
<td>6 I am there to represent the public, the public as</td>
<td>6 LORD JUSTICE LEVESON: I understand the point.</td>
</tr>
<tr>
<td>7 potential victims of press intrusion, et cetera, and</td>
<td>7 I entirely agree with you that, for example, ex-ante</td>
</tr>
<tr>
<td>8 misrepresentation and so on, but also representing the</td>
<td>8 intervention, as you call it, and the anti-harassment</td>
</tr>
<tr>
<td>9 public with their right to know and freedom of</td>
<td>9 policy are extremely valuable tools to try and prevent</td>
</tr>
<tr>
<td>10 expression and so on, and you are having to balance that</td>
<td>10 problems arising. But if the PCC is not resourced to do</td>
</tr>
<tr>
<td>11 all the time. Every case is different.</td>
<td>11 the job that the public expect it to do, then the</td>
</tr>
<tr>
<td>12 LORD JUSTICE LEVESON: That's the point. That's the job.</td>
<td>12 question arises how one configures an operation so that</td>
</tr>
<tr>
<td>13 A. Exactly.</td>
<td>13 it can do the job that the public want it to do and</td>
</tr>
<tr>
<td>14 LORD JUSTICE LEVESON: Equally, one might say that asking</td>
<td>14 equally bring everybody who ought to be involved into</td>
</tr>
<tr>
<td>15 you about what you felt about independent or</td>
<td>15 the tent.</td>
</tr>
<tr>
<td>16 self-regulation may be the subject of the criticism that</td>
<td>16 A. It comes down to money, doesn't it, really? The</td>
</tr>
<tr>
<td>17 you're being asked whether you're &quot;one of us&quot;, as</td>
<td>17 newspapers are -- you know, it's an ex-growth sector of</td>
</tr>
<tr>
<td>18 opposed to taking a critical look at the system that</td>
<td>18 our economy. They are shrinking. Newspaper readership</td>
</tr>
<tr>
<td>19 you're going to join to see whether it's at very best</td>
<td>19 is falling. There's an intense fight for market share</td>
</tr>
<tr>
<td>20 model that could be achieved. Do you see the point?</td>
<td>20 and share of advertising and so on, which in my view is</td>
</tr>
<tr>
<td>21 A. I think that's a fair criticism. I can't answer it,</td>
<td>21 only going to intensify the competition, and the</td>
</tr>
<tr>
<td>22 because had I answered that I was in favour of statutory</td>
<td>22 temptation that goes with the competition, which is how</td>
</tr>
<tr>
<td>23 regulation, I'm not sure where that debate would have</td>
<td>23 we've got to where we are today. So I think the need</td>
</tr>
<tr>
<td>24 gone at the interview.</td>
<td>24 for your Inquiry and your recommendations has never been</td>
</tr>
<tr>
<td>25 LORD JUSTICE LEVESON: But that's the point, isn't it?</td>
<td>25 greater.</td>
</tr>
<tr>
<td>Page 53</td>
<td>Day 34 - PM</td>
</tr>
<tr>
<td>--------</td>
<td>------------</td>
</tr>
<tr>
<td>1 A.</td>
<td>I think it's a problem more of perception than it is of -- in reality. I think a lot of criticism of the PCC has been attached to the position that you describe, and if we are in the business of increasing public confidence and political confidence and judicial confidence in the PCC, PCC1 or 2, then it may be that you're going to have to make it a rule that you can't have serving editors. Now, the gap you leave there -- this is a fast-moving business -- is the day-to-day knowledge of an operating professional in drafting the codes, but it shouldn't be impossible. The ITC, the IBA before and the ITA before that, and now Ofcom, they produce codes based on precedent they've built up over years. They are informed by producers and editors and programme-makers and the experience over the years, and they get adjusted and refined. So there is huge input. Just because you don't have a serving editor on the Code Committee doesn't mean you can't consult and get evidence from them and drafting suggestions and so on. So you get their input another way, but I think the public would have much more confidence in the code. The code at Ofcom -- the codes at Ofcom are drawn up by the Ofcom, the board of Ofcom. Occasionally they have retired journalists on the board of Ofcom. I'm sure they get good input. I had a former journalist, a former editor of ITN as a governor of the BBC when I was chairman of the governors there. It was a great help in deciding some of the complaints and so on, the issues and the codes that we operated. I think you can get that information quite easily and produce a code that everybody feels is relevant to the industry today without having serving editors. LORD JUSTICE LEVESON: You see, one of the concerns is that the same names, or certainly the same titles, are there or thereabouts and have always been there or thereabouts, which creates a risk of concern. A. Yes. LORD JUSTICE LEVESON: I say no more, and I'm not saying anything at all adverse about the people who actually hold those jobs. I'm not being -- A. I can give you, from my own personal experience, assurance that, let us say, Paul Dacre and the programme -- he is not rewriting the code to enable the Daily Mail to get up to any mischief. LORD JUSTICE LEVESON: No, no, and Mr Dacre, who has been, as you know, the subject of some criticism by some witnesses, equally was the very first to stand up at one of my seminars and say, &quot;Wherever we are now, we have to move on&quot;, and I applaud that, as I have done, clearly.</td>
</tr>
</tbody>
</table>
DAVID JAMES FLETCHER LORD HUNT OF WIRRAL (sworn)

Questions by MR JAY

MR JAY: Lord Hunt, please sit down and make yourself comfortable. Your full name, please, for the Inquiry?

A. David James Fletcher Lord Hunt of Wirral.

Q. Thank you very much. You have kindly provided the Inquiry with a witness statement which is signed and dated by you on 12 January this year, and there's also a statement of truth. So this is your formal evidence to the Inquiry; is that right?

A. Yes, it is.

Q. Thank you very much.

LORD JUSTICE LEVESON: Lord Hunt, I think it's right --

I think there's a difference between us of seven years, and I must confess that I have absolutely no recollection at all, but I'm reliably informed that we attended the same school, if that matters to anybody, the school being in Liverpool.

A. I'm very proud that we both went to Liverpool College and I have a clear recollection of that experience, but --

LORD JUSTICE LEVESON: Oh, I recollect the experience.

MR JAY: Lord Hunt, you have been the chairman of the PCC since 17 October of last year, so that gives you only three months' experience, as it were, in the saddle. In a nutshell, your previous career, please?

A. I can personally think of no better container than a nutshell. Shall we keep it at that, or would you like me to go --

Q. We're not going to cover every detail, but you were a member of Parliament. You served in the cabinet under Baroness Thatcher, I think as Secretary of State for Wales, is that right, and then under Lord Major -- sorry --

LORD JUSTICE LEVESON: Sir John.

MR JAY: Sir John Major. I think you were, again, Secretary of State for Wales and also Chancellor of the Duchy of Lancaster. You left Parliament in 1977. You became a life peer, is that correct, back in 1997?

A. 1997. So I've been in Parliament for 35 years.

Q. Thank you very much. Since then you have been a practising solicitor, partner, at a well-known firm, which practises in commercial and regulatory law -- that is your specialism -- and you became chairman of the PCC in the autumn.

A. I can personally think of no better container than a nutshell, your previous career, please?

Q. How would you describe the interview process you went through to be appointed as chairman of the Press Complaints Commission?

A. Well, it must, of course, be a voluntary system into which the press subscribe. I also chair a body called the Lending Standards Board, which is a self-regulatory body, successor to the Banking Code Standards Board, which was again a self-regulatory structure which was subscribed to by all the major firms involved in that particular industry. So when I refer to self-regulation, I really want to see the participation of the whole industry in its own regulation.

Q. Thank you. To go back to the process of application and interview, it is clear from Mr Abell's evidence yesterday that you must have been interviewed by the current chair of PressBoF, who is Lord Black; is that correct?

A. Yes. My recollection, on 30 September, was that my previous interviews had been with a firm who had been instructed to come forward with a shortlist, and it was my contact within that firm, a Mr Vardi, who made me aware that I was to be interviewed on 30 September.

Q. And that interview panel was a subcommittee of the PCC?

A. Yes. May I just point out that I joined my present law firm in 1965 and I've been a partner since 1969. So it pre-dates my career in Parliament and it has continued right up to date.

Q. Thank you.

A. But I applied for the job because I have a passionate belief in freedom of the press. I think it's one of the most valuable assets we have in the UK and it's much envied across the world.

Q. Thank you. I'll obviously cover that in a moment with you, Lord Hunt. May I understand what you mean by "self-regulation", regardless of what the advertisement might mean by it?

A. Self-regulation of the press, which I'd prefer to call independent self-regulation of the press, means of the press, for the press, in the public interest.

Q. But not by the press, presumably?

A. Well, it must, of course, be a voluntary system into which the press subscribe. I also chair a body called the Lending Standards Board, which is a self-regulatory body, successor to the Banking Code Standards Board, which was again a self-regulatory structure which was subscribed to by all the major firms involved in that particular industry. So when I refer to self-regulation, I really want to see the participation of the whole industry in its own regulation.

Q. Thank you. To go back to the process of application and interview, it is clear from Mr Abell's evidence yesterday that you must have been interviewed by the current chair of PressBoF, who is Lord Black; is that correct?

A. Yes. My recollection, on 30 September, was that my previous interviews had been with a firm who had been instructed to come forward with a shortlist, and it was my contact within that firm, a Mr Vardi, who made me aware that I was to be interviewed on 30 September.

When I arrived, the chairman of the interview panel was Lord Black, but there were a range of people on the other side of the table, including an independent assessor.

Q. The range of people -- there were some lay members, as it were, and other members of PressBoF; is that correct?

A. I was told that the interview panel was a subcommittee of the PCC, which practises in commercial and regulatory law -- that is your specialism -- and you became chairman of the PCC in the autumn.

Q. Did you meet the interview panel members before?

A. Yes. I have seen for myself how state regulation can go very badly wrong, and it's always preferable if it can be the self-regulation which is the basic structure.

Q. Thank you. I'll obviously cover that in a moment with you, Lord Hunt. May I understand what you mean by "self-regulation", regardless of what the advertisement might mean by it?

A. Self-regulation of the press, which I'd prefer to call independent self-regulation of the press, means of the press, for the press, in the public interest.

Q. But not by the press, presumably?

A. Well, it must, of course, be a voluntary system into which the press subscribe. I also chair a body called the Lending Standards Board, which is a self-regulatory body, successor to the Banking Code Standards Board, which was again a self-regulatory structure which was subscribed to by all the major firms involved in that particular industry. So when I refer to self-regulation, I really want to see the participation of the whole industry in its own regulation.

Q. Thank you. To go back to the process of application and interview, it is clear from Mr Abell's evidence yesterday that you must have been interviewed by the current chair of PressBoF, who is Lord Black; is that correct?

A. Yes. My recollection, on 30 September, was that my previous interviews had been with a firm who had been instructed to come forward with a shortlist, and it was my contact within that firm, a Mr Vardi, who made me aware that I was to be interviewed on 30 September.

When I arrived, the chairman of the interview panel was Lord Black, but there were a range of people on the other side of the table, including an independent assessor.

Q. The range of people -- there were some lay members, as it were, and other members of PressBoF; is that correct?

A. I was told that the interview panel was a subcommittee of the PCC, which practises in commercial and regulatory law -- that is your specialism -- and you became chairman of the PCC in the autumn.

Q. Did you meet the interview panel members before?

A. Yes. I have seen for myself how state regulation can go very badly wrong, and it's always preferable if it can be the self-regulation which is the basic structure.

Q. Thank you. I'll obviously cover that in a moment with you, Lord Hunt. May I understand what you mean by "self-regulation", regardless of what the advertisement might mean by it?

A. Self-regulation of the press, which I'd prefer to call independent self-regulation of the press, means of the press, for the press, in the public interest.

Q. But not by the press, presumably?

A. Well, it must, of course, be a voluntary system into which the press subscribe. I also chair a body called the Lending Standards Board, which is a self-regulatory body, successor to the Banking Code Standards Board, which was again a self-regulatory structure which was subscribed to by all the major firms involved in that particular industry. So when I refer to self-regulation, I really want to see the participation of the whole industry in its own regulation.

Q. Thank you. To go back to the process of application and interview, it is clear from Mr Abell's evidence yesterday that you must have been interviewed by the current chair of PressBoF, who is Lord Black; is that correct?

A. Yes. My recollection, on 30 September, was that my previous interviews had been with a firm who had been instructed to come forward with a shortlist, and it was my contact within that firm, a Mr Vardi, who made me aware that I was to be interviewed on 30 September.

When I arrived, the chairman of the interview panel was Lord Black, but there were a range of people on the other side of the table, including an independent assessor.

Q. The range of people -- there were some lay members, as it were, and other members of PressBoF; is that correct?

A. I was told that the interview panel was a subcommittee of the PCC, which practises in commercial and regulatory law -- that is your specialism -- and you became chairman of the PCC in the autumn.

Q. Did you meet the interview panel members before?

A. Yes. I have seen for myself how state regulation can go very badly wrong, and it's always preferable if it can be the self-regulation which is the basic structure.

Q. Thank you. I'll obviously cover that in a moment with you, Lord Hunt. May I understand what you mean by "self-regulation", regardless of what the advertisement might mean by it?

A. Self-regulation of the press, which I'd prefer to call independent self-regulation of the press, means of the press, for the press, in the public interest.

Q. But not by the press, presumably?

A. Well, it must, of course, be a voluntary system into which the press subscribe. I also chair a body called the Lending Standards Board, which is a self-regulatory body, successor to the Banking Code Standards Board, which was again a self-regulatory structure which was subscribed to by all the major firms involved in that particular industry. So when I refer to self-regulation, I really want to see the participation of the whole industry in its own regulation.

Q. Thank you. To go back to the process of application and interview, it is clear from Mr Abell's evidence yesterday that you must have been interviewed by the current chair of PressBoF, who is Lord Black; is that correct?

A. Yes. My recollection, on 30 September, was that my previous interviews had been with a firm who had been instructed to come forward with a shortlist, and it was my contact within that firm, a Mr Vardi, who made me aware that I was to be interviewed on 30 September.

When I arrived, the chairman of the interview panel was Lord Black, but there were a range of people on the other side of the table, including an independent assessor.

Q. The range of people -- there were some lay members, as it were, and other members of PressBoF; is that correct?

A. I was told that the interview panel was a subcommittee of the PCC, which practises in commercial and regulatory law -- that is your specialism -- and you became chairman of the PCC in the autumn.

Q. Did you meet the interview panel members before?

A. Yes. I have seen for myself how state regulation can go very badly wrong, and it's always preferable if it can be the self-regulation which is the basic structure.

Q. Thank you. I'll obviously cover that in a moment with you, Lord Hunt. May I understand what you mean by "self-regulation", regardless of what the advertisement might mean by it?

A. Self-regulation of the press, which I'd prefer to call independent self-regulation of the press, means of the press, for the press, in the public interest.

Q. But not by the press, presumably?
MR JAY: Is it inherent in what you're saying, Lord Hunt, that a regulator would have wider powers, both of investigation and of sanction?

A. Yes. Once -- what I feel is that the PCC has some appurtenances of a regulator, such as a pre-publication service of developing a book of caselaw, but it doesn't have the full range of powers that any regulator must have and therefore I conclude it is not a regulator.

The proposed new body, to which we'll come in a moment, would be a regulator and I regard that as a huge difference.

Q. Thank you. Your aversion to statutory regulation of the press is made clear in paragraph 3 of your witness statement, if not elsewhere. The reason you give:

"I believe that would be an unacceptable impingement on our freedoms."

Why is there a nexus between statutory controls, as you describe them here, and an impingement on our freedoms?

A. Perhaps it would suffice to quote someone whose statue is outside my law office, John Wilkes, who, 250 years ago, in 1762, said, "The liberty of the press is the birthright of a Briton, and is justly esteemed the finest bulwark of the liberties of this country."

That's something I so passionately believe in.

Q. I think all of us would believe in that, but it's the antipathy or aversion to statutory controls and the impact that those controls might have on these cherished freedoms. Why does the existence of statutory controls threaten these freedoms?

A. I think I would talk about statutory regulation, not statutory controls. I rely on "The Essential Law for Journalists" to point out all the statutory provisions that apply and restrict freedom of the press. I'm not just talking about defamation or the Data Protection Act or the Freedom of Information Act. The list is endless.

It's a massive textbook. So there is also statute there.

What is missing, thank goodness, is a statutory regulator, and that is what I would regard as an infringement of the freedom of the press.

Q. I think, again, we might all agree that if there were a statutory regulator which itself was responsible for the imposition of standards and, by virtue of that, would be capable of curbing the exercise of the press' democratic right to express itself, then we would have a regrettable state of affairs. But if the statutory regulator did not have power to set standards, would the very fact that there was a statutory regulator be sufficient, thank you.

Q. In an interview which you gave with or to Professor Greenslade, you apparently said, in terms of why you put your name forward, that it was Lord Wakeham who got you into a corner and, as it were, persuaded you to throw your hat in the ring. Is that fair or not?

A. It's a complicated history, and I'm not sure how much you want me to go into it, but I was, at the time, considering putting my name forward for a range of posts. I then became aware of this advertisement, and Lord Wakeham, with whom I served -- I was one of his colleagues for many years -- told me that he felt that there was a need for the regulation of the press to be taken further forward with some ideas, and he was aware that I had just, for the Law Society of England and Wales, presented them with a report on the recommended future of regulation of solicitors and I'd also carried out the first independent review of the Financial Ombudsman Service. So against that background, John Wakeham said to me that he thought I should put my name forward.

Q. Thank you. One other point which comes out of Professor Greenslade's interview is that you told him that in your view the PCC was not a regulator. Does that accurately set out your position and/or would you wish to elaborate on that?

A. Yes. Speaking as a lawyer, I looked at the articles of association and at the powers of the Press Complaints Commission, against also the background of having been in the cabinet that received the reports of Sir David Calcutt in 1990 and then again in 1993, which described what was needed as a regulator.

But I think in the second report, in 1993, Sir David concluded that the press had not come forward with what could be described as a regulator and he set out what he felt a statutory regulator should be. So against that background, I could see that the PCC was not, in Sir David's terms, a regulator, and it had -- didn't have the powers of a regulator. I thought I was stating the obvious.

Q. Yes.

A. But suddenly I became aware that virtually everyone agreed with me.

MR JAY: Well, Sir Christopher doesn't.

A. Yes, Sir Christopher and I go back a long way and I can hardly recall a time when he has agreed with me, but I don't want to go too far.

LORD JUSTICE LEVESON: No, I think you've said quite
34 - PM  Leveson Inquiry  31 January 2012

LORD JUSTICE LEVESON: Does that include -- and I've raised this with a couple of witnesses -- the independence of the judiciary, now enshrined in section 3(1) of the Constitutional Reform Act?

A. I have in front of me the Constitutional Reform Act, and I do recall when it was going through Parliament and the debates that we had, where judicial opinion was greatly valued, particularly in the upper house, and there was general agreement that we had to enshrine the independence of the judiciary in legislation. But there is no such agreement -- and I'm well aware of the views of my parliamentary colleagues -- there is no such agreement about the independence of the press. There are very strong views in Parliament that there must be stronger limits on the power of the press and this would, therefore, in my mind, open a Pandora's box. It would be, for many of my colleagues in Parliament, a wonderful moment if they were given the opportunity to move amendments, to debate a bill regulating the press, and I just do not know what would emerge the other side. We were determined that what would emerge the other side with the 2005 Act was the independence of the judiciary. There is no such agreement about the independence of the press.

LORD JUSTICE LEVESON: So you think that Parliament might seek to use any form of legislation, however it was cast, as a way of controlling the press?

A. Yes, and they have told me so, many of them, in both houses, and that is what is driving me forward to find a solution and to respond positively to your own comments, right at the outset of this, particularly in the seminars, that there is a wonderful opportunity for the press itself to put its own house in order.

LORD JUSTICE LEVESON: I don't think that's quite how I expressed it, but I certainly said, and firmly believe, that it's critical that the press engage in the debate about how its regulation, with a very small "R", should move forward, because it's critical that whatever system emerges works for them, but it's equally critical, as I have made clear, that it works for the public. That's paragraph 10 of your statement. Presumably in your three months in the saddle, you have had direct observational experience of that; is that correct?

A. I -- yes. I greatly admire the dedication and commitment of the staff at the PCC. I've listened to them dealing with calls from the public. I have been made aware of the way in which they respond in a compassionate and caring way to members of the public who have what they feel is a genuine grievance and they work hard to ensure that a satisfactory solution is found.

Q. Do you feel that they take a particular side or, I think in the words of Mr Abell yesterday, it's sort of 60/40 in favour of the customer as against the press. Would that be your perception how they balance the two?

A. I would say that my perception was that they pursue an independent course, seeking to balance, on the one hand, the freedom of the press to comment and on the other side the public interest, and I think the recent change to the code, which only came into effect on 1 January, the 1st of this month, is an example of how the experience of the staff has been instrumental in constantly putting the code under careful review and improving it as and when necessary.
| Q. Paragraph 12 of your statement, Lord Hunt, deals with the code. You say you start from the belief it's important the rules are written by the professionals themselves, pausing there, presumably because the professionals themselves have the knowledge and experience to know what the standards should be. Then you say: "... so long as they're responsive to public concerns."
| A. I'm not sure we have the best way of doing that at the present time, so no doubt we'll come onto the way ahead, but I would just, again, instance the amendment to the public interest test which came in on 1 January, which added to the code that -- the words "and how and with whom that was established at the time".

LORD JUSTICE LEVESON: That picks up a point that has been mentioned several times by me, certainly, during the Inquiry, about an evidence base for the decision-making that was involved in making public interest assessments. Is that right?

A. I agree.

MR JAY: Maybe we can take this out of sequence, if you don't mind, Lord Hunt. Ensuring that the code, as an organic series of principles and rules, is kept responsive to public concerns, how would you recommend that that is achieved?

A. I think it is part and parcel of the way in which I've been looking ahead. I'm trying not to look back too much, because I think there's too much history here, although I felt Stephen Abell gave us a lot of lessons that can be learned from the past, as he outlined the way forward. But certainly there is a need for a separate standards arm alongside the complaints and mediation arm, and there should be scope for perhaps a third arm. No doubt we'll return to that point.

But this new structure, I think, is sorely needed, and I've come to the conclusion that we do urgently need a fresh start and a totally new body with substantially increased powers to audit and enforce compliance with the code, to require access to documents, to summon witnesses, when necessary, and also to impose fines, all backed by commercial contracts.

Q. We'll come to that very shortly. The other plus points you wish to draw our attention to in your witness statement: paragraph 13, the issue of harassment, and paragraph 14, the issue of pre-publication advice.

You mention problems with the paparazzi in paragraph 13. If it were made clear that the newspaper publishing a photograph would be responsible for the photo in all its attributes, really, including the mode of obtaining of the photograph, then how the paparazzo himself or herself had obtained it would be subsumed to the newspaper, wouldn't it?

A. Yes. So that's the way you control the product, but if I might add, I think there's also a place for considering whether we shouldn't have voluntary self-regulation by the photographic agencies as well, because we have to bear in mind a number of the photographers are not necessarily anything other than freelance. Quite often, I understand, they're from other countries and publication occurs in other countries but the power of our press ensures that they don't appear in the UK, unless certain clearly defined objectives are met.

LORD JUSTICE LEVESON: Making the editor responsible for everything that's in his paper or her paper, whether it's a photograph that had been taken in breach of privacy rights or information that's been obtained through a private investigator acting in breach of the Data Protection Act, will make the editor or his team careful about what information they use and how they obtain it, presumably.

A. Yes. Yes. This is really self-regulation at its very best.

MR JAY: The weaknesses of the current system. Some of them you've already touched on, Lord Hunt. The absence of formal legal powers as manifested in the phone-hacking investigation, the inability to check basic facts, et cetera.

Secondly, the voluntary nature of the system, which means that anybody could pull out, as indeed Northern & Shell have done.

And the third point, paragraph 19, the way compliance and internal mechanisms work within newspapers and magazines. Can I ask you, please, to elaborate the points you make under paragraph 19, please?

A. Yes, well, here I would argue a natural and obvious feature of any effective system of self-regulation is to...
ensure that the internal compliance and complaints mechanisms within a paper operate and operate properly.

Q. Yes.

A. The complaints and mediation arm should always be the last resort when the individual has not had proper satisfaction direct.

Q. Is it implicit in paragraph 19 that you feel that, at least in certain newspaper organisations, what we have chosen to call corporate governance has been less than satisfactory?

A. I think, looking -- I'm anxious not to be an apologist for the past, but looking back, I'm constantly reminded of the judgment in the Barings case, that the admiral on the bridge should know, surely, what is happening in the engine room, and there has been a feeling that perhaps at the most senior level in a number of publications, proprietorship, that insufficient knowledge and responsibility has been taken, but there's been insufficient knowledge of what was going on throughout the organisation.

LORD JUSTICE LEVESON: It's a rather stronger case than Barings, because in Barings it was the work of a scientist called Dr Wong in Singapore who wasn't identified in London.

A. Yes, yes, I agree.

MR JAY: Thank you. We look now to the future. This is paragraph 21 and following, Lord Hunt, of your statement. Can we just understand, please, what has been happening, as it were, behind the scenes. You refer to a meeting which took place on 15 December of last year, and this included editors, publishers and senior industry figures. Presumably a meeting which you chaired; is that right? Or did PressBoF chair it?

A. Well, it was a meeting at which I presented what I must confess are my proposals. When I was interviewed for the job, I remember I was closely questioned on the approach I would take, and I did say that I felt I could only really advise properly on what should be the right way forward if I had a blank piece of paper to start off with, and I found that that met with some degree of support and respect.

Since I originally was interviewed, I have been consulting as widely as I possibly could, and I was encouraged, particularly bearing in mind the words used in this Inquiry, about coming forward with proposals, at least to share with the editors the way in which I saw the future, and a meeting was called where -- I think it was around about 50 editors, including all the most senior editors, including several proprietors, including the four -- or was it even five, with OK magazine,

MR JAY: Lord Hunt, in terms of the proposals which you outline in your witness statement, you make it clear that these are very broad interim conclusions which

and privacy issues in a different environment to that which, at the moment, applies.

LORD JUSTICE LEVESON: I'm sorry, I don't quite understand that. Does that mean that there is an appetite to include within the bill that's had pre-legislative scrutiny some other provisions?

A. Yes. But they're not that different. If one looks carefully through Lord Mawhinney's report on the draft defamation bill, there is a belief that building on the Irish Press Council reference in the Irish legislation being included in the defamation bill, but that will be much later this year, after, sir, you have Reynolds defence might be a very interesting way forward.

LORD JUSTICE LEVESON: Well --

A. And Lord Lester of Herne Hill has already shared with many colleagues his wish to see something modelled on the Irish Press Council reference in the Irish legislation being included in the defamation bill, but that will be much later this year, after, sir, you have reported.

LORD JUSTICE LEVESON: Well, that's the point. I'd be very keen to learn about that and the ideas that Lord Lester and indeed anybody else has, as indeed I've made clear I'm very keen to hear from you. Well ...
<table>
<thead>
<tr>
<th>Page 77</th>
<th>Page 78</th>
<th>Page 79</th>
</tr>
</thead>
<tbody>
<tr>
<td>need, perhaps, to be stress-tested and subject to further discussion. Can we identify the key features? You say quite clearly that the existing PCC structure is not viable and needs to be replaced, that there can be no question of tinkering at the edges. In terms of what the body would look like, putting to one side the source of its powers, you, I think, have at least two arms; is that correct? A. Yes. Q. Could you explain that to us, please, Lord Hunt? A. Well, I think we've heard evidence identifying certain weaknesses with the present -- the current system of self-regulation. The proposal is that the new regulator should have two arms, one that deals with complaints and mediation, continuing the valuable work that's been going on hitherto at the -- by the staff of the PCC, and one -- a separate arm that audits and, where necessary, enforces standards and compliance, compliance with the Editors' Code, with much greater emphasis on internal self-regulation, with a named individual carrying personal responsibility for compliance at each and every one of the publishers and those responsible for newspapers and magazines. The individual will be responsible for providing annual basis, and as you've just mentioned, that will be underpinned by a system of commercial contract. Q. Is it right, therefore, that the Code of Practice Committee would disappear and become part of the compliance and standards arm of the PCC? Have I correctly understood that? A. I think the design that I have worked up, as you rightly say, is a matter for further discussion. I do make clear: these are my proposals, but I have done my best to consult widely within the industry, with other stakeholders, including many colleagues in Parliament, and they have now been endorsed both by the Press Complaints Commission and by the industry itself at that meeting we had on 15 December, and I think it's very encouraging that there is such a wide consensus for radical reform. The very existence of this Inquiry has, I think, been the key important factor in ensuring that all the major players in the industry now accept that radical reform is an urgent necessity. Q. Yes. I'm just concerned about the code of practice. On my understanding of your evidence, it's likely to be located within the compliance and standards arm, but in terms of how the code would reflect public concern, public perception, et cetera, is it being proposed that there be lay representation on the committee or the compliance arm which would have responsibility for the code of practice? A. Yes, and that there should also be a review -- an independent review of the code. This is all part and parcel of the overall proposals, which I have summarised in a two-page document which I have circulated to each of the editors who attended that meeting, and on which I'm now getting a number of very helpful and positive responses. Q. In terms of identifying the source of power -- this is your third bullet point at page 54998 -- you make it clear that there does need to be a formal legal underpinning of the system. Is that because, Lord Hunt, if you have a body which can impose fines, which can require editors to provide documents and have other coercive powers, there needs to be some legal framework, otherwise there is no means of achieving compliance? Is that correct? A. Yes. It's not a new idea. One leading Queen's Counsel pointed out to me that Lord Shawcross had raised the whole question of there being contractual underpinning of the self-regulatory system in his Royal Commission report. Q. Yes. So --</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>13</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>17</td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>21</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>22</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>23</td>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>24</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
</tbody>
</table>

Day 34 - PM Leveson Inquiry 31 January 2012

Merrill Legal Solutions casemanagers@merrillcorp.com 8th Floor 165 Fleet Street London EC4A 2DY

(+44) 207 404 1400
A. Yes.

Q. His preference, as you say, was for a statutory regime.

In terms of the vice which you're seeking to avoid,
which is an unacceptable impingement of on freedoms,
paragraph 3 of your witness statement, what is the
difference between Sir David Calcutt's statutory regime,
with the powers we see itemised here in paragraph 9 of
the second report, and the contractual regime which you
favour?

A. The difference is statute. What I'm doing is to set out
what Sir David concluded in his first report, and where
he had been dissatisfied with the response that he had
received, which had then led him to believe the only way
forward was through statute.

I'm seeking to lift what he would have wanted into
today's age, and I think it is perfectly achievable.

The environment of the time, though, was that it was not
possible for the press to come forward with such
a self-regulatory regime. And please, Mr Jay, bear in

mind that I was part of those discussions which took
place, under colleagues in cabinet, to try and persuade
the new Commission, the Press Complaints Commission, to
move in the direction that is laid out here, and I think
there were a whole series of letters, no doubt which
will be revealed when at last we are allowed to see all
the internal letters and correspondence of the
administration, which -- I'm reminded that there were
challenges given to the press to do exactly what is now
set out in my statement, but they did not respond
positively.

I sense today there's a completely different
appetite for fundamental reform, and I'm anxious that we
should utilise this window of opportunity as quickly as
possible, to proceed in the way Sir David wanted and
I think the overwhelming majority of people now want,
which is proper, independent self-regulation of the
press.

Q. Of course, under your contractual system, you would
have, I think we would all agree, a regulator, properly
so-called. Would it be self-regulation, though,
Lord Hunt?

A. Yes.

Q. Can I just understand what the possible difficulties
might be. I'm only putting these forward as possible
difficulties. Getting people to sign up on the dotted
line, Lord Hunt. We've called this the carrot or the
stick. It matters not --

A. Or both.

LORD JUSTICE LEVESON: That's neither a carrot nor a stick;
it's just getting them to sign up.

A. Yes, I agree. The contracts would arm the new regulator
with the necessary is investigative and enforcement
powers to investigate serious ethical breaches, which
the PCC has never possessed. And if I may add this --

MR JAY: Yes.

A. I think the PCC has been very unfairly criticised for
failing to exercise powers which it never had in the
first place.

LORD JUSTICE LEVESON: Well, it did have certain powers,
didn't it? We looked at them yesterday, in the articles
of association. They could have done a lot more.

A. Yes, I --

LORD JUSTICE LEVESON: I'm not taking this as an opportunity
to have a go at the PCC, but looking at some of the
powers in the articles of association, they could easily
have been construed to permit a great deal more. They
may not have been able to afford to do it. That's
a different point.

A. Sir, I'm not sure it is a question of resources. There

was a reliance on correspondence, without the feeling
that there was power to demand the attendance of
witnesses, power to visit the premises under
investigation, to carry out proper, in-depth analysis of
the documentation, the emails, the computer records. It
would require a team and undoubtedly the new regulator
would have that power. I'm determined that it should.

I hope it would never have to be exercised, but it would
have that power.

All I'm saying is that this is in stark contrast to
the PCC, which certainly never felt it had that power,
and it would require an imaginative interpretation of
the articles to feel that it did.

MR JAY: Well --

A. And it never felt it had that power.

LORD JUSTICE LEVESON: Well --

MR JAY: Well, Lord Hunt, it's perhaps not necessary to go
there and try and construe article 53.1(a) again, but
what I'm concerned really is to address the future.

There are at least three issues I'd like to discuss.
It's getting people to the starting block issue and
forcing them into this system, which is the web of
contractual relationships. I think you would agree that
if there is a substantial newspaper group which is
outside the system, that damages the credibility of the
new body, whatever name it's given; is that correct?
A. Correct.
Q. So how are we going to get people to join up, Lord Hunt?
A. By asking them, and everyone I've asked so far, covering virtually the whole range of publications, have said that they are willing to agree to proceed in the way I have set out.
Q. That includes Northern & Shell, presumably, does it?
A. Correct.
Q. Have you made it clear to Northern & Shell what all the characteristics and attributes of this new body will be?
A. I have shared with them as much as I have shared with everyone else.
Q. Is this right: that you are relying on the good faith, the goodwill of all the potential participants, to arrive at the signing ceremony on day one and participate; is that correct?
A. Correct.
Q. Is there any additional incentive which one could put forward or suggest which might make it even more attractive for people to sign up?
A. Yes. The general counsel, who advise each of the publications, and found that there was agreement around the table that it was perfectly possible to reach agreement. The abiding theme was that it should be simple, short, easy to understand, and that one could foresee exactly the sort of structure that I had in mind.
In many ways I've approached this as I would a client who comes with a problem, the problem being the present structure does not work. The solution, which lawyers seek to find, is an answer which will provide the best structure, and I think with the help of all those involved, it will be possible.
Q. Okay. On my understanding, the proposal entails a five-year rolling contract. Presumably anybody who wanted out would have to give five years' notice; is that correct?
A. Yes. My error is that I'm always approaching it in a positive way, but you're quite right. I have to think of the consequences of anyone who, two years further down the road, might find that they could no longer support the structure, and I've been advised by those I've consulted that the best way forward is to have a rolling contract over a five-year period.
The sword of Damocles hanging over the whole industry is, of course, the threat of state regulation. If someone just unilaterally withdrew, for whatever reason, a five-year period would be more than enough time to provide the statutory underpinning that would be necessary if you could never achieve consensus, but at the present time, I'm seeking to put as positive a construction on the discussions I've had as possible.

LORD JUSTICE LEVESON: That's entirely understandable, Lord Hunt. You'll forgive me if I view the problem through a rather wider spectrum of history, as well as having the anxiety that you identify. As I again have said a number of times, it is rather disturbing the number of times since the last war that we've been in a position are great calamity for the press, there has been an Inquiry, everybody agrees something must happen that is different, that is taken on board -- you don't need me to carry on.
A. (Shakes head)

LORD JUSTICE LEVESON: Then disaster happens and everybody starts again.
A. Sir, I think the difference, if there is sufficient agreement to move forward now, is that there would, at least, be a contract. I think there were some people who felt there was almost an implied contract setting up the Press Complaints Commission, but there wasn't. Perhaps if we'd followed the Shawcross advice, there would have been, but there wasn't.
I suppose in many ways -- am I wrong in thinking the solution now is to learn the lessons of history and make sure that there is a proper contract in place?
LORD JUSTICE LEVESON: Well, make sure there is something in place. What you have added to the equation by your evidence, which I frankly concede has taken me somewhat by surprise, is the appetite that you have identified in your parliamentary colleagues to take the opportunity to impose restrictions upon the press which are inconsistent with freedom of expression. That's what you've given me this afternoon. Have I understood it correctly?
A. Sir, there have been a number of occasions on which private members have put forward private members' bills. If one looks at those bills, they would have imposed restrictions on freedom of expression.
Now, Lord Soley, who I think has now written a book about it -- and I've consulted Clive Soley -- he has very strong views about the need for some mechanism of that sort, and there are many others, too. I don't think their prime intention is to restrict freedom of expression, but in my view it would be a consequence.
LORD JUSTICE LEVESON: Mm.
MR JAY: Okay, Lord Hunt. May I deal with the contract?
Imagine everybody is in the contract, either because they're willing to sign up or some carrot has been...
Day 34 - PM Leveson Inquiry 31 January 2012

Q. Imagine then this scenario: the proprietor is now
performance would be ordered by the High Court?
that if there is no difficulty, an order for specific
the right way, is it your advice, from Queen's Counsel,
Q. Naturally it would, but if the contract were worded in
contract.
It would also depend very much on the wording of the
for the judiciary presented with such an application.
A. Yes.  I'm told that it would be available, but that is
for the judiciary presented with such an application.
It would also depend very much on the wording of the
contract.
A. Yes.  I'm told that it would be available, but that is
for the judiciary presented with such an application.
Q. The proprietor doesn't pay.  Is it your advice that
successor body against the recalcitrant
newspaper body; is that correct?
A. Well, the fine would be issued by the standards and
compliance arm of the new regulator only if there was
a serious or systemic breach of standards.  The level of
fine, would, of course, be proportionate and would
depend on a number of factors such as the seriousness of
the breach and the size of the organisation.
One way of doing that would be for the fine to be
added to the paper's levy for the following year's
membership.  That was an idea put forward in one of the
meetings I've held.
There is, though, I stress again, an appetite to
proceed with this form of self-regulation, which
I warmly applaud, and I do think -- and perhaps I should
keep stressing this -- I think this Inquiry has opened
up a huge opportunity and I'm keen to use the momentum
that this Inquiry has provided to press on with reform.
MR JAY:  Some might say -- but I suppose that person would
up a huge opportunity and I'm keen to use the momentum
that this Inquiry has provided to press on with reform.
A. No, I don't think it does, because there is goodwill, at
the moment, amongst all those to whom I've spoken, to
set up such a system.  The important thing is to make
sure that the terms on which the new regulator is
established are sufficiently wide to meet the range of
problems, some of which you've outlined, and there are
many others, too, which we would have to make sure were
covered.
Q. Finally, slightly more of a condite(?) point on judicial
review, because the previous witness mentioned it.
Presumably your advice is that if there were a web of
contractual relationships binding newspaper groups to
this new regulator, this new regulator would clearly be
subject to judicial review, wouldn't it?
A. Judicial review has become now so commonplace.  I've had
so many of my decisions as a minister challenged under
judicial review in a way that would never have taken
place many years ago.  So I think almost certainly yes,
but whether or not the decision would be to intervene in
the rules of a self-regulatory body, that's still really
something which is uncertain.
Q.  I would agree with that, but I'm dealing more with
points of principle.  My understanding of the law in
quite old Court of Appeal decisions is that
a contractual regulator would be amenable to judicial
review.  I think it's a decision of Lord Donaldson in
a case called Datafin.  It may well be the case, but I'd
like to think about this further, that the PCC is
already amenable to judicial review, even without
a contract, but it's not necessary to express
a concluded view on that.

It deals with an objection Lord Grade raised to statutory regulation, that there is no difference, for judicial review purposes, between a statutory regulator and a contractual regulator, is there?

A. Well, I thought I'd argued successfully on two occasions, on behalf of an association of members creating a body, that it was not capable of judicial review, because it wasn't contained in statute. I think I probably need to reflect on the stare decisis around this issue. Please don't rely on me to give definitive advice. I think I'd probably come to you for that.

Q. Yes, and I would ask for a bit of time to ponder the jurisprudence you refer to, and I haven't had the time in the last three or four days to do that, Lord Hunt.

Can I come back to statutory regulation? I can see the philosophical objection you put forward, and I can see that you're coming to us with, if I may say so, lengthy experience of Parliament, both in the House of Commons and the House of Lords, and you fear that some of your colleagues may take this opportunity to settle old scores but in any event seek to muzzle or curbed the press because that would be their agenda.

Subject to that concern, is there, between the contractual system and the House of Lords, and you fear that some of your colleagues may take this opportunity to settle old scores but in any event seek to muzzle or curbed the press because that would be their agenda.

Page 93

which are you advocating and a system which has a statutory underpinning but otherwise has exactly the same powers as the system you're advocating; would you agree?

A. I think I'd rather want to reword your question.

Q. Fair enough.

A. But I'm not allowed to do that.

Q. You can, Lord Hunt. I'm going to permit you to do that.

A. But what I think is that Parliament, when it is presented with a bill, believes there to be a problem which it is necessary to solve. Now, the government may present it in a limited way, but Parliament has the right to proceed in the way that it thinks fit, and I think on an issue like this, there would be widespread belief that there would be a better way through a different form of regulation.

Self-regulation, though, has a huge advantage, in that it is capable of change, adapting to circumstances. Changing the code, improving the code, strengthening the code, strengthening the system in a new way, particularly faced with online publications, the need to extend the sphere. That is perfectly possible without another bill, another Act of Parliament. As soon as you get into statute, you're into an inflexible system. I think self-regulation is so much the better because it can adapt to the challenge of change.

Q. But even with your contractual system, in order to adapt to the challenge of change, you would have to amend the contract, wouldn't you?

A. Not necessarily, because you, I hope, are going to empower a new regulator with two columns: standards and compliance, and complaints and mediation. I would want to see the contract allow for a further arm, if it is right to proceed down that road, but back to the new regulator. The contract would give the new regulator power to adapt to the challenge of change. That is the key. So you wouldn't need a new Act of Parliament; you would need the new body to feel that it had to proceed in that direction within the powers given to it by the contract.

Q. Yes, but an Act of Parliament which was not prescriptive in the sense of the standards which were to be imposed, moreover did seek to enshrine certain constitutional principles in relation to the freedom of the press -- that Act of Parliament and the regulatory body which would spring from it would, it might be argued, be exactly as flexible and exactly as independent as the contractual mechanism that you are advocating, isn't that right?

Page 95

A. Well, over the years I've seen so much legislation that has been introduced into Parliament, needed amendment in both houses, last-minute amendments, and then, after the legislation has passed and become an Act, received royal assent. Suddenly problems arise which were not covered by the legislation. New situations arise.

What I'm seeking through self-regulation is to establish a structure that can easily, easily, be agreement and by consensus, be established and be adapted to the changing environment. I think that's the great advantage. It may work. I believe it will work. But if it didn't work, yes, you can always go back to the --

Q. Sword of Damocles.

A. -- the sword of Damocles and establish a statutory framework. But the press already operate within a huge statutory back-up system.

Q. Yes, I understand. It's the same sword of Damocles, though, that Sir David Calcutt left hanging over the press in 1993, isn't it?

A. Yes, but I think in many ways the structure that I am hoping to establish would meet his wishes and expectations, which at the time -- I do know for a fact he was very, very disappointed that there wasn't such a positive reaction then, but I believe we have that
<table>
<thead>
<tr>
<th>Page 97</th>
<th>Page 98</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. positive reaction now.</td>
<td>1. the PCC has been rather dominated by Conservative peers.</td>
</tr>
<tr>
<td>2. LORD JUSTICE LEVESON: Is this time-limited, Lord Hunt?</td>
<td>2. That remains the position. It remains the position in relation to PressBoF. Is that an accident? Does anything flow from that, Lord Black? Lord Hunt, pardon me.</td>
</tr>
<tr>
<td>3. There is actually a second sword of Damocles here, not merely the possibility of doing something in the future, but: &quot;Unless we get this signed up quite quickly, then this fellow called Leveson is going to come and make it much worse for us&quot;? I don't have that power, actually, because I would only make recommendations in any event, but is there something to that effect about this, too?</td>
<td>4. A. I'm just absorbing your Freudian slip.</td>
</tr>
<tr>
<td>5. A. No. I think you have opened the window of opportunity, sir. I'd be keen to use the momentum that your Inquiry has provided to press on with reform.</td>
<td>5. May I just say that I hope my experience with the press is not guiding me here, because it would be in the opposite direction to that which you've set out.</td>
</tr>
<tr>
<td>6. LORD JUSTICE LEVESON: Yes, well, I entirely agree with that, and as I have, I think, already said to you this afternoon, suggested just that possibility as long ago as last September/October. So I am not at all concerned -- in fact, I positively encourage the work which you and those who are supporting you have done to try to find a way through, but I have some concerns, which I would like to be thought about as well. But I'll wait until Mr Jay concludes.</td>
<td>7. I don't think there is anyone who's appeared as a witness before you who has had the sort of vilification I have had in the press in the past.</td>
</tr>
<tr>
<td>8. MR JAY: Two final questions, Lord Hunt. It goes without saying -- but this would be true of contractual system and a statutory system -- that more money would be needed, wouldn't it, to enable the new regulator or the renamed regulator to discharge its functions? That's right, isn't it?</td>
<td>10. I think it was Edward Pierce who wrote that magnificent article which my children so love: &quot;David Hunt is a sponge, but even a sponge can be useful.&quot; And I just give you that as one example. I have had more than my fair share of derision from the press, but my goodness, although I disagree with them, I'd fight to the death for their right to express those views. That's always been my view.</td>
</tr>
<tr>
<td>9. A. Thank you.</td>
<td>12. I can't get too deep about this, but in the early part of my career, it was certain newspapers who supported me when I was in my early 20s, when I attacked Enoch Powell on the issue of race and got sacked by my local constituency with my parliamentary career at an end, and it was one newspaper in particular who said -- and wrote an editorial, which was quite brave and courageous of them at the time, saying, &quot;This young man will go far. He need not worry.&quot;</td>
</tr>
<tr>
<td>10. LORD JUSTICE LEVESON: Let me just become slightly less over-arching. A contract may bind the press, but is there anything flow from that, Lord Black? Lord Hunt, pardon me.</td>
<td>11. Well, I was very worried, but not after I read that editorial. So I think the press is a mixture, I suppose, but the fact it's a free press is probably our nation's greatest asset.</td>
</tr>
<tr>
<td>11. A. Thank you.</td>
<td>12. MR JAY: Okay, well, forgive me for asking the question. I'm grateful for your answer, Lord Hunt. Thank you.</td>
</tr>
<tr>
<td>12. MR JAY: Okay, well, forgive me for asking the question.</td>
<td>13. A. Thank you.</td>
</tr>
<tr>
<td>13. LORD JUSTICE LEVESON: Let me just become slightly less over-arching. A contract may bind the press institutions that enter into the contract but says absolutely nothing to the public. So how do you see the concept of your ability, for example, to award compensation as fitting with the right of a member of the public to pursue litigation?</td>
<td>14. A. I think it was Edward Pierce who wrote that magnificent article which my children so love: &quot;David Hunt is a sponge, but even a sponge can be useful.&quot; And I just give you that as one example. I have had more than my fair share of derision from the press, but my goodness, although I disagree with them, I'd fight to the death for their right to express those views. That's always been my view.</td>
</tr>
<tr>
<td>14. LORD JUSTICE LEVESON: That's the point.</td>
<td>15. I can't get too deep about this, but in the early part of my career, it was certain newspapers who supported me when I was in my early 20s, when I attacked Enoch Powell on the issue of race and got sacked by my local constituency with my parliamentary career at an end, and it was one newspaper in particular who said -- and wrote an editorial, which was quite brave and courageous of them at the time, saying, &quot;This young man will go far. He need not worry.&quot;</td>
</tr>
<tr>
<td>15. A. But --</td>
<td>16. A. Thank you.</td>
</tr>
<tr>
<td>16. LORD JUSTICE LEVESON: Unless you got a system that is Article 6-compliant.</td>
<td>17. MR JAY: Okay, well, forgive me for asking the question. I'm grateful for your answer, Lord Hunt. Thank you.</td>
</tr>
<tr>
<td>17. A. Yes, and I carry with me everywhere the Human Rights Act</td>
<td>18. A. Thank you.</td>
</tr>
<tr>
<td>18. Article 6-compliant.</td>
<td>19. LORD JUSTICE LEVESON: Let me just become slightly less over-arching. A contract may bind the press institutions that enter into the contract but says absolutely nothing to the public. So how do you see the concept of your ability, for example, to award compensation as fitting with the right of a member of the public to pursue litigation?</td>
</tr>
<tr>
<td>19. A. It would not be possible under the Human Rights Act to debar someone.</td>
<td>21. LORD JUSTICE LEVESON: That's the point.</td>
</tr>
<tr>
<td>20. LORD JUSTICE LEVESON: Unless you got a system that is Article 6-compliant.</td>
<td>22. A. But --</td>
</tr>
<tr>
<td>21. A. But --</td>
<td>23. LORD JUSTICE LEVESON: That's the point.</td>
</tr>
<tr>
<td>22. A. But --</td>
<td>24. LORD JUSTICE LEVESON: Unless you got a system that is Article 6-compliant.</td>
</tr>
<tr>
<td>23. LORD JUSTICE LEVESON: Unless you got a system that is Article 6-compliant.</td>
<td>25. A. Yes, and I carry with me everywhere the Human Rights Act</td>
</tr>
</tbody>
</table>
Day 34 - PM  Leveson Inquiry  31 January 2012

1. because it is so critical and crucial here.
2. How the public interest would be dealt with -- the entire system would have to be founded on a generally accepted definition of the public interest. The entire system has to be based on that, embodied in the contracts and in the code. That's the only way forward. It has to be a system judged against everything that's happened in the past. Would it have stopped these situations arising? That's been in the forefront of my mind. What could this new regulator be done to have stopped some of the evil practices which we've heard about and which this Inquiry has highlighted?

3. LORD JUSTICE LEVESON: So it wouldn't stop a member of the public pursuing litigation. What do you say to the line that you have to choose? "Either you come to the PCC mark 1 or you had go to court. You can't do both."

4. A. Two responses. The financial services ombudsman says if you come to the ombudsman, then you are not bound by our decision but the company that you're complaining against is. So you could have a system where the press are bound by the decision, but the member of the public --

5. LORD JUSTICE LEVESON: You certainly could, but I don't know whether your thinking has progressed that far with your constituency.

6. A. I sense that this is a real opportunity for the third column. I would want the complaints and mediation arm to be fast, fair and free, so that people get immediate response where they have failed to get that response from the newspaper or magazine.

7. The third column, I think, is the area which everyone has wrestled with, and I've tried to do the same. I haven't reached any conclusions, and I'm listening very carefully, sir, to the evidence at this Inquiry. I sense there must be a better way of mediating, of dealing with complaints, of awarding compensation, but I can't quite see my way through there yet, and I think if you were able to highlight the right way forward here, I would certainly want the contracts to be able to absorb such a third column, if that were your conclusion.

8. LORD JUSTICE LEVESON: Well, you've heard me ask a number of witnesses about this three-tiered approach: complaints, standards and some form of arbitral system. But the difficulty with your contractual approach will be to rob the system of the opportunity of requiring some form of straightforward arbitration.

9. I particularly raised this with Lionel Barber, the editor of the Financial Times, who was at the time expressing concern about the ability of the extremely wealthy effectively to overwhelm even the Financial Times with the risk of litigation that would be inordinately expensive, and the concern about making it entirely contractually based is that the extremely wealthy could not be compelled to go down that route but would be able to pursue whatever remedy it sought, unless there was some form of arbitral system that was Article 6-compliant but that didn't give the opportunity simply to avoid it.

10. A. Sir, I think this is such an important area. I don't have an easy and quick reply but I have spent some time looking through the Defamation Act 2009, the Irish Defamation Act.

11. LORD JUSTICE LEVESON: Yes, I was about to say I didn't think we had one.

12. A. No, we shall have Defamation Act 2012.

13. Section 26 says -- actually lays a statutory test on the extent to which the publisher of the periodical adhered to standards equivalent to the standards laid down in effect by the Irish Press Council.

14. So when such a case reached the courts, in considering it, the judiciary would want to be assured that the individual concerned had utilised the services of the complaints and mediation service.

15. LORD JUSTICE LEVESON: That's fine, but that does actually mean, doesn't it, that this body is going to have to be recognised in some way in statutory form.

16. A. But the press is already -- section 12, freedom of expression.

17. LORD JUSTICE LEVESON: Well --

18. A. It's already -- in this essential law for journalists -- I'm amazed that journalists feel free, because there is so much restriction in the criminal law and the civil law already in place. What we're talking about is just adding on to that, not creating a statutory regulator.

19. LORD JUSTICE LEVESON: I understand that, and I am just trying to test it, because one of the carrots that I've spoken about is the ability, in a Reynolds-type defence, to rely upon membership of and compliance with the rules set out by a regulator, but that would then require a definition of the regulator to be contained within the statutory framework, would it not?

20. A. Yes.

21. LORD JUSTICE LEVESON: The advantage of a contract is that ultimately a particular media organisation may or may not sign up. There is the ability, ultimately, to withdraw, however couched --

22. A. Yes.

23. LORD JUSTICE LEVESON: -- with restrictions that is. If one created an Irish-type model that recognised a regulator that did certain things, you could provide that it had

<table>
<thead>
<tr>
<th>Page 101</th>
<th>Times with the risk of litigation that would be inordinately expensive, and the concern about making it entirely contractually based is that the extremely wealthy could not be compelled to go down that route but would be able to pursue whatever remedy it sought, unless there was some form of arbitral system that was Article 6-compliant but that didn't give the opportunity simply to avoid it.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page 102</td>
<td>A. I sense that this is a real opportunity for the third column. I would want the complaints and mediation arm to be fast, fair and free, so that people get immediate response where they have failed to get that response from the newspaper or magazine.</td>
</tr>
<tr>
<td>Page 103</td>
<td>LORD JUSTICE LEVESON: Yes, I was about to say I didn't think we had one. LORD JUSTICE LEVESON: Yes, I was about to say I didn't think we had one.</td>
</tr>
<tr>
<td>Page 105</td>
<td>Page 106</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>to be set up so that it was independent, that it --</td>
<td>the further developments that you have agreed or that</td>
</tr>
<tr>
<td>2 A. Yes.</td>
<td>2 you're able to pursue, in order the better to inform my</td>
</tr>
<tr>
<td>3 LORD JUSTICE LEVESON: -- provided certain remedies, which</td>
<td>3 consideration of the future.</td>
</tr>
<tr>
<td>4 I think the Irish model does.</td>
<td>4 A. (Nods head)</td>
</tr>
<tr>
<td>5 A. Yes.</td>
<td>5 LORD JUSTICE LEVESON: In other words, to such extent as you</td>
</tr>
<tr>
<td>6 LORD JUSTICE LEVESON: Then presumably it would be</td>
<td>6 can use -- I won't say the sword, that puts it far too</td>
</tr>
<tr>
<td>7 sufficient for the legislation to identify the model and</td>
<td>7 high -- the small dagger that I hold, knowing of the</td>
</tr>
<tr>
<td>8 to leave the regulator to get on with the task of</td>
<td>8 concerns that I have and the principles that I have</td>
</tr>
<tr>
<td>9 organising codes, practices and the rest of it.</td>
<td>9 hinted at -- more than hinted at, made clear that I feel</td>
</tr>
<tr>
<td>10 Now, on that basis, would it not also be</td>
<td>10 strongly about -- then I have no difficulty with that.</td>
</tr>
<tr>
<td>11 advantageous to allow that regulator to set up an</td>
<td>11 A. (Nods head)</td>
</tr>
<tr>
<td>12 arbitral system, which, if not mandated, could be,</td>
<td>12 LORD JUSTICE LEVESON: I think that's probably as far as we</td>
</tr>
<tr>
<td>13 rather as you've identified the Irish model does,</td>
<td>13 can go this afternoon.</td>
</tr>
<tr>
<td>14 directive of those who wish to complain?</td>
<td>14 A. Yes, sir. I very much welcome your words. I think --</td>
</tr>
<tr>
<td>15 A. Yes. It's -- it is, of course, in the reference that</td>
<td>15 I think you, in this Inquiry, have highlighted really</td>
</tr>
<tr>
<td>16 I've made to the Irish Press Council, only within the</td>
<td>16 what has been a great shame in the past: bad journalism.</td>
</tr>
<tr>
<td>17 Defamation Act 2009. There is no other sort of</td>
<td>17 But the overwhelming majority of journalists I know just</td>
</tr>
<tr>
<td>18 statutory, regulatory structure laid out in any other</td>
<td>18 wish we could eradicate what goes on at that level, and</td>
</tr>
<tr>
<td>19 Irish Act, as I understand it. I'm exploring this</td>
<td>19 what I'm really talking about -- what I've sensed in all</td>
</tr>
<tr>
<td>20 further at the present time.</td>
<td>20 my discussions is that there is a willingness to embrace</td>
</tr>
<tr>
<td>21 But you are quite right, because in schedule 2 it</td>
<td>21 a profound and positive change in culture running right</td>
</tr>
<tr>
<td>22 sets out minimum requirements in respect of the Press</td>
<td>22 across the whole industry, and you are giving us an</td>
</tr>
<tr>
<td>23 Council, and it may well be this third column would need</td>
<td>23 unrivalled opportunity to meet the need that is so</td>
</tr>
<tr>
<td>24 to satisfy those minimum requirements. But it doesn't</td>
<td>24 pressing.</td>
</tr>
<tr>
<td>25 in any way mean we will have to wait, because there is</td>
<td>25 LORD JUSTICE LEVESON: Lord Hunt, I hope that is so. I have</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Page 107</th>
</tr>
</thead>
<tbody>
<tr>
<td>already, I would regard, an unprecedented consensus in</td>
</tr>
<tr>
<td>favour of the proposed new architecture uniting the</td>
</tr>
<tr>
<td>political parties, my colleagues on the PCC and, most</td>
</tr>
<tr>
<td>important of all, the industry itself. That's why</td>
</tr>
<tr>
<td>I think we have a unique historic opportunity.</td>
</tr>
<tr>
<td>Once we've established this new structure, we can</td>
</tr>
<tr>
<td>build on it. We can gain the respect of the public</td>
</tr>
<tr>
<td>through the exercise, for the first time ever, of proper</td>
</tr>
<tr>
<td>regulatory functions with the power to investigate,</td>
</tr>
<tr>
<td>et cetera, and I think this could set a precedent for</td>
</tr>
<tr>
<td>a future course of action on which -- you may well, sir,</td>
</tr>
<tr>
<td>have some vitally important views on how we could build</td>
</tr>
<tr>
<td>on this structure, but we need a structure on which to</td>
</tr>
<tr>
<td>build which does not rely on the Press Regulation Act.</td>
</tr>
<tr>
<td>LORD JUSTICE LEVESON: Yes, I understand that, clearly, and</td>
</tr>
<tr>
<td>you have clearly in mind also the need to satisfy the</td>
</tr>
<tr>
<td>public concern that has been expressed so vocally to me</td>
</tr>
<tr>
<td>and indeed otherwise.</td>
</tr>
<tr>
<td>We're not going to solve this this afternoon, but</td>
</tr>
<tr>
<td>what I am very keen that you should do is to keep the</td>
</tr>
<tr>
<td>Inquiry informed about the progress that you are making</td>
</tr>
<tr>
<td>and where the sticking points are, if there are any, and</td>
</tr>
<tr>
<td>to maintain the momentum that you feel you can maintain</td>
</tr>
<tr>
<td>on the basis that you should expect that I may very well</td>
</tr>
<tr>
<td>request that you return to allow into the public domain</td>
</tr>
</tbody>
</table>

27 (Pages 105 to 108)
LORD JUSTICE LEVESON: Well, that's easy to say; not necessarily straightforward to achieve.

A. Thank you.

MR JAY: Thank you.

LORD JUSTICE LEVESON: Lord Hunt, thank you very much indeed.

A. Thank you.

MR JAY: May I raise a tiny different topic before you rise?

LORD JUSTICE LEVESON: Yes.

MR JAY: Evidence of Mr Thomas last week. He wishes to make some very minor corrections and clarifications.

A letter of 24 January will therefore be put on the website in the usual way, setting out those matters.

LORD JUSTICE LEVESON: Yes, I've read the letter. I agree with that approach.

Thank you very much indeed. Tomorrow morning, 10 o'clock.

(5.04 pm)

(The hearing adjourned until 10 o'clock the following day)
Day 34 - PM Leveson Inquiry 31 January 2012

Page 115
Day 34 - PM 
Leveson Inquiry
31 January 2012
Page 117