

PROCEEDINGS - DAY TWELVE

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Day 12 Monday, 31st January 2000.

MR JUSTICE GRAY: Yes, Mr Irving?

MR IRVING: My Lord, there are two or three minor housekeeping matters left over from the testimony of Professor van Pelt. If I can put them to you. There are five points, actually very minor ones. Firstly, I was wrong about Tauber in one respect and it is quite right that I should ----

MR JUSTICE GRAY: What, bending down?

MR IRVING: I beg your pardon? Bending down, yes. It was the witness Bendal who had bent down. The reference is to crematorium (iv) and not (ii) which was, if you remember, the one we were shown with the shutters on the wall on the side.

MR JUSTICE GRAY: Yes, the 30 by 40 centimetres?

MR IRVING: I beg your pardon?

MR JUSTICE GRAY: 30 by 40 centimetres?

MR IRVING: The shutters, yes, but obviously I was wrong on that. It was with reference to the other eyewitness.

I was right about the air raid. It was on May 5th 1943.

MR JUSTICE GRAY: You say air raid in the singular -- just the one?

MR IRVING: Just the one. There had been an air raid before the document dated May 5th 1943. The night before there had been an air raid. You may remember Professor van Pelt saying he thought there was no air raids until 1944.

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MR JUSTICE GRAY: Was that an Russian air raid or an Allied?

MR IRVING: That I do not know, but it is referred to in a volume known to the Defence, the Auschwitz Chronicle, which is a relatively authoritative work.

Your Lordship enquired one or two days earlier what the reference was for the fact that Professor van Pelt alleged in his report that I had only disclosed the existence of the Almeyer report after it was referred and after solicitors for the Defendants obtained it. The reference is page 390 of his report. My Lord, I have these points listed on a sheet of paper which I can hand to your clerk.

MR JUSTICE GRAY: That is probably a good idea, if you would not mind?

MR IRVING: My Lord, you remember we described the witness Olaire, the artist, and I referred to an incident with sausages, the SS-made sausage from the victims, according to Olaire, and I was not able to find the specific reference. It is in Pressac, as I said, on page 554. It is on the fourth column of the page, lines 17 to 22.

Finally, my Lord, I asked witness van Pelt if he was familiar with a book by Mr Brugioni, B-R-U-G-I-O-N-I, called "Photo Fakery". He was one of the CIA experts who had first published the air photographs with the dots on the roof. That is the jacket of the book, my Lord.

Those are the only which points I wish to refer

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to and, with your Lordship's permission, I will now call my witness, Professor McDonald.

MR JUSTICE GRAY: Just before you do, can I just mention two things to Mr Rampton? The first is that Professor van Pelt was going to do a little sort of elementary ----

MR RAMPTON: He was going to, yes.

MR JUSTICE GRAY: -- sketch, I do not mean drawing but...

MR RAMPTON: Diagram, plan.

MR JUSTICE GRAY: And a little explanation of what was where and so on.

MR RAMPTON: That is right.

MR JUSTICE GRAY: It is just to remind you about that. The other thing is -- this goes back a few days now -- Mr Irving's various speeches on which you rely, mostly in the US and Canada and some in Australia, I think I have already asked if it would be possible to have, ideally on tape, the excerpts that you rely on.

MR RAMPTON: On tape?

MR JUSTICE GRAY: Yes.

MR RAMPTON: You mean if they are ----

MR JUSTICE GRAY: On a disk.

MR RAMPTON: Yes.

MR JUSTICE GRAY: Is that something you have got in hand?

MR RAMPTON: Yes, it is all in hand.

MR JUSTICE GRAY: Good.

MR RAMPTON: What your Lordship will get in the end -- your

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Lordship has a hard copy file of the denial passages marked up already; for other categories of statement, that will also happen -- is a disk also marked up in the same way.

MR JUSTICE GRAY: You can see why it is going to be physically much easier to handle.

MR RAMPTON: It is going to make it a lot easier, yes.

MR JUSTICE GRAY: Thank you very much.

MR IRVING: My Lord, can I enquire? When you refer to the bundle of transcripts, does your Lordship take cognisance of the entire transcript, even if a particular passage is not relied on here?

MR JUSTICE GRAY: I think I have said this in court already and, if I have not, I will say it now. I really want to know what they are relying on. You can always take the point that it is taken out of context or it does not put the true flavour of what you have said, but the starting point must be that I know what they rely on.

MR IRVING: Indeed, my Lord, but if there were other passages there which caught your eye which I would otherwise normally have required to address your Lordship on, I am not aware of that. There is a danger, therefore, that you may take these as gospels when, in fact ----

MR JUSTICE GRAY: We can be quite open about it. Once this disk is to hand, then you can see it and, if there are any particular points you want to make on it, then you can.

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Right. Professor McDonald? I am bound to say, having read his report, I am not clear to what issues a lot of it goes, but perhaps you can ----

MR IRVING: Will I be allowed to examine him briefly to start with?

MR JUSTICE GRAY: I think you should because that may ----

MR IRVING: Help to bring out some of the issues on which we rely.

MR JUSTICE GRAY: --- reveal to me what is not at present clear, namely how his evidence is really relevant to the issues I have to decide.

MR IRVING: I appreciate that, your Lordship, and your Lordship will have noticed possibly

that there is a bundle there which has freshly grown on your desk called bundle E, which I am not asking your Lordship, of course, to look at today. I am only going to rely on one document in it or two documents, in fact, including the covering letter as far as today is concerned. It is a document from the Defendants' own discovery, so I am not actually springing it on them. This is a bundle of documents which, I suggest, shows that I have been the victim of an international endeavour to destroy my legitimacy as an historian.

MR JUSTICE GRAY: Well, yes, but remember- ----

MR IRVING: Of which the Second Defendant has made herself a part.

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MR JUSTICE GRAY: Remember the Defendant is Professor Lipstadt and, therefore, it is her activities or activities for which she can be held accountable which may have some relevance.

MR IRVING: Yes, but if she has made herself part of a broader endeavour, then that goes to my claim that this is an aggravated libel, I would submit, and ----

MR JUSTICE GRAY: Let us see how the evidence turns out.

MR IRVING: --- let us see how we get along, my Lord, shall we?

Professor MacDonald.

PROFESSOR KEVIN McDONALD, sworn.

Examined by **MR IRVING.**

MR JUSTICE GRAY: Professor McDonald, if you want to sit down, please feel free to do so.

MR IRVING: Professor McDonald, I must ask you to speak up and also slowly because of the burden placed on the transcribers and also the difficulties with the language, of course. You are Professor Kevin McDonald?

A: Yes.

Q: You are Professor of Psychology at California State University?

A: Yes.

Q: And you have a Doctorate in Biobehavioural Sciences from University of Connecticut?

A: Yes.

Q: You are the author of six books?

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A: That is correct.

Q: Would you describe in very brief terms to the court the three major books which you have published, beginning with "A people that shall dwell alone", just in two or three lines setting out -

A: Right. My background is a evolutionary biology, and beginning in the early 1990s I started writing what turned out to be three books on Judaism from an evolutionary perspective. The first book was "A People that shall dwell alone", Judaism as an evolutionary, a group evolutionary strategy, just basically describing Judaism from the standpoint of my evolutionary biology, including the ideology of Judaism, the segregation of the Jewish gene pool from surrounding peoples, resource competition between groups, and so on, co-operation within the group and so on.

Q: Can you describe that roughly then as the relationship between the Jewish community as a whole and the rest of the world?

A: Yes, but it was focused mainly on describing Judaism and its relationship, yes, with...

Q: Was that book well received in academic circles? Has it been generally accepted almost as a standard work?

A: Yes, it has had good reviews within evolutionary, you know, periodicals, yes.

Q: You are also a member of the executive board of the Human

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Behaviour and Evolution Society?

A: That is correct.

Q: And your second book was "Separation and its Discontents". Would you again in two or three lines just describe what the content of that book is and its thrust?

A: "Separation and its Discontents" focused anti-Semitism from the evolutionary respect and from the perspective of social psychology, in other words, trying to develop an understanding of anti-Semitism within the purview, you might say, of modern and social science, and so it is focused on anti-Semitism but also on the tactics that Jewish organisations use to combat anti-Semitism.

Q: What kinds of tactics are you referring to when you say that?

A: Well, in the chapter where I described the tactics the Jewish organizations have used, I, in fact, mentioned the St Martin's Press rescinding a publication of the Goebbels' Diary which is why Mr Irving contacted me.

Q: Yes. So in that particular book you actually refer to the manner in which a New York publisher suppressed a book under pressure from the Jewish community?

A: Yes, from the Anti-defamation League, yes.

MR JUSTICE GRAY: Mr Irving, I think that can only be relevant, surely, if it can be established that the Defendants were in some way involved in St Martin's Press cancelling that contract.

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MR IRVING: In that case I would draw your attention then when the time comes to a third document here, my Lord, which is the Washington Post on the morning before St Martin's Press took its decision and they quoted the Second Defendant as an authority for their decision. Your Lordship may consider it to be tenuous or you may consider it to be relevant.

MR JUSTICE GRAY: No, I do not consider it to be tenuous.

I just wonder how this witness can help on this.

MR IRVING: Well, setting it in its broader context, as saying this is not just a misfortune that has befallen me, but is part of a group strategy, my Lord, and difficult though it is to establish, I will do what I can for the next five or 10 minutes and then turn him to whatever cross-examination Mr Rampton desires to make.

MR JUSTICE GRAY: But I understand the way you put it. Thank you.

MR IRVING: So you perceived the Jewish community as working in a certain way in order to suppress a certain book?

A: Yes.

Q: Yes.

A: Well, there were several tactics the Jewish organizations have used. That was another one.

Q: Yes. You have had a chance to read most of this bundle, which is identified by me as bundle E ----

A: Yes, I have.

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Q: --- over the weekend, is that correct?

A: Yes, I have.

Q: Could you, again in just a very few lines, describe how the documents you have read in that bundle support or refute your own -- I have to ask what these papers are that you are looking at.

A: This is simply a statement that I wrote out.

Q: I think we will have to ask you to testify really from within yourself rather than from the written paper.

A: Yes. I was not aware of that.

Q: Yes. Having read the bundle of documents, would you describe roughly what the bundle of documents comprises?

A: Well, the bundle of documents comprises a record of suppression of David Irving, cancelling of speeches, avoiding of contracts, as a result of pressure of various Jewish organizations in different countries.

Q: Just from one country or from several countries?

A: From several countries -- Canada, South Africa, Australia, I believe.

Q: You would put the suppression of that book within that framework?

A: Yes. If I had known about that actually, I would have explained in that section, including more examples of that, showing some examples of that.

Q: Have you seen items in this bundle which lead you to believe that the Second Defendant has made herself a part

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of that endeavour?

A: Yes, I have. There was an article in the Washington Post quoting her -- I do not have the exact quote here. I can read it.

MR JUSTICE GRAY: If you are going to rely on it in some way, perhaps you could tell me what it says?

A: Yes.

MR IRVING: It is ----

A: OK. In the Washington Post of April 3, 1996, she is quoted as saying: "In the past ... it says that in every generation there shall be those who rise up to destroy us. David Irving is not physically destroying us, but is trying to destroy the memory of those who have already perished at the hands of tyrants. They say that they do not publish reputations, they publish books, but would they publish a book by Jeffery Damer on man, boy relationships? Of course, the reputation of the author counts and no legitimate historian takes David Irving's work seriously". It is that last part that certainly drew my attention because I have seen historians praise his work, but also just the fact that she was literally part of the pressure on St Martin's Press.

Q: Can I ask you to go to page 250 of the bundle?

A: I do not have a copy here.

Q: I will give you a copy. This is bundle E, if you go to page 250 of bundle E?

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A: Yes.

Q: Is that a letter from the Simon Wiesenthal Centre to the Second Defendant, Mrs Deborah Lipstadt?

A: Yes, it is on the head of Simon Wiesenthal, signed by Saul Litman.

Q: Does it make reference to a student paper I sent to you?

A: Yes.

Q: Does Mr Litman who wrote the letter conclude the letter saying, "Please recognize that it is not for publication or direct quotation. It is, after all, an unedited student's work and contains many phrases and comments that neither you or I would use in a situation which clearly involves considerable delicacy"?

A: Yes, that is a direct quote.

Q: Would you now turn to page 251?

A: Yes.

Q: Is this, apparently, an anonymous report of approximately ----

A: 25 pages.

Q: --- 12 pages or thereabouts called, "History Rewritten, the World of David Irving"?

A: Yes.

Q: Have you seen anything in that report which indicates that there has been a deliberate attempt made by an organization to destroy my legitimacy as an historian?

A: Well, yes, on page 253 ----

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MR JUSTICE GRAY: What do you say this document is that you are looking at, Professor McDonald?

MR IRVING: It was a document that was provided to the Second Defendant by the Simon Wiesenthal Centre, my Lord.

MR JUSTICE GRAY: That is the one referred to in the letter you have just taken us to?

MR IRVING: We have to presume so, my Lord. It took a certain amount of fight to obtain a copy of this for the solicitors. I had to obtain court order finally to obtain a copy of it.

MR JUSTICE GRAY: I see.

MR IRVING: They provides what looks like the covering letter in a separate episode and gave it the same discovery number, No. 500. But all I propose to do is to rely on the content of this document which went to the Second Defendant, and you have drawn our attention to page 253, and which paragraph do you consider is suggestive of an attempt to destroy my legitimacy as an historian?

A: In the first full paragraph, is still in the introduction, it refers to quotes later on from you, but then it says in the middle of that paragraph: "These quotes serve as a clear example of why he should not be allowed to disseminate his message of hate as freely in other public forums".

Q: Which paragraph is that again?

A: The first full paragraph on page 253.

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Q: Beginning with the words "The focus of"?

A: Yes.

Q: "These quotes serve as a clear example of why he should not be allowed to disseminate his message of hate as freely in other public forums"?

A: That is quite correct, and further ----

Q: At the bottom of that page, can I draw your attention to the sentence beginning, "The importance of" ----

A: Yes.

Q: --- "such work is to deny Irving the legitimacy he so desires in his attempts to spread his anti-Semitic and racist messages", and are there any other passages in that which indicate an organized attempt to destroy my legitimacy?

A: Yes, just a minute here. It probably bears mentioning on page 256 that, although the author of this report does view David Irving as a flawed historian, it is acknowledged that his revisionist themes are interspersed with genuine historical insight. Again, that is, sort of, what exercises me, but at the bottom of page 258, the last paragraph on page 258.

Q: Would you read it out, please?

A: The entire paragraph?

Q: Yes.

A: "David Irving's techniques challenge the most educated minds to adopt his version of reality. By revealing

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Irving's methods, the illusion is portrayed as facts and his writings have been unveiled. Hence, while claiming to be a legitimate historian, Irving can now be identified with his underlying purpose, to morally rehabilitate Adolf Hitler and the Third Reich. Given this accurate version of reality, it is all the more clear why his activities must be curtailed and why his alleged legitimacy must be eradicated".

Q: There is one particular passage, is there not, that you have read where they actually talk about the need to destroy my legitimacy as an historian?

A: Well, I believe that was the main one. The final -- no, OK, yes, on page 273.

Q: Yes.

A: The author goes into various possibilities of how to deal with David Irving, one of which was just to go for free speech, but the other suggests, it says, "In the case of" -- this is on page 253 ----

Q: "In the case of David Irving", right?

A: It is after the indent quote -- what?

Q: The third paragraph, right?

A: OK, yes. "In the case of David Irving, in his brand of Holocaust denial, the ultimate response is to cease providing him with a forum to convey his skewed version of history and to negate his attempts to obliterate the memory of millions of victims."

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And I might point out also the last paragraph on page 276, where he quotes John Keegan: "No historian of the Second World War can afford to ignore David Irving".

So, again, despite the fact that he is regarded among historians as important, some one must read, there are attempts to make, to curtail his freedom of speech, and so on.

MR JUSTICE GRAY: Professor McDonald, how does that establish that Professor Lipstadt is part of this conspiracy to discredit Mr Irving?

A: To my knowledge and my only, the only linkage between Professor Lipstadt and this is the Washington Post interview.

Q: What has this to do with the Washington Post?

MR IRVING: My Lord, this document was from Professor Lipstadt's own discovery.

MR JUSTICE GRAY: I follow that. It is a document that she was sent, apparently unsolicited, by the Simon Wiesenthal organization. What does that prove against her?

A: Well, OK, this document -- there is not, but my impression was that David Irving has a general complaint about persecution by Jewish organizations and that is what I thought we were

addressing here.

MR JUSTICE GRAY: I see. Thank you.

MR IRVING: My Lord, your Lordship said "unsolicited". In fact, there are other documents in this bundle where we

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see the second Defendant specifically writing to all these bodies asking, effectively, what dirt they have on me, both in Canada and in the United States and in London. There is a whole list of them whom she thanks in her introduction, whereupon your Lordship will see from this bundle on a later date -- I shall draw your Lordship's attention to it -- that I made an application for specific discovery of these items. Unfortunately, we are not going to have a chance to cross-examine the Second Defendant on the completeness of her discovery, and I have done what best I can to establish what information she had. May I proceed?

MR JUSTICE GRAY: Yes, please.

MR IRVING: Professor McDonald, have you seen correspondence in this bundle between the Second Defendant and the Yad Vashem and, in particular, with Professor Yehuda Bauer, B-A-U-E-R?

A: Yes, I have.

Q: What was the content of that correspondence in brief? We can look at the correspondence ----

A: Do you have the page number for it? In brief, the content was to remind Professor Lipstadt of the importance of including David Irving in the book.

Q: Had she not then included me in the original draft of her book from the correspondence that you have seen?

A: I believe it was that you were mentioned in that, but the

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clear intent was to emphasise you to a greater extent than it was before.

Q: So Professor Bauer, who was the commissioning, the head of the Institute which paid the commission to Professor Lipstadt to write this research project originally, received the original draft and he said, "Not good enough, we need more on David Irving", is that what he said?

A: That is a fair summary.

Q: I will see if we can find the exact letter.

MR JUSTICE GRAY: Page 161.

MR IRVING: Thank you very much, my Lord. I am indebted to you.

A: 161.

Q: Will you please turn to page 161?

A: Yes.

Q: He says, and it is fair to say this, in a letter to the Second Defendant: "The book is extremely well written and fascinating", this is 1992, "but I suppose what you want is a critique. What I miss in the main is the world wide perspective". Then he goes on a bit lower down to say that, in his view, the author has concentrated too much on North America and I believe on France. "Irvin is mentioned but not that he is the mainstay of Holocaust denial today in Western Europe". So what do you think Professor Bauer is asking her to do?

A: He is clearly asking her to expand the coverage on you.

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Q: Right. If you will now turn to page 163, a month later we have a letter from the Second Defendant to an Englishman, Anthony Lerman, who wears various hats. Here he is at a newspaper or magazine called "Patterns of Prejudice", and is it fair to say this is a letter asking her for more information on David Irving because she has now been given the job of shoe-horning this British author into the book?

A: Yes, that seems to be the import of that letter.

Q: Does she say, "I am just finishing up the book and, as you can well imagine, David Irving figures into it quite prominently". Do you have in your files a few Irving articles from recent months?" So would you say that she is now asking for whatever various bodies around the world because there were other letters, are there not, of this nature?

A: Yes, and she clearly views him as one of the most dangerous figures.

Q: My Lord, the reason I am asking these questions is as a means of putting these letters before the court.

MR JUSTICE GRAY: Yes, I see your difficulty and I see what you are doing. This seems to me to be more relevant than the general sort of evidence that the Professor was giving earlier. So let us see what the reply was, shall we?

MR IRVING: I hear what you say. I am very nearly finished, in fact, with the examination.

MR JUSTICE GRAY: No, this is not irrelevant.

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MR IRVING: On the following page, page 1674, does Anthony Lerman, now on the headed notepaper of the Institute of Jewish Affairs, say that he is going to fax a lot of material to her?

A: Yes.

Q: From your reading of this file, have you observed that various Jewish organizations maintain files on people like that?

A: It is quite clear, yes, from this file plus from other things I have read, yes.

Q: Do you know any names of other famous authors that they have kept files on, both Jewish and non-Jewish?

A: Noam Chomsky comes to mind -- I cannot think of specific names right now.

Q: Very well. Do you think that these organizations give a chance to the victims of their dossier keeping to have a look in those files to see if the materials they keep in them are correct or not?

A: Not without a great deal of legal proceedings. I should say there are other people, like people associated with the Institute of Historical Review and other so-called revisionists, and they are, well, they do keep documents, dossiers, in there.

Q: Yes. Did you see an affidavit in this file from the Director of a British organization, a similar British organization, in which he confirms that he provided

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material on me to the Canadian Government indirectly?

A: Yes. I do not recall the page again, but, yes.

Q: And for the purpose purely of abrogating my freedom of speech in Canada? Would you agree that is correct?

A: That is correct, and there are several instances in which your talks and so on were -- there was pressure placed on organizations, hotels or wherever the venues were, to cancel these talks and so on.

Q: So we are now going from the particular of what you have seen in this file very briefly back to the general, do you consider what you have seen in this file by way of evidence in my particular

case, over the last 10 years, to be part of a group strategy that has been evolved by the Jewish communities around the world to protect themselves or to preserve their interests?

A: Yes, I think that anti-Semitism is, you know, a perennial problem, and Jewish organizations have developed very sophisticated ways of dealing with it. This is one way of dealing with it. Anti-Semitism or any anti-Semitism is fought very, very intensely. They take it very seriously and they do quite a job, obviously, of suppressing it, yes.

Q: Whom do you mean by anti-Semites, people who go round scoring swastikas on synagogues or people who have a genuine grievance?

A: Well, yes, the term they will use is very broad. The word

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-- I am not saying, I am not implying that you are an anti-Semite, I am saying that people they view as being detrimental to their interests. Some of them might -- the term "anti-Semitism" is hard to define anyway.

Q: Have you seen references in this file to the Second Defendant and others describing me as being "a danger"?

A: Absolutely. It says right in the previous document we have just mentioned.

Q: Particularly dangerous?

A: The Second Defendant mentioned you as a very dangerous person.

Q: In what way am I dangerous, do you suspect? Am I the kind of person that they think I may place a bomb in their letter box or what kind of danger are they referring to?

A: No, obviously, they view you as a danger because of your intellectual -- because of your writings.

Q: But a danger to what?

A: I believe they think it is a danger to their, what they view as an important, that their version of events be accepted as the truth, and that the dissent from certain of these tenets should be viewed as beyond the pale of rational discussion.

Q: Finally, in order to pre-empt a question Mr Rampton may wish to ask, do you consider me to be an anti-Semite from your knowledge of me?

A: I do not consider you to be an anti-Semite. I have had

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quite a few discussions with you now and you have almost never even mentioned Jews and, when you have, never in a general negative way.

Q: Yes. So from your discussions in private with me, or from your perceptions of me in company with circles who might be considered to be receptive to such remarks, you have never heard me expressing any anti-Semitic utterances of any kind or beliefs?

A: No.

Q: I do not think I have any further questions of this witness at this stage.

MR JUSTICE GRAY: Mr Irving, was the material promised by Mr Lerman in the letter at page 164 ever provided?

MR IRVING: It is identifiable in the discovery, but only fragmentary. There are pages missing. I made application for the missing pages without much success. I was informed that I could go behind her affidavit when the time came to cross-examine her, and as your Lordship now knows, I am going to be denied that opportunity. So it is a rather unhappy position.

MR JUSTICE GRAY: But is it in this bundle somewhere, or not?

MR IRVING: It is certainly in the discovery, my Lord, and it was of the nature of press

clippings and that kind of thing which I may have included in part, but it would not have served any purpose in this bundle.

MR JUSTICE GRAY: All right. Thank you very much. That was

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economically done. Thank you, Professor McDonald.

MR RAMPTON: I have no questions.

MR JUSTICE GRAY: Thank you very much, Professor McDonald.

There is no cross-examination so that concludes your evidence.

MR IRVING: Is the witness released, my Lord?

MR JUSTICE GRAY: Yes, you are released. You are free to go.

(The witness withdrew)

MR JUSTICE GRAY: Mr Irving, as I understand the plan, you are going back in the witness box to be cross-examined further.

MR IRVING: We have one witness which we are calling on Thursday, I believe, Mr Peter Millar, in my timetable.

I try occasionally to adhere to my timetable.

MR JUSTICE GRAY: He is Goebbels diaries, is he not.

MR IRVING: That is correct. He is Moscow.

MR JUSTICE GRAY: I do not know whether the idea of reducing the ambit of the evidence on that issue has brought forth any fruit. If it has, well and good.

MR IRVING: I did hear Mr Rampton mention that they were going to try and plead section 5 on Goebbels, and no-one would be happier than I, because I think it would place him in an indefensible position if they were to do that.

MR RAMPTON: I am sorry, that is a misapprehension. I fall back on section 5 if I need it, but essentially the plea in relation to Moscow is that the substance of what was

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said is true. Mr Peter Millar helps to prove it.

MR JUSTICE GRAY: If it is remaining an issue -- I just had an idea that it would be possible and obviously desirable to maybe have some admitted facts with a view to reducing the ambit of the oral evidence.

MR RAMPTON: There is an admission by Mr Irving in writing already. If we can get him by writing to him to admit that what Mr Peter Millar says in his witness statement is correct, then we do not need to call Mr Millar.

MR JUSTICE GRAY: This is the sort of thing I had in mind. It is only a suggestion, obviously. Yes, Mr Irving, would you like to go back into the witness box?

MR DAVID IRVING, recalled.

Cross-Examined by **MR RAMPTON, QC.**

MR RAMPTON: Mr Irving, there is one thing I would like to pick up from Auschwitz, which is now more or less a closed book, which arose during the course of your cross-examination of Professor van Pelt. Do you remember the radio signal of 15th September 1942 ordering a car from Auschwitz to Lodsh?

A: With the feldofen, yes.

Q: Yes.

Q: Do you remember that you produced a translation in court which translated the German word feldofen as field kitchens?

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A: Yes.

Q: His Lordship drew your attention to that translation or, one might say, mistranslation.

A: No. His Lord asked who made the translation.

Q: You said you did.

A: Yes.

Q: You said that you made it at 2 o'clock that morning, and that there was an element of stress, thus accounting for mistranslation?

A: Yes.

Q: Could I ask you to look at a piece of paper, please? (Same handed) Do you recognize that piece of paper?

A: Yes.

Q: What is it?

A: It is from my web site, yes.

Q: Yes. Despite what you told his Lordship about having that done that mistranslation under stress at 2 o'clock in the morning the same day, that has been on your web site since at least 24th November last year.

A: This is true. However, what I said is also true. I re-translated it that morning. This was presumably put on my web site a year and a half ago so, rather than go to the web site to find out what translation I used for two and a half lines a year and a half ago, I just re-translated it.

Q: No, Mr Irving. It was a repetition of a deliberate

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mistranslation that you had already put on your web site, was it not?

A: I strongly resist the phrase "deliberate mistranslation." In fact, I have had e-mails from Germans all over the world who have read my web site within the last 24 hours who said that the translation "field kitchens" for "Feldofen" is entirely acceptable and intelligible. The word "ofen" is a stove as in a kitchen stove and, without knowing what the background was of the document, it was an entirely plausible translation.

Q: Have you had a chance to consider that report from Zamoysk of 5th May 1943? No sorry, wrong date, 16th December 1942 that you said you wanted time to think about?

MR JUSTICE GRAY: Can you remind me what that was about, Mr Rampton?

MR RAMPTON: It relates to a transport of 644 Poles to Auschwitz.

A: My Lord, I was going to make a submission about that report. You remember this is one which the Defendants received anonymously, so they say, on the very day before the ----

MR RAMPTON: No "so they say", please, Mr Irving. If I tell the judge on instructions from my solicitor that we received it the day before, you can take it that it is true, unless you can prove otherwise.

A: That is precisely what I said. They say they received it

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anonymously the day before.

Q: It is the case.

A: That is not the point I am about to make, my Lord. May I make a submission on that?

MR JUSTICE GRAY: I would like to see the document if you can tell me where it is.

MR RAMPTON: I did hand it in together with the document about keeping the plan secret.

MR JUSTICE GRAY: Where did it go?

MR RAMPTON: It did not go anywhere, but I have a spare.

MR JUSTICE GRAY: If it is loose, I probably still have it.

MR RAMPTON: I am sorry, my Lord. It should go into K2 in due course. Let me pass it up.
(Same handed).

MR JUSTICE GRAY: Thank you. I have now found it, actually.

MR RAMPTON: It can go into tab 4 of K2 in due course, my Lord.

MR JUSTICE GRAY: If it is going ever to go there, can it not go there now?

MR RAMPTON: Yes. My only question at the moment is whether Mr Irving is yet willing to be cross-examined about it.

MR JUSTICE GRAY: Yes.

A: I said that I wished to make a submission to his Lordship about this. My Lord, you know the circumstances in which this report was provided now? It has been supplied anonymously to the Defendants. Whether "anonymously" means it is anonymous in as much as we are not to be told the source?

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MR RAMPTON: That is right.

A: Or whether it is anonymous in as much as they know the source but do not intend to identify it to me? There is a substantial difference there, my Lord.

MR RAMPTON: Let me make it quite clear. We know who the source is. I think I said actually when I produced the document, the source did not wish to be identified.

A: This is an entirely unsatisfactory state of affairs, my Lord. I should be placed in a position where, if necessary, if the source is within the jurisdiction, and I am sure Mr Rampton will be willing to tell us that, I should be put in a position where I can issue a subpoena duces tecum for the production of surrounding documents.

MR JUSTICE GRAY: At the moment this is just a bit of typescript. I do not think myself that the identity of the person who actually physically handed it to the Defendants really is either here or there. Its authenticity is not going to, I think, depend on the identity of the person who made it available to the Defendants.

A: It is clearly unsatisfactory that I should be supplied with an orphan stray document. We are required to rely on the assurances of the Defendants that it is authentic, that it comes from a proper provenance. I should be placed in a position, my Lord, where I can, if necessary, see the surrounding documents which we were informed by

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Mr Rampton also exist.

MR JUSTICE GRAY: I am with you to this extent, Mr Irving, that I do think that I have to be told something by the Defendants which at any rate makes it, on the face of it, an authentic document. For all I know at the moment, this was typed yesterday on some rather old fashioned typewriter. There must be a limit to the way in which documents surface in court.

MR RAMPTON: Yes. Mr Irving has the document. Had this been discovered by us earlier, it would have been in our list of documents and he would have been enabled to investigate, and if

he found it appropriate to do so, dispute its authenticity. I am only asking him whether he now accepts its authenticity. If he does not, I will shut up about it until such time as I can tell your Lordship exactly from which archive it came.

MR JUSTICE GRAY: I think that is what you need do, if I may respectfully say so.

MR RAMPTON: That is why I asked if he was ready to be cross-examined about it. The answer seems to be no.

A: The question was not whether I accept its authenticity. The question was whether I am willing to be cross-examined on it and the answer is that I was already planning to make the submission that I did to your Lordship, that we should be told more about where it comes from so that, if necessary, I can subpoena the remaining documents. We had

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a very good example with the cross-examination of Professor van Pelt on that Feldofen document, where the document has, on the face of it, a perfectly innocent explanation until you know the surrounding documents of which Professor van Pelt was aware, which gave it a very sinister connotation. In this case it may be precisely the reverse.

MR JUSTICE GRAY: I think what I am going to say about this, Mr Rampton, is that you can return to it when you are in a position to say which archive it came from, which should not be all that difficult.

MR RAMPTON: No, it is not. I think I know the answer but I am not going to say it in case I am wrong. I am going to get chapter and verse.

MR JUSTICE GRAY: Then you can cross-examine on it.

MR RAMPTON: I will find out which archive it is in and how long that archive has been open to us.

MR JUSTICE GRAY: I think that is right. I am going to put it in as 51, I think. Do you agree? K2 tab 4, page 51.

MR RAMPTON: Yes.

A: Of course I have already asked all my advisers around the world what their take on this document is. I have not been idle over the weekend, but I have to have time.

MR JUSTICE GRAY: I think that is fair.

MR RAMPTON: Mr Irving, I want to turn to something completely different, if I may, which is a meeting I think at

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Klessheim which I think is somewhere in Austria?

A: Schloss Klessheim, spelt either with one S or two Ss.

I think it is spelt both ways. It is a castle, a chateau, near Salzburg.

Q: That means that it is a place in Austria, I suppose, or was then. That meeting, I believe, took place on 16th and 17th April 1943, did it not?

A: Well, if we know which meeting you are referring to.

On those days Adolf Hitler had a number of meetings with foreign leaders.

Q: He met Admiral Horthy, who was the Hungarian leader. I do not know whether he was President or Prime Minister or whatever he was.

A: He was the Head of State.

Q: Head of State at Klessheim on 16th and 17th April 1943, did he not?

A: Yes.

Q: One of the topics which was discussed between them on both those days was the attitude of

the Hungarian government towards its large Jewish population.

A: That is correct.

Q: I do not know how many Jews there were in Hungary, but it was a very large number, was it not? It was over 500,000.

A: Of the order of a million. I think there were 500,000 in Budapest alone.

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Q: You correct me if I am wrong. I am summarizing, my Lord, relevant part of Professor Evans' report is page 437 and following.

MR JUSTICE GRAY: Thank you. I was just looking for that.

MR RAMPTON: What I am putting to Mr Irving is taken from that.

MR JUSTICE GRAY: It is helpful to have the reference thank you.

MR RAMPTON: I hope Mr Irving has it. May I ask you, to save my asking questions ----

A: What page are we on?

Q: 437 it starts. Is it right, as Professor Evans writes in paragraphs 1 to 8 of the introduction of this part of his report, that from about the middle of 1942 until January 1943, the Nazis had been making attempts to persuade or lean on the Hungarians to be, what shall we say, more severe with their Jews than they had hitherto been willing to be, and in particular to allow them to be deported out of Hungary?

A: Yes.

Q: That is correct, is it not?

A: Since the summer of 1942.

Q: Yes. So is it right that one of the topics discussed between Hitler and Admiral Horthy on 16th and 17th April 1943 was the Nazis' position that they thought that the Hungarians ought to buck their ideas up about getting rid of Jews from Hungary?

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A: The Nazis regarded the Hungarians as dragging their feet on this issue.

Q: Yes. Were the proceedings at those meetings recorded by a man called Otto Schmidt?

A: No. They were recorded by a man called Paul Schmidt.

MR RAMPTON: Sorry, wrong man.

MR JUSTICE GRAY: Both are right. Paul Otto Schmidt.

MR RAMPTON: We are both right, Mr Irving, for once. Isn't that nice.

A: There were two Paul Schmidts, and also they were recorded by hidden microphones on disk.

Q: Yes. The discussions were reproduced in a book by somebody called Hillgruber, were they not?

A: The Schmidt records were microfilmed by a German Foreign Office official called Lersch, to whom Professor Donald Watt referred. Thanks to the Lersch microfilms we have that transcript, and they were printed by Professor Andreas Hillgruber in two volumes.

Q: Can I then please pass up two pages? Actually, it is four pages, but they are double pages, from Professor Hillgruber reprinting of these. My Lord, bureaucrats are at work!

MR JUSTICE GRAY: I think the bureaucrats are probably right.

Otherwise I am going to get completely submerged with paper.

MR RAMPTON: That is for Mr Irving. (Same handed) That is a

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Hungary file.

MR JUSTICE GRAY: Can we give it a letter of the alphabet rather than Hungary? It has one already. Is there going to be a translation, Mr Rampton?

MR RAMPTON: Yes. The translation appears on page 441 of Professor Evans' report, the first page that I intend to refer to.

Professor Evans' translation given on page 441 at paragraph 1, in the English begins "On Horthy's retort, what should he do with the Jews then ...", that is to be found in the middle of the German on the left hand column at page 256 of the original, "Auf die Gegenfrage Horthys", does it not, Mr Irving?

A: Yes.

Q: Could you please read from "Auf die Gegenfrage Horthys" down to the end of the first paragraph on the following page 257? I do not mean read out loud. Just read them to yourself and tell us please when you have finished doing that.

A: (Pause for reading) Yes.

Q: Would you then look, please, at the translation in Professor Evans' report in paragraphs 1 and 3?

A: Yes.

Q: Do you agree that Professor Evans has accurately translated the words in the German from after "Auf die Gegenfrage Horthys" down to "Möglichkeit gabe es nicht"?

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That is the exchange between Horthy and the Reichs Hausen minister Ribbentrop.

A: Yes.

Q: Also the passage starting at the bottom of page 256, "Wo die Juden sich selbst uberlassen waren", down to the end of the first paragraph on the next page, and this is what Hitler is recorded as having said, is it not?

A: Yes. It is in the subjunctive, so it is Adolf Hitler speaking, quoted in reported speech.

Q: Yes. Whether accurate or not, it is a report by Schmidt or the tape recorder or both, the hidden microphone, of what both Ribbentrop and Hitler are said to have said on that occasion?

MR JUSTICE GRAY: But, if it is in reported speech, it cannot be a transcript of a tape, can it?

A: It is the way the diplomats worked. It is the same with the meeting between Churchill and Stalin. The interpreter would take notes as he went along but, as he interpreted between the two of them, he would take down what Hitler said, write down a note ----

Q: This is not a transcript, you are saying?

A: No it is not, but it is a very accurate transcript.

Q: It is an account of what was on the tape.

A: It also accurate reflects the language used, too.

MR RAMPTON: You have used it yourself as being a reliable account?

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A: Schmidt is a very accurate source.

Q: It is not in dispute that it is an accurate account of what was said.

A: He was a professional diplomat of very high calibre.

Q: Could I then ask you to look at how you represented this meeting on 17th April 1943 between Horthy and Hitler?

A: Apart from the mix up on the dates, right?

Q: No, there is rather more to it than that, I am afraid, Mr Irving. "Mix up" is not the word that I

am going to use when we look to see what was said on the 16th, but there is more to it than that, I am afraid. Could you look, first of all, please, at Hitler's War 1977, page 509? It is the second volume, D 1 (ii).

A: Yes.

Q: I am going to start, if I may, with the first complete paragraph on page 509: "Nor was the language Hitler and Ribbentrop used to prod the Hungarian regent into taking a sterner line over his Jewish citizens very delicate. The Nazis found it intolerable that 800,000 Jews should still be moving freely around a country in the heart of Europe- particularly just north of the sensitive Balkans. For many months Germany had applied pressure to the Hungarian Jews to be turned over to the appropriate German agencies for deportation to 'reservations in the east'".

A: Note the quotation marks.

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Q: Yes. This is the 1977 version, I remind you, Mr Irving.

A: Yes.

Q: "It was argued that so long as they remained they were potential rumormongers, purveyors of defeatism, saboteurs, agents of the enemy secret service, and contact men for an 'international Jewry' now embattled against Germany.

"Events in Poland were pointed to as providing an ugly precedent: there were reports of Jews roaming the country, committing acts of murder and sabotage. The eviction of the Jews ordered by Hitler had recently been intensified by Himmler's order that even those Jews left working for armaments and concerns in the Generalgouvernement were to be housed collectively in camps and eventually to be got rid as well. In Warsaw, the 50,000 Jews surviving in the ghetto were on the point of staging an armed uprising -- with weapons and ammunition evidently sold to them by Hitler's fleeing allies as they passed westward through the city".

A: They would be Italians.

Q: "Himmler ordered the ghetto destroyed and its ruins combed out for Jews. 'This (that to say this uprising) is just the kind of incident that shows how dangerous these Jews are'".

To whom in those quotation marks, Mr Irving, did you intend to attribute that sentence?

A: Presumably to Himmler.

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Q: Your very next sentence is this: "Poland should have been an object lesson to Horthy, Hitler argued".

A: Yes. This is a new paragraph. This is another topic, the first sentence of the coming paragraph.

Q: No, Mr Irving. What you are trying to suggest there is that Hitler used the Warsaw ghetto uprising, which in fact did not happen until two days later, as a means of prodding Horthy into taking sterner measures against his Jews, are you not?

A: No. I said quite clearly that the Warsaw ghetto uprising was about to happen. In other words, it had not happened yet.

Q: "Himmler ordered the ghetto destroyed and its ruins combed out for Jews. 'This is just the kind of incident that shows how dangerous these Jews are'".

A: We are on the point of staging an armed uprising, so it has not happened yet. I can only repeat that.

Q: "Poland should have been an object lesson to Horthy, Hitler argued. He related how Jews who refused to work there were shot; those who could not work just wasted away".

The German word is Verkommen, is it not?

A: Yes, which means wasted away, to rot away.

Q: "Jews must be treated like tuberculosis bacilli, he said, using his favourite analogy. Was that so cruel when one considered that even innocent creatures like hare and deer to be put down" (the German word was getturtit).

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A: Put down means killing, does it not?

Q: Killed.

A: This is a very accurate precis so far of what is in a much longer paragraph by Paul Schmidt, I think.

Q: -- "To prevent their doing damage? Why preserve a bestial species", the German is die bestien, which means the beasts, does it not?

A: Yes, but remember we are writing a literary work which is by David Irving, not by Paul Schmidt.

Q: Well, actually by Adolf Hitler. "Whose ambition was to inflict bolshevism on us all. Horthy apologetically noted that he had done all that he decently could against the Jews: 'But they can hardly be murdered or otherwise eliminated', he protested. Hitler reassured him: 'There is no need for that'. But just as in Slovakia, they ought to be isolated in remote camps where they could no longer infect the healthy body of the public; or they could be put to work in the mines, for example. He himself did not mind being temporarily excoriated for his Jewish policies, if they brought him tranquillity. Horthy left unconvinced."

Where in that transcript of the meeting of 17th April, Mr Irving, do we find that passage?

A: Which passage are you talking about?

MR JUSTICE GRAY: "There is no need for that".

MR RAMPTON: From "Horthy apologetically noted" down to "Horthy

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left unconvinced".

A: I do not know. I would have to have time to look at these papers.

MR JUSTICE GRAY: Take your time, because those words are in quotation marks.

MR RAMPTON: I would not trouble taking too much time, Mr Irving. It was said on the 16th, as the second piece of extract from Schmidt, that you got there will tell you.

A: On which page.

Q: On page 245.

A: Yes.

Q: At the bottom of the fourth paragraph we find words, if you want to check the paragraph to see that I am right, attributed to Horthy: [German- document not provided].

He is saying, "Well, all right, but I do not think that we can murder or otherwise kill them", is he not?

A: It is difficult because we have only got three pages of this transcript here.

Q: I have more or less the whole extract if you are fussed about that, Mr Irving.

A: And, of course, your imputation is that this is the only source that I have used, is it not?

Q: No. Carry on reading, please. You can make your point in a moment.

A: You asked where I got this quotation from and I was trying

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to answer your question.

MR JUSTICE GRAY: Sorry, which quotation are you talking about?

A: "They can hardly be murdered or otherwise eliminated".

MR JUSTICE GRAY: Well, you see, that seems to be an accurate representation of what you have just read out.

MR RAMPTON: Yes. What you have done is lifted what was said on 16th and put it on 17th to make Hitler look better, have you not?

A: How does it make him look better if I get the date wrong by one day? How does that make him ----

Q: You quote precisely what Hitler said on 16th.

A: Yes.

Q: Which is [German - document not provided].

A: Yes, well, OK, you have found it.

Q: "There is no need for that"?

A: You have found it then, good.

Q: That is on 16th, Mr Irving.

A: As I said about five minutes ago, there was mix up of dates when we wrote this first edition by one day.

Q: A mix up, Mr Irving?

A: Yes.

Q: What you have done is deliberately to transfer something gentler that Hitler said on 16th in order to mitigate or water down the brutality of what he said on 17th?

A: How could it possibly mitigate it? It is ridiculous. And what is your evidence for saying I deliberately did it?

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Let me explain, in case his Lordship does not realize, that when I wrote this book it was written on the basis of 20,000 pink filing cards, and it is very easy when you are writing a manuscript and you have 25 filing cards to the left of your typewriter which you have collected over the previous five or 10 years to juxtapose two filing cards so you get one date wrong. There is nothing deliberate about that. These things happen.

Q: You transposed an earlier date, it is quite clear -- do you have a copy of this Hillgruber book?

A: I will write a formal admission for you if you want. I got the date wrong by one day, but to say that this is deliberately done for a purpose is perverse.

Q: You actually repeated it?

A: What you do not like is Adolf Hitler saying, "We cannot kill them".

Q: No, I accept that Adolf Hitler did not say that anyway, he said, "That is not necessary"?

A: Yes.

Q: I accept that he said that.

A: Well, that is what you do not like.

Q: I do not mind what Adolf Hitler said. He is not on trial, Mr Irving. In a sense, what is on trial here is your historiography.

A: You are absolutely right.

Q: This is a bent piece of history?

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A: You are absolutely right, but to say that I got the date wrong by one and, therefore, this is a

deliberate misrepresentation of Adolf Hitler's views.

Q: No, if you have an entry for 167th and an entry for 17th?

A: A filing card for the 16th and a filing card for the 17th.

Q: It involves removing from the 16th and transferring to the 17th something which was said the day before, and you know that, do you not?

A: Well, maybe you can explain to the court because it certainly surpasses my understanding how that in some way mitigates Adolf Hitler's guilt or otherwise or how it can be said to be a deliberate perversion, the fact that a date is wrong by one digit.

Q: Ribbentrop, which you do not quote at all in the main text ----

A: The book is about Hitler, not Ribbentrop.

Q: Yes. Ribbentrop makes a murder reference to a choice between extermination and concentration camp.

A: In what terms does he make that reference? Shall we go back to it and see.

Q: Yes, it is here. I will read it from Professor Evans which you have accepted is an accurate translation?

A: Ribbentrop says: "The Jews must be either annihilated", "vernichte", "or taken to the concentration camps. There is no other way".

Q: That is right.

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A: Of course, once again we are up against that word "vernichte".

Q: Never mind that. Hitler goes on 11 lines later ----

A: And your experts always choose the perverse meaning of the word "vernichte".

Q: I think the word which Professor Evans has used is the literal one, annihilated?

A: Yes. You remember I gave the distinction between "annihilated" and "exterminated" once?

Q: You can argue with my experts later on down the line, Mr Irving.

A: I shall try to avoid wasting the court's time.

Q: Let us try to deal with matters of substance, shall we?

A: Excellent.

Q: Ribbentrop expressed a murderous or barbaric choice between annihilation and transport to concentration camps?

A: That is correct.

Q: Eleven lines later in the text Hitler jumps in with an analogy which is based on the justification for killing wild animals, killing wild animals, in case they should cause damage. Now, that left the matter as plain as a pikestaff at the meeting on 17th, whatever might have been said on 16th, the Nazis' blunt final point of view was, "They have got to be killed", and that came from the Fuhrer himself. You have always known that, have you not, because you ----

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A: I am sorry, you have taken me by surprise. You said Hitler said they have got to be killed?

Q: In effect, yes.

A: Or are you just trying to slide this in under the door while no one is watching?

Q: I will read it in English. This is unvarnished. "Where the Jews were left to themselves", this is Hitler, "as, for example, in Poland", nothing about the Warsaw uprising, this is general stuff, "gruesome poverty and degeneracy had ruled. They were just pure parasites. One had fundamentally cleared up this state of affairs in Poland. If the Jews did not want to work, they were shot. If they could not work, they had to "verkommen"?"

A: And you are saying that I concealed all this from my book. I did not mention any of this? I concealed it?

Q: No, Mr Irving, I am not saying that.

A: On the contrary, I put it exactly in the third paragraph of that page, and yet I am called a Holocaust denier.

Q: "They had to be treated like tuberculosis bacilli" ----

A: All that is in there too.

Q: --- "from which a healthy body could be infected. That was not cruel if one remembered that even innocent, natural creatures like hares and deer had to be killed so that no harm was caused. Why should one spare the beasts who wanted to bring us Bolshevism more. Nations who did not rid themselves of Jews perished." Now, there is

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nothing following that ----

A: Can I just read to you the five lines in my book which accurately reflect exactly what you read out?

Q: Yes, but you have to read the whole of it. "Poland should have been an object lesson to Horthy, Hitler argued. He related how Jews who refused to work there were shot", the word you emphasised, "those who could not work just wasted away. Jews must be treated like tuberculosis bacilli, he said, using his favourite analogy", Hitler's favourite analogy. "Was that so cruel when one considered that even innocent creatures like hares and deer had to be put down to prevent their doing damage?" So what have I left out? Tell me what I have left out.

MR RAMPTON: Will you please read the rest of the paragraph?

MR JUSTICE GRAY: I think, just to put the criticism, I personally do not see anything wrong with your paraphrase there.

MR RAMPTON: Nor do I.

MR JUSTICE GRAY: What I think is the criticism (and it is important we get the nub of it) is that you have really watered down the effect of your accurate paraphrase of what Hitler said by adding, as if it were part of the same conversation, a reassurance by Hitler, "There is no need for eliminating them". That, I think, is the criticism.

A: My Lord, I have said that this is quite accurate, you are absolutely right. We got that quotation wrong by one

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day. But the fact that a man makes it on one day rather than the next does not alter the fact that he said it. He said, "There is no need for that", and I can understand Mr Rampton's disquiet about it. But the fact that it is taken down by an accurate recorder like Paul Schmidt, Hitler saying, "There is no need for that" cannot be ignored, and the fact that I put it down on 16th instead of 17th or the 17th instead of the 16th is -- I think it is a very shaky position on which to build a \$5 million trial on.

MR RAMPTON: No, Mr Irving. You see, your problem is this. You were concerned that if left unvarnished, according to Schmidt's text, what Hitler said would appear to be fairly conclusive evidence that he intended the physical annihilation of the Jews?

A: So why did I just not leave out the whole thing about the hares and the rabbits and the putting down and the bacilli?

Q: Because everybody else can read Schmidt, and what you actually did to mislead your English readers was to transfer a palliative remark by Hitler from the previous day's meeting and stuff

into the text for this day?

A: You say everybody else can read Schmidt, but, of course, at the time I wrote this the Hillgruber was not available. I used the original microfilms. All this kind of stuff became available much later on. Are you

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imagining that your average reader of Waterstones is going to go and get a copy of Hillgruber and find out what is in the original text? No. I put that in when I could perfectly easily have left it out and, of course, I did not because I was writing an honest, accurate paraphrase of what happened.

Q: Yes, Hillgruber was published in 1970 in Frankfurt.

A: But I could perfectly easily have left it out, could I not?

Q: And you did not bother to change it when you wrote your 1991 edition either, did you?

A: Because I certainly attached no importance whatsoever to it.

Q: Well, then, why is Hitler's palliative remark in there at all? It has no business to be there at all. It is a complete rewrite of what actually happened, is it not?

A: Hitler's palliative remark, when Hitler says, "There is no need for that"? I should have left that out? Your experts would have left that out; that is quite plain.

Q: No, my experts give the correct account.

A: Your experts have a record of leaving out documents that they cannot explain.

Q: Mr Irving, come on. This is not the playground. My expert has given the correct account chronologically. He describes how on 16th, Horthy said, "But surely I cannot murder them?" and Hitler said, "There is no need for

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that. As with the Slovaks, they can be put in concentration camps".

A: Yes.

Q: On the next day the thing hots up, headed by Ribbentrop swiftly followed by Hitler and there is no palliative or mitigating element in that, and you knew it so you transferred the previous day's remark to this day?

A: Deliberately, right?

Q: Yes.

A: And you have no evidence whatsoever for that adverb, none at all.

Q: It speaks for itself, perhaps.

A: These things happen when you are writing books of 1,000 pages. Index cards get mixed up, you get a date wrong by one day, sometimes by one month, sometimes even by a year, and to say that this is deliberate and perverse, if your case depends on that, then I am really sorry for your Defendants.

Q: Well, I am going to press this, Mr Irving, you see, because when we get to the 1991 edition ---
-

A: Are we not going to deal with the Hungarian version of the same meeting, the Hungarian records?

Q: I do not have the Hungarian version.

A: Well, of course, I had that and your experts did not.

Q: Are you telling me that the Hungarian version has the palliative remark of the 16th recorded as having been said

on 17th?

A: No, but we are interested in what it does not have which is any German demand for the killing of Jews.

Q: Let us, if we may, turn to how you dealt with it in ----

A: You see, this again is something your experts have not used. I have not just used the books on the book shelf. Your experts sit in their book lined caves taking down their handy reference works. I do the work in the archives.

Q: Can we have, my Lord, it is volume 2, it is D1 (v)?

MR JUSTICE GRAY: 542.

MR RAMPTON: That is right.

MR JUSTICE GRAY: It is effectively the same, is it not?

MR RAMPTON: No, it is not. I mean, the substance of what I have just put is exactly the same, but there is one crucial passage which has been missed out,?

A: You appreciate this book is the abridged version?

Q: Can I ask you if you have in court the unabridged version?

A: I am saying the 1991 version is the abridged version of the 1977 version. It was produced originally as a paperback.

Q: It is interesting, I am going to suggest, Mr Irving, to look at what you have left out of the 19 --
--

A: What has been left out? Remember, I am not necessarily the person who did the editing.

Q: This book comes out, this 1991 edition, following your conversion to there was no Holocaust, does it not? What we noticed if we look at 542, that is your account of what Hitler said, you still fudged together the 17th and 16th, but your account of what was said on ----

A: Well, it had not been pointed out to me at that time, of course.

Q: Your account of what said on 17th stops short at the reference to tuberculosis bacilli. Unlike the 1997 edition, you have missed out, omitted, the whole of the passage relating to the killing of innocent animals to prevent them from causing damage, have you not?

A: It did not really add very much. If you are abridging a book and you see that you have three sentences which repeat the same thing, then you are going to cut out one of them. We had shorten to book by one-third.

Q: You missed out the rhetorical question, "Why should one spare the beasts who wanted to bring us Bolshevism?"

A: Yes, but not for any perverse reason; purely because we are shortening the book by one-third and everything gets shortened.

MR JUSTICE GRAY: But, having said that, would you agree, Mr Irving, that it does portray Hitler in a slightly more sympathetic light than if one had had the whole of that quote set out in the 1991 edition?

A: No, my Lord, I would not agree that because the whole

paragraph has been shortened, and so that actually enhances the effect of the ugly sentence that is left in.

If we leave in ugly sentences and shorten the paragraph as a whole without cutting out all the

ugly sentences, if we were following Mr Rampton's argument, I would have cut out all the ugly sentences and not just one in three which is what you do when you are shortening a work. It is very easy to do this kind of exercise, go through a book that has been abridged and point out that sentences have been cut out, but that is the only way to shorten it for American -- this was an American edition which was produced originally in paperback.

MR RAMPTON: I think you were aware of the mix up of dates long before the second edition came out because it was pointed out to you by Martin Broszat in 1977?

A: Possibly, but you have seen how little importance I attached to the mix up in dates.

Q: Do you not think it appropriate when you are writing a history book, if that is what this is, to make it clear that, whereas when Horthy referred to his unwillingness to kill Jews on 16th, Hitler had said, "There is no need for that", by the 17th it is quite apparent from Schmidt's notes that the attitude of the Germans, Ribbentrop and Hitler, had considerably hardened?

A: You say this, but I do not agree. Remember, I have not given dates. I have not said, "On April 16th Hitler said

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this. On April 17th Ribbentrop said that". There are not dates there. I summarized both conferences in one paragraph.

Q: And you transferred the earlier conversation to the later conversation as though it took place after Hitler had remarked upon the need to kill animals?

A: I do not agree. I did not say this was said on 17th or this was said on 16th. I have put everything into one paragraph. I have not said all this was one conference or all this was on the first conference. I have assigned no ----

MR JUSTICE GRAY: Do you agree that what Hitler was actually talking about on 17th was actually the extermination of the Hungarian Jews?

A: In what sentence, my Lord?

Q: Well, "extermination" meaning killing them?

A: I would have to see exactly which sentence you are referring to.

Q: I am referring to the whole of the quote, including the deers and rabbits and "Why preserve or spare these beasts?"

A: Oh, yes, he is talking about not killing them, yes.

Q: Not killing them?

A: Yes, "There is no need for that".

Q: No, I am sorry. I was asking about the 17th.

A: Yes.

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Q: And asking you whether the words that Hitler, apparently, used actually contemplated the killing of the Hungarian Jews?

A: He says that how Jews who refused to work are shot, and so on, yes, that is killing. But this is the grizzly logic he introduces. He says, "You can always find excuses to kill them if you want to". And I am not going to argue with that, but this falls far short of some overall order for the Final Solution, unless your Lordship may feel differently, but I think ...

Q: No. I am just asking you what your view as an historian is.

A: Not on the basis of that one sentence. I would hesitate to hang such a major conclusion on just one sentence like that. I tend to attach more importance to him saying, "We could hardly do that" which tends to go very much more strongly in the opposite direction. Whether it was said on one

day or the next day, I do not think is of great moment.

MR RAMPTON: My Lord, I would like now to move on to something else which, I am afraid, is going to have to be Reichskristallnacht. That is because the Dresden file -- Dresden is quite complicated chronologically and it is very desirable that everybody has the same set of papers in the same order. It is not yet ready. It will be ready tomorrow.

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A: My problem with the Dresden file is that a lot of the letters that you have included in it are illegible. It may well be the same in his Lordship's file.

Q: Yes, I am told that may well be right.

MR JUSTICE GRAY: I have not got it.

MR RAMPTON: There is not much point including ----

A: But if I know that you are going to be dealing with that tomorrow, then I will read the microfilm tonight of the original letters so that I have boned up on them.

Q: Yes, I think that is probably a good idea. But, my Lord, I have another problem which is though I have got a Reichskristallnacht file, your Lordship has not yet. It is being copied at the moment. I would prefer if it were possible to wait until it is ready. It went away to be copied this morning. It should be ready quite soon, should it not.

MR JUSTICE GRAY: I am bound to say I am finding -- I mean, I can understand why you want to go to the source material, but I am finding it usually possible to follow these things in Professor Evans's report.

MR RAMPTON: Well, in that case ----

MR JUSTICE GRAY: I mean, Mr Irving can always say, "Well, you know, Professor Evans has got it wrong or he has missed something crucial out", but it does not seem to me always necessary to go to the original source material. Is that wrong? Do you disagree with that?

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MR RAMPTON: I agree with it when it is right and I disagree when it is wrong.

MR JUSTICE GRAY: That sounds reasonable. Is it often wrong though.

MR RAMPTON: I do think the Reichskristallnacht documents are important. I am not talking about postwar testimony or anything like that, selective interviewing or whatever.

I am talking about the contemporaneous documents. They provide a circumstantial base -- quite a lot of it not even mentioned in Mr Irving's Goebbels' book -- for proposing that it is more or less certain that, contrary to what Mr Irving contends, Hitler knew perfectly well what was going on and probably authorized it.

That being so, I am afraid I think it is probably helpful, at the very least, to have the file.

MR JUSTICE GRAY: The logic is that we all go away until the photocopying has been done which I am a bit reluctant to do.

MR RAMPTON: I know, but, on the other hand ----

A: I do consider the original documents are of importance in some cases.

MR JUSTICE GRAY: Well, in some case that may be, but as a general ----

A: Because I work from original documents in preference to ----

MR JUSTICE GRAY: Well, I know you do and I respect that, but,

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as general rule, one can manage very well with the quotations that one finds in Professor Evans. I

am sure there are odd instances where you need to go to the source material.

A: I think Professor Evans' report is highly tendentious and I am very loath to rely too much on it.

MR RAMPTON: In this particular case, we say because it is not ready, we say nostra culpa, nostra maxima culpa, if it be needed. It is our fault, it should have been, but I think in the end, if I may say so, it will save time because what is going to happen, I know, and quite naturally, I am going to refer to something in Evans and Mr Irving is going to say, "Well, I am sorry, I do not accept that, we have got to look at the document"?

A: Almost certainly.

MR JUSTICE GRAY: When is it going to be ready?

MR RAMPTON: It will certainly be ready -- someone has just gone to phone to check. Can we take five or 10 minutes to find out what is happening and I will come back into court and report to your Lordship. I do apologise. I mean, we should have had it ready.

MR JUSTICE GRAY: If we cannot do Dresden and we cannot do Reichskristallnacht, is there anything else we can do?

MR RAMPTON: Well, there is nothing much of any interest left, apart from Hitler's trial in 1924. That is very easy. I can ask one more question in relation to early Hitler

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which if I get the answer "yes" puts that in the cupboard.

(To the witness): Mr Irving, do you accept from his own written and recorded words that Hitler was deeply anti-Semitic from, at any rate, the end of the First World War?

A: Yes -- until he came to power.

Q: Yes. Do you also agree that anti-Semitism in one form or another was one of the foundations of the Nazi, the NSDAP's, what shall we call it, political platform?

A: Yes, indeed.

Q: My Lord ----

A: That was one of the 24 points.

Q: My Lord, that gets that out of the way.

MR JUSTICE GRAY: Does that get rid of Hitler's trial in 1924 altogether, as it were?

MR RAMPTON: No, it does not.

A: I am accused of having distorted again.

Q: I am sorry?

A: I am accused of having distorted again, am I not?

MR JUSTICE GRAY: Well, looting the shop?

A: No, the choice of witnesses, that I should have known, I should have known more about the witness that I rely on.

MR RAMPTON: Tell me, when you relied on the witness Hofmann?

A: Hofmann, yes.

Q: Did you know that he was a long standing Nazi mate of Hitler's?

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A: No.

Q: Did you not?

A: I would not use those words, but I knew nothing at all about his background. That was not before the court.

Q: You did not know anything about him; you just quoted him, did you?

A: You have heard what I said, Mr Rampton. I knew nothing about Hofmann's background that was not before the court.

I read the entire court transcript, which was many thousands of pages, which was adequate for writing a biography of Hermann Goring.

Q: And you did not know that Hofmann actually participated in the Putsch of the 8th and 9th November 1923?

A: Not from the transcript parts that I have read, no.

Q: And you did not notice the judge saying to Hofmann, "It is nice testimony that you are speaking out on behalf of your leader"?

A: Those are not the words he used. Would you like to quote the actual German to us?

Q: "Es ist ein schönes Zeichen von Ihnen, wenn Sie zu Gunsten Ihres Führers aussagen".

A: "It is very good of you to speak on behalf of your Führer, on behalf of your leader", yes.

Q: Yes. It was obvious, was it not, that Hofmann was likely to be a tainted witness?

A: Tainted? It is possible, but he was giving evidence on

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oath, and I can only say that what was before the court was what was before me.

Q: Have you got Professor Evans's, what is it called, report there?

A: Have I got what?

MR JUSTICE GRAY: Professor Evans' report? Yes, you have.

A: Of course, I am writing a biography of Hermann Goring and I am not writing a book about the Putsch. You appreciate that, do you not?

MR RAMPTON: Yes, but, Mr Irving, you are an historian and historian when, for needs of reference or whatever else, when they make reference to some event in the past, they can generally be expected by their readers to have some regard for accuracy, authenticity and so on, can they not?

A: Let me give you the impression of how much attention I pay to accuracy. In order to write that one or two sentence passage about Hofmann and the looting of the delicatessen, I read 6,000 pages of transcript of the trial of Adolf Hitler and others.

Q: In Goring, page 59 -- I have not got it with me, but this is quoted on page, my Lord, 225 of Evans, at the bottom of the page, you wrote this: "Meanwhile, Hitler acted to maintain order. Learning that one Nazi squad had ransacked a kosher grocery store during the night, he sent for the ex-army lieutenant who had led the raid. 'We took off our Nazi insignia first!' expostulated the officer -

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to no avail, as Hitler dismissed him from the party on the spot. 'I shall see that no other nationalist unit allows you to join either!'" That is Hitler, apparently.

"Goring goggled at this exchange, as did a police sergeant who testified to it at the Hitler trial a few weeks later"?

A: That was Hofmann, yes.

Q: That was Hofmann?

A: Yes. The whole episode is based on Hofmann.

Q: "Goring goggled at this exchange"?

A: Yes.

Q: How do you know Goring was there?

A: Have you ever heard of author's licence?

MR JUSTICE GRAY: Author's licence or ----

A: Are you criticising "Goring goggling" or being there?

Q: I am asking both questions, I think, am I not, Mr Irving? Do you know that Goring was there?

A: Yes. It is -- he was there because it is evident from the timetable of Einsatznacht(?) that he was there.

Q: And how do you know that Goring goggled?

A: That was author's licence.

Q: You mean it was an invention?

A: Yes.

Q: It is a piece of fiction?

A: Well, when you write a book that is going to be read, as opposed to work written by learned authors like Professor

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Evans, you occasionally help the reader along by saying, well, I mean, this was rather a surprising exchange. Here is Adolf Hitler ticking off an Army lieutenant, one of his Nazis, for raiding a Jewish shop and throwing him out of the party for doing it. You would imagine that any other Nazi, like Goring standing nearby, is going to be saying -- doing a double take of this or am I wrong?

Q: You are completely wrong. It is a quite illegitimate licence you have taken with a record of history, but there it is. It may not be the biggest point in the case, but it is there.

A: How am I completely wrong? How am I completely wrong?

Q: You attribute a reaction to Goring for which you have no evidence.

A: But it is reasonable to assume that if Hermann Goring, who was a dedicated Nazi, standing next to Hitler, and here is Hitler throwing somebody out of the party on the spot for having taken action against a Jewish kosher store that night, the Nazi is going to be saying, "What is going on here?" and he is going to be doing what is called a double take. I think it is a very reasonable inference to draw, and it is only two words.

Q: It is reasonable to assume that Hitler, very disturbed at what had been happening and trying to restore law and order, sent for the lieutenant if, in fact, as Hofmann said, the lieutenant just happened to be there?

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A: Well, I am sure that the ex-Army lieutenant was not hanging around in Hitler's presence the whole time.

Presumably, he was somewhere hanging around the bierhall and Hitler learned he was there and said, "Bring that fellow in. I want to tell him what I think of him".

Q: Do you not see what you are doing all the time, Mr Irving? With every single one of these little fictions, these little author's licence ----

A: Are you saying that he did not throw the man out of the party for having done what he did that night? This is the major point. You are looking for words ----

Q: Just let me ----

A: --- just the same as in the other one where we have Hitler saying, "You cannot do that, you cannot kill the Jews" and you are picking on the date.

Q: No, Mr Irving.

A: And here we have evidence that Hitler threw the person out of the party for having taken his squad to ransack a Jewish store, and you are picking on whether he was sent for or not.

Q: We will come to that in just a minute, Mr Irving. Please tell me this. When you wrote that passage about Hitler's reaction to this looting of a Jewish delicatessen, or whatever it was ----

A: Yes.

Q: --- had you read Hofmann's testimony?

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A: Most of it.

Q: So you knew that Hitler had not sent for the lieutenant, did you not?

A: This was written, what, 14 years ago so I do know what I knew.

Q: You see, all your little fictions, your little tweaks, of the evidence all tend in the same direction, exculpation of Adolf Hitler, do they not?

A: How does sending for him or not ----

Q: This is a much more severe measure than just saying to the chap, "Well, look, I gather you are the bloke that did this out of the party", is it not?

A: That makes a big difference?

Q: It makes a little difference.

A: No, the exculpation is not the sending for. The exculpation is throwing him out of the party and that is not denied.

Q: And, "Goring goggled, 'Good heavens! Adolf really is not anti-Semitic after all'"

A: Oh, come...

Q: I mean, really!

A: I do not think I actually wrote that, did I? Now you are taking liberties, you are writing things into the text.

Q: Shall we look at the German? My Lord, I was told that the Reichskristallnacht bundle will be ready in what was 20 minutes and, therefore, presumably, is 18 now, so I have

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only a couple of questions and perhaps we could then have a short break until it arrives.

MR JUSTICE GRAY: Yes, certainly.

A: Or you can spin it out the way you are doing now.

Q: No, Mr Irving. That is quite unnecessary. It is my fault because Mr Rampton wanted an adjournment altogether and I was trying to use the time.

MR RAMPTON: Why should I spin it out, Mr Irving?

A: Well, by trying to make some mileage out of the word "sent" when, in fact, you say he was on the other side of the room and said, "You are the one, come over here".

MR JUSTICE GRAY: We were going to look at the German.

MR RAMPTON: Yes. Look at the English first on page 227.

A: He is complaining that I did not identify the source.

Q: No, no.

A: He does.

Q: Could I ask your Lordship and Mr Irving just to read the English in paragraph 2 on page 227?

MR JUSTICE GRAY: "That gives a bad impression of the party".

MR RAMPTON: Yes. Could you then read the German at the bottom? It goes over to the other side at the bottom of 228 as well.

A: Yes. Can I draw attention to the fact, of course, that he has used a different source from the source that I have used? I have used the original microfilm which is -- I do not know whether it was longer than this or not. My

microfilm is 6,000 pages long, and I have got no idea whether they reproduced the entire text of the trial or not.

Q: I just cannot grapple with that, I am afraid, Mr Irving, I do not know.

A: Yes, but it is important because if I am being accused of putting things in or adding to the text, it may well be -- I am just saying this, it is 14 years since I wrote that passage -- that I was using the original microfilm, looking at the original court stenographer's version, and he has been using some printed edited text.

Q: The last three lines of German on page -- you must forgive me my accent -- 227, almost the last three lines: "Zufällig" - does that mean "by chance" - "ist der Fuhrer der Gruppe dagewesen"?

A: By chance the leader of this squad was there, a young Army lieutenant.

Q: Right. Are you telling me that that is different from the text that you read?

A: Well, he was there. He was no doubt hanging around.

"There" does not mean to say he was sitting at Hitler's desk or wherever. He just had to be on hand.

Q: Zur Rede gestellt hat diesser gesagt" -- "called on to speak" is a fair translation?

A: No, it is not. "Zur Rede gestellt", challenged.

Q: Challenged?

A: Yes.

Q: Very good. He said: "I took off the party" ----

A: Emblem.

Q: "Insignia".

A: Yes.

Q: Hitler said "Damit". What does that mean?

A: Thereby you have admitted or recognized that you did not consider yourself to be a member of the party at that moment.

Q: Yes.

A: But you did that.

Q: Yes.

A: With your entire squad you are thrown out of the party immediately, and I will take care that you will never again be taken up by a nationalist fighting unit.

Q: Has it occurred to you, Mr Irving -- again this would not be in Adolf Hitler's favour of course, so maybe it has not -- that what actually made Hitler cross was not so much what they had done but the fact that they took off their party insignia before they did it?

MR JUSTICE GRAY: That is actually what it says. That gives a bad impression of the party.

MR RAMPTON: Exactly.

A: Where does it say that gives a bad impression of the party.

Q: In the translation.

MR JUSTICE GRAY: In the translation, four lines down.

MR RAMPTON: The relevant English is: "I took off the party badge, that is the lieutenant. Hitler said, by doing this you admitted that you do not belong to the party at the moment when you committed that act. You are expelled ..." Has it occurred to you, Mr Irving, that what

actually was meant by Hitler was, if you are going to do things like that, do not be a coward and keep your party insignia on when you do?

A: I do not think so. I think this is a very far-fetched interpretation. It is an alternative interpretation but I think far-fetched and the less plausible of the two.

I do not think that, if this Hofmeister, if I can continue my argument and I think this will destroy your argument entirely, if this Hoffmann, rather, imagined he was doing Hitler a service when Hitler was on trial for high treason, that he was going to do Hitler a service by saying that Hitler had said, "By taking off your badge, you created a bad impression, you should have done that as a Nazi", that would not have helped Hitler at all in that trial, would it.

Q: But do you not think the two things really go together? Hoffmann might have said that Hitler said, "This is a bad thing to do, worse still you took off your party badge"?

A: That is not what he said. He said quite clearly, "By this action you have damaged the party", or, "By this action

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you have admitted you were not a member of the party, and therefore I am going to throw you out anyway". He certainly would not have helped Hitler at a treason trial by suggesting that Hitler had taken deliberate anti-Semitic actions against, or that he endorsed anti-Semitic actions against, this grocery store. If this was outside the courtroom, in other words, your explanation could have been plausible. But inside the courtroom, and Hoffmann giving evidence on behalf of Hitler is totally implausible, to put that interpretation on it.

Q: That is not a good reason for doubting the credibility of what Hoffmann said, I suppose?

A: I am sure he wanted, as the judge said, to get Hitler off the hook.

Q: Did you tell your readers that?

A: It is quite evident, is it not, when you are relying something? How much do you have to spell out everything to your readers every time? I am not, as I said once before, putting eight pages of sludge into a text in the way that a Professor can in an academic treatise. I have to write a book that will sell.

Q: What you do, if it is a mere side reference in a book about Goring, if you have a doubtful source like that, is you leave it out entirely. You do not make some elevating reference to Hitler's protection of the Jews in passing,

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if you are doubt at all about the credibility of the source. You just leave it out.

A: On the contrary, this is a most illuminating example. It is a very earlier example of exactly how Hitler acted in the second world war, where he repeatedly interceded against Nazis who had committed excesses against by actions against the Jews. We have already had, and we are going to have a lot more before this case ends, innumerable cases where Hitler has interceded, and this is a very early one in 1923.

Q: You cannot have it both ways, Mr Irving. Either Hoffmann is reliable and was not skewing his evidence in order to help his leader out of a tight corner, in which case you should have given the whole account, or else he was an unreliable witness and you should have just left it out. Is that not right?

A: You are the one who is trying to have it both ways, Mr Rampton. You want to have him as an unreliable witness who is trying to help Hitler, but at the same time hacking Hitler on the shins by what he says, saying that Hitler was angry because the guys who attacked the grocery shop had had the effrontery to take off their Nazi badges.

That would not have helped Hitler at all, would it?

Q: What about what you described as the requisitioning of funds by Hitler's armed thugs?

A: Oh that was obviously some prank that they carried out.

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Q: A prank?

A: He sent them out to go and steal the entire contents of a bank to pay people back or something, did he not?

MR JUSTICE GRAY: He sent them out?

A: Hitler sent these people out to go and rob a printing works and steal all the money.

Q: He sent them out to rob the bank?

A: Yes. I put this in the book, I think, no doubt Mr Rampton will tell us.

MR RAMPTON: You said in Goring that Hitler sent armed men into the city to requisition funds?

A: Yes. It is rather the same way as the great train robbers went to requisition funds.

Q: "It took 14 and a half billion Reichsmarks from the Jewish bank known as Parvis & Company and gave a Nazi receipt in exchange. Meanwhile Hitler acted to maintain order". The truth was that these thugs just went and stole 14 and a half billion Reichsmarks from the Jewish printers, did they not?

A: That is right, which was of course just paper. They went and stole all the paper and left a Nazi receipt.

Q: Why did you not write it like that, requisition, Mr Irving? Really! They were not even the government.

A: I do not know if you have read Noel Coward's poems? This is the way the English write. They write with a delicate touch. They do not write acres of stodge if they can help

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it if they are not professors of sociology or history.

They write books that are going to get read. To send a Nazi gang to go and requisition funds from a printing works is like the great train robbers requisitioning funds.

MR JUSTICE GRAY: How is the reader going to gather that from what you have written?

A: Well, maybe I have not written it with as much dexterity as normal, but the intention was to put a light touch on it.

MR RAMPTON: Then finally this, Mr Irving ----

A: Giving a Nazi receipt in exchange surely gives the flavour, does it not?

Q: The attack on the Jewish delicatessen and Hitler's supposed reaction to it, which you used in support of the statement that Hitler acted to maintain order, notwithstanding that he sent thugs to steal a large sum of money from some Jewish bankers, that raid on the delicatessen was not part of the putsch of the 8th and 9th November, 1923 at all, was it?

A: I do not know. You tell us.

Q: If you have read Hoffmann's testimony, you would know that it referred to some earlier and quite unconnected occasion.

A: I do not know. Does Professor Evans say this?

Q: Yes he does.

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A: Perhaps you can draw attention to it.

Q: Last bullet point on page 228.

A: I cannot accept that without knowing what he relies on.

Q: I think you will see at the top of 229 what he relies on in Hoffmann's testimony.

A: He just says "It is quite clear that". Frankly, I do not accept that unless he gives us a source. You remember, I have read the 6,000 pages of testimony and he has just read some printed text.

Q: Well, I think what he is probably referring to, which is perfectly obvious if you look at it, and I am grateful to Miss Rogers, is on page 227, the very first line of the quote from Hoffmann is: "Apart from this, I want to mention a previous incident because acts of violence which individuals have committed have always been ascribed to him. I once went along to Hitler when I was still in the force and said to him: this and that have happened again. Some elements had attacked..." It was a quite separate occasion, nothing whatever to do with Hitler's restoring order during the putsch of 1923.

A: Mr Rampton, will you read the German original of that first line, please?

Q: "Austerdem mochte ich einen Fall vorher erwahnen..."

A: Not "einen vorher Fall erwahnen". He does not say, "I want to mention a previous incident". He says, "I would first

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like to mention an incident".

Q: Yes, but read on.

MR JUSTICE GRAY: Yes, I see.

A: It is a bad translation, of course.

Q: You say vorher qualifies erwahnen, not einen Fall?

A: It is an adverb, my Lord, it is not an adjective.

MR RAMPTON: You can take that up with Professor Evans. It is no good arguing with me about that.

A: I have quite a few things to take up with Professor Evans when he comes.

MR RAMPTON: My Lord, I do not think I have anything more on this little topic.

MR JUSTICE GRAY: No. I think that was better than just adjourning for 20 minutes. We have actually had the 20 minutes and the file is here or is not here?

MR RAMPTON: It is.

MR JUSTICE GRAY: It is.

MR RAMPTON: Can we have five minutes just to sort it out?

MR JUSTICE GRAY: Yes of course. I will adjourn for five minutes.

(Short Adjournment)

MR RAMPTON: Your Lordship should have a new red file.

MR JUSTICE GRAY: Yes, I have, L2.

MR RAMPTON: Mr Irving, for this purpose I am going to concentrate on your latest account of Reichskrissallnacht

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which is that given in your 1996 book on Goebbels. If you tell me that you want also to refer to what you have written on Hitler's War or on any other book, I will come back to is that tomorrow.

A: Would you your Lordship like the book itself?

MR JUSTICE GRAY: I think I will probably operate off the transcript, thank very much, then I can mark it.

A: I have a spare copy.

MR JUSTICE GRAY: I have one already actually of Goebbels.

MR RAMPTON: Can we start on page 273, and I am not going to going to read out page 273. What you do there is give an account of what had happened in Paris, and earlier, on 7th November 1938 which was that it was said that an assassin called Grynszpan had shot a Nazi diplomat called vom Rath, is that right?

A: Yes.

Q: He did not die immediately. I think he died some time in the afternoon of the 9th. Is that not right?

A: That is correct, yes.

Q: The news of his death was transmitted to Berlin at about 5 o'clock that evening, or a bit earlier, and then was released on the news?

A: That is correct.

Q: Whether directly or indirectly, as a consequence of that, a number of disturbances began to take place in different places in Germany which were all directed against Jewish

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property. Is that a fair account?

A: I think the disturbances actually begun before the death was announced.

Q: After the shooting?

A: After the shooting the disturbances begun, yes.

Q: Prompted by the shooting. Can I start right then at the bottom of page 273: "Events that evening, November 9th, are crucial to the history of what followed. As Goebbels and Hitler set out to attend the Nazi reception in the old city hall, they learned that the police were intervening against anti-Jewish demonstrators in Munich. Hitler remarked that the police should not crack down too harshly under the circumstances". Your source for that -- have you got it?

A: Yes.

Q: 274. Your source for that, I think, is eyewitness testimony, is it not? The footnotes are on page 612 and following, I can tell you that.

A: Yes. It was a statement by Juttner.

Q: What follows next, however, is a quotation from the Goebbels' Diary written, no doubt, on the 10th?

A: Not necessarily. If you remember, the Goebbels' Diary, over these days, was written up subsequently, I think, so it is dangerous to assume that a diary was written ----

Q: I do not. I have no quarrel with Dr Goebbels' Diary in this part of the tale, I have to say.

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A: Yes.

Q: "'Colossal activity' the Goebbels diary entry reports, then claims: 'I brief the Fuhrer on the affair. He decides: Allow the demonstrations to continue. Hold back the police. The Jews must be given a taste of the public anger for a change!'" So when you say in the earlier part that Hitler remarked that the police should not crack down too harshly, that means that they should not crack down too harshly on the anti-Jewish demonstrators, is that right?

A: That is correct, yes.

Q: What word did Goebbels use to represent his report of Hitler's decision that the police should be held back?

A: I do not know. Can we see the diary?

Q: I think it is probably best, neatest, easiest, to see it.

Sorry. It is easiest for everybody else if we look at it on page 240 of the Evans' report, although it is in this new bundle.

A: The sense that I give is clearly that Hitler wanted the demonstrations against the Jews to continue.

Q: Yes, but my question was what word did Goebbels use which you translate as "hold back"?

MR JUSTICE GRAY: "Zuruckziehen".

A: You must remember, it was eight or nine years since I actually wrote this. It is eight years since I saw Goebbels diaries.

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Q: Well, the answer is "Zuruckziehen", I think, is it not?

A: "Zuruckziehen".

MR RAMPTON: If Goebbels had meant "hold back", he would have written something like "Zuruckhalten would he not"?

A: Or "Zuruckneimen", yes.

Q: "Zuruckziehen" is more active, it means ----

A: Pull back.

Q: "Pull them out"?

A: Pull back, yes.

Q: "And let the demonstrators get on with it"?

A: Yes.

Q: And he says simply that the Jews for once shall feel the anger of the people. That is all he says in the next sentence, is it not?

A: "The Jews must be given a taste of the public anger for a change", yes.

Q: Where is the "taste" in the German?

A: What is the difference? I have talked before about the need to make literate translations or literary translations of diaries. The Goebbels diary presents particular problems because it is written in the vernacular, and it is very difficult to give the exact flavour, or in this case the taste, of the vernacular in the translation you give. He is writing slang. It would be like translating cockney into German. Frequently he is writing in a Berlin cockney.

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Q: But it is perfectly correct to translate it as Professor Evans does, "The Jews must for once feel the people's fury". That is more accurate.

A: Well, can we see the actual German original perhaps?

Q: The German original is at the bottom of page 240 of Evans.

You want to see the actual document?

A: No, no, I just want to no. "Die Juden sollen einmal den Volkszorn zu verspuren bekommen" -- "The Jews must have a taste of the people's anger". My translation is better than his, I am afraid.

Q: You say so.

MR JUSTICE GRAY: "Verspuren" means track of, or something like that, does it, or trace of?

A: I think "to have taste of something", to have a taste of the public anger.

MR RAMPTON: Now, much more important than that ----

A: I hope so.

Q: --- well, much more important than that, Mr Irving, is this, really it is the foundation, is it not, of your whole account of this event, or series of events, which later came to be known as Reichskristallnacht? Goebbels, it must be, according to you, when he wrote that the Fuhrer said, "Let the demonstrations go on and withdraw the police"?

A: Yes.

Q: Goebbels must be lying? Because, on your account, Hitler

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did not know anything about it and was shocked and angry when he found out what was happening early on the morning of 10th?

A: Surely this is a reference to what has been going on during the day before the Kristallnacht.

Q: Big demonstrations against the Jews in Kassel and Dessau?

A: Yes.

Q: Synagogues set on fire and businesses demolished?

A: Yes. This was during the day even before the Reichskristallnacht began, the outrages began.

Q: "The death of the German diplomat vom Rath is reported in the afternoon. But now the goose is cooked. I go to the party reception in the Old Town Hall. Colossal activity".

That means at the reception, I take it. "I brief the Fuhrer about the matter," what matter?

A: Can we see the entire passage, please?

Q: Then I will have to find it.

A: This is very important and we really have to go over it line by line.

Q: Yes, it is terribly important, not from the historical point of view. Tab 3, is it? Tab 3, page ----

MR JUSTICE GRAY: Tab 3 of what L2?

MR RAMPTON: Yes, page 1.

A: Unfortunately, we do not have the first pages of this diary entry. Had I known, I would have brought my transcript of the diary with me.

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MR JUSTICE GRAY: Presumably, this is all in one of the other files?

MR RAMPTON: No, we have not got it.

A: Well, I published the Goebbels 1938 diary in a separate edition before this edition came out. Of course, I am the first person to have transcribed these handwritten diaries, and it is quite plain when you look at these diaries that this particular day is written up one or two days later, so it is very difficult to be certain about the sequence of events. You have really to ----

MR RAMPTON: Well, it is pretty clear, is it not, Mr Irving?

A: Well, if you ----

Q: What time of the day was the rally or whatever it was in the old Rathaus, the old Town Hall?

A: It was a dinner.

Q: A dinner?

A: A dinner, yes.

Q: According to Goebbels, he went with Hitler to the dinner?

A: Yes.

Q: Although Hitler did not stay?

A: Yes.

Q: But they were obviously talking about the violence which had broken out in different parts of Germany against Jewish property as they went or when they got there, were they not? Look at the

text on page ----

A: I am very clearly looking at the text and I am going to

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translate as I go along. Paragraph -- the first, the third full paragraph: "In Kassel", right?

Q: Yes, please.

A: "In Kassel and Dessau great demonstrations against the Jews. Synagogues are set on fire and the shops are demolished. In the afternoon the death of the German diplomat vom Rath is reported. Now it is" [something or other], the word is unplain, illegible, "I go to the party reception in the old Town Hall. A lot going on there.

I tell the Fuhrer about it. I tell -- I report the matter to the Fuhrer". It is obviously the fact that vom Rath is dead. That is what he has told Hitler about. The news has come over the wires, Goebbels is the propaganda minister and he has passed on to Hitler the fact.

Q: Read on, Mr Irving, really.

A: And he says, "Let the demonstrations carry on. Pull back the police", yes.

Q: Yes.

A: What he has told Hitler about is the death of vom Rath.

Q: No, Mr Irving, that is a complete, if I may ----

A: OK, I will take your one, I do not mind. It makes no difference either way. I will take your interpretation.

Q: What Goebbels done is to tell Hitler, Hitler surely already knows about the death of vom Rath, after all ----

A: Well, you have no evidence for that.

Q: Well, he sent his personal physician over to Paris to try

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to save the man's life, does he not?

A: But you do not have any evidence for the fact that Hitler knew when Goebbels went to him -- well, OK, even accept that, I do not mind. Let us carry on.

Q: Look at the thing realistically, Mr Irving. The news gets on the public radio by 5 o'clock in the evening. Are you telling me that Hitler would not know? Of course, he knew?

A: Are you giving evidence that it was on the radio as opposed to coming over the wires?

Q: I am just trying to push into the bushes an absurd, off the cuff answer by you. I am not going to hold you to it.

A: It is not off the cuff. I have researched this matter in enormous depth. I am the first person to have transcribed the Goebbels' diaries on the Kristallnacht.

MR JUSTICE GRAY: Mr Irving, what does "die angelegenheit" mean?

A: The affair, the matter, the business, ras in Latin.

Q: So that is equivocal?

A: It could be anything. It could refer to either thing.

But I do not see that it makes any difference either way and I am quite happy to accept Mr Rampton's interpretation.

MR RAMPTON: Hitler's response is nothing to do with, "Oh, isn't it awful? Yes, what a shame it is about vom Rath".

Hitler's response is all to do with the demonstrations

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against the Jews and the destruction of their property, is it not?

A: I am quite happy to accept that. I do not really see that it makes any difference what the matter was in this discussion.

Q: Oh, yes, it does because what Hitler says is: "Let the demonstrations continue"?

A: Yes.

Q: "Draw back the police, pull out the police"?

A: "Let the police -- let the Jews have the taste of public anger", yes.

Q: That is right, and that may well be Goebbels' (because he often puts those little words in, does he not) observation. You know, do you not (and I am sure you do, although we do not have find it in your book, I do not think), in February of the following year, 13th February or so, the Nazi party judicial system (which is nothing whatever to do with the official state prosecution or court service) held some kind of tribunal or enquiry into what had happened on 9th and 10th November 1938?

A: Into the excesses committed by Nazi party members, yes, against the Jews.

Q: Yes. How many Nazi party members were actually prosecuted, fined or imprisoned by the State courts?

A: Prosecuted or fined or imprisoned?

Q: Well take them in order, if you like?

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A: I do not know.

Q: Very few, I suggest.

A: Well, if that is your evidence, but I do not know either way -- not without consulting the records.

Q: Can you look in tab 2 of this document?

A: They were prosecutions, definitely, for people who had murdered Jews for ----

Q: Yes.

A: --- shall we say -- on one occasion a Jew was murdered because he was going to give evidence in a libel action, I believe, and he was prosecuted for it -- the murderer was prosecuted for it, yes. Can I look at ----

Q: This is not the State justice machinery, is it, this party tribunal or whatever it is?

A: No, it is not.

Q: It calls itself "Der Oberste"?

A: It is the supreme party court.

Q: Yes, Der Oberste ----

A: Under Walter Buch.

Q: --- Parteirichter?

A: Walter Buch -- B-U-C-H.

Q: Yes, and this is its report to General Field Marshal Hermann Goring, is it not?

A: Yes.

Q: If you would like to turn over the page?

A: What are we looking at?

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Q: I am so sorry. Are you not in this file? Tab 2.

A: Tab 2.

Q: It is dated 13th February 1939.

A: Yes.

Q: What it says, which is of significance for present purposes, is to be found on the next page, page 2. If you would not mind just translating it? In the middle of the page, it says: "Geheim! Geheim!" which is "Secret", presumably, then it says "Bericht" which is "Report on", and then what is it reporting on?

A: A report on the episodes and the party court procedures in connection with the anti-Semitic demonstrations on November 9th 1938.

Q: Right. Now I would like you to read the next paragraph and down to the line below "seite 2".

A: Read it?

Q: I mean translate it for us, please?

A: "On the evening of 9th November 1938, the Reichs propaganda director, party member Dr Goebbels, informed the party members who had met for a comradesly evening in the old Town Hall in Munich that there had been anti-Jewish demonstrations in the gaus, G-A-U-S, of Kurhessen and Magdeburg-Anhalt, A-N-H-A-L-T, and that Jewish shops and synagogues had been smashed -- and the Jewish shops had been smashed and synagogues had been set on fire. The Fuhrer had decided on his briefing that such

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demonstrations were not to be prepared by the party, nor were they to be organized by the party. In so far as they occurred spontaneously, they were, however, not to be opposed or stopped".

Q: Yes. Well, now, whereas I suppose you might say that Dr Goebbels might lie to his diary ----

A: Yes.

Q: --- he is not likely to lie to the Alten Rathaus gathering of old party comrades, is he? He is representing to them what he and Hitler have been discussing and what Hitler has told him before that dinner which Hitler did not attend, is he not?

A: Yes.

Q: Do we find that speech by Goebbels at the Alten Rathaus referred to anywhere by you in your Goebbels book?

A: I believe that I had the version given by the British Consul in Munich which he reported to the Foreign Office and he obtained an account of what Goebbels had said, and I have referenced that as the source. Obviously, there is no transcript of it.

Q: You see, if Goebbels was telling the truth to the party court ----

A: He was not actually one of their witnesses.

Q: Sorry, no. If this is an accurate report of what Goebbels said at the Alten Rathausen on the evening of 9th November, probably after Hitler had left, why, then, the

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idea that Hitler did not know what was going to happen is absurd, is it not?

A: We are talking about scale, I think, more than anything else. It is quite evident from Goebbels diary that Hitler had said, "OK, so the Jews are going to have, they are going to get ruffed up, pull the police back, let it happen, let the Jews have a taste of the public anger this time". But what is evidenced from all the records that I have seen is that, like a lot of fires, it got out of hand, and by midnight, so to speak, it was quite plain that this was turning into an extremely unseemingly pogrom which in an organised, national Socialist State was something desired certainly not by Hitler, and in the following morning not by Goebbels either, because it reflected badly on them all.

Q: I am going to ask you look at one sentence in Goebbels on page 276, your book on Goebbels?

MR JUSTICE GRAY: Can I just, before you do that, get an impression of the scale of the problem at it was known to Hitler. This document we are looking at is referring to events in Kurhessen and Magdeburg-Anhalt. Where are they?

A: Well, they were provinces in central Germany hundreds of miles away from Munich, and he is getting reports of a synagogue set on fire here and the demonstrations there.

Q: Well, perhaps a bit more than that, but, at any rate, Jewish businesses being trashed and ----

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A: Elsewhere, certainly not in Munich yet and not all over Germany, not a huge forest firing spreading with uncontrollable speed across the country.

MR JUSTICE GRAY: I just wanted to be clear, thank you.

MR RAMPTON: Can I just then -- I want to do two things. One will need his Lordship's permission, but the first does not. Could I ask you to turn to page 276 of Goebbels?

A: Yes.

Q: And look at the last paragraph. It is precisely because of what you have just said that I want you to look at this.

A: Can I just draw attention to the first sentence of the full paragraph: "The pogrom was soon out of control" on that page.

Q: I am not trying to trick you. I just want to know what you mean.

A: I think that together you and I will find out what happened that evening.

Q: I think I know, Mr Irving. I do not need your help, I do not think. "What of Himmler and Hitler? Both were totally unaware of what Goebbels had done until the synagogue next to Munich's Four Seasons hotel was set on fire around 1 a.m."

A: Yes.

Q: Right. What did you mean by saying that Hitler was totally unaware of what Goebbels had done until the

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synagogue next door to the hotel went up?

A: Goebbels, if my memory of events is correct, that evening had sent out an igniting telegram, which I would describe as an igniting telegram, in which he had called for widespread acts of arson and violence against the Jewish community and their property.

Hitler was also not present when Goebbels made this speech to the old fighters, to the old comrades.

Those are the two elements on which I base that sentence.

Q: Yes?

A: When he made literally the fiery speech, the inflammatory speech.

MR RAMPTON: My Lord, I, therefore, have a suggestion to make, that your Lordship might consider rising now because I would wish for the afternoon your Lordship and Mr Irving, if he needs to do so to remind himself, to read the whole of pages 273 to 277 towards the halfway break in the page, until we get to the aftermath which is 10th and 11th because it will ----

MR JUSTICE GRAY: I am not quite sure why. I mean, I have read it before. What is to be gained by reading it again without knowing what questions you are going to ask?

MR RAMPTON: Well, because it puts my questions in context. I am quite happy to ask questions, but your Lordship or Mr Irving may find it difficult it follow.

MR JUSTICE GRAY: I am sure Mr Irving will not, but I might,

I suppose.

A: But it is eight years since I wrote this passage and I have moved on to other things since then, of course.

MR JUSTICE GRAY: So you would like the opportunity to re-read it, would you?

A: If Mr Rampton thinks it would be useful.

MR RAMPTON: Well, I do because otherwise I am going to dot around from one page to the next. One will not have the context unless we read out all the pages in court, and that is time consuming and also somewhat tiresome.

A: I can read it during the lunch hour.

MR JUSTICE GRAY: Right. So now is the moment do that, is it?

MR RAMPTON: We have only lost eight minutes if we do it that way.

MR JUSTICE GRAY: Yes, OK. We will say 2 o'clock.

**(Luncheon adjournment)
(2.00 p.m.)**

MR JUSTICE GRAY: Yes?

MR RAMPTON: Now, Mr Irving, have you had a chance to reread those pages of your book?

A: I have, yes.

Q: Good. What I would like to do, if I may, is to draw your attention to the documents in the file which you have. As far as possible I will try to do it in chronological order. Then what I want to do is to see and, if the answer is you have, whether you have treated them in this

passage and, if you have, how you have treated them and, if you have not, why not. First of all, can you please turn to page 2 of the first tab in this bundle?

A: Yes.

Q: If you look at this, I do not know what the nature of this publication is. I think it is probably a Nuremberg document. Do you?

A: Yes.

Q: Here is a telegram from Muller, who is head of the Gestapo. It is the right hand column, my Lord. 377 is the internal number.

MR JUSTICE GRAY: Yes.

MR RAMPTON: It is sent at 5 to 12 on the night of 19th November 1938, is it not?

A: Yes.

Q: It is addressed to -- what are Stapostellen?

A: Local Gestapo officers.

Q: And Stapolizeistellen?

A: They are the office immediately above them.

MR JUSTICE GRAY: What is the date of it? I cannot find it.

A: 9th November 19 --

MR RAMPTON: It is Berlin No. 234, 404, 9.11, 23.55 which is the time. Is that right?

A: Yes.

MR JUSTICE GRAY: I see, but no year.

MR RAMPTON: No year, no. But you have seen this document

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before?

A: The original is in the Hoover library in Stamford University.

Q: Is the answer to my question yes?

A: Yes.

Q: When did you first see this document?

A: Probably about 20 years ago, 25 years ago.

Q: It is ----

A: I am saying I have seen the original of the original document, not of this Nuremberg one, which I did not use.

Q: It does not make an appearance in your Goebbels book, does it?

A: Do I not refer to igniting telegrams?

Q: In a footnote but it is not in the text, is it?

A: It makes the appearance in the footnote, yes.

Q: Can you just glance at it again, you are no doubt familiar with it, and tell us what it says?

A: It is instructing local police officers that in a short time there is going to be an outbreak of operations against the Jews, in particular against their synagogues all over Germany, and that there are to be certain precautionary measures to make sure that other buildings are not -- and also the arrest of 20 or 30,000 Jews is to be prepared.

Q: That arrest of 20 or 30,000 Jews was explicitly on the order of Hitler, was it not?

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A: I believe you are right, yes.

Q: And Goebbels said so, and it was so reported in, I think, the proceedings of the -- maybe I am wrong about that, but I think you have stated it as a fact in your book?

A: Yes.

Q: No doubt deriving it from Goebbels diary entry?

A: I just would like to enter the caveat at this point of course that I first wrote this 15 years ago, and the last time I drafted this manuscript was eight years ago. From then until now I have not really had any reason to read it again, but I think you are right.

Q: On page 276 you write: "'The Fuhrer', claimed Goebbels in the diary, 'has directed that 20 or 30,000 Jews are to be arrested immediately'".

MR JUSTICE GRAY: Mr Rampton, where are you reading? I know which book but can you tell me where on the page?

Q: I am sorry, my Lord, 276, middle of the page, just before the indented quote?

MR JUSTICE GRAY: Yes, I see. Thank you.

MR RAMPTON: In fact, an order from Heydrich went out at 1.20 in the morning?

A: Yes.

Q: As well as this one, did it not?

A: Yes, that is quite plain.

Q: You are saying that.

A: Yes.

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Q: Heydrich later report to the Goring, I think on the 11th, that that had in fact been achieved, did he not?

A: Yes. This Fuhrer order refers specifically of course to the arrest of the Jews.
Q: And particularly the well-to do Jews? Is that right?
A: Not in my book, it does not.
Q: No, no. Here on the page.
A: On the document, do you mean?
Q: Yes (German).
A: Yes.
Q: In paragraph 1 it says that there will be taking place, or there are taking place, you tell me which it is, in the near ----
A: There are to take place in the near future in all Germany operations against the Jews.
Q: Against the Jews especially against their synagogues?
A: Yes.
Q: Then it says [German- document not provided], which means?
A: They are not to be interrupted.
Q: That is in exact consonance with what Goebbels reported Hitler as having said to him just before the dinner on the evening, is it not?
A: Yes.
Q: Do you not think that this telegram ----
A: It does not add much to our knowledge.
Q: It does not?

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A: No, but I referenced it in a footnote as being a telegram with an igniting function, if my memory is correct.
Q: Yes. Then the next one I would like you to look at is the one on the first page, in this bundle?
MR JUSTICE GRAY: Mr Rampton, I am just a little puzzled by great stacks of documents in German being handed up. Is there anything to be gained by having a translation of them? What am I meant to do with all this?
MR RAMPTON: Well, if the witness has translated them in the witness box and I have not contested his translation, then one can take it -- his German is very good -- that what he said is accurate.
MR JUSTICE GRAY: I was really thinking of my own position, that it is not entirely satisfactory having to correlate this document that is referred to on day 12 with such and such a page of the transcript.
MR RAMPTON: I know.
A: Can I also point out, of course, that this was not the only order issued? Goebbels had previously issued an order during the day. I am not if you caught that, Mr Rampton. This was not the only order issued, of course. Goebbels had previously issued an order earlier that day to which he refers on the following day when he rescinds his order.
Q: But Goebbels does not issue orders to Muller, does he?
A: This is part of the problem that night. We find Goebbels

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issuing orders to police officials and to gauleitung officials over which he has no direct control whatsoever.
Q: Where are these Goebbels orders?
A: If you look at the page 279 of my Goebbels book and you look at the caption to that, on

November 10th Goebbels issued an urgent circular telegram all gau propaganda chiefs cancelling the Aktionen against the Jews ordered the day before.

Q: First of all, what time of day does this message go?

A: That one went out at some time on November 10th, which is the day after it all happened.

Q: It has all happened by then, has it not?

A: That is correct.

Q: Second, you notice that this message from Goebbels which comes the following day is sent to the propaganda chiefs. It is not sent to the SA or to the Gestapo at all, is it?

A: That is correct.

MR JUSTICE GRAY: Mr Rampton, I am completely lost. I do not know what the point is at all. We have just looked at a document, I now cannot remember where it was, tab 2.

MR RAMPTON: Yes.

MR JUSTICE GRAY: Is there a point made on that document?

MR RAMPTON: Yes. If your Lordship would be a little patient with me, the point I shall be making at the end it so that it is all clear is this. Orders were given throughout the night, apparently on the express authority of Hitler,

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first of all that certain kinds of property were not to be damaged or burnt, but by no means extending to all Jewish property, and, second, that it was repeatedly said, again on the authority of Hitler, that the police were to hold back, they were not to interfere.

A: But you keep on interpolating the words "on the authority of Hitler" which is the very moot point of course.

Q: Because some of them actually say so. I am explaining something to the judge, Mr Irving.

MR JUSTICE GRAY: Yes. Let Mr Rampton explain because I am not following the criticism of you at the moment.

MR RAMPTON: The point of it is, if you unvarnish by Mr Irving's interpretation, if I can call it that, in these pages, one looks at the original documents as a piece of original chronology, if I can call it that. What one sees is that it is inconceivable, when you look at who they came from, when they came from, that this did not originate with Hitler and was approved by him as Dr Goebbels said it had been.

MR JUSTICE GRAY: Right. That is very helpful to know that, but can I tell you why I am a little puzzled? Before the adjournment I think we had reached a point where Hitler had gone home or wherever he went before the dinner, which was at about 9 o'clock in the evening. We have now got to about midnight. Did nothing happen in between times? I think that is what Mr Irving is suggesting, that there

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was another Goebbels order.

MR RAMPTON: I do not think even Mr Irving is saying that.

Things had already happened before ever Hitler and Goebbels had a conversation about it in the late afternoon or the early evening. It had already starting happening.

MR JUSTICE GRAY: I follow that, but are you saying nothing of relevance happened between 9 o'clock in the evening and the date of this message from Muller? That is the point.

MR RAMPTON: There is nothing recorded in the documents as having happened, save that it must be a reasonable inference that it was all still going on.

MR JUSTICE GRAY: I mean happened anywhere in connection with Kristallnacht, not the

actions against the Jews in the synagogues there. Did Goebbels, for example, not make a speech?

MR RAMPTON: He did and, as we saw this morning, during that speech to the old party comrades at the old town hall he actually said on the Fuhrer's orders that this is to be allowed to continue.

MR JUSTICE GRAY: It would obviously help me if we could be chronological about it.

MR RAMPTON: That is what I am trying to be. The last thing I looked at was the Nazi party court report of February, which records what Goebbels said at the 9 o'clock dinner on the 9th. That is tab 2, my Lord, page 2.

MR JUSTICE GRAY: This is what Goebbels said in his speech that

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night, is it?

MR RAMPTON: Yes. It says: "On the evening of 9th November 1938 the Reichs propaganda minister, Dr Goebbels, ... said ...". We had a translation of that from Mr Irving this morning?

A: Yes.

MR JUSTICE GRAY: It is one of the problems about operating off a German text. Anyway, this is Goebbels speech. I am afraid I had not realized that. Yes.

A: It continued by saying that he said that the Fuhrer had decided on his briefing that demonstrations like this were neither to be prepared by the party, nor were they to be organized and so on, but however -- --

MR RAMPTON: What he said was that, in effect, rather like the pogroms shortly after Barbarossa, it was OK so long as, as it were, they were anonymous. The police were not to interfere of course, which meant that the thugs could have a free hand. Your Lordship will find, if the translation is a problem, some translation of that on page 244, paragraph 5, of Evans, where Evans unsurprisingly makes the point that I made this morning, that whereas Goebbels might have lied to his diary, he certainly was not very likely to lie to the old party comrades at the dinner.

A: I would thought it would be the other way round.

Q: Well?

A: If Hitler had given him those instructions, he would have

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written it in his diary.

Q: He did write it in his diary, Mr Irving, did he not?

MR JUSTICE GRAY: We have not looked at the diary on this, have we, yet?

A: We have not and, if we do, we will not find that Hitler gave the instructions.

MR JUSTICE GRAY: I must say I think it would be easier to work off Evans than doing this.

MR RAMPTON: As I say, the problem with that is that every time I try and use Evans, the witness disputes what Evans has written and insists on going back to the original.

A: Vehemently.

MR JUSTICE GRAY: Then I ought to have translations of any documents that matter. Anyway, let us try and press on.

I am just getting a bit puzzled by the sequence.

MR RAMPTON: My Lord, can I back? The starting point is the Goebbels diary entry of 10th November 1938, recording his meeting with Hitler, his conversation with Hitler, before the dinner that evening on 9thth November.

MR JUSTICE GRAY: Yes.

MR RAMPTON: Mr Irving has accepted that, although he translated it somewhat differently, I think he has accepted, that translation by Professor Evans is accurate.

MR JUSTICE GRAY: Page 240, paragraph 4.

MR RAMPTON: Yes, top of the page, 241. The German is on 240.

MR JUSTICE GRAY: Yes.

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MR RAMPTON: The top of 241 is Professor Evans' direct translation. "I brief the Fuhrer about the matter. He orders: let the demonstrations go on. Withdraw the police. The Jews must for once feel the people's fury".

A: That is correct.

Q: That is the starting point. Then Goebbels goes to the dinner, and in effect says more or less the same thing to the assembled company at the dinner. Then, so far as I know from the documents, there is not any record of Goebbels or anybody else having said anything about what was to happen or not happen until five to 12?

MR JUSTICE GRAY: What you have just said has actually clarified my mind. Thank you very much.

MR RAMPTON: I am sorry.

MR JUSTICE GRAY: It is probably my fault.

MR RAMPTON: I am trying to go as fast as I can.

MR JUSTICE GRAY: It is just that sometimes one plunges into things and one needs to be --

MR RAMPTON: I know. I do recognize. We are all so familiar with it that sometimes somebody who is not quite so familiar may easily get left behind and I do apologise for that. I will try to take it more slowly. Can I then jog back one step to page 2 of tab 1 of the new bundle?

A: The Muller telegram?

MR RAMPTON: Yes, please.

A: Which of course is sent from Berlin, not from Munich.

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Q: I understand that.

A: That is quite important, as Hitler is in Munich and Goebbels is in Munich.

Q: You mean Muller and Hitler, leave Goebbels on one side if you will for the moment, cannot communicate by telephone?

A: It would have been an unorthodox chain of command because Muller ----

Q: The strict chain of command would have been this, would it not, Mr Irving? Hitler speaks to Himmler, and you remember there is a British diplomatic report saying that Himmler and Hitler were in close conversation before the dinner?

A: Yes.

Q: Himmler speaks to Heydrich, Heydrich speaks to Muller?

A: Or, more likely, that Muller gets word from his local police officers that Goebbels has issued instructions, which we have heard about, for these kind of things to happen, and Muller then sends out this telegram, which begins with the words, "There are going to be outrages against the Jews in a short time all over the Reich", and the orders are that no one is to intervene.

Q: That is right. Now, do you really think that Muller, whose immediate boss is Heydrich, whose immediate boss is Himmler, whose immediate boss is Hitler, would have written [German-document not provided], they are not to be interfered with, the demonstrations, on the faith of

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some utterance by Goebbels? It has to come from his own chain of command, has it not?

A: Well, we are not advised by the document as to what actually happened.

Q: No. We are not, but we are trying to be honest, open minded, objective historians, looking at the true effect of the evidence?

A: Each in his own way, yes.

Q: And the fact is, is it not, Mr Irving, that, if Muller is prompted to send that telegram at five to 12 on 9th November 1938, he has had authority to repeat what Hitler has already said to Goebbels, that the police are to be held back?

A: Yes.

Q: And he will have got that authority not from Goebbels, he will have got it from Heydrich Himmler or Hitler.

A: Well, we are not informed by the available documents you have managed to dig up so far. All we can say is that these instructions are not broadly different from what we know from other sources that Hitler was saying, namely, "Do not intervene, fellows".

Q: No, exactly.

A: "Let things run their path".

Q: "Do not intervene, fellows. Bad as it gets, do not intervene". Now look at what was sent on the evening of 9th November. Turn back to page 1, please. My Lord, I am

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going to try make this easy by finding it in Evans. My Lord, 249 is the correct reference, paragraph 6. I will read it from Evans, first of all. "The leader of SA group Nordsee, Bohmcker, in the evening of 9th November 1938 issued the following instructions from Munich to his subordinates: All Jewish shops are immediately to be destroyed by SA men in uniform ... Jewish synagogues are to be immediately set on fire, ... The police are not permitted to interfere. The Fuhrer want the police not to interfere ... All Jews are to be disarmed. In case of resistance immediately shoot them down". How many Jews were killed in the course of this period?

A: I think overnight 36 were reported as being killed.

Q: The eventual total was about 91, was it not?

A: The same order of magnitude, yes.

Q: Now, if you look back at page 1 of the new bundle ----

A: Just looking at this telephone message from Munich, it does not really advance us. It just repeats what we know from the other sources also.

Q: Mr Irving, it does. It is another event in the unrolling catalogue of events that take place during the night.

A: The only sentences of interest really to the court I think is the Fuhrer wants the police not to intervene, which is exactly what we know from other documents.

Q: Yes. Is there any point during the whole of these events

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at which, on the evidence, Hitler intervened to save the day for the Jews?

A: You know very well there is.

Q: Which?

A: 2 a.m., the message signed by Rudolf Hess's office of the Deputy Fuhrer, on the orders from the very highest level.

Q: That is your version of Hitler's intervention to stop the rot, is it?

A: Yes.

Q: Shall we look at that straightaway?

MR JUSTICE GRAY: You can if you like, but it would help me if one was doing there chronologically.

MR RAMPTON: I am trying to.

MR JUSTICE GRAY: I thought you were being distracted then.

A: My Lord, he asked. He knew what the answer was. He knew perfectly well I was going to bring up that telegram.

MR RAMPTON: It is on my list. It is not 2 o'clock, it is 2.56 actually, is it not?

A: You have a different version from the one that I use, yes.

Q: But it is in Hess's office and he sends a message at 2.56 in my copy.

A: Yes, but on my copy you will find it is headed "The Deputy of the Fuhrer", signed Deputy Fuhrer.

Q: Absolutely fine. I am quite happy with that, Mr Irving, because it is 7th on my chronological list. We will look at it in due course.

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MR JUSTICE GRAY: I think, if you would not mind doing it that way, it is going to be much easier for me.

MR RAMPTON: I am now on 3, which is Heydrich's telex of 1.20 a.m. which we find on page 4 and 5 of this bundle, but I will not trouble you with the German because I think I can find the English, I hope I can, in Evans. The trouble is that they are all over the place, but the text is set out on page 263 of Evans.

A: Again, it does not advance us one iota from where we were with the previous telegrams.

Q: I think you may be wrong about that.

A: Except that this one comes from Munich.

Q: It comes from Heydrich, does it not, who is a rank above Muller, is he not?

A: On page 3 we do not have any signature. We do not know who sent it -- of the documents.

Q: Which?

A: I am looking at the bundle of documents, page 3.

Q: Well, if you would not mind, you will see Gestapo to Muller on page 3 at 378 of the document.

A: 378 of what?

Q: 378 of the actual document, page 3 of the bundle.

A: OK.

MR JUSTICE GRAY: Sorry?

MR RAMPTON: I am sorry. It is Mr Irving's fault, my Lord, I have to say.

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MR JUSTICE GRAY: 378 of what? I have about four things open and none has a 378.

A: It is printed page 378, my Lord, of the book.

MR RAMPTON: It is an erroneous diversion.

A: Nowhere on that page is it evident that it is sent by Heydrich.

Q: Page 3 of what, Mr Irving?

A: Of the bundle of documents, page 378. We are looking at the same document.

Q: No, you are looking at the wrong document, Mr Irving.

A: Page 378?

Q: 377, 378 is the 11.55 telex from Muller.

A: And 378, the next item is the 1.20 a.m.

Q: If you would not mind, Mr Irving, if you turn over to page 4 of the bundle and then to page 5 of the bundle, you will see the whole text of the Heydrich telex.

A: Very good.

Q: And it is signed by Heydrich ----.

A: This one is now the complete text, yes.

Q: - on page 6, thank you. Do you agree that the essential guts of the Heydrich telex are set out in English on page 263 of Evans's report, (a), (b), (c) and (d).

A: Yes.

Q: Do you agree that the Heydrich telex again, whilst it makes some provision for protecting German property from the consequences of arson against Jewish property, and

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while it makes a prohibition against looting whilst encouraging destruction ----

A: Yes.

Q: - and provides some protection for foreign nationals, even if they happen to be Jewish, it also says, if you look at the text of the actual document, in the right hand column of page 5 of the bundle, once again that the demonstrations are not to be hindered by the police?

A: Yes. But I am mystified as to how this takes us any further.

Q: It is a developing tale of what happened in the hands, not of Dr Goebbels but of the other branch, if I may call it that, the Himmler branch of the hierarchy ----

A: The executive branch.

Q: - in consequence of what Hitler had said to Goebbels earlier that evening. Are you following me?

MR JUSTICE GRAY: So Himmler sends this order out?

MR RAMPTON: Heydrich is Himmler's subordinate.

MR JUSTICE GRAY: Rather, Heydrich does, in consequence of what Hitler said to Goebbels? Is that the proposition?

MR RAMPTON: Yes, because Himmler and Hitler have spoken together before the dinner as well.

A: I know it would have no effect whatsoever on you, Mr Rampton, but you will notice that nobody refers in any these telegrams to having received orders from Hitler.

Q: The one we just looked at did, did it not?

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A: Not the one we were looking at present, not the 1.20 one.

Q: Here we go, page 5. Look at the file again, page 5, Mr Irving.

A: Yes.

Q: The paragraph before it starts (a), (b), (c) and (d).

A: Yes.

Q: Will you just read it to us in English?

A: In this conference the political leadership is to be informed that the German police has received from Reichsfuhrer SS and Chief of the German police the following instructions, and that the political leadership is to adapt their measures to these.

Q: Exactly.

A: So the instructions came from Himmler.

Q: They came from Himmler, and Himmler and Hitler, as we know, had already been in conversation at just before the dinner on the evening of the 9th, had they not?

A: Yes.

Q: Is it not really irresistible that -- this is nothing to do with Goebbels -- Himmler and Hitler had exactly the same sort of conversation as Goebbels had had with Hitler, and that Himmler had taken his orders from Hitler that this was to be allowed to go on and that the police were not to interfere, but that German property should be protected?

A: Yes.

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MR JUSTICE GRAY: The answer is yes?

A: It is a reasonable inference. It is not in the document but it is a reasonable inference, up to this level of course. They are not talking about an immense nationwide pogrom which was subsequently developed overnight. At present they are talking just about a punitive measure from which the police were to be withdrawn. Adolf Hitler certainly gave instructions for that to be allowed, as I make quite plain in the Goebbels book.

MR RAMPTON: I am going to persist in this chronological exercise because I promise we are coming to your famous order of Hitler's intervention. The next document I would like you to look at is on page 7 of this bundle.

MR JUSTICE GRAY: Where is it in Evans?

MR RAMPTON: It is 253, I think, my Lord.

MR JUSTICE GRAY: Thank you very much.

MR RAMPTON: The trouble is they do not run consecutively.

MR JUSTICE GRAY: I can see why not.

MR RAMPTON: They go backwards and forwards. There is, for the future, a helpful chronology prepared by Miss Rogers which is at the front of that little bundle.

MR JUSTICE GRAY: Yes.

MR RAMPTON: It does not have all the cross-references to Evans, but most of them. That is how she is managing to coach me.

MR JUSTICE GRAY: Yes.

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MR RAMPTON: Your Lordship will see an account of this document, it is rather a bad copy in the bundle, at paragraph 5 on page 253. This is to rebut something that we will see in a moment in Mr Irving's book. He says, does Professor Evans, "Most importantly, if he (that is Eberstein) really had found Hitler 'livid with rage' about the pogrom, then why did Eberstein send a telex later the same night to the Gestapo in Augsburg, Nuremberg, Wurzburg and Neustadt, repeating the order that the police were not to interfere in the 'actions against the Jews' which were taking place all over Germany". Well, Mr Irving, what is the answer to that?

A: Right. This telegram is signed by Eberstein, who is the police chief in Munich and it is signed to the police offices in Augsburg, Nuremberg, Wurzburg and Neustadt.

The time on the copy we have is 2.10 in the morning. It is not an original. It is the time -- it is a copy which has been made in Augsburg by some police officers.

Q: It does not get any reference in your book, does it?

A: A lot of telegrams do not get any references in my book.

Q: No, it is more important than that, Mr Irving. Can you look at page ----

A: The reason why is because this telegram repeats almost verbatim what the other igniting telegrams have repeated, and there is a limit to the number of times you can repeat

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a telegram without your readers getting board. You can do it here in court because you have all the time in the world, but my readers do not.

Q: It repeats what Muller had said in his telegram before midnight, had it not?

A: Yes. In other words, this is already old hat. This is being rapidly overtaken by events, even as this telegram is going out.

Q: Oh, yes, you say so.

A: It is not just me who says so. All Adolf Hitler's staff say so.

MR JUSTICE GRAY: I have not yet been told what is in the document we are looking at the moment.

MR RAMPTON: It is what written in Evans essentially.

MR JUSTICE GRAY: Evans does not actually quote it. It is repeating the order that the police were not to interfere with any action against the Jews.

A: It is basically reiterating.

MR RAMPTON: It is practically verbatim.

A: It is reiterating the instructions from Berlin.

Q: They are not to be interfered with, the demonstrations that is to say.

A: What Eberstein is doing is repeating an order that has come to him from his superior headquarters in Berlin to his junior headquarters, to ones beneath him in Augsburg and the other cities.

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Q: Absolutely?

A: He is required to do that quite obviously, but in the meantime this is very rapidly being overtaken by orders from the boss himself.

Q: So you say. Turn, please, to page 276 of your book, Goebbels, the Mastermind of the Third Reich.

A: Yes.

Q: Just scan -- well, I will read it: "What if, Himmler Hitler, both were totally unaware of what Goebbels had done until the synagogue next to Munich's Four Seasons Hotel was set on fire around 1 a.m."

A: Not that time, "around 1 a.m."

Q: Indeed I do. "Heydrich, Himmler's National Chief of Police, was relaxing down in the hotel bar. He hurried up to Himmler's room, then telexed instructions to all police authorities to restore law and order, protect Jews and Jewish property, and halt any ongoing incidents."

A: There is a source for that.

Q: That is your account of the Heydrich' telex, is it?

A: Let us see what telex that is an account of perhaps.

Q: It is one sent at 1.20.

A: 276.

Q: The footnotes are on 612 and following.

A: I would not have invented that. I would definitely have had the telegram in front of me when I wrote that.

Q: Really? Well, let us have a look. What is the reference

you give for it?

A: Nuremberg document 3052 PS.

Q: 30 -- well, if you look at page 4 of the bundle, maybe you have the number wrong, document -

MR JUSTICE GRAY: Page 4 of which tab?

MR RAMPTON: Tab 1, my Lord. We have looked at it already. This is the Heydrich telex to which you are referring I suspect, Mr Irving, I suspect, 3051 PS. This is a Nuremberg document. If this is the document to which you refer in the text, it says nothing like what you said?

A: Well, quite clearly this is not the document because it has a different number. I have 3052 and you have 3051.

Q: So you say. Do you have that document?

A: No, I do not have it here, but it would have been in my discovery.

MR JUSTICE GRAY: Where do you get 3052?

A: From my footnotes in the book, my Lord.

Q: You said they have 3051 and you have 3052.

A: They challenge me with a different document.

Q: Yes, but where do you get the number off the document that they have produced?

MR RAMPTON: The number on our document is on page 4, my Lord, bottom of the right-hand column, document 3051 PS. My Lord, on page 362 of his report Professor Evans says: "The footnote in Goebbels mistakenly refers to Nuremberg document 3052 PS instead of 3051 PS."

A: On what page does he say that?

Q: The bottom of 262, footnote 262.

A: 262.

MR JUSTICE GRAY: Are you going to want me -- I am finding this extraordinarily difficult to follow.

A: I want to know on what basis Evans says that I have got the wrong document number.

MR RAMPTON: Are you aware of another Heydrich telex of this date and time, Mr Irving?

A: There was a whole flurry of telegrams that night. I mean I do not think how long we will be discussing this, but I certainly bring what I find from my files here for the court tomorrow.

Q: I am going to have to leave it like this, Mr Irving, that you have deliberately misrepresented in your text, and one can tell this, if it be right, from looking at page 263 of Evans, where the guts of it are translated, you have deliberately misrepresented the text of this Heydrich telex. If you can lay hands on a different telex which says what you say in the text, well, then I shall climb down.

A: But, with respect, Mr Rampton, you are being perverse. I have quoted a different telegram with a different file number, with a different content, and you are saying it is different from the one you are showing the court.

Q: Mr Irving ----

A: Nothing more and nothing less.

Q: Mr Irving, it would not be the first time that you have given the wrong Nuremberg reference number, would it? I am not suggesting that is deliberate, but it can happen to anybody, can it not?

A: I am still going to tell the court of other examples.

MR JUSTICE GRAY: Do not let us go on to other examples.

MR RAMPTON: If it be that it was this document which is before you that you were purporting to describe in the last paragraph on page 276 of Goebbels, it is right, is it not, that what you have written in Goebbels is a total misdescription of the contents of the telex?

A: That is ridiculous hypothesis. You are comparing one document with another. Professor Evans, if he had done his job properly, should have said document No. 3052 is in fact a letter from Adolf von Schirott to somebody else and totally unrelated to this issue. But he has not. He has just advanced the bald statement that I got the number wrong, when quite clearly the number is different and the content is different.

MR JUSTICE GRAY: And the time is different.

A: And the time is different.

MR RAMPTON: I am sorry, my Lord.

MR JUSTICE GRAY: The time is different. This is 1.20 whereas the -- no, it is not timed actually.

MR RAMPTON: No, it is not timed. The timing actually fits

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because the text of Goebbels says: "The Four Seasons was set on fire around 1.00. Heydrich", etc. etc., then he went upstairs and then he sent his telegram ----

A: He could not have done all that in 20 minutes for a start.

Q: --- and bingo 1.20.

A: He certainly could not have done all that in 20 minutes, but we are arguing in the dark here until I can bring the actual document.

Q: We should, Mr Irving. I will chase it up and if you would be so good you too, but you may not care to. If this is a wrong assumption and there is a Heydrich telex which says what you say it says, then, as I say, I shall climb down.

A: Eat humble pie.

Q: No, I shall simply climb down. I shall apologise.

MR JUSTICE GRAY: Let us wait and see what happens, see who is going to eat what. Mr Rampton, I really do think that if there are perhaps eight important documents on the sequence of events that night, the night of 9th, I must have translations. It is just not good enough to hand in a whole lot of German documents and expect me to make sense of it all. I probably could but it would take weeks.

MR RAMPTON: Some of them are summarised or translated or partly translated.

MR JUSTICE GRAY: Yes, but then I have to dart around trying to find whereabouts that is summarized.

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A: My Lord, we can share the burden. I will translate half tonight and they can perhaps translate half.

MR RAMPTON: I agree with your Lordship.

MR JUSTICE GRAY: I do not mind who does it.

MR RAMPTON: Those that are important, as most of them are, we shall have translated.

MR JUSTICE GRAY: Good.

MR RAMPTON: But not, I hope, now because it would take too long. "The hotel management", you go on at page 276 of Goebbels, "telephoned Hitler's apartment at Prinz-Regenten Platz, and thus he too learned that something was going on. He sent for the local police chief, Friedrich von

Eberstein. Eberstein found him livid with rage." What is that actually based on, Mr Irving?

A: Two or three sources. I secured the confidence of the personal Adjutants on Hitler's staff who lived in the apartment directly below him in Prinz-Regenten Platz.

They actually received the telephone call from the hotel there and they went up to Hitler's headquarters to warn him that something was happening and that they had received this phone call from the hotel. So this was either Colonel von Below, or he was a major then, who was the air force adjutant, B-E-L-O-W, or the Naval adjutant Captain Futkammer. If I look at the notes no doubt I can see.

Q: You just referred to somebody called?

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A: Nicolaus von Below in an interview with him in 1968 which is now 32 years ago. I will try to remember it as best as I can. In fact it was a verbatim interview recorded on tape. The transcript has been made available to you.

Q: Oh, yes, I am sure. When was that interview taken, May?

A: May 1968.

Q: Yes, but one has to be very mistrustful of long-remembered eyewitness accounts, does one not, Mr Irving?

A: I think you are probably right. By that time it would have been 20 years since the event occurred.

Q: Would it not have been better to have made reference to the message that Eberstein sent at 10 past 2 that morning?

A: Well, I disagree, because the message does not add anything to the other messages that went before it. As his Lordship rightly said, it just repeats what the previous one said. It is also not physically signed by Eberstein. It just uses Eberstein's number which is a common German practice. They will send a message out over the boss's name, which does not mean to say that Eberstein was actually in the room when the message went out. As we know, he was actually with Hitler at that time having strips torn off him.

Q: We do not know that.

A: Well, I know it because I have the eyewitnesses.

Q: The eyewitnesses, I am afraid, will not do if they are inconsistent with contemporaneous documentation,

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Mr Irving. We know that, do we not?

A: With concrete evidence, yes.

Q: What concrete evidence?

A: Well, the evidence of the documents.

Q: Yes, that is right. Eberstein sends a message at 2.10, presumably some time after he has witnessed Hitler's apoplectic rage about the consequences of what he, Hitler, has authorized, and he sends a message saying "Carry on, chaps"?

A: I disagree. If the news from the hotel came that the synagogue next door was on fire, and the telephone call went to Hitler's Adjutants, "Come and get your baggage from the hotel luggage room because the hotel is now endangered by the flames", and they then go up to see Hitler and Hitler says, "What's going on?", and there is this kind of enquiry that has begun in Hitler's apartment, all this thing does not take a fraction of a second. They send for the police chief, Eberstein, who then as to come over from police headquarters. He comes over from police

headquarters. By now we are looking at 2 a.m. in the meantime what is happening at police headquarters behind Eberstein's back, we do not know, but presumably this telegram which has come from Berlin headquarters has now been forwarded to the lower units with his name on it, that is nothing new. But at the same time Eberstein is in Hitler's apartment having strips torn off him and Hitler

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saying, "What on earth is happening now? Put an end to it."

Q: What do you mean "at the same time"? Mr Irving, your chronology, if I may say so, is sometimes quite extraordinarily, what shall I say ----

A: I am afraid you were not listening because you were doing something else. I think it is quite plain.

Q: I was listening.

A: It is quite plain that round about 2 a.m. the important confrontation between Hitler Eberstein took place to which Hitler's Adjutants were the witness.

Q: Why do you say it is round about 2 a.m.?

A: Because we know that sometime afterwards Rudolf Hess was then required to send out a message to all the Gauleiters on orders from the very highest level, ordering that this nonsense had to stop immediately, and if the deputy Fuhrer sends out a message quoting orders from the very highest level, we can presume, I think, without stretching the bounds of credulity too much, to whom he is referring.

That is the kind of concrete evidence I am referring to.

Q: I am just going to break the chronology. It is not actually breaking the chronology. We will go on now and look at this famous message from Hess's office, shall we? It is at page 9 of this bundle.

MR JUSTICE GRAY: Has nothing happened between 2 a.m. or 2.10 a.m. and 2.56?

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MR RAMPTON: Not so far as I know. There is something which comes after it, but we will look at that in a moment, because again it is something Mr Irving has got in his book.

A: I am curious that you have used a different version of the telegram from the one that I provided in discovery, which has the heading of Rudolf Hess's deputy of the Fuhrer.

Q: Mr Irving, I doubt it. Your text says: "At 2.56 a.m.

Rudolf Hess's staff also began cabling, telephoning and radioing instructions to Gauleiters and police authorities around the nation to halt the madness", footnote 49. It is interesting that the time is the same, is it not?

A: You missed what I said, that you have chopped off the heading or this version chops off the heading, which makes it the deputy of the Fuhrer. Also it chops off the line which says, "This is a repetition of the telephone calls that we have been making", in other words ----

MR JUSTICE GRAY: I would like to see what you say has been cut off.

A: My Lord, I am not saying it has been cut off this. This is a different version of the same telegram. Now the other one is in my discovery with these ----

Q: That will be in court somewhere, will it not?

A: Is my discovery in court? If not I will certainly bring it.

MR RAMPTON: Mr Irving, look at page 9 of the bundle.

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A: If a copy of the War Path is here in court, then it is a facsimile in that book.

MR JUSTICE GRAY: I do not think it is.

MR RAMPTON: I do not know.

MR JUSTICE GRAY: It needs to be chased up.

A: Because it does have the important line saying: "This is a repetition of the telephone calls we have already made", when I was sending a telex to confirm what we said.

MR RAMPTON: Yes.

A: It also has a reference number, No. 136/38.

Q: This document I think comes from Berlin, whatever that means.

A: The Berlin Document Centre.

Q: Yes, and yours comes from where?

A: It came from exactly the same folder.

Q: Well, there you go.

A: But my one was more significant because it had the heading of the Deputy of the Fuhrer on it.

MR JUSTICE GRAY: I think that may be right. Anyway, is it not somewhere in court?

MR RAMPTON: I am not concerned about whether it comes from the Deputy Fuhrer or not. I am quite willing to accept that it does. What I am concerned about are two things. First of all, it is time which is not in dispute between us?

A: Yes.

Q: 2.56 a.m. right?

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A: Yes.

Q: Then it is text. I remind you what you wrote: "At 2.56 a.m.", that is unequivocal?

A: Yes.

Q: "Rudolf Hess's staff also began cabling, telephoning and radioing instructions to Gauleiters and police authorities around the nation", and these are your words, "to halt the madness"?

A: Yes.

Q: Right. Now look at the text. You are not saying the text of my telegram is different from yours, are you?

A: I know the text of that telegram off by heart. I have quoted it so often in speeches.

Q: I bet you do. Now tell us what it says, would you?

A: "On express orders from the very highest level", which is always ----

Q: That is Hitler.

A: --- which is always a reference to Hitler.

Q: I agree.

A: "Acts of arson against Jewish shops or the like are under no circumstances and under no conditions whatsoever to take place".

Q: Good. Then?

A: "Please confirm immediately by receipt."

Q: What is underlined -- and is it underlined in your copy as well?

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A: No, it is not, but the words here underlined are "acts of arson against Jews businesses or shops".

MR JUSTICE GRAY: Why is it underlined on the copy I have?

A: This is underlined in pencil, my Lord. Somebody has underlined the copy in pencil or pen. It

is not a typewritten underlining.

Q: But by whom?

A: I do not know. I have not seen the particular copy.

MR RAMPTON: I cannot answer that. I have no idea. It may be some later underlining by somebody who thought the word significant, I suppose, may it not, Mr Irving?

A: Quite possibly, yes.

Q: "Shops or the like"?

A: Yes.

Q: What is "like", maybe garages, little workshops?

A: The German is a bit big ambiguous. You do not know whether it is acts of arson and the like or acts of arson against shops and the like.

Q: I am quite happy with that, "but we are not here in the presence of a general prohibition against damage to Jewish property, are we"?

A: They do not mention synagogues.

Q: They do not mention houses. They do not mention apartments?

A: That is correct, yes, they do not.

Q: Do you remember Heydrich's telex which talked about being

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careful that arson to Jewish shops did not, as it were, affect German property?

A: Yes.

Q: That is what this reflects, is it not?

A: No. I think they realized now that the big boss is not very pleased about the way that things are spreading, and they are sending out the most briefest possible message they can. Instead of sitting down dictating a 15-paragraph message which is going to take ages to telex out and to be printed out at the other end, they are sending out a very brief message to saying, "This has got to stop".

Q: They are not. They are saying: "Jewish shops are not to be burned", are they not?

A: "And the like".

Q: Whether Jewish shops, Jewish workshops, Jewish garages, or burned or whatever the like to burning is I do not know.

A: We do not know, as I say, whether "the like" refers to acts of arson or stores.

Q: But, Mr Irving, this is not a general order to stop damaging Jewish property, is it?

A: It is not a general order. He does not mention synagogues. He does not mention other property.

Q: What buildings were the principal victims of this appalling two nights or night and a half?

A: Subsequently of course the Germans realized they had

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inflicted a colossal injury on themselves, because the actual properties were owned by non-Jews and just rented by Jews.

Q: How many synagogues were destroyed during the course of this 24 hours?

A: Of the order of 100 or so I believe, several hundred.

Q: All over Germany?

A: Yes.

Q: How would you put it in German if you were Opdemhoff writing on Hess's explicit orders derived from Hitler: "This madness has got to stop. All Jewish property must be left alone from

this moment"?

A: Not very differently from that, but I agree he could have added in things like synagogues and things like that.

Q: What do you mean "things like synagogues"? Hundreds of synagogues or 100 synagogues were destroyed.

A: Yes, but this is an order coming from Hitler to order an end to the damage. Even in the most narrowest, even in the narrowest interpretation this is an order coming clearly from Hitler to limit the damage.

Q: Mr Irving, when I asked to you to translate it, and I did it deliberately, you are a good German speaker, you translated it as "shops or the like", did you not?

A: "Geschafte" is also businesses.

Q: Businesses, OK. What about houses and synagogues?

A: Well, we do not know what "the like" is referring to. It

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is ambiguous German. It is a poorly phrased telegram.

Q: What is the German word for "property"?

A: Well, "eigentum" would be.

Q: "Hess's staff began cabling, telephoning and radioing instructions to Gauleiters and police authorities around the nation to halt the madness."

A: If you read on you will see that at the end of that paragraph I said: "20,000 Jews were already being loaded on to trucks. Hitler made no attempt to halt this inhumanity. He stood by and thus deserved the odium that now fell on all Germany."

Q: He had ordered it.

A: Yes.

Q: He had ordered the arrest of 20,000 to 300,000 preferably prosperous Jews, had he not?

A: Yes.

Q: This little sentence in your book at 256 down to "halt the madness" is just another piece of invention, is it not, Mr Irving? No such thing that cable from Hess?

A: Well, the burning of all these Jewish businesses and the like was total madness.

Q: They are now businesses, are they? I see.

A: Total madness.

MR JUSTICE GRAY: Is there any evidence of what actually happened as a result of that message going out 2.56?

A: You find it trickling down through the system and then

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people frantically back peddling, inasmuch as you can try to halt a forest fire by sending out a telegram in the middle of the night. This confirms precisely what Hitler's adjutants told me, both from the content and from the timing.

MR RAMPTON: Only one last little thing on this interesting tale, Mr Irving. On the same page in the preceding sentence, you say: "Fritz Wiedemann another of Hitler's adjutants, saw Goebbels spending much of that night of 9th/10th 'telephoning ... to halt the most violent excesses'?"

A: Yes.

Q: The reference is to ----

A: A handwritten manuscript by Wiedemann which he wrote in February 1939.

Q: Am I right that the handwritten manuscript of Wiedemann says: "There is absolutely no doubt

that this action slipped out of the hands of those who instigated it"?

A: What are you reading from now?

MR IRVING: Page 278 of Evans. "It is reliably reported that Goebbels as well repeatedly telephoned from Munich during the night to stop the worst outrages"?

A: If that is a quotation from the Wiedemann manuscript that I used, then that is probably an accurate translation, yes.

MR JUSTICE GRAY: I have not got the point, Mr Rampton.

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MR RAMPTON: My Lord, I am sorry. Fritz Wiedemann, another of Hitler's adjutants, saw Goebbels spending much of that night.

MR JUSTICE GRAY: Yes, I see that. What do you get from 278 of Evans?

MR RAMPTON: What Wiedemann actually said was: "It is reliably reported that Goebbels repeatedly" -- Wiedemann never saw him at all, did he? Did he, Mr Irving?

A: Not on the basis of this particular source, no.

Q: Well, why did you write that he did?

A: Well, now I do not know whether you have got the same source that I have or not.

Wiedemann, he handwrote his notes in a very illegible handwriting and I used the original handwritten text. He also over subsequent years typed up notes, which may or may not have differed from the original handwritten version. I would have to go back and have a look at my Wiedemann file before I gave you a definitive answer on that. It may well be you are right, Mr Rampton. I am not going to argue with you on that, but it is 14 years or so since I actually wrote that passage and I do not know what the actual handwritten text said.

Q: This is the problem, is it not, Mr Irving? (A) you are dealing with post events eyewitness testimony?

A: Yes.

Q: (B), if I am right, if this is right, you are dealing with hearsay. You cannot convert that into a categorical

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statement of historical fact that Wiedemann saw Goebbels telephoning round trying to put a stop to it?

A: I do not mind conceding that I may have made a mistake on that. I may have read his text and taken it as being that he was an eyewitness of this when, in fact, it was just reliably reported to him by those who had seen it.

Wiedemann, of course, was on very good terms with all the rest of Hitler's adjutants, but at this time, February 1939, he had been posted to San Francisco as Consul General and it was on the boat that he wrote this passage up.

Q: Can I finally ask you to look at page 280 of Evans' report? Now at page 281 -- I am sorry, the page numbering is confusing because we are about the same place in Goebbels -- you quote somebody called Ulrich von Hassell?

A: Yes.

MR JUSTICE GRAY: Sorry, are we on Evans or Irving's book?

MR RAMPTON: I am on both. It is 281 of Irving's book and page 280 of Evans.

MR JUSTICE GRAY: Right.

MR RAMPTON: You have quoted, I think, Ulrich von Hassell, have you not?

A: Yes.

Q: What Professor Evans writes is this: "What Irving does not do, however, is to quote the following passage in von Hassell's diary, relating to a conversation he had on 17th

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December 1938 with the Prussian Finance Minister, Johannes Popitz, about the destruction and violence of 9-10 November". Quote from von Hassell's diary: "Popitz said to Goring, those responsible must be punished. Answer", quote from Goring, "My dear Popitz, do you want to punish the Fuhrer?" Now, were you aware of that entry when you wrote this book?

A: I probably did, yes. I probably was aware of it.

Q: Did you not think it right to draw to your readers' attention, at the very least, some evidence at the least that in Goring's mind the person responsible for what had happened was Hitler?

A: Yes, it would be marginal to put it in or leave it out.

It does not add very much to our knowledge and I would certainly consider that covered by that sentence that I read out to you, "Hitler made no attempt to halt this inhumanity. He stood by and thus deserved the odium that now fell on all Germany".

Q: That was the arrests.

MR JUSTICE GRAY: Where was Goring? Was he in Munich or Berlin?

A: Goring was in Munich and he travelled back to Berlin that night by train because as he arrived, as the train went past Haller he saw the planes in the sky and he said, "What is going on?"

Q: So he would not have been around at what you might call

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the material time that night?

A: Well, that is precisely how I would regard that kind of evidence, as iffy. But an interesting and a quotable quote, and there is a great temptation with the diary of Hassell to use the material because it is very quotable, it is usually in quotation marks and very apposite, but sometimes you have to resist the temptation.

MR RAMPTON: I am sorry. There is one thing about Wiedemann that I got stuck on the first part of 278. I meant to go on to the second part, starting at paragraph 9 on 278 of Evans:

Wiedemann claiming, in fact, by reference to some hearsay report that Goebbels had spent the night on the phone trying to stop the outrages which you represent as his having seen Goebbels do it. Paragraph 9: "In any case, Wiedemann's suggestions are incorrect. Goebbels was certainly not engaged in stopping excessive violence against Jews, as Irving well knows. What Goebbels was actually saying on the phone on the night in question is amply documented by other reliable historical sources.

The Supreme Party Tribunal report of 13th February 1939" -- my Lord, that is pages 9 and 10 of tab 2 of the new bundle -- "states that when Goebbels was phoned at around 2.00 in the morning on 10th November 1938 with the news of the first death of a Jew in the pogrom: 'According to the statement of the deputy Gauleiter of Munich-Upper Bavaria, Party Comrade Dr Goebbels answered to the effect that the

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man reporting it should not get upset because of one dead Jew; thousands of Jews would have to believe in it in the coming days".

A: That is a very poor translation, "they would have to believe in it" is the German expression for

"going for a burton". So it actually means "would have to die over the next few days".

Q: This is the trouble, my Lord, when one tries to use Evans. I am going to go directly then, if I may ----

A: "Daranglauben" is a German ----

Q: Go, please ----

A: --- vernacular.

Q: Please, Mr Irving, can you turn to tab 2 in the new bundle? Turn to page 9 which is a red number in a red circle on the bottom right-hand side of the page, bottom right-hand corner of the page. You can probably start with the sentence which begins "Der Inhalt dieses Berichts..." at the bottom of page. Do you see that?

A: What page are we on?

Q: Page 9 in a red circle, 187 with a stamp, 28 in print.

A: The content of this report confirms this view.

Q: Read on, please.

A: Yes. Moreover, the last main session in the affair of the trial of Schenk has resulted in the information that the first known death, a case for the killing of a Jew, and it was a Polish national, was reported to Reichs propaganda

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minister, Dr Goebbels, at about 2 a.m., towards 2 a.m.

"gegen 2 Uhr", on November 10th, and that on this occasion the view was expressed that something must happen to prevent that the entire operation, the entire Aktion, got out of hand, became dangerous, according to what the deputy Gauleiter of Upper Bavaria said. Dr Goebbels replied in the sense that the messenger should not get so upset about the death of one Jew. Over the next few days thousands of Jews would be going for a Burton.

Q: Yes. Can you just read on?

A: At this time most of the killings could have been prevented, could still have been prevented, by an amplifying directive. If this was not issued, if this did not happen, from this fact, as also from that remark by itself, you had to draw the conclusion that the result that happened was actually desired, and at the very least was considered to be possible and desirable.

Q: Could you finish the paragraph, please?

A: It is terrible, translating German.

Q: I am terribly sorry and it is entirely our fault for not having a translation which you agree with.

A: Translating it on the fly is difficult and I have been accused of distorting and mistranslating and here I am going on the record with my translation.

MR JUSTICE GRAY: I think it is most unsatisfactory.

MR RAMPTON: There is a translation in Professor Evans. It is

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one you will not accept and therefore I have to ask you to do it.

A: Quite clearly, if he says that somebody is going to have to believe in it when in fact the correct German sense is someone is going to go for a Burton, then it is a very gross mistranslation.

Q: I am sorry about this. I know it is tiring and I do sympathise. I mean that sincerely. Could you please just finish this paragraph?

A: Yes. Then the individual actor or perpetrator has not only put into effect the intended, but also the uncertainly expressed but properly recognized desire of the leadership, and for that he cannot

be punished.

Q: That is right and so no doubt he was not.

A: Yes.

Q: He would be one of those who was not handed over to the State prosecution system?

A: Numbers were and numbers were not.

Q: Two things about it, Mr Irving, and I do apologise. I will not make you do it again this afternoon or ask you to do it, I should say. Two things about that. It is quite strong evidence, is it not, that, so far from what Wederman said he had heard reported, Goebbels was not on the telephone that evening trying to stop the rot. He was on the telephone rejoicing in the death of one Jew and in the thought that many thousands more were going to die.

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Moreover, the one that did kill the one Jew on this occasion was let off because the Nazi tribunal perceived that he had been carrying out the will of the leadership. That is right, is it not?

A: The latter part is true. The former part I would dispute or I would amplify it to the following effect. This telephone call reporting the death of the one Jew is stated in this document as having been shortly before 2 o'clock, or towards 2 o'clock "gegen 2 Uhr". I think around 2 o'clock is when Goebbels got his epiphany, when the news came of the burning of the synagogue next to the Hotel Vierjahreszeiten, when Hitler was alarmed as to what was going on, things were getting out of hand, the police chief was sent for, and shortly afterwards at 2.56 Rudolf Hess sent out that famous message to all the Gauleiters ordering a stop to whatever they were stopping.

Q: You just looked at the message?

A: Yes, but I think that it fits perfectly into the time-scale which says that it was around about 2 o'clock or shortly thereafter that Goebbels realized he was barking right up the wrong tree.

Q: You translated it, the order from Hess is simply that shops and other things like that are not to be burned.

A: The order from Hess says that there is to be no burning of shops and things like that.

Q: That is right.

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MR JUSTICE GRAY: Is there really no indication even of how that Rudolf Hess's message was interpreted?

A: I did say, my Lord, that it trickled down through the system during the night and that things were then stopped but by that time everything is ablaze. The following morning Goebbels realizes that things have got out of hand, it is very bad for Germany's image, the image of Germany as a state of law and order has been badly shattered by this. But the hours between 2 a.m. and 3 a.m., the crucial hours which I have tried to look at in this particular night, and we have the eyewitness accounts from Hitler's private staff, we have that one telegram from Hitler's deputy going out, very much in a negative sense. Mr Rampton says it was in a narrow negative sense, I would say it was in a broader negative sense.

Q: If you look at it in the round, can you think of a reason why Jewish businesses or shops should have been singled out for protection, if that is the right interpretation?

A: You can certainly see reasons why, my Lord. You can say the businesses and shops were probably a shoe shop in the centre of a big apartment block, and, if you are going to set that on fire, you are going to endanger a lot of non-Jewish property. Put it like that. I can certainly see that there are other reasons that may have justified the narrower meaning. But we have added on to it the fact that it is not only the acts of arson, but also the like

have to be stopped.

Q: I follow that.

A: It was a message that was sent out in great haste. It certainly does not fit in with the general pattern of trying to trigger or to ignite things. This is very much with a minus sign in front of it.

Q: Were the Jewish businesses -- maybe this is too broad a question -- and shops Jewish owned?

A: This came out in the subsequent enquiry that Herman Goring held, that most of the damage that had been inflicted had been inflicted on the German economy for several reasons.

Firstly, the plate glass windows that were smashed had to be replaced with plate glass supplied by Belgium at the cost of foreign currency. Secondly, the insurance that the Jews had taken out on their property had to be paid by the German insurance companies. Thirdly, the stores and even the stocks that they sold were being sold on commission. They were stocks physically owned by German banks and being sold on commission by the Jewish vendors.

Q: Would all or any of that explain why the businesses and shops were singled out?

A: Not at this time, my Lord. This was an ugly realisation.

We are very well informed on that because two or three days Herman Goring held a conference at the Air Ministry which was recorded in shorthand, and we have the entire stenographic record where everybody is pointing a finger

at everybody else and saying you are to blame for this. Herman Goring utters the famous phrase, it is about time that Dr Goebbels got a little bit of public enlightenment, which was the name of his ministry.

MR JUSTICE GRAY: Sorry, Mr Rampton, for interrupting.

MR RAMPTON: That is all right, my Lord. I am just wondering whether I would go back to something else but I think not?

A: It gave me a chance to display what I know.

Q: In any event, Mr Irving, however you like to characterize that message, it is not, is it, a blanket prohibition against the destruction of, or damage to, Jewish property generally?

A: No, it is not.

Q: No. My Lord, I am in this position now. We are all waiting for Dresden with bated breath, but the file will not be ready until tomorrow. We need help from Mr Irving with it anyway because the copies we have of his discovered documents are in many cases very difficult to read because they are photocopies of microfilm, a lot of them.

I have one more brief topic with which I can deal this afternoon, but I cannot sensibly make a start on Dresden unless everybody has the documents.

MR JUSTICE GRAY: If you cannot, you cannot.

MR RAMPTON: We are running to catch up with each other. We could spend time reading Civil Evidence Act notices

perhaps.

MR JUSTICE GRAY: On what topic?

MR RAMPTON: On any old topic really just so that they are read into court. I do not want to waste the court's time. There is no point in my starting. Dresden will be the last of my Evans topics. I shall certainly comfortably complete that tomorrow and then I shall start on something

else, as it were, more modern.

MR JUSTICE GRAY: More modern being what?

MR RAMPTON: Mr Irving's recent utterances.

MR JUSTICE GRAY: Denials?

MR RAMPTON: Denials I think we have done, apart from Moscow, which I can also do tomorrow. The last topic, either Moscow or this, is where the speeches are made and who the people were.

MR JUSTICE GRAY: Yes.

MR RAMPTON: The political associations, which means that I think that my cross-examination of Mr Irving will finish comfortably this week.

MR JUSTICE GRAY: Yes.

MR RAMPTON: Probably Thursday morning, maybe Wednesday evening.

MR JUSTICE GRAY: There is a witness coming on Thursday.

I cannot remember who it is.

A: Peter Millar. I do not think he will be more than about an hour.

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MR RAMPTON: Which presents this difficulty, I am afraid, if that is right, because I do not think Dresden will take more than one day, perhaps less. We may have to find something to do for the rest of this week.

A: I can bring another witness. I can have Dr John Fox in.

MR RAMPTON: That would be very helpful because my Professor Browning is not arriving until Monday.

A: I can bring in Dr Fox eye this week.

MR JUSTICE GRAY: Is Browning your next expert?

MR RAMPTON: He is my next witness.

MR JUSTICE GRAY: Rather than Evans?

MR RAMPTON: Yes. It is a matter of academic convenience.

That is the only reason. Browning has a full calendar after next week.

MR JUSTICE GRAY: Yes.

MR RAMPTON: I do not think he will be very long, so I will have to have somebody lined up for the later part of next week.

MR JUSTICE GRAY: Yes. You said you had something else that you want to deal with.

MR RAMPTON: I do. I want to deal very briefly with Ribbentrop's testimony at Nuremberg. It starts at page 478 of Evans.

MR JUSTICE GRAY: Are you dealing, Mr Rampton -- I am sorry to keep asking. I just want to know where we are getting in terms of the summary of your case. Are you going to be

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dealing with the aftermath of Kristallnacht?

MR RAMPTON: No. I made a judgment about that in the light of the cross-examination this morning.

MR JUSTICE GRAY: Does that mean that you are not relying on it or that it is something that you are relying on but do not think it is helpful cross-examine on?

MR RAMPTON: It is difficult to rely on whatever Professor Evans may say about it. It is difficult to rely on it if it has not been put in cross-examination for Mr Irving to deal with, I would have said. I do not know what your Lordship thinks?

A: Could your Lordship explain what that exchange is about?

MR JUSTICE GRAY: Yes. You should understand. You remember in the summary of case which has superseded the defence, there has been set out in really a very helpful way the various bases of the criticism that you have manipulated data and skewed documents and all the rest of it. Oddly enough, Kristallnacht is divided into two, (1) the events of the 9th, I cannot remember what it was, December, and as a separate section, the events following Kristallnacht, later events. What Mr Rampton has just told me, in effect, is that he is not really pursuing that as ground of criticism.

MR RAMPTON: Would your Lordship forgive me for one moment while I take my orders?

MR JUSTICE GRAY: Do not feel you have to decide this on the

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hoof.

MR RAMPTON: I can always come back to it.

MR JUSTICE GRAY: I think one wants to think about these things, and there are other categories.

MR RAMPTON: I am not going to bother with the Roman Jews.

That is just argy-bargy between me and Mr Irving and I think I have had enough of that. I got the one line answer that I expected I might get in relation to Hitler's anti-Semitism. I got that this morning. Prewar anti-Semitism.

MR JUSTICE GRAY: So we are now on Ribbentrop?

MR RAMPTON: I have dealt with the 1924 trial and Reichskristallnacht itself. If I have your Lordship's permission, the last topic I want to deal with today is Ribbentrop's testimony at Nuremberg. Mr Irving, the first reference that Professor Evans makes to your writing is the footnote on page 851 of the 1977 edition of Hitler's War. I will need help with that because my Hitler's War footnotes do not have numbers on the pages.

A: 877.

Q: Yes, but I am afraid my edition has no pages beyond the end of the text. I do not know why that should be.

MR JUSTICE GRAY: Mine is the same but I think I have been updated.

A: Would you like to borrow the book?

MR RAMPTON: I would like to be sure that what Professor Evans

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says there is correct, that is all. If you tell me what page is to footnote 2, I can find it.

A: 851.

Q: 851.

A: Now I understand it.

Q: Well, I do not know. It is difficult for me to find it.

MR JUSTICE GRAY: That cannot be right?

A: It is not on page 851, my Lord.

MR JUSTICE GRAY: The book does not go up to page 851.

MR RAMPTON: I think it may be, Mr Irving, that Professor Evans was using a different edition than the one we have in court.

A: Perhaps he translated the number wrongly.

Q: I do not want to spend a lot of time on this because all I am concerned about is that you should be sure that what Professor Evans has quoted in paragraph 1 on page 478 is what you

wrote in the footnote. I am not able to check it myself because I cannot find it. It is a very short point, Mr Irving.

A: Yes. I left something out, did I not, allegedly?

Q: Yes, I think you did.

MR JUSTICE GRAY: So far you are pretty blameless, Mr Irving, because it appears that Professor Evans has the page number wrong.

A: He may have translated it wrong.

MR JUSTICE GRAY: There is not much translation in the figures,

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is there?

A: I would not put anything past him when it comes to translation.

MR RAMPTON: All right. Let us turn to page 479 of Evans where the German is printed in at the top of the page and the full text in English in paragraph 2.

A: Yes. I left out the last sentence, did I not?

Q: You did leave out the last sentence, Mr Irving. Why did you leave out the last sentence?

A: Well, that comes with the patch of being a writer. You are always leaving bits out of documents because otherwise you will end up writing eight pages of sludge every time.

Q: I do not know that I could accept that to include the last sentence has this effect on what Ribbentrop is reported as, or actually wrote? He wrote it himself I think, did he not?

A: He wrote it in his death cell, yes, when he was about to be hanged.

Q: If you include the last sentence. So it is not a question of his being bullied or interrogated or tortured by the Allies, is it?

A: I have never had the misfortune to sit in a death cell so I cannot imagine what psychological condition one is in.

Q: No, but you have relied on it yourself, have you not, minus this last sentence?

A: Yes.

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Q: If you include the last sentence, what you are trying to do is to see Hitler through the eyes of people that knew him well, as indeed Ribbentrop must have done.

A: Yes.

Q: However unpopular he might have been with others. The impression you leave is that in Ribbentrop's mind there was no doubt at all that Hitler could not have ordered the extermination of Jews because it was not in his character.

A: That is not what he says. He says how things came to the destruction of the Jews, i just do not know as to whether Himmler began it or Hitler put up with it. I do not know.

Q: But that he ordered it -- and the italics are yours, not Ribbentrop's.

A: That he ordered I refuse to believe.

Q: "Because such an act would be wholly incompatible with the picture I always had of him".

A: That is the part that I considered to be significant.

Q: I can see that at once, Mr Irving. We are not going to argue about that. But do you not agree that, if you add the last sentence, then the picture of Hitler's personality which one derives from Ribbentrop's written words is a very great deal more equivocal, is it not?

A: I agree. It is a defeated man about to be hanged, who then writes, on the other hand judging from his testament, one would suppose that he at least knew about it, if not

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even ordered it, in his fanaticism against the Jews. What kind of evidence is that? Supposition.

Q: It is just as good evidence as the bit that you did quote.

A: Yes. They are both equally bad.

Q: So why quote one bad bit and leave off the other bad bit which supplies the balance?

A: Well, it does not just supply the balance. It also makes the passage twice as long and it is bad enough quoting one supposition without putting in two suppositions, the second of which is really a piece of resigned wish-wash by the man who says, well, anyway, who knows? Who knows? I suppose, if you read his testament, he does look like a different man.

Q: You quoted it as ever, all these little or big, all these alterations, suppressions, transfers, and so on that over the weeks we hope we have demonstrated, all these adjustments which you make to the evidence, all tend in one direction, Mr Irving. That is to say, the exoneration of Adolf Hitler.

A: I totally disagree. You have no idea what other passages I cut out of documents because they were too long. If a document is too long, I will cut it, regardless of what the content is, and sometimes I cut matters which lean one way, sometimes I cut matters which lean the other way, and this was a typical piece which cries out to be cut and it

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got cut. It was chopped. I know that my opponents clutch at these sentences like drowning men in the hope that this may save them. I think, if this is the best they can do, then it is pathetic.

Q: I told you a long time ago, Mr Irving, that I was not pinning my hopes on any one document, any one little error by you, because of course errors can go in any direction.

I am pinning my case on some very big adjustments and some little ones, which converge to the same conclusion. Whenever there is something adverse to Hitler, it is jettisoned.

A: Well, I look forward to hearing things you are pinning your hopes on.

Q: You have heard most of them already, I think.

A: Oh, gosh!

Q: Then I will be about the same business, Mr Irving, when we get to Dresden tomorrow.

MR JUSTICE GRAY: Would you, for my benefit, Mr Rampton, let me know if there are any of the points in your Defendants' summary of case which ----

MR RAMPTON: Yes, I will.

MR JUSTICE GRAY: --- you are not pursuing and then I can ----

MR RAMPTON: The Roman Jews your Lordship can ----

MR JUSTICE GRAY: Yes.

MR RAMPTON: I think the only other thing at the moment that I have not finally -- because I need to take my orders --

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decided about is the aftermath of Reichskristallnacht. There may be some little pieces from the Adjutants that I will use, there may be not, but as soon as we have made a decision, we will let you know.

MR JUSTICE GRAY: And Madame Valliant-Couturier -- have we had her?

MR RAMPTON: We have had her, yes.

A: She was the one with the beating machine.

MR JUSTICE GRAY: Yes. So, I do not myself see any point in just reading Civil Evidence Act

Notices just for the sake of it. If they arise in connection with the point we are happening to deal with, then, by all means, let us see them, but none, I think really arise on the topics we have been dealing with today, do they?

A: Can I ask, will you be calling the Russians or?

MR RAMPTON: I have not made a final decision about that yet, Mr Irving. I think the probability is not, no. I do not want to waste the court's time and my client's money.

A: Well, what is decided? Because, obviously, I have to do a great deal of preparation for the cross-examination of these witness, and it would be nice to know sometime ahead.

MR RAMPTON: Yes, no, I promise you, I have been quite good about that, I think, my Lord. As soon as I have made a final decision that I am not going to, I will let you know.

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A: Well, we are very well prepared for Professor Terassof.

We were hoping he was going to bring the glass plates with him.

MR JUSTICE GRAY: Right, well, do not think I need listen to this debate. But, obviously, it is right that Mr Irving should have ample opportunity of anything that is not being pursued, that is not being called, because he has a lot on his plate anyway and ----

MR RAMPTON: I know.

A: Time is a very scarce commodity for me.

MR RAMPTON: I am well conscious of that.

MR JUSTICE GRAY: So 10.30 tomorrow.

(The witness stood down)
(Court adjourned until the following day)

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