

## PROCEEDINGS - DAY EIGHTEEN

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**Day 18 Thursday, 10th February 2000. (10.30 a.m.)**

**MR JUSTICE GRAY:** May it please the court. Two or three minor housekeeping matters.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** Your Lordship requested yesterday or the day before yesterday, you expressed an interest in that remark by Hans Frank at the Nuremberg trial where he said that he had discussed it with the Fuhrer on February 2nd 1944. Your Lordship said you would like to see the passage concerned. That is the top document in the heap which I have left your Lordship there.

**MR JUSTICE GRAY:** Thank you.

**MR IRVING:** In order that your Lordship can see the passage concerned, I have put it into bold face, and it is about 10 pages in, I think. It is easier to find -- it is three pages from the end, my Lord.

**MR JUSTICE GRAY:** Yes, thank you.

**MR RAMPTON:** Maybe your Lordship has something I have not.

**MR IRVING:** It is there.

**MR RAMPTON:** Thank you very much.

**MR JUSTICE GRAY:** It is in bold.

**MR IRVING:** I have put in bold, that particular passage. The entire document is of interest and it may well be that Mr Rampton will wish to ask questions about it. It is Hans Frank, who is the Governor General, which is not

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where Auschwitz was situated, of course, the Governor General, but he is relating his own experiences and how he learned, first of all, of the rumours from radio broadcasts, which may seem extraordinary and how he then went to discuss them with Hitler.

**MR JUSTICE GRAY:** Yes, thank you.

**MR IRVING:** The second point is ----

**MR JUSTICE GRAY:** Sorry to interrupt you, but where shall we put this?

**MR IRVING:** Miss Rogers will, undoubtedly, have a suggestion to make of a proper nature.

**MR JUSTICE GRAY:** Yes. She is in charge.

**MR RAMPTON:** Probably in the J file somewhere or other. At the back of tab 7 of L1(iv) for the present.

**MR JUSTICE GRAY:** Hang on, this is, in effect, an Auschwitz document.

**MR IRVING:** It is.

**MR RAMPTON:** Is it?

**MR JUSTICE GRAY:** So we do not want to put it in a ----

**MR RAMPTON:** I do not think it is an Auschwitz document.

**MR IRVING:** It is. It goes to Auschwitz and Hitler's knowledge of Auschwitz. It is actually the question of the final link. Your Lordship may read this document either way, of course. You may hold it against me, in fact, that Frank is discussing this with Hitler.

**MR JUSTICE GRAY:** I am not going to try to absorb it now

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because it maybe you will want to pick this up with Professor Evans.

**MR RAMPTON:** It is Hitler knowledge, really, because it reflects back on the suggestion that Frank was told by Hitler ----

**MR IRVING:** I agree.

**MR RAMPTON:** --- or one of Hitler's people on 12th December 1941.

**MR JUSTICE GRAY:** So you stick with L as being the appropriate place?

**MR RAMPTON:** Yes, I would stick with L for the moment. L1, tab 8, I am now told.

**MR JUSTICE GRAY:** Of 8, you are saying?

**MR RAMPTON:** If there is a tab 8.

**MR JUSTICE GRAY:** I know we are taking time on this, but it is really important that one has the documents in some sort of order. Yes, Mr Irving. Next one?

**MR IRVING:** The next point is that yesterday evening at about 8.30 p.m. there was delivered to me by courier from the Defendants a very large bundle of papers once again for which Mr Rampton would say, I attach no blame whatsoever to the other parties; obviously, this is an action where that kind of thing happens.

**MR JUSTICE GRAY:** Well, I am not so sure about that, but I will guard my tongue at the moment.

**MR IRVING:** Basically, it was answers to questions which I

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had asked of today's witness, Professor Evans, on January 2nd and January 3rd this year, around about that date, and here we are five weeks later; they have now delivered a response of probably 150, something like that, pages.

**MR JUSTICE GRAY:** Sorry. You say you asked questions of Professor Evans on a previous occasion?

**MR RAMPTON:** Written questions.

**MR JUSTICE GRAY:** I do not think I have seen that.

**MR RAMPTON:** It is perfectly all right within the rules.

**MR IRVING:** Within the rules and with the aim of speeding things up.

**MR JUSTICE GRAY:** I do not think I have seen the product of your questions.

**MR IRVING:** Well, the product was delivered to me last night. It covers really the first 200 pages of his expert report which means I cannot today address myself specifically to those pages of his report. It would be a nonsense.

**MR RAMPTON:** That is perfectly reasonable. In fact, the answers run only to six pages, I think.

**MR IRVING:** Yes.

**MR RAMPTON:** The rest is what you might call supporting documentation.

**MR IRVING:** Very well.

**MR JUSTICE GRAY:** But why has this come ----

**MR RAMPTON:** Because Professor ----

**MR JUSTICE GRAY:** --- within hours of Professor Evans getting

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into the witness box.

**MR RAMPTON:** Because Professor Evans is a busy man and he has only just answered them. I cannot answer them for him.

**MR JUSTICE GRAY:** Well, that, of course, I understand.

**MR IRVING:** I make no criticism of that, my Lord. Obviously, we both have our professional

lives to lead, but for this reason it would be pointless for me to cross-examine him on those pages as I certainly shall.

**MR RAMPTON:** That I accept.

**MR IRVING:** Because he may very well have answered the matters in the meantime. But today I was going to discuss more general matters with him. We were going to set the scene as far as we possibly can.

**MR JUSTICE GRAY:** Yes, but may I just say something about your cross-examination? I have spent many hours, to put it no higher, on day 16 and day 17 which is, basically, your cross-examination of Professor Browning.

**MR IRVING:** Yes.

**MR JUSTICE GRAY:** Your questions, if I may say so, are clear, almost always to the point, but what I would find helpful is if you would usually make a point of, if you can, directing me to the document that you are cross-examining on, or invite the Defendants to direct me to the document you are cross-examining on, because you probably understand when I go through the transcript (and I am much less knowledgeable than you and, indeed, than the

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Defendants), I do not always find it very easy to follow the drift of the questioning unless I know what the document says.

**MR IRVING:** My Lord, I will certainly do so in the written text of my summing up which I shall deliver to your Lordship as a written document as well as spoken.

**MR JUSTICE GRAY:** But, remember, I am trying to follow this and digest it as we go along from the transcript so that if you can ----

**MR IRVING:** Your Lordship will have noticed a disparity ----

**MR JUSTICE GRAY:** --- accommodate?

**MR IRVING:** --- of effort between the man power on the Defence side and the man power on the Claimants' side of this case, and I do what I can.

**MR JUSTICE GRAY:** I know. I am really inviting the Defendants to come to my assistance during your cross-examination. The trouble is -- I have said it before, I will say it again -- that the documents on certain aspects of this case are scattered amongst different files, mostly untranslated, and it does not make life any easier. I say that with some feeling.

**MR RAMPTON:** I am not sure if I see that as a rebuke or not. It is a fact of life, however. To make your Lordship's task easier because, after all, at the end of the case your Lordship is going to have to write a judgment, we will perhaps, as it were, in conference in open court with your

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Lordship try to put together -- we have for some subjects already done it, we did it for Reichskristallnacht, we have done it for Dresden and some other things.

**MR JUSTICE GRAY:** They are fine, those two topics.

**MR RAMPTON:** But there are, obviously, a number of key documents which your Lordship rightly says and, unsurprisingly, since the bundles have not been agreed in the usual way, but are simply the experts' references, they are scattered all over the place, we need to draw them together. When we have done that, I think we need some help from your Lordship about which ones you would like us to translate.

**MR JUSTICE GRAY:** Yes. I agree with all of that, but just looking ahead, for example on Longerich -- it is too late on Professor Evans and it may not be a problem with Evans -- it would be helpful to perhaps, prepare, a little bundle in advance.

**MR RAMPTON:** I agree, yes.

**MR JUSTICE GRAY:** It may be you have done all this already, but if you have not, do you think that could be considered?

**MR RAMPTON:** My working is different. I have taken all the documents already from different experts for use in cross-examination, which is a slightly different exercise.

**MR JUSTICE GRAY:** Yes. I will have to leave it to you, but bear in mind I am not rebuking so much as just expressing a real problem.

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**MR RAMPTON:** I understand it as a plea for help.

**MR JUSTICE GRAY:** In a way, it is exactly that.

**MR RAMPTON:** Which I fully understand. So what we will try to do, if we can, is get a Longerich bundle together, but it may well include some documents from other places.

**MR JUSTICE GRAY:** Yes. Mr Irving, there are some other documents here. Should I look at those now or are they for later?

**MR IRVING:** No. I will draw your attention to them when the time comes, but I am going to draw your attention or remind your Lordship of what we call the Kinna document, K-I-N-N-A, which was a late arrival. I am almost tempted to say it is a glamorous arrival. It arrived late from an anonymous source, your Lordship will remember, and your Lordship asked the Defence to take two weeks to find out where it came from. They have now provided that information to me last night.

It is a document which I regard as suspect inasmuch as it comes from a 1960's Polish publication, what we would call a blue book and the Germans a white book and the Nazis a brown book, I suppose, or the East Germans. It is that kind of publication. I make no criticism of that. I am not going to attack the integrity of the document because I am not in position to. But they have also produced in support of the document the testimony of the man who signed it, as I understand it

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taken in.

**MR JUSTICE GRAY:** Can we first of all go to this document?

**MR RAMPTON:** Yes, my Lord. It was, I think produced ----

**MR JUSTICE GRAY:** I remember it.

**MR RAMPTON:** -- during the course of -- I am going to hand it up.

**MR IRVING:** I am not going to deal with the contents of the document. I understand I will be cross-examined on it.

**MR JUSTICE GRAY:** No, but if you are saying about it, I want to look at it so I know what you are talking about.

**MR RAMPTON:** There was a translation at some time. I do not know where that has got to. It is a report from a place called Zanosk which is in Poland of 16th December 1942 about the transport of some 644 Poles to Auschwitz. It has a real significance so far as, indeed, not just Auschwitz, but the Holocaust as a whole, in its second paragraph on page 2, which somebody, might be the source, has put a line beside, and the question was really this for the moment, what authenticity does it have?

**MR JUSTICE GRAY:** Yes, I remember.

**MR RAMPTON:** Mr Irving was worried about that. We now know that it was reprinted as a facsimile in a Polish book in 1960, which is produced by the Warsaw archive which is, no doubt,

where it is, also again in 1979 and then the last document where it was translated from German into Polish, and in the last document is the testimony man Kinna

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himself which I think he gave on 2nd July 1964.

**MR JUSTICE GRAY:** Is Kinna the signatory of the document?

**MR RAMPTON:** He is the man who wrote the report, yes. Although I cannot possibly read it, I am your Lordship cannot either, maybe Mr Irving can, these are the handwritten notes of the hearing. What, in effect, we are told they do is to show that Kinna himself verified the contents of his report.

**MR JUSTICE GRAY:** In what context?

**MR RAMPTON:** He was a witness at a trial.

**MR JUSTICE GRAY:** He was a witness as a prosecution of a ----

**MR RAMPTON:** Yes, so I understood, at Frankfurt. The last document in this little clip is, I think, not connected. It is a letter, I think, from Hans Frank to Heinrich Himmler dated 23rd June 1942.

**MR IRVING:** It is from Viktor Brach.

**MR RAMPTON:** You are quite right. It is in the top lefthand corner, but I do not know what it says because I have not read it yet.

**MR JUSTICE GRAY:** Right.

**MR IRVING:** My Lord, can I revert to the submission I was making about the Kinna document?

**MR JUSTICE GRAY:** Yes, absolutely. That is what we are on now.

**MR IRVING:** I am not going to challenge the integrity of the document because I am not in a position to do so, but I am going to deal with that handwritten document which your

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Lordship was just looking at which was the 1963 trial where Kinna was asked about the document. I have deciphered the handwriting at the end I will translate it very rapidly: "Says the witness Kinna" ----

**MR JUSTICE GRAY:** Pause. I have not got there yet.

**MR IRVING:** It has a number of numbers on it, and it has an upside down page 11 at the top left-hand side corner. The final paragraph, the final two paragraphs, translate as follows: "The witness Kinna confirmed the accuracy of the report. He answered the questions put to him by the lawyer Professor Dr Kaul". K-A-U-L.

**MR JUSTICE GRAY:** I am so sorry.

**MR RAMPTON:** My Lord I am sorry, the clip has not been paginated which is annoying. It is the second of two ----

**MR IRVING:** Two handwritten pages.

**MR RAMPTON:** --- handwritten page. It has a fax page 10 in the top righthand corner.

**MR JUSTICE GRAY:** I have it. I cannot see the upside-down 11.

**MR RAMPTON:** You do not have to struggle with that.

**MR JUSTICE GRAY:** Yes, sorry, Mr Irving?

**MR IRVING:** I will repeat it. "The witness Kinna confirmed the accuracy of the report". This is two paragraphs from the bottom, "The witness Kinna" ----

**MR JUSTICE GRAY:** I see.

**MR IRVING:** --- "confirmed the accuracy of the report. He answered the questions put to him, the expanding

questions, the amplifying questions, put to him by the lawyer Professor Dr Kaul. To the correction of the witness, no further motions were put", or it could be either "correction" or on the swearing of the witness, but that is unimportant. What concerns me is the final paragraph: "The witness was sworn in, and in agreement with both parties he was released".

I shall draw attention to that. I do not think this is a proper time to draw attention. The significance is the fact that this witness, to what is obviously a criminal document, is questioned only as to the accuracy of the document and is then released by all the parties, including the public prosecutor.

**MR JUSTICE GRAY:** Well, I am not saying you are wrong about that. My reaction to it would be that that is simply what happens when a witness is finished giving his evidence.

**MR IRVING:** Yes, except that, since your Lordship has put it that way, I would comment on the remarkable fact that here is a man who has obviously been engaged in a criminal undertaking who could possibly have struck a bargain, shall I put it like that, that if he will testify to the accuracy of the document, then no further charges will be laid against him.

**MR JUSTICE GRAY:** So your position on what we are calling the Kinna report is that, yes, it is an authentic document.

**MR IRVING:** For the purposes of this trial, my Lord.

**MR JUSTICE GRAY:** But you query whether it was not the product of a plea bargain.

**MR IRVING:** My Lord, I am not challenging the integrity of the document. I cannot because I do not have sufficient apparatus to challenge it. Having read the document, I do not think it seriously damages my position in this case. So, for the purpose of the case, I am going to ask questions on its contents as though it were genuine.

**MR JUSTICE GRAY:** Again I ask where shall we put this?

**MR RAMPTON:** This is an Auschwitz document. I suggest it goes in tab 4 of K2.

**MR JUSTICE GRAY:** Thank you very much.

**MR RAMPTON:** Chronologically, we will have declip it and sort it out. I suggest it goes as a lump in wherever the date is, 16.12.42. I cannot help on that because I have not got my K2 here.

**MR IRVING:** The final problem, my Lord ----

**MR RAMPTON:** Can I just finish? I am sorry, I am not trying to be discourteous. I do have a translation as well of the Kinna document.

**MR JUSTICE GRAY:** Thank you very much.

**MR RAMPTON:** There is one for the judge and one for Mr Irving. He ought to see that in case he does not agree with it.

**(Same handed).**

**MR IRVING:** My Lord the fourth matter concerns the document which you are familiar with, which is August 1st 1941 from

Muller to the Einsatzgruppen chiefs about which we spent some discussion.

**MR JUSTICE GRAY:** And about the authenticity of it.

**MR IRVING:** A serious problem has arisen because I contacted the West German archives, your Lordship will see that the second page of that little bundle I gave you, the bundle beginning with

the words "from Monday", the second page of that is headed "translation", does your Lordship have the page?

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** A letter from me on February 7th this year to the German Federal Archives saying, this is a translation: There is a big trial in London. I need an original copy of the following document. I give the reference number which is given by our witnesses in their bundles.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** I need it immediately. Crystal Brown is going to be for the next three days only in the witness box. Could you please fax the documents, we need them in facsimile. I attach importance if possible to seeing the original documents rather than printed versions, as your Lordship appreciates. They replied to me yesterday, saying that document is not in the file. And to clarify any ambiguities as to what that letter meant, I spoke with Dr Lens yesterday of the German Federal Archives in Berlin and he said, yes, that means this document is not in the

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file at all, it is full of completely different documents, which he then describes. There may be an innocent explanation for this but I would ask, before being questioned about this document as I understand the defence wish to, that I should be apprised as to where the original is and, if possible, shown a facsimile.

**MR JUSTICE GRAY:** We have had evidence about that, but I am afraid it is not in my mind at the moment. I think it is been around for a long time, the Muller document, has it not?

**MR RAMPTON:** Yes. It is mentioned in a book, at least this I know, by Professor Gerald Fleming, called Hitler und die Entloesung. It is a German book which has also been translated.

**MR JUSTICE GRAY:** Yes, that is right.

**MR RAMPTON:** It was published in 1982. I have Mr Irving's copy which he kindly gave me.

**MR IRVING:** Loaned you.

**MR RAMPTON:** Yes, of course. I have no intention permanently to deprive Mr Irving. The point is this, not what the authenticity of the document might be, but that it is in a book which Mr Irving has, and that is what I shall be cross-examining him about. I am not going back to history.

**MR JUSTICE GRAY:** No, but he can rely on this letter.

**MR RAMPTON:** It does not seem that it is now in a particular

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archive.

**MR JUSTICE GRAY:** Well, the file where you would expect to find it does not contain it.

**MR RAMPTON:** The reference may be wrong, I do not know. I will try and track it down. It is a different point. I am not going to cross-examine him about that.

**MR JUSTICE GRAY:** Is all of this little clip connected with Muller?

**MR IRVING:** No, my Lord. The final document in that little clip is actually a press report of 1983 in which Fleming refers to that very document. I include it purely because I found it by accident last night in my files. I would certainly rely on this little episode as being further proof of the negligence of the historians adduced as expert witnesses by the Defence in this case.

**MR JUSTICE GRAY:** Do we know where Fleming got the document from?

**MR IRVING:** No.

**MR JUSTICE GRAY:** Is he still ----

**MR IRVING:** He is still extant.

**MR JUSTICE GRAY:** -- alive and well?

**MR IRVING:** Yes. I spoke to him a few days ago. He never wrote about it in a letter to me in his considerable correspondence which I searched.

**MR JUSTICE GRAY:** I will leave this clip on one side.

**MR IRVING:** We will be coming back to it in the course of the

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cross-examination of Professor Evans, my Lord.

**MR JUSTICE GRAY:** Yes. I have some photographs of Winnona Brown.

**MR IRVING:** We do not need them until halfway down the cross-examination of Professor Evans when we get the little ditty.

**MR JUSTICE GRAY:** Any more?

**MR IRVING:** That is my only submission.

**MR JUSTICE GRAY:** Thank you very much.

**MR RAMPTON:** Your Lordship again has probably got something I have not. I knew what the first part of this exchange was about, because I know what the document is.

**MR JUSTICE GRAY:** You have not got any photographs?

**MR RAMPTON:** I have no photographs.

**MR IRVING:** Miss Rogers is sitting on everything.

**MR RAMPTON:** May I enquire through your Lordship where the correspondence is with the Bundesarchives, or whatever it is?

**MR JUSTICE GRAY:** I have a clip which I think you have headed "from Monday August 23rd".

**MR RAMPTON:** We will sort it out later. I do not want to waste time.

**MR JUSTICE GRAY:** Good. Now shall we have Professor Evans?

**MR RAMPTON:** Yes.

**Professor Evans, sworn.**  
Examined by **Mr Rampton QC.**

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**Q:** Professor Evans, first of all, your full names please?

**A:** Richard John Evans.

**Q:** Have you made a report, a long report, for these proceedings?

**A:** I have.

**Q:** Have you made some corrections to it?

**A:** Yes, I have.

**Q:** More recently, have you answered some questions in writing from Mr Irving?

**A:** I have, yes.

**Q:** So far as those documents contain statements of fact, are you as satisfied as you can be that they are accurate?

**A:** I am, yes.

**Q:** In so far as they contain expressions of opinion, are you satisfied that those opinions are fair?

**A:** Yes.

**Q:** Thank you. Would you remain there to be cross-examined.

Cross-examined by **Mr Irving.**

**Q:** Good morning, Professor Evans.

**A:** Good morning.

**Q:** My Lord, I intend this morning to try and deal with matters generally, particularly some of the matters that are large in recent public coverage of this case and try and dispose of them, and then go seriatim through particular points which are contained in his expert report. I shall also try to bring in the reports of those

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witnesses who are not going to be cross-examined or presenting themselves for cross-examination and test your Lordship's patience in that respect, and have to use this cross-examination or the cross-examination of Professor Longerich as a vehicle for introducing certain documents?

**MR JUSTICE GRAY:** Yes. We have discussed that already and that is something that you are perfectly entitled to do. But do bear in mind, if I may say it again, that it is important that I can follow it, preferably by reference to the documents.

**MR IRVING:** By reference to the documents, yes.

Professor Evans, first of all, we learned yesterday from Professor Browning, rather to my surprise that he is effectively in the pay of the Yad Vashim Institute, that he received 35,000 dollars from them for a task which he has not completed, so he is in their debt. Can you assure the court that you are not also in some way indebted to the Yad Vashim Institute or to any similar body?

**A:** It depends rather what you mean by "any similar body". I am certainly not in debt to anybody, as far as I know.

**Q:** Yes, the significance being of course that Yad Vashim was the body which commissioned the work which is complained of in this action.

**A:** I have never had any dealings with the Yad Vashim Institute of any description.

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**Q:** Where would you position yourself in the political spectrum? I think it is important that we know, when you are describing somebody as being an extremist of either left or right, where you position yourself, your own vantage point from which you view them?

**A:** I am a member of the Labour Party. I do not suppose that means that one is left wing these days.

**Q:** No. Never mind the Labour Party's politics. What is your own personal political standpoint from which you view people like myself, or Margaret Thatcher, or John Major? Would you regard Margaret Thatcher as being moderately right-wing or extreme right wing?

**A:** As I said, I am a member of the Labour party and, broadly speaking, I take the Labour Party's point of view on current affairs in so far as I interest myself in them. I would not describe myself as an expert.

**Q:** Do you allow the Labour Party to dictate your politics to you or do you have any ideas of your own in this respect?

**A:** It depends what you mean by politics. Of course I make up my own mind about things.

**Q:** Your writings appear to be left of centre, if I may put it that way. You would not expect David Irving to write a book, for example, about feminism or the women's movement or something like that.

**A:** Yes, though I have to point out that my work on feminism has been heavily sharply criticised by a number of

feminists.

**Q:** Well, maybe feminists are the kind of people who will never be satisfied. Would that be correct?

**A:** I cannot really comment on that. It depends what kind of feminists you are talking about.

**Q:** You have written about 15 books have you, about 15 titles so far?

**A:** 16, I think. Yes.

**Q:** They have been published widely around the world?

**A:** They have, yes.

**Q:** How would you describe yourself? None of your books have been on a best seller list, have they? They are academic works, are they not?

**A:** They are academic works, though some of are written -- I always try to write for a wider audience. That is to say I always try and write in a readable manner, and some of my books have sold I think quite well for works that are scholarly. My book "In Defence of History", which came out two and a half years ago, has I think sold about 20,000 copies.

**Q:** You are referring to this book, is that correct?

**A:** Indeed. That is the American edition. I have no idea what that sold.

**Q:** It spells "defence" differently.

**A:** Indeed. That is why they had to reprint it. It is also appearing in Turkish, Japanese, German, Korean and a

number of other languages. My book "Death in Hamburg" I think sold about 20,000 copies in English and German.

**Q:** Are you talking about hard book copies or paper back copies?

**A:** Both.

**Q:** Altogether?

**A:** Yes. I should also say that I have one won a literary prize for history and I have recently been elected Fellow of the Royal Society of Literature so it seems that my books are regarded as being literary in some sense.

**Q:** It is quite difficult to write literary history, is it not, especially when you are quoting from document? Would you agree?

**A:** It is difficult. One has maintain a balance between accuracy, which is of course one's first duty, and readability.

**Q:** If you are translating a document from Chaucer in English, then you would not use the old language, you would use modern English, would you not? You would put it into modern English and this would not be considered in any way distorting the original. Is that right?

**A:** It depends. There are different versions of Chaucer. I cannot say I am an expert on Chaucer in any shape or form.

**Q:** Obviously, if I am referring to translating from French or from German, it is sometimes very difficult to get an

exact shade of sense on a word. Frequently there is no exact comparison between the two words, between the English and the German?

**A:** This is, well, I think what I would say is that, of course, you cannot do an absolutely literal

translation because the word order is different and words have slightly different meanings, but the first duty of an historian is to translate from a foreign language in terms that render faithfully the meaning of the original.

**Q:** Yes.

**A:** And I think that any literary pretensions that one has must surely take second place to that aim.

**Q:** How would you decide what is the faithful rendering of a particular word in translation? Would you look just at that word or would you take into account your own general knowledge of what is going on or would you look at the surrounding countryside, so to speak, of the paragraphs before and after?

**A:** I think you have to do all of these things and reach your own judgment as to what is an accurate translation.

**Q:** Yes, but the fact that you have used a word that is not a mirror image from one language to the other of a word in a translation is not necessarily evidence of a distortion or an intent to distort?

**A:** It depends on how you do it. I mean, as you know, dictionaries give a number of different alternative

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English equivalents for German words and you have to decide which one is the most accurate in the circumstances.

**Q:** Well, I will be dealing with this probably next week with you when you come back, Professor, but you will accept that, for example, a 1936 dictionary in German will probably give a different meaning of a word from a 1999 dictionary?

**A:** In some cases, most certainly, in some cases, not, and of course they give range of meanings which one has to use in different circumstances. It may well be, for example, that in 1942 or 1943 in some circumstances a word is used somewhat differently from the way it is used in 1936. So I would not take a 1936 dictionary as being absolute gospel for the usage of words in some circumstances in 1942 to 3. As I said, you have to look, as you said indeed, at the document itself and the surrounding documents, at the meanings, at the time, the people who wrote it.

**Q:** And take your own expertise into account, is that correct?

**A:** You have to use your judgment which is based on your reading of other documents, most certainly, yes, and, indeed, other people's of course. Other people will have worked ----

**Q:** Sometimes the document itself will give you a clue. We looked at a document with Professor Browning, October

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1942, relating to the Umsiedlung of 20,000 Jews from Reslatosk. Just from that sentence, it was not plain what the word "Umsiedlung" meant, but two pages later, as Professor Browning correctly pointed out, the 20,000 are referred as angeschossen, shot. So there is no question there, is there?

**A:** I would not really want to comment on it without actually having the document in front of me.

**Q:** Later on in the same paragraph we have the sentence that half the inhabitants of the village of X were shot and the after were umgesiedelt to a neighbouring village in which case the word quite clearly has a different meaning, does it not, in the same paragraph?

**A:** Again I really do not want to comment without having the document in front of me.

**MR JUSTICE GRAY:** Take it from me it is right. We went through it and it is obviously right.

**A:** I am afraid have not read the transcripts for that particular day.

**MR IRVING:** So it seems it is possible to have the most glaring inconsistencies even within the same document as to what the meaning of a word is?

**A:** Words may be used in different senses, yes, and certainly as euphemisms in some senses and not as in others. If you use an euphemism, well, almost by definition, in other circumstances it going to have its actual real meaning.

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**Q:** So it is a minefield then, the translation of documents, or it is either a minefield or a sweet shop, a candy store, depending on which way you are looking at it. If you want to go into those documents with an evil intent or with a perverse intent, then you can fix a meaning which just fits the meaning you want, is that correct?

**A:** Well, if you are referring to yourself, yes. I mean, I would not do that.

**Q:** Well, I am ----

**MR JUSTICE GRAY:** What is sauce for the goose is source for the gander. In a way, I understand why you are asking these questions. I understand the point you are making.

**MR IRVING:** I am just rubbing it in, my Lord, the fact that, as Professor Evans rightly said, if this applies to myself, I could distort the document one way, but, of course, if it applies to a left wing historian or a Marxist, they could distort exactly the same document the other way, and he was quite right to point this out.

(To the witness): We will leave the matter of meanings of words because we cannot do that really at this point without having a little bundle of documents to look at which I shall bring on Tuesday, I think, which will be a bundle of documents about the "Ausrotten", so you might like to prepare yourself intellectually for the word ausrotten and what it means.

Professor, you are in charge of this magnificent

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team of stallions who have been preparing the defence, is that correct? You were the leading, the chief expert witness, am I right?

**A:** No, I some research assistants. I have helped the defence in suggestion as to whom should be called as expert witnesses, but not all the expert the witness have been called at my suggestion. I certainly have not been in charge of them in the sense that I have directed them what to write.

**Q:** Of course, you would not dictate to them what to write, but have you dictated what field of research they should apply their minds to in connection with this defence?

**A:** Not dictated, no. I suggested to the defence that certain witnesses might be called to cover certain fields and then, of course, there were lengthy discussions as to how this should be made more precise and exactly what areas should be covered and by whom and so on. Not all of my suggestions were accepted, of course.

**MR RAMPTON:** Can I just sound a warning note? We are getting towards forbidden territory.

**MR JUSTICE GRAY:** We are on privilege.

**MR IRVING:** I certainly would not have asked him privileged questions.

**MR JUSTICE GRAY:** No, you are the right side of the boundary, but Mr Rampton was putting down a marker.

**MR IRVING:** I was going to ask here, did you look specifically

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for left orientated experts or right-wing orientated experts? I mean, you did not ask Professor Faurisson, for example, did you, to give evidence?

**A:** I would not consider him an expert.

**Q:** You would not consider him an expert?

**A:** No, I think he is a charlatan.

**Q:** You are right; he was stripped of his Professorship, was he not, by the University of Lyons or Lille, one of the two?

**A:** It is more his work that I am concerned with and I do not think it is reputable work. My only concern in suggesting the names of expert witnesses was that they should be experts in their particular fields.

**Q:** Yes. So a right winger is a charlatan and a left winger is acceptable. Would that have been your standard?

**A:** Not at all, no. Had, for example, Professor Hilgrubber still been alive, he was a decidedly right-wing historian, but I consider him a reputable expert in certain fields of Second World War.

**Q:** What about Professor Hans Monson? Might he have come up with the wrong answers, perhaps?

**A:** I really do not want to get into discussions of whom we might have called, and we did not.

**MR JUSTICE GRAY:** Well, I do not think you are actually being asked the question in that way, and I think it is a legitimate question. What is the answer?

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**A:** What was the question?

**MR IRVING:** Might you have called Professor Dr Hans Monson of the University of Fulkum(?) who is an acknowledged expert on this field?

**A:** But -- in the end, he has not been called.

**Q:** But you would not have considered calling him?

**A:** That is such a hypothetical question; I mean, I would have considered calling him. There are many people whom I would have considered calling but we did not in the end consider calling them.

**MR JUSTICE GRAY:** Can I ask you the question this way which I do not think infringes any privilege. Have you gone out of your way to recommend historians who have a particular point of view which happens to coincide with your own?

**A:** No.

**MR IRVING:** But you have had your knives out in the past for right wing historians or Nazi historians, have you not? In your book "In Defence of History" you make minced meat of some historians?

**A:** I think it is also right to point out that I have very heavily criticised some left wing historians as well. If you take my book "In Defence of History", for example, there is some very sharp criticism of the Marxist historian, David Abraham, there; there is some sharp criticism of the Marxist historian, Christopher Hill. So I do not think I direct my criticisms only at historians

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who might be identified as right-wing.

**Q:** You have stepped into the shoes of Sir Geoffrey Elton at Cambridge, have you not?

**A:** No.

**Q:** Do you not hold the Chair of Modern History at Cambridge?

**A:** Yes, but he held the Reader's Chair.

**Q:** Is he still there?

**A:** He is dead, I am afraid.

**Q:** Well, he is not still there, is he?

**A:** No.

**Q:** How would we position him on the political spectrum?

**A:** Very difficult. I mean, I think in some ways he was an unconventional character. I did not know him very well, I have to say, but, on the whole, I think you could say he was right-wing.

**Q:** What is the difference between "unconventional" in your vocabulary and "extremist"?

**A:** I meant more in terms of his rather unpredictable views on some subjects.

**Q:** A bit of a loose cannon?

**A:** Yes, I would say that.

**Q:** Not politically correct?

**A:** I think that is a very slippery term. I mean, it depends exactly what you mean by "politically correct". I am not sure that the term political correctness was very much in vogue at the time when he held the chair.

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**Q:** Let me assure you, I am not trying to lay any traps this morning or, indeed, for the rest of today. We are just generally exploring the terrain. So you do not have to have any sense of reserve in answering the questions I am putting to you because ----

**A:** Well ----

**Q:** --- there are no traps.

**A:** Well, I am not an expert on Sir Geoffrey Elton whom I only knew very slightly and I did not read, by any means, all of his work. I admired, what I did read, I admired it greatly. I thought he was a tremendous historian and also a very interesting man with pungent, strongly held views, some of which invited disagreement, some of which did not. But I thought, as an historian, he was in his own chosen field of Tudor Constitutional History, he was a very good historian.

**Q:** Pungently held views or pungently expressed views. Is an historian entitled to express views pungently which are different from those of the common place?

**A:** Most certainly, yes.

**Q:** So what makes an acceptable pungently held view and an unacceptable pungently held view, in your view? Is it the supposed political leanings of the person who does the expression?

**A:** No. I think that historians, what makes it, as it were, debatable within conventional academic, scholarly terms is

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whether historians' views are accepted -- I am trying to think of an accurate way of putting this -- whether historians views are put forward on the basis of documents which are available and on a ----

**Q:** The objective sources?

**A:** --- reasonable interpretation of those.

**Q:** You attach great importance to the objective use of sources, is that right?

**A:** I do, yes.

**Q:** Yes.

**A:** I think the sources, as it were, have a right of veto on what one can and what one cannot say.

**Q:** Express.

**A:** But within the area that is covered by the sources that you use, there is, of course, scope for some disagreement.

**Q:** You have done a certain amount of research into the Nazi period, have you not?

**A:** Yes.

**Q:** This was not originally your speciality, was it? Originally, you came from a different era of history?

**A:** Yes, I have researched on eras of the 19th and 20th centuries.

**Q:** For some reason the Nazi era is a profitable era of research if one writes books? I do not mean this in any sense as a criticism.

**A:** Well, I have to say the only book that I have done that is

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based on archival research on the Nazi period, a book called "Rituals of Retribution" on the issue of capital punishment in Germany since the 17th century, has sold very badly. It is far too long and I am told that Penguin regard it as something of an albatross.

**Q:** It contains acres of sludge, does it?

**A:** I would not describe it as sludge myself, no.

**Q:** But I know the temptation. Is it true one finds documents that oneself finds fascinating, but the readers probably do not?

**A:** Well, I think its length has daunted an English language readership. It is about to appear in German and I think Germans are less daunted by very lengthy books. But it does cover 300 years of history in a major area and not a handful of years. It does cover a large subject.

**Q:** I have a confession to make, Professor Evans. I had not heard of you before you were actually nominated as a witness in this case. This is not a criticism in any sense at all, and I wondered where on earth I could get a copy of your book. Then I found a copy of your book actually on my desk. Somebody actually sent it to me months earlier. I looked through it, and probably rather the same as you looked through my book "Hitler's War", you have never read my book "Hitler's War" from cover to cover except when this trial began, is that right?

**A:** That is true, yes.

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**Q:** You state in your expert report that you picked it up once and leafed through it, is that right?

**A:** That is right, yes. It was not really essentially on areas with which I was concerned.

**Q:** At that time you were not dealing with the Third Reich or with Adolf Hitler or with the decision-making processes?

**A:** Only in terms of teaching. I have been teaching courses on the Third Reich for some years.

**Q:** And it would never have occurred to you to put my book on the list of recommended works?

**A:** Not really. I think it is more concerned with military history than anything else. I do not know if you would accept that.

**Q:** And the courses that are taught in universities and colleges do not cover military history, is that correct?

**A:** Some do, but not the courses that I teach.

**Q:** In looking at the book, did it occur to you that I had had access to sources that no other historians had had, and that this might, therefore, have made it valuable for teaching courses?

**A:** As I have said, I mean, the sources -- of course, it occurred, of course, it was clear to me that you had a justified reputation for obtaining sources which other historians had not had access to, but these sources and your treatment of them were not, I felt, really useful for the kind of

teaching that I was doing on the Third Reich.

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**Q:** Can I ask the witness to be given one of these little bundles, please, Miss Rogers? I am purely using you, Professor Evans, now as a means of getting this document before his Lordship. Are you familiar with the Internet?

**A:** Yes.

**Q:** Do you ever use the Internet?

**A:** Occasionally, yes. I have to say not very extensively.

**Q:** I am going to ask you at this stage to look at the first document, but you can leaf through if you wish. Are you familiar with the H Net which is an aspect of the Internet, a kind of communication between experts?

**A:** Not very, I have to say.

**Q:** And that there are various H Nets. There is H Net, Anti-Semitism and so on?

**A:** H German, and so on, yes.

**Q:** Are you familiar, Professor, with a Dr David Aaron Meyer, who is the Associate Professor of History and who runs the particular discussion group on the Internet called H Anti-Semitism?

**A:** At Dickinson State University?

**Q:** Yes.

**A:** I am not, no.

**Q:** He expresses an opinion in his e-mail to me dated August 23rd last year in which he says, "I have been familiar with your works for a very long time", meaning my works, "and find them exceptionally well written and

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researched". Would you share his opinion?

**A:** No.

**Q:** He is familiar with my works and he finds them exceptionally well written and researched. Never mind the "well written", but he finds them well researched. And you do not accept his opinion?

**A:** It depends what you mean by "well researched". I mean, I do not dispute the fact that you have very wide and deep knowledge of the source material for the Third Reich, particularly during the Second World War, above all, and of course it is quite right, as countless historians have pointed out, that you discovered many new sources.

**Q:** What have I done with these sources? Have I made them available immediately to the community?

**A:** I was about to go on to say that the problem for me is what you do with the sources when you then start to interpret them and write them up.

**Q:** But do I do two things with these sources, is this correct? On the one hand, I write my books based on them, on the other hand, I automatically placed the entire collection of these new sources in various institutes where people like yourself and your researchers and other historians around the world can immediately go and see them; is that correct?

**A:** Some of them you have placed, you have made available, and the others you have not.

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**Q:** Are you familiar with any collections that I have not immediately made available? Can you

identify any?

**A:** Yes, the interrogations of Hans Aumeier, which have already been discussed in this courtroom, it took you four or five years to make those or six years to make those available.

**Q:** We have actually discussed them at some length in this courtroom, and it is true that I did not make the actual bundle of documents available to other historians after I discovered them. This is true. Can you suggest there may be a reason why I, having discovered that little scoop, did not make them immediately available to others?

**A:** Yes. It seemed to me that they were somewhat embarrassing for your position on the existence of gas chambers at Auschwitz.

**Q:** Are you familiar with the letter that I wrote to Professor Robert Jan van Pelt in May 1996 drawing his attention to this bundle of documents?

**A:** That is four years after you discovered the documents and a letter to one person. That is not the same as making them generally available immediately.

**Q:** Would you agree that Professor Robert Jan van Pelt was the world's acknowledged expert on Auschwitz and he was the appropriate person to have his attention drawn to this file?

**A:** Yes, but I repeat, that is not the same as making them

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generally available immediately which is your initial claim you made a few minutes ago.

**Q:** Would you agree that there is a difference between my visiting elderly widows and persuading them to part with their diaries, on the one hand, and, on the other hand, something which is in the public domain already in the British public archives and where anybody can go and find it if they have sufficient nouse, and nobody else has bothered to. There is a difference there.

**A:** I am not sure. It was in a very -- it is in a somewhat unexpected place where you might not expect to find it in the Public Record Office in the files of the Political Warfare Executive.

**Q:** Would you expect a researcher on Auschwitz to have sufficient acumen to go to the Public Record Office and look in the files of the War Office Military Intelligence, WO208, and in the catalogue find a file called "Interrogations of Hans Aumeier of Auschwitz", would that take much intelligence, do you think?

**A:** You have to know exactly where to look for in 19 -- I think these were only released in 1991 and 1992.

**MR JUSTICE GRAY:** Can I ask the same question in a different way? If you had come across the Aumeier diary, I think it is a diary, what would you have done with it if you felt it was your duty to place it in the public domain?

**A:** Published an article about it, I think, in a learned

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journal. It is a somewhat problematic document, but I think it is of some interest and importance.

**MR IRVING:** Professor Evans, have you seen a letter of mine in the files which are disclosed to you by way of discovery in which I wrote to the Institute of Contemporary History -- disregarding your views about that Institute at this moment -- and suggested precisely that, that this item, the Aumeier papers, should be published in some learned journal?

**A:** Which Institute of Contemporary ----

**Q:** The one in California, the IHR?

**A:** Oh, that is the institute Of Historical Review, so-called.

**Q:** Yes, I am sorry. I gave you the wrong name, yes.

**A:** Yes, I do not regard that as a respectable academic Institution.

**Q:** But was this not an offer, a suggestion, by me that this document should be placed in the public domain by way of somebody writing a learned paper about it?

**A:** If you place your letter in front of me, a copy of it, I would be happy to look at it.

**Q:** I am asking a general question here, what degree of access have you been given to all the documents that I made available to the Defence by way of discovery? Have you seen everything or have you had everything available to you or have you been able to pick and choose or have you had just limited access?

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**A:** Everything has been made available, but, of course, as you will appreciate, there is an enormous quantity of material and ----

**Q:** Have you read my entire correspondence between myself and the IHR?

**A:** We have certainly had access to it and it has been looked through and some of it, of course, is cited in my report.

**Q:** Professor Evans, you expressed the opinion in your report that my diaries may have been written for some ulterior motive?

**A:** Could you point to the page in my report where I say that, please?

**Q:** That sounded to me as though it was a rehearsed remark. I shall avoid wasting the court's time. It is in the first few pages and I shall say, is it true that it is your opinion that I may have written the diaries for some reason other than one would normally write a diary? What are your suspicions about why I wrote that?

**A:** Would you like to point me to the page where I -- you see, I have a problem, Mr Irving, which is that, having been through your work, I cannot really accept your version of any document, including passages in my own report, without actually having it in front of me, so I think this may be a problem for us.

**Q:** If may make things easier for you, of course. That is precisely why I do not and I do not think his Lordship

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will accept that kind of answer to my questions either. Let me phrase a simple question to you. You have read all my diaries or you have had all my diaries made available to you and you have read extensively ----

**A:** They have been made available. I have to say they were not particularly useful for my report. My report is concerned almost entirely with your published writings and speeches.

**Q:** Did you find frequently in the diaries of the 1970s descriptions of my meetings with members of Hitler's private staff?

**A:** I do not think I refer to that in my report.

**Q:** No. Did the other experts ----

**A:** There are one or two references in my report.

**Q:** --- Professor Levin and Professor Eatwell have access to these diaries as well and also their researchers?

**A:** Indeed they did. I think they -- yes, they did.

**Q:** Did you form any kind of consensus about these diaries? Did you form any kind of opinion as to whether, for example, the diaries were written with a view to publication?

**A:** I have not discussed the diaries with Professor Eatwell or Professor Levin.

**Q:** Did you form an opinion yourself about whether the diaries were perfectly ordinary diaries written for whatever psychological reason people have to write diaries, or were

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they written rather like Alan Clark with an intention of publishing later on or somewhere in between?

**A:** This is really getting into the realms of speculation about your psychology, Mr Irving, which I would rather avoid.

**Q:** I am asking you about your opinion. I am asking your opinion, having read the diaries. You have expressed an opinion in the report and I am asking what your opinion is now.

**A:** Can you direct me to the place in the report where I express this opinion?

**Q:** I am asking you what your opinion is now. Do you think the diaries were written genuinely or were they written as a camouflage?

**A:** Let me try to find this place that we are trying to discuss here in the report.

**Q:** I am not trying to trap you into providing a useful answer. I am trying to lay the groundwork for questions which will be based on the diaries, Professor Evans.

**MR JUSTICE GRAY:** I am just looking at the very end of it, Professor Evans, but I cannot quite find what I think perhaps Mr Irving has in mind.

**A:** It is page 16, paragraph 1.5.6 which I said I have had access to his complete private diaries, where I simply describe them as "private diaries".

**MR IRVING:** Can you not just answer simply my question? Having

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had that access to these private diaries, have you formed an opinion?

**A:** No, not really. I mean, I do not, I do not really want to speculate as to why they are being written. Certainly some of them, as you know, are published, you have put extracts up and you publish extracts. So, from that point of view, certainly, I would imagine there was an intention of publishing at least part of them because you have actually published them.

**Q:** Yes.

**A:** But whether that applies to all of them is a completely -- is a rather different matter. It is rather similar, in a way, to Goebbels's diaries. As you know, those which he published in his lifetime, those were the early 1930s, he did excise quite substantial chunks before he published them.

**Q:** In Goebbels', for example, and I do not accept there is any comparison, he wrote handwritten diaries and he dictated typescript diaries, did he not?

**A:** That is right, yes, and he signed a publishing contract, as you know, of his diaries.

**Q:** And he published, for example, the 1933 diary as a book later on which was quite close but not the same as ----

**A:** That is what I was referring to, yes. He excised certain parts of it, so one could not say that everything in his earlier diaries were written with a view to publication.

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**Q:** In your expert report you said that I was obliged to turn over my diaries to the Defence. What did you mean by that?

**A:** Could you point to me the page where I say that?

**Q:** Oh, dear!

**MR JUSTICE GRAY:** Well, do we really need to go to that? I expect you probably did say that.

**A:** Well, I really, my Lord, would ask I be pointed to where I say that.

**MR JUSTICE GRAY:** All right, if you really want it?

**A:** I am afraid I do, yes.

**MR JUSTICE GRAY:** Can you help Mr Irving? It is difficult to be asked to -- it is a report running to about 750 pages.

**MR RAMPTON:** Can I tell your Lordship what actually happened?

**MR JUSTICE GRAY:** I know exactly what happened which is why I wondered whether Professor Evans really needed to be referred to the documents.

**MR RAMPTON:** Your Lordship knows what happened? Oh, well, that is fine. Then there cannot be any contest because Mr Irving knows too.

**MR JUSTICE GRAY:** I know. I think this is perhaps not a useful exercise.

**MR IRVING:** It is wording that he used there in the expert report. It is adding a flavour here as though I was dragged kicking and screaming into the courtroom and taken under armed guard back to my house ----

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**MR JUSTICE GRAY:** No, can we just short circuit this? Can I just see whether we cannot short circuit? You were compelled by the process of what is now called disclosure to hand over a whole lot of what you very understandably regard as private documents because they are your own diaries.

**MR IRVING:** That is not quite so, my Lord.

**A:** I have the passage here: "Irving has been obliged to disclose an enormous mass of material in addition to the list of documents he initially agreed to supply". I understood that you were indeed obliged to hand over your private diaries to defence by court order.

**Q:** Did you understand that I was ----

**A:** Is that not the case?

**Q:** --- obliged to hand over my entire diaries?

**A:** That is my understanding, yes, because they were deemed to be relevant to the case.

**Q:** Yes. Was it not the case, in fact, that originally the Defence asked to see any diary references to, I believe, half a dozen or a dozen people in my entire diaries?

**A:** I cannot really answer that. I have not been privy to every move that the defence has made, but I am aware of the fact that the Master of the Queen's Bench did order you to hand over all the diaries because they were deemed to be relevant to the case.

**MR JUSTICE GRAY:** Do you attach any criticism to Mr Irving for

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his reluctance to hand over his entire diaries?

**A:** My Lord, I think it is quite understandable.

**MR JUSTICE GRAY:** So do I. Are we gaining anything by this?

**MR IRVING:** My lord, there was no reluctance to hand over the diaries at all; quite the contrary. Will you accept, witness, that, in fact, when I was asked to provide the diary references to these dozen people, which would have involved me in an inordinate amount of labour, looking through 49 volumes of diaries for 10 names, will you accept that I volunteered to provide the entire diaries to the defence whereupon Mr Anthony Julius said yes?

**A:** If you can show me the documents in which you did so.

**MR JUSTICE GRAY:** I am going to stop this because I do not think this is helping me at all. I do not think any criticism attaches to you in relation to the diaries and, even if it did, it really

would not bear on the issues we have to decide.

**MR IRVING:** I am sorry I am being so obtuse, my Lord, but I am reaching a point which I will now bring forward by one or two sentences, if I may?

**MR JUSTICE GRAY:** Yes, do. **MR IRVING** (To the witness): You have had at your disposal, have you not, witness, therefore, either jointly or severally as a defence team, something like 20 or 30 million words of my private diaries which I made no attempt to conceal, is that so?

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**A:** Which were disclosed by a court order, that is right, yes.

**Q:** Will you accept that the court order concerned only the limitations on whom these diaries could be shown to apart from yourselves, and that they should be destroyed after this case was over? In other words, a court order was requested by myself to protect the privacy of those documents?

**A:** I understood that the Defence went to court in order to obtain access to the documents. There may have been an additional -- I think there was an additional court order which restricted access yes.

**Q:** You have had 20 or 30 million words of my private diaries, also complete transcripts of my telephone conversations where they were recorded on tape and transcribed. You have also had transcripts of enumerable speeches and public lectures that I delivered. Out of this enormous documentation, you and the entire defence team have picked one or two sentences which you then displayed for the delectation of the entire world, have you not?

**A:** Well, I think it is more than one or two. I think I made a distinction between the diaries which, as I said, were not really very useful for my report because my report is mainly concerned with your published work as an historian and, clearly, your private diaries are concerned with many other things. So you will have noticed as you look through my report that I do not really say very much about

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them and I cite them in just a handful of cases and they are really not very central. What you have on the published record, in terms of speeches and writings, is a very different matter. And in 740 ----

**Q:** Would you agree that diaries go to the state of mind more than speeches, private diaries?

**A:** In the 740 pages of my report, I do cite all of these other things extremely extensively. I think it is more one or two sentences. It is more like several hundred, including some very lengthy extracts.

**Q:** We are at present dealing just with the diaries. We will deal with the other matters bit by bit. But will you accept that if you had 20 or 30 million words of diaries in front of you -- I have to confess, I have not counted them; I have just done a back of an envelope calculation as to how many words are involved -- but you have had all these diaries which go very clearly to my state of mind, my private state of mind, and you have found at the end of this enormous mountainous task, one ditty?

**A:** That is not my report.

**Q:** To prove that I am racist?

**A:** I am sorry, that is not quoted in my report.

**Q:** Well, I am afraid I have to put to you this question because you have had access to these and, unfortunately, the person who put that in his report is not presenting himself for cross-

examination.

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**A:** But, Mr Irving, my Lord, I hope I can say that I really do not feel I should answer or can answer questions on other ----

**MR JUSTICE GRAY:** There is a question that you can be asked which you would have to answer and I think -- may I ask it? No, you do not have to answer for other people's thoughts, but I think the question is this -- Mr Irving, tell me if I am wrong -- the use that is made of the ditty is unrepresentative of the diaries in their totality. Is that really what you are asking?

**MR IRVING:** That is precisely the point I was going to make, my Lord.

**MR JUSTICE GRAY:** That is a question you may or may not be able to answer, but ask the question.

**A:** Yes. One thing I want to say is that your diaries, Mr Irving, are not introspective diaries. There are many, many different kinds of diaries but you do not fill them with agonising over your own state of mind, so that it is often rather difficult. They are not primarily sources for your state of mind. Indeed, that is not what I in particular used them for. I cannot answer for witnesses and what they will have used your diaries for. I used them principally for identifying, such as I could, contacts that you had had with Holocaust deniers. That was my main purpose of looking through them.

**Q:** We are going to come to that later.

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**A:** But for other things, for views that you express and so on, I had all your published work, and that surely is enough.

**Q:** We will come to that in a minute.

**A:** There is a mass of more work there.

**Q:** Can I ask you at this point, if, for example, you had come across in the diaries sentences like "Zundel is a lunatic" or "Faurisson is completely irresponsible or incorrigible", or something like that, would you have quoted that in your report, or would you have left it out?

**A:** Can you point to me the places in the diaries where you make those----

**Q:** It is a hypothetical question and we will come back to chapter and verse next week.

**MR JUSTICE GRAY:** Maybe the best way of dealing with it is to ask the witness to answer the question that I put, namely do you think that the ditty is selected and that it is an unrepresentative entry in one of the diaries, if you look at the totality of what is in the diaries?

**A:** It depends, my Lord, what you mean by "unrepresentative". There is not a ditty a day.

**Q:** I think the word is fairly clear in the context of my question.

**A:** There is not a ditty a day, it is one ditty, but there are many other remarks of that sort. That is only one ditty. It is not full of these things.

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**MR IRVING:** You say there are many other remarks of that sort?

**A:** Yes.

**Q:** Did you quote any, or did any of the witnesses to your knowledge quote any of these other remarks?

**A:** I only know what I have been reading in the court transcripts.  
**Q:** From the diary. We are just talking at this stage about the diaries.  
**A:** I really cannot answer for other witnesses.  
**Q:** I have had held up around the world as a racist who has poisoned the mind of my infant.  
**A:** Not by me, Mr Irving. I have not quoted your offensive racist comments in my report.  
**Q:** Or the Defence team of which you are part. You have not quoted my----?  
**A:** Offensive comments in my report.  
**Q:** Which offensive racist comments have I made then?  
**A:** You just referred to them.  
**Q:** Apart from the ditty?  
**A:** You just referred to them yourself.  
**Q:** We are referring here to the ditty from the diary.  
**A:** Yes.  
**Q:** I have been held up by the defence in this case to obloquy around the world. In yesterday's Guardian there is this photograph of me and the headline which his Lordship can read, "The Bogey Man in the Nursery", the Guardian

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newspaper again.

**MR JUSTICE GRAY:** I do not think that is legitimate. I think I have asked the question that can be asked. I am sorry, Mr Rampton, I did not see you were on your feet.

**MR RAMPTON:** I agree, and what is quite wrong is for Mr Irving, once again if I may say so and I will say it bluntly, to distort the record by referring to just one of the goodness knows how many examples that I have cross-examined him about and that have been noticed in the newspapers.

**MR JUSTICE GRAY:** There is a limit to what you can achieve by this cross-examination. You can put it, and I hope I have put it for you, that really they have picked out -- it is cherry picking. That is what you are really accusing the Defence of.

**MR IRVING:** This is the one cherry that they have found in the diaries, my Lord, and I insist on this. If Mr Rampton wishes to produce others from the diaries?

**MR JUSTICE GRAY:** In due course he will. He cannot do it now.

**MR RAMPTON:** I am just going to be going through it all again. I suppose Mr Irving remembers how God was reaching the Final Solution of the black problem with Aids in South Africa.

**MR IRVING:** We will deal with that when the time comes.

**MR JUSTICE GRAY:** Mr Irving, please, we must focus on what this witness is here for.

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**MR IRVING:** You said that it is unrepresentative?

**MR JUSTICE GRAY:** I have not said it is unrepresentative.

**MR IRVING:** I am sorry, you have used the word "unrepresentative". I say it was unrepresentative? It was 19 words out of 30 million.

**A:** It is not quoted in my report, Mr Irving. I am here to answer questions on my report. You may ask other witnesses on their reports.

**Q:** Do you know what percentage of me is therefore racist? .00016 per cent of me is racist.

**A:** Is that a question?

**Q:** Which means that 99.9984 per cent of me is not, according to the diaries.

**MR JUSTICE GRAY:** Mr Irving, I do not think this is really helpful. Can we leave it this way? I have got a clip of what the Defendants rely on for their allegation that you are a racist. I will have to make what I can of that. You have asked the question that this witness I think has answered and I personally think that we would do well to move on.

**MR IRVING:** That is right, my Lord. The reason for asking this witness is that he said yes, he read the diaries, as much he needed to. He says this because he has formed the opinion that they are not very introspective.

**MR JUSTICE GRAY:** He has given his answer. You may not agree with it but he has given his answer.

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**MR IRVING:** Can I now put to the witness the photographs, or is this not the appropriate moment?

**MR JUSTICE GRAY:** I do not know what you are going to put.

**MR RAMPTON:** My Lord, this is something the witness cannot possibly answer questions upon.

**MR JUSTICE GRAY:** It depends a bit what the question is. Tell me what the question is going to be and then I will decide whether you can ask it.

**MR IRVING:** The question will be: Witness, if you see photographs of members of my staff whom I have employed over the last 20 years, does it strike you that I am a racist?

**MR JUSTICE GRAY:** What is your reaction to that?

**MR RAMPTON:** My Lord, can I say this? This witness is not here to give evidence about whether or not Mr Irving is a racist.

**MR JUSTICE GRAY:** He is perfectly open to cross-examination, I think, on his view. He may say, "I cannot answer because I have not seen the documents or seen the evidence".

**MR RAMPTON:** With respect, I do not think he can. He is here as an expert in history. He is not here as an expert in racism.

**MR IRVING:** He has accused me of anti-semitism and racism in his report.

**MR RAMPTON:** Mr Irving, it is for your Lordship to decide in

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the end, and opinion evidence about whether or not Mr Irving is a racist is not admissible, with respect.

**MR JUSTICE GRAY:** I am not so sure about that. The trouble is with this report I am not able to go to the passage that I think may be there. Unless you seek to argue it very strongly, Mr Rampton, I am inclined to accept that it can be put to this witness, I do not know what his answer is going to be, that Mr Irving has over the years employed a number of coloured people, does that have any influence on this witness's views of his agenda, if there is one?

**MR RAMPTON:** That may be right but, if the witness is entitled to express a view about that, which I doubt because he is an historian, not a sociologist, even if he were a sociologist, I doubt it would help your Lordship, but he is not. But it would involve his being shown everything that I relied on as showing that Mr Irving is a racist, and only in the light of that information can this witness fairly answer a question about the colour of the skin of Mr Irving's servants.

**MR JUSTICE GRAY:** I suspect that the position actually is with Professor Evans that he knows pretty much what the Defendants' case on this.

**MR RAMPTON:** I do not know whether he does or not. I certainly have not discussed it with him.

**MR JUSTICE GRAY:** Shall we find out? Professor Evans, have you been reading the transcripts of this case?

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**A:** Yes, I have.

**Q:** Have you seen the cross-examination that took place on the issue of racism?

**A:** Yes, I have.

**MR JUSTICE GRAY:** I am going to permit the question, but I do not think we want to spend terribly long on this.

**MR IRVING:** Very well. I am landing you a clip of five pages of photographs. Can you see the date on the earliest one? Is it 1980?

**A:** Yes.

**Q:** Does it appear to show a female of Barbadian or Caribbean descent standing at the door of the car, a Rolls Royce, with her mother?

**A:** Yes.

**Q:** Will you turn the page, please? Does this show another woman of ethnic origin, of coloured origin?

**A:** It is hard to tell.

**Q:** Asian or black?

**A:** Possibly.

**Q:** Can you just look briefly at all the others and confirm that they are all ethnics working in an office?

**A:** They are indeed.

**Q:** Apparently quite content?

**A:** Yes.

**Q:** Would you accept from me that they were all my personal assistants over the years concerned, and that they

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received a proper salary from me?

**A:** Have you got documentary proof of that?

**Q:** Yes.

**A:** Could I have a look at it, please?

**MR JUSTICE GRAY:** Well, let us take it as read that these ladies were all employed by Mr Irving. Does that, in your view, Professor Evans, affect the question whether, in his writings and in what he said, Mr Irving has displayed evidence of a racist attitude? That is the question. Then we are going to move on.

**A:** Yes. In the end I do not think it does, my Lord.

**MR JUSTICE GRAY:** Right. Now lets move to something else, Mr Irving.

**MR IRVING:** Yes. This is another contentious issue, but we will deal with it very rapidly. Professor Evans, you have heard Mr Rampton talk about the expense of this trial and about how much it is costing per day no doubt?

**A:** No.

**Q:** Are you aware of the fact that the trial is costing a considerable amount each day that it runs?

**A:** I imagine it must be. I have no idea how much.

**Q:** In the little bundle of documents I gave you, headed "from Monday" will you see one page

from the transcript, about page 8 or thereabouts, headed January 28th 2000?

**A:** Yes.

**Q:** Does this transcript appear to show that I have suggested

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to the court that, if they were to send members of the Defence to Krakow to scrape the roof off the alleged gas chamber at Auschwitz and find the holes, I would wind up the case immediately because I could not possibly continue with my complaint?

**A:** Yes, and the witness says he cannot comment on that.

**Q:** The witness says he cannot comment, that is quite right. To your knowledge, has any attempt been made by the Defence to end the case rapidly in this dramatic way?

**A:** I cannot really comment on that, I am afraid, any more than the witness you questioned could comment. I am not an expert on Auschwitz, Mr Irving. I am not here to answer questions about Auschwitz. I am here to answer questions on my report. So far, you have hardly asked a single one.

**MR JUSTICE GRAY:** That is for me, Professor Evans, thank you very much.

**MR IRVING:** His Lord is aware of these problems that we have with the presentation of the Defence witnesses in this case. Are you familiar with the fact that a number of Defence witnesses in this case are not going to be giving evidence?

**A:** I think one or two of them are not. I am not quite sure actually.

**Q:** Are you aware of the fact that the Second Defendant is not going to give evidence, Professor Lipstadt?

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**A:** Professor Lipstadt, yes, I am aware of that.

**Q:** And that Professor Levin and Professor Eatwell will not be giving evidence?

**A:** Yes, that is right. I understand, my Lord, that the Defence are perfectly entitled to do that.

**Q:** Yes, and I make no criticism of them for that. Am I allowed to put to him a page of Professor Eatwell's report, my Lord?

**MR JUSTICE GRAY:** In principle, yes.

**MR IRVING:** It would be page 74, paragraph 4.6. I can read out the lines concerned?

**A:** Could I have a copy, please?

**MR JUSTICE GRAY:** It might be simpler, Professor Evans, if you hear the line that is going to be read to you and see whether you need the context.

**MR IRVING:** My Lord, I think this probably goes to a matter we have dealt with, so I am not going to ask it.

**MR JUSTICE GRAY:** All right.

**MR IRVING:** I am sorry, yes, he does need it. Page 76 now. I think I ought just to refer in fact to page 74, to what Professor Eatwell about the matter we disposed of.

**A:** Yes.

**Q:** Page 74, paragraph 4.6, at line 9 Professor Eatwell, who was one of the experts who was working in tandem with you writes: "Yet Irving is an open advocate of the repatriation of immigrants. The fact that he has employed

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'coloured' people does prove he is liberal". This is Professor Eatwell's view.

**A:** Yes.

**Q:** "The point here is not simply that he might perceive the advantages of this practice in terms of defusing charges of racism." In other words, Professor Eatwell, can I take it, is there suggesting that I deliberately employed this coloured staff in order not to be accused of racism?

**A:** I think he is suggesting it is a possibility, though I cannot answer for him what he intends there.

**Q:** It makes it very difficult for people, does it not, that we are hanged if we do and we are shot if we do not, so to speak?

**MR JUSTICE GRAY:** I do not think that is really a question. That is a comment that you can make at the end of the case.

**MR IRVING:** It is. The question I would ask Professor Evans, then, is what does it take to prove that one is not racist if one employs coloured people in exactly the same way as one employs whites, one does not prefer them or disadvantage them in any way, one pays them exactly the same amount.

**MR JUSTICE GRAY:** That again, if I may say so, Mr Irving, is really argument and I understand the argument. But I do not think that Professor Evans can do much more on racism than he has done by his previous answers.

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**MR IRVING:** Will you now go to page 76, Professor Eatwell?

**A:** My name is Evans, not Eatwell. I did not write this report.

**MR JUSTICE GRAY:** Professor Evans, will you take it that between us we will try and keep the questioning legitimate?

**A:** OK. It is just that I do find it very difficult to answer questions on other people's reports which I have not written, which I have not researched, and which were not written in tandem with me but were written independently.

**MR IRVING:** We are appealing here to your common sense as a learned person really, asking for your opinion.

**A:** But I am here as an expert, Mr Irving.

**MR JUSTICE GRAY:** Let us get on.

**MR IRVING:** I am sure that his Lordship would have no objection if you wish to sit actually, Professor.

**A:** I am happier standing actually. It makes moving around with the documents easier.

**Q:** Page 76 at paragraph 4.11 the same kind of argument. Again, it is by Professor Eatwell and not yourself but I am entitled, I think, to put the question to you. "The fact that Irving has on occasion made some criticisms of Hitler does not prove that he is an anti-fascist. There are clear tactical reasons to adopt such a position." Is this your argument also, Professor Evans?

**A:** I think he is concerned here with your current political

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position, whereas I am concerned with your historical writings.

**Q:** Yes. So would you argue the fact that, and I shall show you this next week, I have made large numbers of statements in my biographies of various top Nazis, which can in no way be described as proHitler or proNazi, would you agree with Professor Eatwell's inference or imputation that I have done this in order to defuse criticism and for no other reason?

**A:** You would have to show me the statements first before I could comment on them.

**MR JUSTICE GRAY:** That is, I suppose, in a way a legitimate answer, but can I just persuade you that it can be answered generally in this way? It is right, if you read Hitler's War, that there are critical statements made about Hitler, quite a number of them, and the question is simply this, and perhaps you would be good enough to try and answer it. Have you seen evidence that those are inserted into Hitler's War for what you might call tactical reasons, in other words for Mr Irving to be able to draw attention to them and use them in disproof of any allegation that he is a Hitler partisan?

**A:** That is very speculative, I think. What I do do in my report is to go through some of the critical points that Mr Irving makes, and they do not, in my view, detract from the fact that he is in general someone who admires Hitler,

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put it like that. I would not really want to speculate on why they are being put in for political, what political reasons they might be put in for, which is really what Professor Eatwell is talking about. I think he is talking about something slightly different. My concern is with Mr Irving's attitude toward Hitler in his historical writings. Of course, there are criticisms of Hitler there, I perfectly accept that.

**MR JUSTICE GRAY:** That is, if I may say so, a perfectly complete and fair answer.

**A:** It is not really a concern of mine to show why they have been put there.

**MR IRVING:** You would have preferred the criticisms to be stated more loudly perhaps, or more criticisms and fewer bits of admiration, as you call it?

**A:** I would not presume to dictate to you what you write in your books, Mr Irving.

**Q:** Oh? But this is precisely what you have done in your expert report, is it not? You have said "I disagree entirely with his standpoint". You do not like where I put my pointer on the scale, so to speak, is that correct?

**A:** My criticisms are concerned with your historical method.

**Q:** Are you aware that the Second Defendant said that my admiration of Hitler went so far, by imputation, by inference, that I had a portrait of Adolf Hitler hanging

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on my wall in my study?

**A:** I do in fact cite I think in my report a book by Robert Harris called "Serving Hitler" where I think he mentions something like that, if I can find the place where it is.

**Q:** I can save you time perhaps by showing you the only portrait of Hitler which is in my possession. Can I show you this and you can see it from there?

**MR JUSTICE GRAY:** Page 212, I think.

**MR IRVING:** My Lord, can your Lordship also see it? It is a post card on which Adolf Hitler sketched his own likeness and which was given to me by his private secretary and so it has a certain intrinsic value. Would you accept that this is what Robert Harris is probably referring to?

**A:** It may well be, I do not know. Let me quote from Robert Harris: "Looking down upon him (that is you) as he worked from the wall above his desk was a self-portrait of Hitler".

**MR JUSTICE GRAY:** What is being put is that the self-portrait that he was writing about was the post card.

**A:** That may well be. I do not know. You would have to ask Mr Harris about that, but his work seems to be an accurate work, as far as I am concerned. I do not recall Mr Irving raising objections to that sentence in it.

**MR IRVING:** But you accept that to describe that as being a portrait of Adolf Hitler hanging on

my wall gives the wrong impression, does it not? Would that be right?

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**A:** If it was hanging on your wall, it gives the right impression.

**Q:** If it was not hanging on the wall, if it was occasionally shown to visitors as something of a trophy, like Robert Harris, who is a good friend, would that be right?

**A:** Well, if you are saying that it was not looking down upon him as he worked from the wall above his desk, then I suppose you would be right.

**Q:** Given your expert evidence, as you have, in your report, and having read the expert evidence of Professor Eatwell and Professor Levin, you are quite content to level at me also the charge of anti-Semitism, is that right?

**A:** No, it is not right. I do not describe you as an anti-Semitic, unless you can show me a passage in my report where I do.

**Q:** Do you consider me to be an anti-semite from all that you know, from the books that I have written and that you have read, or statements that I have made?

**A:** I do not want to speculate about your state of mind. However, I do cite numerous statements of yours which I regard as anti-semitic.

**Q:** Can you categorize these statements in some way, or would you prefer, without being specific -- I mean, are these just statements critical of the Jewish people, or specific Jews like Simon Wiesenthal or particular Jews, or is there a general animosity that you detect in me towards the

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Jewish? How would you define "anti-Semitism"? I think that is the question I am going to ask first. How would you define "anti-Semitism" for the purposes of this trial?

**A:** Well, I am not an expert in that area, but anti-Semitism can be defined very simply. There are numerous different ways you can define anti-Semitism. There are different levels and degrees of anti-semitism.

**Q:** You just called me anti-semitic, so you must know what you meant.

**A:** There are different levels and degrees of anti-Semitism and so on. It does seem to me that in your writings, and I quote numbers of them in my report, you do blame the Jews for the Holocaust, you try to pin responsibility for their misfortunes in the Third Reich on themselves. You use language in describing Jews in the present day that I regard as anti-Semitic.

**Q:** Yes.

**A:** All of those things. Anti-Semitism obviously at its most basic is hostility to hatred of and contempt for Jews, but it is also a political ideology, which involves a belief in a conspiracy, that Jews are conspiratorial in some way, that they are conspiring to undermine whatever it might be.

**Q:** A kind of common endeavour? How do you define conspiracy in that respect?

**A:** A secret combination or behind the scenes.

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**Q:** And none of these allegations should ever be levelled at any people, right? True or false? One should never say these things? Is that what are you saying?

**A:** No, I am not saying that should never be said, true or false, but it should not be said if it is false.

**Q:** If it is true, then it cannot be called anti-Semitism, it would just be called foolishness, perhaps,

to make the allegations?

**A:** Well I have to say that I believe that belief in the world of Jewish conspiracy to do whatever it might be, whether it is to suppress the works of David Irving or undermine Germany in the 1930s, is a fantastic belief that has no grounds of reality.

**Q:** Are we talking here in the hypothetical or have you some reason for suggesting that I believe there is a world Jewish conspiracy to undermine my writings, Professor?

**A:** It seems to me from what you have said in your opening statement that you do believe there is some kind of conspiracy, but leaving that aside, I come back to the fact in my report I do quote a number of instances of views, interpretations and language which I regard as anti-Semitic in your writings and particularly your speeches.

**Q:** Are the Jews, either as a people or their elected or unelected leaders, in some way immune from criticism? Is there to be no criticism for whatever reason?

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**A:** Certainly not. That is not the case at all.

**Q:** If one criticises either the Jewish people or the leaders for specific matters, is that ipso facto anti-Semitism?

**A:** No, certainly not.

**Q:** So there are circumstances in which, wisely or otherwise, one would be entitled to criticise a body of Jews for a particular action without it necessarily being anti-Semitism.

**A:** Yes, individual Jews certainly, or groups. I think it becomes more problematical when you start defining Jews as a race or a world community.

**Q:** I can never understand the difference between calling them a religion or a race and I do not want to get into that region. I have never made any distinction. If, for example, one was to point to the fact that most of the leadership of the Hungarian government at the time of the anti-government uprising in 1956 was Jewish, would that be an anti-Semitic remark?

**A:** I am not an expert on the Hungarian uprising.

**Q:** But, if it was so, if they were perceived to be Jewish, put it that way, by the public, would it be anti-Jewish to point to this element?

**A:** You have a number of hypotheticals there. You would have to show first of all that they were perceived to be that way by the public, which is rather difficult.

**Q:** Let us move on to the NKVD if it was stated that a large

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proportion, a disproportionate number of the leading officers of the NKVD, the Soviet Secret Police, were Jewish would that be an anti-semitic remark to point that out?

**A:** Again, I am not an expert on the NKVD.

**Q:** But if? We are looking at the word "if".

**A:** It is very hypothetical. You would have to show concrete sound evidence that (a) they were Jewish and (b) that they were acting in some kind of conspiracy or action because they were Jewish.

**MR JUSTICE GRAY:** Mr Irving, I think I am going to intervene because I think we are making very, very slow progress. Professor Evans certainly deals with anti-Semitism and you can direct questions to him as to whether there is any justification for a charge against you of anti-Semitism. But I think discussing whether it is anti-semitic to say that officers in the NKVD are Jewish is really not helping me at all.

**MR IRVING:** If he is going to describe somebody as being anti-semitic, I wanted to know what criteria he set.

**MR JUSTICE GRAY:** We know what criteria the Defendants set and I think one can assume that that is the target at which they are aiming, if I can put it that way.

**MR IRVING:** To my mind, to be an anti-Semitic, you have to be mindlessly anti-Jewish.

**MR JUSTICE GRAY:** That is something we will probably have to

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debate at the end of the case, but I do not think now is the time to debate it with Professor Evans.

**MR IRVING:** Having read all the documents that have been placed at your disposal, this I am sure I can ask you ----

**MR JUSTICE GRAY:** Yes you can.

**MR IRVING:** My Lord, with respect, you do not know what I am about to ask him.

**MR JUSTICE GRAY:** I do. Go on, ask him.

**MR IRVING:** Are you aware of the fact that a number of Jewish bodies and organizations over the last 20 years have attempted prevent me from publishing books, delivering speeches, attending lectures and functions at universities and the like?

**A:** I am aware that you allege this, yes.

**Q:** Having read the documents, having read the letters that are in discovery, having read the papers that I have obtained by various legal proceedings belonging to a certain British body and their equivalent bodies in the United States and Canada?

**A:** My report is concerned with your work as an historian. What I should say is that there is an enormous amount of material that is at the disposable of the Defence in this case. I have not read it all. I have read the material which is relevant to my particular report which is concerned with your work as an historian. I have not read systematically through the mass of material which is

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relevant to the political aspects of the case, and other matters such as that.

**Q:** My Lord, this question now goes to the first Defendant and I am going to ask the witness, do you teach about fascism to your students?

**A:** Yes.

**Q:** Are you familiar with this kind of book, Fascism For Beginners?

**A:** I know that series, yes.

**Q:** Is it a commendable series?

**A:** Not very, I have to say, no.

**Q:** Can I put to you, if I may, you have it already in the little bundle, if you turn to the 9th page of the little bundle will you find the front page of that book in there.

**A:** Yes.

**Q:** Fascism for Beginners written by Stuart Hood and Litzer Janz, who is the artist I believe. Would you turn to the next page and tell me who distributes this book in the United Kingdom, Canada, Europe and Asia?

**A:** The Penguin group.

**Q:** The Penguin Group does. Is that the first Defendant in this case Penguin Books Limited?

**A:** I believe so, yes.

**Q:** Would you turn to page 11, The Spread of Neo Fascism? Is this a chapter on the spread of fascism through Britain?

**A:** I am prepared to accept your statement that it is, yes.

**Q:** It talks about how these various parties, including a party called the Austrian Freedom Party, which obviously has no hope of ever coming to power ----

**MR JUSTICE GRAY:** Mr Irving, what possible relevance has this got to this case?

**MR IRVING:** If you will turn to page 12, my Lord, the relevance becomes plain. Did Hitler really exist, and there is a certain gentleman putting on Swastika eye glasses there. Do you have that?

**A:** Yes.

**Q:** Do you see anybody in the courtroom who is like or resembles the person who is putting on the Swastika eye glasses?

**A:** It is not a very good likeness, I have to say.

**Q:** Is he labelled as David Irving?

**A:** Yes, he is labelled as David Irving.

**Q:** Is he saying, "This myth of the mass murder of Jews in the death factories of Auschwitz which in fact never took place"?

**A:** Yes, he is.

**Q:** And does it half way down the page say: "British historian David Irving who describes himself as a mild fascist"?

**A:** Yes.

**MR JUSTICE GRAY:** Mr Irving, I am still puzzled as to what the relevance of this is. I can see that you object to it.

What do you say it goes to?

**MR IRVING:** The first Defendants in this case have a record of publishing books attacking me, my Lord.

**MR JUSTICE GRAY:** If I may put it this way, so what? The way in which you can rely on it, can I try to help you, is that you can say that you are particularly distressed at the libel of which you are complaining in this action by the fact that Penguin Books keep having a go at you, and ridiculing you by that sort of portrayal, but that is a matter for your evidence. That is not a matter for cross-examination of Professor Evans.

**MR IRVING:** My Lord, how else can I put this kind of document before the court?

**MR JUSTICE GRAY:** You could have done it, I am not being critical of you, and you can certainly do it as far as I am concerned later on if you want to, you can simply say, "And here is a book which I read and it caused me additional distress because this is a publishing house that seems to have it in for me".

**MR RAMPTON:** I also think, if I may say so, that we need to be notified. I am not saying there is any objection to this now but, normally speaking, if one tenders evidence to the court in modern times in support of one's case, one is obliged to tell the other side first.

**MR JUSTICE GRAY:** That is a fair point as well. Shall we leave it then so far as Professor Evans is concerned and, if you

want to give evidence about it later on then you can and Mr Rampton has now been forewarned,

and he can cross-examine.

**MR IRVING:** This precise book is referred to in my claim and also in my reply to their defence, and it has been in my discovery.

**MR JUSTICE GRAY:** I did not know that.

**MR RAMPTON:** I did not either.

**MR JUSTICE GRAY:** Yes, but I really do not think Professor Evans -- I am sympathetic, Mr Irving, and I am perhaps bending the rules in your favour a little bit, to letting you put some of the points made against you in some of the experts' reports when those experts are not going to be called to give evidence, but there is not unlimited latitude and I think this goes over the boundary, if I may say so.

**MR IRVING:** But, with respect, my Lord, I fail to see how I could put it in otherwise because I cannot do it in my closing speech, obviously.

**MR JUSTICE GRAY:** Well, you can, I have just told you, you can give evidence about it. This is not something that is relevant in cross-examination at all. I am trying to explain to you. It is something that you can adduce in your own evidence as being evidence going to the issue of damage. That is the way to deal with it, not in cross-examining any witness, and certainly not Professor

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Evans.

**MR IRVING:** When you were engaged to write this expert report, were you shown at any time any law report that had been produced by Penguin books in this country, any libel reading report on the book, on the book that is complained of?

**A:** No.

**Q:** When your books are published in the United Kingdom, your own books, are they subjected to a legal reading to see if they libel anyone?

**A:** Not that I have ever been aware of.

**Q:** So, to your knowledge, therefore, as far as you know, there was no report prepared by any firm of lawyers, reputable lawyers, on the book before it was published?

**A:** All I can say is that I did not see any such report. I cannot answer as to whether there was one or not.

**Q:** I am not going to be allowed to ask him questions about intermarriage then, am I?

**MR JUSTICE GRAY:** Sorry, I am not quite sure I understand what the intended question is.

**MR IRVING:** Well, following through the question of whether Jews would be expected to live by a different set of rules than those that they criticise? If I am criticised here for the racist ditty once again, as I have been, am I entitled in some way to introduce evidence about what the Second Defendant has written herself on precisely this

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matter?

**MR JUSTICE GRAY:** About intermarriage?

**MR IRVING:** About intermarriage, and if so, can I do it now?

**MR JUSTICE GRAY:** It is quite difficult to answer that question without knowing what it is you are going to produce. Have you got a copy of it because, perhaps if you would be good enough to hand it in and then I can perhaps look at it over the adjournment and you can come back to it?

**MR IRVING:** There were several articles which the Second Defendant has written in this

respect. I will yellow highlight the only part that your Lordship should read.

**MR JUSTICE GRAY:** Yes, but do you mind coming back to it later when I have had a chance to look at it?

**MR IRVING:** Yes. I would like to put to you Professor Levin's report now which is at page 125.

**A:** Sorry. Mine only has 123 pages.

**Q:** Levin or Eatwell?

**A:** Levin.

**MR JUSTICE GRAY:** So does mine.

**MR IRVING:** Oh, dear! This is covering the diary entries for 1995. It is paragraph 11.

**A:** OK. I think I can find it.

**Q:** I am just going to take one sample paragraph?

**MR JUSTICE GRAY:** It is around 108, I think.

**A:** Yes paragraph 11.

**MR IRVING:** Beginning with "Irving was also".

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**A:** Ah, no.

**Q:** Covering the diary entries for 1995.

**A:** No, I am afraid I cannot find it.

**MR JUSTICE GRAY:** No, I cannot.

**MR RAMPTON:** We are looking for it in our bundle.

**MR IRVING:** This question goes purely to the accuracy of Professor Levin's style of extracting the diaries.

**A:** Ah, right.

**MR RAMPTON:** There is a paragraph 11 on page 107, my Lord.

**MR IRVING:** Beginning "Irving was also"?

**MR JUSTICE GRAY:** No, I do not think it does.

**MR RAMPTON:** No, it is not that.

**A:** Yes, I have it here. It is at page 102, paragraph 11: "Irving was also forced to confront various incidents", is that it?

**MR IRVING:** Yes.

**A:** The Key West landlady evicted him from her hotel, etc., etc.

**Q:** Yes. Would you carry on down to the next item, please? "Irving's April 13th diary entry recounts his displeasure at having his name mentioned 'in the most disparaging terms in half a dozen places' along with supposed errors in an official Canadian government report."

**A:** Yes.

**Q:** Are you familiar with that so-called official Canadian government report?

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**A:** No.

**Q:** I am going to ask that bundle E should be put to you. There is a bundle called "Global". Do we have a copy?

**MR JUSTICE GRAY:** Yes, I know the one.

**MR IRVING:** Let us see if we can find. It is page 116 of that bundle.

**MR JUSTICE GRAY:** In E, has the witness got E?

**MR IRVING:** It is a very long document beginning at page 116, headed with the words: "Confidential. David Irving, biographical information". You see at page 116? I am just taking this paragraph as one sample in advance, a foretaste, of the problems with the Levin report. So that is a document, a pretty lengthy document, headed with the words "Confidential. David Irving, biographical information"?

**A:** Yes.

**Q:** And that document, as we know from an affidavit by Mr Michael Wein of the Board of Deputies in this country, which his Lordship probably finds quicker than I do, was put, in fact, it was furnished to the Canadian government by this British body, would you accept that? It was furnished to the Simon Wiesenthal Centre in Canada when they requested dirt on me to prevent me entering Canada?

**MR JUSTICE GRAY:** Assume it.

**A:** I will assume it. I mean, I do find it very difficult to answer questions on other people's reports. The reason

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why there is a number of different expert witnesses for the Defence in this case is to assist the court in a number of different areas because no one person is competent to deal with them all.

**Q:** Did you recommend Professor Levin?

**A:** I have to say, I am not an expert on the Canadian government and ----

**MR JUSTICE GRAY:** Professor Evans, can I explain to you (because you may not know this) the difficulty? Mr Irving is representing himself. I am, therefore, giving him what I hope is appropriate but quite a good degree of latitude. He is accused of various things, like racism and anti-Semitism. He has been cross-examined vigorously on that topic. The Defendants had experts who produced great long reports, as you know, dealing with those topics and the Defendants have decided not to call them.

Mr Irving is, therefore, in the position of being the subject of the criticisms that they make of him, albeit no longer part of the Defendants' formal case, and he wishes to put one or two points to you as being somebody who is there to be shot at, as it were. I have decided that it is proper that he should do so.

I think he may be spending rather long on it than I had hoped, but I am going to let him do that. So, for the purposes of this part of the cross-examination, will you assume that the Canadians got hold of this

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document in the way he suggests?

**A:** Indeed, yes, my Lord.

**Q:** I am sympathetic with your concern.

**A:** I hope you will accept that I do find it very difficult.

**Q:** I understand it, but you understand, I hope, why ----

**A:** Sure, yes.

**Q:** --- I am not going to stop these questions?

**MR RAMPTON:** I should add perhaps, my Lord, it is not quite true that we are not calling any such people. We are calling Professor Funke from Berlin.

**MR JUSTICE GRAY:** I cannot remember now what he deals with.

**MR RAMPTON:** He deals with exactly for Germany with what Eatwell deals with for this country and Levin for the United States.

**MR JUSTICE GRAY:** But is he going to say when he comes, "Oh, well, I cannot deal with this sort of Canadian stuff because I am dealing with Germany".

**MR RAMPTON:** That, I do not know -- very likely.

**MR JUSTICE GRAY:** That is the problem.

**MR RAMPTON:** I am not in any sense trying to argue with what your Lordship just said. I just thought it necessary to add the gloss that, so far as anything to do with Germany is concerned, there will be a witness.

**MR JUSTICE GRAY:** Yes. I had actually forgotten that, but thank you very much. But let us take this relatively briefly, but I am not stopping you.

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**MR IRVING:** Professor, is it correct that you recommended Professor Levin for this particular task?

**A:** No.

**Q:** You did not?

**A:** No.

**Q:** Are you familiar with Professor Levin at all?

**A:** No.

**Q:** If you read this paragraph, you will see that it says, he has extracted from my diaries which had been in front of him exactly as they had been in front of you, and in paragraph he says: "Irving's April 13th 1995 diary entry recounts his displeasure of having his name mentioned 'in the most disparaging terms in half a dozen places' along with supposed errors in an official Canadian government report"?

**A:** It says that, yes.

**Q:** He says that?

**A:** He does.

**Q:** Would it not have been correct for him to point out that, in fact, what I am objecting to is the fact that this is a British document that has been planted in Canadian government files by this body in England for whatever purpose?

**A:** I really cannot answer that, Mr Irving.

**Q:** He then continues to say: "On June 11th while in Key West, Irving states in his diaries that a fine for

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thousands of francs by a French court for his public statements was going to 'various greedy Jewish bodies'"?

**A:** He says that.

**Q:** He says that. In other words, I did write those words in my diaries?

**A:** He says that you did, yes.

**Q:** And if I were to tell that you the fine of 1,000 French francs, or whatever it was, thousands of French francs, was imposed on me for having an interview in my home in London with a French journalist in which I made a true statement, would that justify some kind of outburst in my diaries, do you think?

**A:** Well, there again you would have to show me the documents, you would have to show me the diary. I find it very difficult to comment on this single sentence in the report that I did not write and that I am not very familiar with.

**Q:** But he appears to have accurately quoted that I wrote in the diaries a reference to various

greedy Jewish bodies, and he is obviously pointing to that as possibly an example of Anti-Semitism?

**MR JUSTICE GRAY:** It is a bit difficult, I think, for Professor Evans to deal with that unless he has a word perfect memory of what you wrote in your diaries.

**A:** Which I do not. I do not have all your 30 million words in my head.

**MR JUSTICE GRAY:** I think your best way of dealing with this,

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Mr Irving, is (if you want to) to deal with it as a matter of submission. You have all the documents.

**MR IRVING:** Can I deal with one more point, and then I will move away?

**MR JUSTICE GRAY:** All right.

**MR IRVING:** The final passage concerns the July 31 1995 diary recounting a letter that I sent to the Sunday Times -- I am sorry, to a major Sunday newspaper, is that correct?

**A:** Yes.

**Q:** And the newspaper concerned had stated that "Irving quoted by Griffin", do you know a book by Griffin on fascism?

**A:** Yes.

**Q:** "... Irving writes in the Mein Kampf idiom: "I combat Jewry not as a religion but as a race ... a solution to the Jewish problem must come"."

**A:** It looks here as if it is Griffin who writes in the Mein Kampf idiom. I presume that is a grammatical mistake.

**Q:** Yes, but, in fact, the actual article said that?

**A:** That is not the other, the other Griffin.

**Q:** Would you agree that this is an extremely loaded thing for me allegedly to have said, "I combat Jewry not as a religion but as a race ... a solution to the Jewish problem must come", but if I had written that, it would be perverse and unforgivable and I would deserve whatever came to me?

**A:** Can I just read you the next two sentences? "In his

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letter Irving denied ever making that statement".

**Q:** Yes?

**A:** "The Hitler chronicler remarkably stated, 'I have never read Mein Kampf'".

**Q:** But, of course, I am called a denier, am I not, and my denials are not worth very much? That is what the whole of this case is about.

**A:** Where in this paragraph does he say that?

**Q:** The word "denial" figures very strongly in this case.

**MR JUSTICE GRAY:** What I get out of this is that on this particular point Professor Levin really does not make much of a case.

**MR IRVING:** I am taking one paragraph here, my Lord ----

**MR JUSTICE GRAY:** He is quoting a statement that he attributes to you ----

**MR IRVING:** --- in which I am showing that sentence after sentence after sentence ----

**MR JUSTICE GRAY:** I follow the point.

**MR IRVING:** And the particular point I want to make on that, my Lord, as your Lordship is probably familiar, the major Sunday newspaper had to pay me a six figure sum in damages because of that particular allegation. There is no reference whatsoever to that in the ----

**MR JUSTICE GRAY:** Well, I do not think much of that -- I mean, the point that Professor Levin makes there, I do not think much of it.

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**MR IRVING:** But the reason I am saying that, of course, is to give your Lordship a foretaste of what I would have said, had I been able to sink my teeth into Professor Levin when the time came.

**MR JUSTICE GRAY:** I follow that, but I think perhaps the best time to do that is later on, not now.

**MR IRVING:** You worked for many years in Germany, is that correct, Professor? Five years in Germany?

**A:** On and off, yes, over the years. I have been going to Germany for shorter and extended periods since 1970.

**Q:** And you have worked a great deal in the German archives?

**A:** Yes.

**Q:** For your book on capital punishment?

**A:** And other books, yes.

**Q:** And you have worked a great deal in the Nazi archives, I mean the records of the Nazi period, the Third Reich?

**A:** Less so, but I have done work mainly in the Ministry of Justice files.

**Q:** Ministry of Justice files?

**A:** And in regional archives.

**Q:** Who was the Minister of Justice -- Guttner?

**A:** Guttner until 1941, yes.

**Q:** Until he died and then Schlegelberger took over?

**A:** Acting Minister, yes.

**Q:** Took over as acting Minister. Are you familiar at all, have you researched at all, on the files of the SS? The

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Himmler files, Schiffbootverlastung of Himmler, and so on?

**A:** No. I am familiar with the Dienst Tagebuch, I have to say mainly for the purposes of this case.

**Q:** You had to read it, in other words, had to look into it?

**A:** I had to look at it, yes.

**Q:** You would recognize the Himmler documents if you saw them either in photocopy or in the original, would you? You would know what their layout was? This is what I am getting at. We have heard a certain amount of discussion in court about what -- do they all have a kind of standard layout and kind of address on the right and ----

**A:** That I could not say.

**Q:** Yes. Could not say. So your expertise then does not really extend into document analysis, shall I say, looking at the document and saying to yourself, how high up is this document, or who is it written by, or is it authentic even?

**A:** I think I have a general expertise in reading documents, yes, but I am not a specialist in the SS or its archive.

**Q:** Would I be right in saying that very rarely would one expect to come across a forged document either in the Bundesarchiv or in the British archives? Have you ever come across an instance where a document has had questionable integrity?

**A:** Those are two rather different things. I think that with a forged document you need to be very clear about why it

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is forged, who has forged it, and why, what the motives might have been and what kind of opportunity they had.

**Q:** My question was, have you ever come across a forged document in one of the western archives, in the United States or in Britain or in Germany?

**A:** Would you like to tell me what you mean by a "forged document".

**Q:** Well, a document that was clearly not written during the war years and has been inserted there for some ulterior purpose?

**MR JUSTICE GRAY:** Not what it purports to be?

**A:** Not what it purports to be.

**MR IRVING:** Yes.

**A:** Not to my recollection, no.

**Q:** I have to say I have not either. Would you have the same expectations of Eastern European archives?

**A:** That is a very difficult question to answer. I have worked in East German archives, but one has to -- I mean, both in the Communist Socialist Unity Party archives and in the archives of East German Communist Ministries, but also, of course, as you know, the major German State archive, the Reich archive, was in East Germany for many years, and my impression of that and other State archives is that they were somewhat neglected. So I do not -- and that they were run by professional archivists. It is a rather different matter working in Party archives or as I

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did on one occasion in the East ----

**Q:** Did you ever work in the Moscow archives?

**A:** I have not worked in the Moscow archives.

**Q:** Have you ever worked in any other Eastern European archives?

**A:** No, just in East German archives.

**Q:** From your knowledge as an historian, do you know of instances where documents have been forged by Eastern European archives for Cold War purposes in order to sink a West German Minister or something like that?

**A:** Not from my direct knowledge of archival material, no.

**Q:** Are you familiar at all, have you read the newspapers about the Demjanjuk case, Ivan Demjanjuk?

**A:** I followed it as any other citizen, newspaper reader, did, yes.

**Q:** Would it be correct to say that at one stage he was incriminated on the basis of an identity card which later turned out to have been forged?

**A:** I am not an expert in this area, Mr Irving. I mean, I will accept for the purposes of argument that that was so.

**Q:** Have you suggested anywhere in your report that I have gained improper advantages because of my Nazi or neo-Nazi views from members of Hitler staff in obtaining records or papers that they would not have made available to other...

**A:** I do not think I -- I certainly did not use the word

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"improper".

**Q:** Well, that I had an edge on the others?

**A:** I may well have done so, yes, because that seems to me that in some way that you were more acceptable to the former members' widows and so on of Hitler's entourage than other historians were.

**Q:** Do you have any basis for that, apart from just envy?

**A:** I do not think I am envious of you, Mr Irving.

**Q:** But, I mean, the fact that I got hold of records that the historical establishment did not get must have aroused a certain amount of envy and acrimony?

**A:** Not in me.

**Q:** Not in you. You referred to it in this oblique way in your expert report -- I cannot put my finger on the actual passage -- you admitted or you stated that, yes, you had implied that I had benefited from my aura?

**A:** I am just trying to find the passages where I deal with this.

**Q:** Perhaps I can continue just by asking in general terms. You have read a lot transcripts of my interviews with Hitler's staff, the Adjutants, we call them, is that right?

**A:** That is right.

**Q:** And you may have heard tape recordings of some of them, because the tape recordings have all survived, 30 years ago?

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**A:** I have read the transcripts. I have not heard the tape recordings.

**Q:** Did you see any material in those transcripts to support the belief that I had benefited in some way from my aura as a neo-Nazi or as a fascist or whatever I am called?

**A:** What I actually say is ----

**MR JUSTICE GRAY:** Page?

**A:** On page 604, paragraph 8, as you explain, "I have interviewed scores of the principal German officers and personnel involved, including many of Hitler's close staff who have hitherto refused to talk to anybody, but who felt able to talk at length to me because of the nature of my previous books "The Destruction of Dresden" etc.'"

**MR IRVING:** Yes.

**A:** And I quote the Journal of Historical Review again, saying that "numerous survivors of the Second World War era who are often mistrustful (often with good reason) of establishment historians' are willing to talk to you".

**Q:** Yes?

**A:** And another quote here from you: "Once they'd won your confidence and they knew you weren't going to report them to the state prosecutor, they trusted you. And they thought, well, now at last they were doing their chief's", that is Hitler, "a service'."

**Q:** Yes.

**A:** That is you, is it not?

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**Q:** Is this in any sense improper, do you think?

**A:** I do not use the word "improper".

**Q:** Is it not a fact that by using this non-confrontational method of interviewing people you sometimes wheedle more out of them over the years than if one was to go there with all the

methods of a Fleet Street journalist, cheating them the moment they had given the information and ridiculing them? That my method in the long term resulted in a much greater benefit for the historical community because I extracted the information, the data from them, is that not a fact, by using my methods?

**A:** Well, I do not know accept your rather harsh verdict on Fleet Street journalists and you would have to show me some examples of what they had done but ----

**MR JUSTICE GRAY:** Do not let us worry about that.

**A:** But, that aside ----

**MR IRVING:** The Swabians say zote und zote(?).

**A:** --- do not dispute, Mr Irving, that you have obtained a lot of information which other people have not obtained.

**MR IRVING:** Are you familiar with the collections of documents that I donated to the West German government and also to the Institute of History in Munich?

**A:** I know that you have donated collections of documents, yes, and I am familiar with some parts of them.

**Q:** And that historian around the world have frequently made use of these collections of documents?

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**A:** They have been used by other historians, indeed, yes.

**Q:** Would you agree that many of these documents are of high value?

**A:** They are of a variable value, but some are valuable, yes.

**Q:** The curate's egg, we used to say?

**A:** Yes, it is a mixed bag -- as any collection of documents.

**Q:** Yes. There are some very high grade private diaries of Hitler's private staff which nobody else has ever seen before?

**A:** Yes, and which you have published. I am not disputing any of this.

**Q:** In other words, people take with the one hand what they like about me, but with the other hand they are quite happy to ridicule me and smear me in public as a racist and Anti-Semite because they do not like the way I write my books?

**MR JUSTICE GRAY:** That is not really a question.

**MR IRVING:** Have you read the review that Professor Martin Broszat wrote of my book "Hitler's War" in the quarterly Journal of the Institute of Contemporary History?

**A:** Yes, I am familiar with it.

**Q:** It is a pretty corrosive review in parts, is it not?

**A:** Indeed.

**Q:** Are you familiar that there were personal reasons why Professor Martin Broszat would want to write corrosively about something I had written?

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**A:** I think that, well, not personally, but you claim that there are. I am familiar with your allegation that there are.

**Q:** If he married a lady ----

**MR JUSTICE GRAY:** Mr Irving, before we go on, I do not know what you are getting at.

**MR IRVING:** I am going to keep it very low profile, my Lord.

**MR JUSTICE GRAY:** What possible relevance has the malice of somebody who has reviewed one of your books got to the present case?

**MR IRVING:** Because the review written by Professor Martin Broszat is very heavily relied on by all the expert witnesses as evidence of my perversity and, for example, that is the origin of the Hitler's Table Talk distortion.

**MR JUSTICE GRAY:** I can see the experts might share Professor Broszat's view of your historiography, but it is the expert's own opinion that accounts.

**MR IRVING:** You know how one little shout brings down the avalanche?

**A:** May I make two points there? One is that I have reinvestigated, as it were, reresearched, all the points made by Professor Broszat so that I am not reliant on what he says. The second point is I can direct you to my answer to your 11th question in the first set that you sent on 30th December.

**Q:** I have not read it.

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**A:** "If Broszat had personal motives for criticising Irving's work, these may help explain why he did so, but they do not of themselves invalidate the criticisms which have to be dealt with on their own terms".

**Q:** Are you aware of the fact that Professor Broszat refused to allow me any space to reply in that learned journal?

**A:** I will take your word for it that that was the case, though is it normal in that particular journal that ----

**MR JUSTICE GRAY:** Whether it is or it is not, I do not think we are going to stay long with Professor Broszat.

**MR IRVING:** Very well. Are you familiar with a document known as the Leuchter report, or have you heard of it?

**A:** Yes.

**Q:** Have you read it in any detail or are you familiar with ----

**A:** I have looked through it, yes. I am not an expert on Auschwitz, Mr Irving, but I have looked through it, yes.

**Q:** Are you familiar with the fact that other documents superceded the Leuchter report, both written by revisionists and by anti-revisionists, if I can put it like that? There were subsequent investigations.

**A:** Yes.

**Q:** Have you heard of the Rudolf report?

**A:** Yes.

**Q:** The report by Germar Rudolf.

**A:** I have heard of that, yes.

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**Q:** Did you refer to the Germar Rudolf report in any of your expert paragraphs?

**A:** To be honest, I am not quite sure. Certainly not in any detail. My report is not about Auschwitz.

**Q:** If I could be fairly criticised for having relied entirely on the Leuchter report, does it not take the sting out of a lot of that criticism, in your view, that subsequent reports which were also available to me did the Leuchter job but better, if I can put it like that?

**A:** I really cannot comment on that, Mr Irving. I thought this had been gone through in Professor van Pelt's report and in your cross-examination of him. My concern is not with Auschwitz. I am not an expert on these matters.

**Q:** The tactical reason I have for putting this to you is that my friends tell me that I have not hammered this into his Lordship's consciousness enough?

**A:** Well, to leave me out of it in that case if you are -- if you are doing the hammering, I will get out of the way in that particular one.

**MR JUSTICE GRAY:** Forgive me. What has not penetrated my ----

**MR IRVING:** I am sure it has now, my Lord, because it is now in the transcript, purely that the Leuchter report was superseded by other reports on which I also relied in continuing to make the statements that I did.

**MR JUSTICE GRAY:** I knew you relied on later reports, yes. That I had understood.

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**MR IRVING:** There is no harm in repetition, is there?

**MR JUSTICE GRAY:** Within reason, no. Anyway, I just wanted to make sure I knew what you thought I had not understood.

**MR IRVING:** What do you think of Mr Kershaw as an historian on Adolf Hitler, Ian Kershaw, Professor Kershaw?

**A:** I think he is a good historian.

**Q:** A good historian? If I tell you that he declined to testify for us in my case here because his knowledge of German was totally insufficient, would that change your opinion of the books he writes about the leader of the Germans?

**A:** You would have to provide me with a copy of the document in which he says that before I could accept that that is what he said.

**Q:** You quote Robert Harris in the book "Selling Hitler" on paragraph 2.4.8 of your report?

**A:** Give me the page number, please.

**MR IRVING:** I do not have the page number in front of me.

**MR JUSTICE GRAY:** We had it just a moment ago, did we not? Was it 700 or 600 and something?

**A:** Much earlier, I think, my Lord.

**MR JUSTICE GRAY:** We can find it on the transcript.

**MR IRVING:** We have time, my Lord, because I have come to the end of my prepared questions on this topic and it may be your Lordship will not want me to ask questions about bundle E which is what I was proposing to do afterwards.

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**MS ROGERS:** 212.

**MR JUSTICE GRAY:** 212. Yes. I remember 212. Ask this and then we will consider bundle E.

**MR IRVING:** Paragraph 248. You quote Robert Harris in "Selling Hitler", "when the forensic tests shortly afterwards revealed the Hitler diaries definitively as fakes, Irving issued a statement accepting the finding but drawing attention to the fact that he had been the first person to unmask them as forged". Do you remember that passage?

**A:** Yes. It is not the one we have here.

**Q:** 2.4.8?

**A:** It is much earlier on, I think.

**MS ROGERS:** 39.

**A:** Yes.

**MR IRVING:** "Irving issued a statement accepting the forgery finding but drawing attention to the fact that he had been the first person to unmask them as forged. 'Yes', said a reporter from The Times" I am quoting from your report, "when this was read out to him, 'and the last person to declare them authentic'." Do you remember that passage?

**A:** Yes, I have got that, yes.

**Q:** Would it not have been more accurate to write that this was Robert Harris quoting me as saying that rather than me saying that?

**A:** Well, it is footnoted, Mr Irving. Footnote 26 refers to "Harris, Selling Hitler, page 359". So it is perfectly

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clear that it is Harris.

**Q:** But it is reported speech?

**A:** Indeed, it is in Harris's book. It is quite clear in my book that it is in Harris's book.

**Q:** Yes. Reverting to standards on anti-Semitism, what do you know about the statements made by leading politicians on the Jews during the war? Were they anti-Semitic in any degree, people like Winston Churchill or Anthony Eadon or Lord Halifax? Are you familiar with any of the things that they said?

**A:** I am not, no.

**Q:** No. I just want to put to you a little clip of extracts that I made from some of their private diaries, and I do not propose to read these out.

**MR JUSTICE GRAY:** Can you just help me ----

**MR IRVING:** It is headed: "Anti-Semitism in the diaries".

**MR JUSTICE GRAY:** --- as to their relevance?

**MR IRVING:** The relevance? It is arguable, my Lord. I was going to say on a scale of 1 to 10 is Lord Halifax mildly anti-Semitic if these ----

**MR JUSTICE GRAY:** No, but what if he is? I mean, help me about that.

**MR IRVING:** Then the question I was going to say is on the scale of what you know from my private diaries, what number do I reach? 1, 0.5?

**MR RAMPTON:** I mean, the fact that these well-known people are,

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as I can plainly see, having looked at some of this stuff, guilty of the same kind of blatant anti-Semitism as Mr Irving takes us nowhere.

**MR JUSTICE GRAY:** It is a "so what?" point really?

**MR RAMPTON:** Yes, it is a "so what?" point with a big question mark.

**MR JUSTICE GRAY:** That must be right, must it not, Mr Irving? I mean, the charge is made against you of anti-Semitism. That may or may not be justified. It may be partly justified, I do not know. That is something I have got to decide.

**MR IRVING:** But if I was told that I was only one-tenth as anti-Semitic as somebody as respectable as Anthony Eadon, for example, or as Lord Halifax, then I would be able to sleep more peacefully at night, than when I read in the newspapers that I am the bogey man in the nursery.

**MR JUSTICE GRAY:** Well, I am afraid I take the view that we have to decide what anti-Semitism consists of, first of all, and then I have got to look and see what you have said and written and decide whether that constitutes anti-Semitism or is evidence of anti-Semitism.

**MR IRVING:** I tried to get an explanation from the witness as ----

**MR JUSTICE GRAY:** I am not helped by knowing what -- I mean, times have changed, apart from anything else.

**MR IRVING:** I wholeheartedly agree, my Lord. Times have

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definitely changed in this respect and they have changed for the better.

**MR JUSTICE GRAY:** I must judge you by the standards of perhaps not 2000, but the standards at the times when you made the remarks you did make which is usually in the 80s and 90s.

**MR IRVING:** But we have a problem here. I have tried to extract from the witness a definition of his criteria for the anti-Semitism that he accuses me of.

**MR JUSTICE GRAY:** Perfectly proper.

**MR IRVING:** And we have received only waffle, if I may put it like that.

**MR JUSTICE GRAY:** Well, you can say that later, but do not say it now. It is unhelpful.

**MR IRVING:** And I have tried to ask for what specific instances of anti-Semitism he has found in my private diaries which, surely, are the closest to my state of mind, and we have found five words, I think.

**MR JUSTICE GRAY:** He said it has not really been his pigeon. He is here for other matters. You do not have to accept that answer, but it is his evidence.

**MR IRVING:** But the charge is levelled, my Lord, at me by this witness and by the others and it is a charge that people very happily make. I say that the charge of anti-Semitism is the last resort of the scoundrel, very frequently, and it is one that sticks, rather like being called a Holocaust denier.

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**MR JUSTICE GRAY:** Yes, I do not seek to dispute that at this stage, but what we are on at the moment, Mr Irving, is whether you are entitled to adduce effectively in evidence, through the cross-examination of Professor Evans, alleged anti-Semitism on the part of Lord Halifax and Winston Churchill, and I think that is wholly impermissible.

**MR IRVING:** Impermissible, very well. Can I at least then adduce evidence that the First Defendant has published books which contain grossly anti-Semitic passages?

**MR JUSTICE GRAY:** I do not admit -- why do you say that is relevant?

**MR IRVING:** Biblical passage.

**MR JUSTICE GRAY:** It is a sort of pot calling the kettle black.

**MR IRVING:** Casting the mote out of their own eye first and referring it to John Buchan's '39 Steps', for example. I am sure your Lordship is familiar with them. They are the most appalling passages.

**MR JUSTICE GRAY:** You are clutching at a bit of a straw there, are you not? When was that published?

**MR IRVING:** Not recently, but John Buchan became Governor General of Canada.

**MR JUSTICE GRAY:** I am trying to give you a lot of latitude, Mr Irving. I think I am perhaps beginning to give you too much. I really just do not think you can just start going into alleged anti-Semitism on the part of other people, or

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other companies.

**MR IRVING:** The Defendants in this case have published books which are anti-Semitic in my submission and yet -- I will merely ----

**MR JUSTICE GRAY:** Let me hear Mr Rampton on that because ----

**MR RAMPTON:** My Lord, this is a kind of insanity. I feel as though I was in one of Lewis Carroll's book. Mr Irving brought this action in respect of words published by my clients. The only defence is that what is said is true, amongst them that Mr Irving is an anti-Semite. What can it matter that there may have been some author from the distant past, the 39 Steps, who also, on some occasion, might have made a remark as an anti-Semite?

**MR JUSTICE GRAY:** I wholly agree about John Buchan in the 1930s, or whenever it was.

**MR RAMPTON:** Suppose my client has published the works of an anti-Semite yesterday. How could it bear upon the question of whether or not Mr Irving is an anti-Semite, save to the extent that I then stood up and said: "Well that Penguin book is not anti-Semitic"?

**MR JUSTICE GRAY:** I think that is right. I am trying to give Mr Irving the benefit of the doubt, but Mr Irving, I cannot let this thing ----

**MR IRVING:** My Lord, we bought a copy of this book published by Penguin Books two days ago at Books Et Cetera.

**MR JUSTICE GRAY:** If your odds are still on John Buchan, then

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that is really absolutely, if I may say so, hopeless as a point, hopeless.

**MR IRVING:** Should political correctness not have required them to at least excise these horrendous passages from that book?

**MR JUSTICE GRAY:** No. Mr Irving, I am afraid we are going to have to move on. I am against you on this.

**MR IRVING:** Are you familiar with the Holocaust, Professor Evans? Are you familiar with the bibliography on Holocaust Denial which has been prepared by a specialist in this matter, New York City University John Drobniski, I think?

**A:** I have to say not very, no.

**Q:** Are you aware that there is such a bibliography?

**A:** Yes.

**Q:** It is a bibliography that is available on the Internet, would you accept that?

**A:** Yes, it is.

**Q:** It has gone through several editions?

**A:** Yes.

**Q:** And this bibliography -- is it called Holocaust Denial Literature -- is a bibliography?

**A:** I think that is true, yes, to my recollection.

**Q:** Is it compiled by John A Drobniski, D-R-O-B-N-I-S-K-I, in conjunction with Carol Goldman and two or three others?

**A:** I think that is right, but I have to say I am not very

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familiar with this bibliography.

**Q:** If I tell you, therefore, that my name does not figure in this entire bibliography as having published a Holocaust Denial work, would this surprise you in the view of the expert report that you have written? Is that a proper question, my Lord?

**MR JUSTICE GRAY:** Yes.

**A:** Well, I did not compile the bibliography. I am not answerable for what they think or they do not think. I reached my own conclusions about this in my report.

**MR IRVING:** You accept that he is Professor John Drobniski, Assistant Professor and Reference Librarian at York College in the City University of New York?

**A:** If you say he is, yes, I accept that.

**Q:** And that his bibliography contains many thousands of entries of books, journals, learned papers and articles?

**A:** Well, I do not really want to speculate about it, but you have yourself said that the Holocaust has always been a rather peripheral element in what you have written yourself, so in a way, it would not be surprising if somebody wanted to draw up a bibliography of works to which Holocaust Denial was central.

**Q:** Yet I am the one who is pilloried in the book by the Second Defendant and published by the first Defendants in this case, and Yehuda Bauer, as we know from the document which is before the court, specifically requested the

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second Defendant to ensure that I was included because I was particularly dangerous?

**A:** Well, it is my impression, having read the second Defendant's book very carefully, that you figure only relatively peripherally in that, too, and it does not devote a great deal of space to you in your work.

**Q:** I think, my Lord, that if we may take the lunch adjournment very shortly, then I will come back this afternoon and we will go as far as your Lordship permits through the bundle of documents which is known to your Lordship as Global.

**MR JUSTICE GRAY:** Do you want to consider how much you can go into, because I have not looked through bundle E yet, but I am conscious we have not really made a huge amount of progress this morning so far.

**MR IRVING:** Well, I have been stopped in my tracks dead by the delivery last night of these 200 pages of answers.

**MR JUSTICE GRAY:** If that is so, I am not sure that is a complete explanation, but if that is so, well so be it. What are you proposing to do with the rest of bundle E, that is really the point?

**MR IRVING:** To step through it, picking out key documents to indicate and to ask his opinion as to whether this does not indicate that there has been a concerted endeavour to suppress my rights to publish and to write, to research and to lecture.

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**MR JUSTICE GRAY:** By the one or other of the Defendants?

**MR IRVING:** By one or other of the Defendant and in the light of his own expert knowledge.

**MR JUSTICE GRAY:** Do not worry about the latter bit.

**MR RAMPTON:** I really do have a reservation about this. It is not my place to make comments about the latitude that your Lordship has so far given, Mr Irving. I have a place, however, to say something if I see the afternoon wasted away with this witness, who is a professional historian, being asked questions about what hand the Defendant might or might not have had in the international Jewish conspiracy to shut Mr Irving up. That is not something that Professor Evans has written about. So, for all I know, he knows nothing about it. If there is one question: "Do you know anything about it"?, and he is allowed to answer it now and he says, "No", then that is the end of the matter.

**MR JUSTICE GRAY:** Leave aside whether it is right for Professor Evans to be asked questions about this because that, I agree, is something that we have to tackle, but just supposing for the sake of argument that it is right, that one of the Defendants has been trying, in some way, to sabotage Mr Irving, it does not matter in what way, can you say that is wholly irrelevant?

**MR RAMPTON:** No, I did not say that. I said that it is not a proper matter for the cross-examination of this witness.

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**MR JUSTICE GRAY:** You see, I am anxious, and Mr Irving is anxious obviously, that he should not be, as it were, shut out from making this point. I think the best way of dealing with it is to let him make it as a matter of submission by reference to the documents in bundle E.

**MR RAMPTON:** Of course I agree with that. It is only relevant, of course, if we should lose the action.

**MR JUSTICE GRAY:** Of course, but it is relevant.

**MR RAMPTON:** Just as a matter of hypothesis we did, then it would be relevant quite likely, some way of wounding or something, I do not know. I have not really thought about it. The right thing for him to have done, but he did not do it, was to give evidence about it in-chief and then make submissions about at the end of the case by reference to the document.

**MR JUSTICE GRAY:** I would be inclined to let him give further evidence.

**MR RAMPTON:** I am not going to insist on it.

**MR JUSTICE GRAY:** If that is the right way. It can be done as a matter of submission, as far as I am concerned.

**MR RAMPTON:** Equally, as far as I am concerned.

**MR IRVING:** My Lord, the argument against that ----

**MR JUSTICE GRAY:** What do you say about that?

**MR IRVING:** Although I hear what Mr Rampton says about I should have done it as evidence-in-chief, but your Lordship will remember clearly that we were only informed two days ago

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that they were not going to call Professor Levin or Professor Eatwell.

**MR JUSTICE GRAY:** That is not, if I may say so, an answer to the point that has just been made. You do not know your way around the law, perhaps, as well as some, but the answer is that this evidence all goes to damage and the only person, or broadly speaking the only person who can give evidence about damage, is the Claimant, yourself.

**MR IRVING:** Yes.

**MR JUSTICE GRAY:** So it is really a matter for your own evidence. I do not think it is a helpful use of the court's time, or indeed Professor Evans's time, to take him through a whole lot of documents which he would probably not really be able to make much of anyway, when really it is for you to make the points you want to make in your evidence, and Mr Rampton is not contesting your entitlement to add to the evidence you have already given, so I think that is a better way of dealing with it.

**MR IRVING:** Very well. Shall I do that this afternoon then.

**MR JUSTICE GRAY:** You would rather break off now? I am easy about that.

**MR IRVING:** I think it would make it an appropriate place to break off now.

**MR JUSTICE GRAY:** If it is a natural break, let us do that, but I think this afternoon let us move on beyond bundle E and you can come back to that, whatever turns out to be a

convenient moment. Shall we adjourn now and return at a quarter to two. (1.45 p.m.)

**(Luncheon Adjournment)**

**Professor Evans**, recalled.

Cross-Examined by **Mr Irving**, continued.

**MR IRVING:** Thank you, my Lord. There is one minor point I wanted to pick up from remarks that Mr Rampton made shortly towards the end where he referred to black servants. My Lord, you may remember the phrase.

**MR JUSTICE GRAY:** I do not remember.

**MR IRVING:** The phrase he used is black servants and this may be indicative of the mind cast on that side of the courtroom. I certainly do not regard blacks as servants. They were my equals. I employed these Pakistanis, Indians Sri Lankans and so on as research assistants and personal assistants. They were not servants in any kind of menial way.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** Witness, you may have heard me described by Professor Donald Watt and others as Britain's most disliked historian. Does that surprise you?

**A:** Could you direct me to where he actually said that?

**Q:** Very well. We can move straight on to the next question. You do not like me, do you?

**A:** I have no personal feelings about you at all, Mr Irving.

**Q:** I think we have seen this morning and from a number of your remarks that you dislike what I write, you dislike what I stand for, you dislike what you perceive my views to be. Is this correct?

**A:** I do not have any person feelings at all. I was simply asked to write a report, which I have done, about your writings and speeches.

**Q:** Well ----

**A:** I have tried to be as objective as possible.

**Q:** Yes of course.

**A:** And to leave any personal feelings I might possibly have out of it.

**Q:** There are a number of remarks which are now a matter of record on this morning's transcript, which indicate that you hold strong personal views which are antipathetic towards me.

**A:** Such as?

**Q:** Well, they are a matter of record and I am sure that the court is familiar with them and this is why there was a rather astonished chuckle when you said that you held no views about me from those who had been listening to you this morning. You are aware of the fact of course, having written an expert report, that you have a duty to impartiality?

**A:** Absolutely. That is described in the last paragraph of my report.

**Q:** Precisely. I was beginning to express astonishment of that fact and that is why I asked the question because I had the impression from this morning's answers to the questions that you were averse to answering questions and that you held something bordering between distaste and loathing towards me and the books I write or the views that you perceive me to hold?

**A:** Not at all. But it is the fact that I do find it very difficult to answer questions about reports written by other people. I am here to answer questions about my own report.

**Q:** You say that, when you went to the British Museum Reading Room, you asked for a copy of my book Hitler's War, and it was not in the public shelves. Is that correct?

**A:** No. It was on the public shelves.

**Q:** It was on the public shelves?

**A:** Well, I mean as I say, it was available to everybody who had access to the British library.

**Q:** I remind you of your words?

**A:** That is the new British Library.

**Q:** I remind you of your words in your report where you say that the 1991 edition of Hitler's War can only be read at the desk in the Rare Books Room. What justification did they offer for that?

**A:** Well, none at all. I am not responsible for their classification. I have to say that, when I asked to read

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it, the library assistant in a somewhat astonished manner said to me that it had to be read on the desk reserved for pornography.

**MR JUSTICE GRAY:** What is the relevance of that to your report?

**A:** I say it in my report.

**MR IRVING:** Page 15 of his report, my Lord, paragraph 154. I am not relying on the pornography aspect, my Lord, as your Lordship will appreciate.

**A:** It is an extremely minor and peripheral point. I am not suggesting for a moment that it was pornographic, but it is a matter of fact that, when I consulted it, that is where I had to read it.

**Q:** Do you infer from that rather curious episode that what has been a very widely reviewed and widely praised work of history should have been placed by the museum in a reserved section where it can only be read with special application. Could that possibly be the result of some kind of campaign or endeavour by third parties, do you think?

**A:** Let me say first of all that I do not think that your 1991 -- correct me if I am wrong -- edition of Hitler's War has been widely reviewed and widely praised. Secondly, I have no idea why I had to read it on that particular desk. Let me say if it helps you ----

**MR JUSTICE GRAY:** I am not bothered about that at all, Professor. I am just puzzled why you included it in your

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report.

**A:** Little bit of light relief, my Lord, to be honest. I thought it was a minor detail that struck me as being rather odd, that I just put in to make the report a little bit more readable. I do not attach any weight or importance to it. If it helps you at all, I really do not understand why they have done it. I cannot speculate on why they have done it. It did not seem to me worth pursuing the matter. I could read it. Anybody can read it. It is not restricted.

**MR IRVING:** You appreciate that it must have taken an objective action by someone, a positive step by someone, to recommend that the book should be taken from the normal shelves and placed into a reserved limited access section?

**A:** It is not really limited access, to be honest. It is just that you have to read it in a certain place. My experience of the British Library's policy on these matters is somewhat haphazard. It is not terribly consistent.

**Q:** Do you have page 15?

**MR JUSTICE GRAY:** I have read it.

**A:** I suggest that, if you wish to pursue this, you should do so with the British Library.

**MR JUSTICE GRAY:** I think we have pursued it as far as it is worth pursuing.

**MR IRVING:** I am going to pursue it to the next sentence, my

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Lord, which is: "Secondly, Irving has published a number of articles mainly in the Journal of Historical Review". Do you still stand by that statement?

**A:** Yes. That follows on from the material on which this report is based, consisting in the first place of Irving's published books.

**Q:** Are you aware that I have not published one article in the Journal of Historical Review?

**A:** I am sorry, Mr Irving. Your journals are widely available in the Journal of Historical Review. I have read the Journal of Historical Review and there are many articles of yours there.

**Q:** Are you referring to transcripts of talks that I have delivered which have then been transcribed by the Institute and then published?

**A:** They are there as articles, indeed, yes.

**MR RAMPTON:** I was just saying to my junior that, if this line of cross-examination continues without Mr Irving's revealing to the witness the full extent of the way in which those articles are published in the Journal of Historical Review, I am going to intervene.

**MR IRVING:** I think that my question, as it was put, was quite proper, my Lord.

**MR JUSTICE GRAY:** So do I, and re-examination is always an opportunity to follow up these things.

**MR IRVING:** In other words, you do accept that I have never

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written an article for the Journal of Historical Review, it is however correct that they have published transcripts in the way that learned journals also do of people's talks and lectures?

**A:** I do not accept that the Journal of Historical Review is a learned journal.

**Q:** I did not say so, of course.

**A:** But I would have thought that they would have obtained your permission to put the transcripts there and that you would have had the opportunity to revise them before they went in there, and that therefore you were agreeable to their appearing there as articles.

**Q:** Yes. On page 17 you refer to various bones of contention that you are going to pick in the first paragraph, the fourth line, to Irving's use of the evidence of Hitler's Adjutants. Undoubtedly I am going to be cross-examined on this matter, I believe so. I do not really want to go into very much detail about that until we come to it in the appropriate part of your report, but you do attach great importance to the fact, do you not, that you think I made a wrong use of what these members of Hitler's private staff told me?

**MR JUSTICE GRAY:** I am not sure that you are going to be cross-examined because my understanding is that---

**MR RAMPTON:** I said that on the whole I did not think it terribly likely, but I did say, if I was going to, I would

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mention it. There may be just a couple of points.

**MR JUSTICE GRAY:** I thought I could short circuit this.

**MR RAMPTON:** I am certainly not going to do it at any length because I do not believe I need to.

**MR JUSTICE GRAY:** You are right, Mr Irving, it is part of the case. I thought it was not but it is.

**MR IRVING:** It appears to be in a kind of limbo where it might be sprung on me at a later date. When we come to that point in Professor Evans' expert report, than in that case I shall have to deal with it seriatim. Can I address your attention to page 19 of your report, Professor Evans? Half way down the page, at the end of that paragraph, paragraph 161, you conclude by saying: "We have not suppressed any occasion on which Irving has used accepted and legitimate methods of historical research, exposition and interpretation. There were none." That is a very sweeping statement it make, is it not?

**A:** Yes. I should qualify that by saying there wee none in the material we examined.

**Q:** None at all? I have never used historical material in the proper manner?

**A:** Not in the material we examined, no.

**Q:** I can see his Lordship frowning.

**MR JUSTICE GRAY:** I am just puzzled by that. What material did you examine? It seems to me you cannot have known what to go to unless you have looked at the whole lot.

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**A:** In the cases that we examined. I explain in the introduction to this report. Clearly we had 18 months to go through 30 years' of Mr Irving's work and so it was not possible to go through the whole lot in its entirety. So we had to be selective. I explain in the report the principles on which we selected the material, which was not going for the weak points but trying to go for his strongest arguments, and in those areas we did not find occasions where he used accepted and legitimate methods of historical research, exposition and interpretation, taking the three things together as a whole.

**Q:** It is a bit tortuous because really what you are saying is that the areas you have selected for criticism are not areas where you would praise Mr Irving?

**A:** No, that is right, though I did not know that in advance.

**Q:** Who told you which passages to go for, as it were?

**A:** No. Well, that is to say, as I explain here, I decided obviously to look at the question of Holocaust denial and whether it was legitimate to ----

**Q:** I see, topics as broad as that?

**A:** -- accuse Mr Irving of Holocaust denial. Then I decided to look at what he himself describes as the chain of documents which show that, in his view, Hitler was, as he says somewhere, the best friend the Jews ever had in the Third Reich. So we looked at as many of those as we could, all of the ones we could find, and in all of those

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we found the same thing, that is to say, where there were distortions, suppressions and manipulations. That is what I am saying there.

**MR IRVING:** We are going to come to the next paragraph, but in retrospect would you wish that you had phrased that final sentence less globally and less grandly, saying there were none, which implies that nowhere in my entire writings have I have used historical documents properly?

**A:** Well, I did not find that in what I looked at.

**Q:** Never once I did use a historical document correctly? Never once did I use material that had been before me? In all the records and books that you examined and we are going to see in a few pages time which books you did examine.

**A:** Yes. By occasion, I mean of course the topics that we examined. No doubt, if you say that Hitler was born on such and such a date in such and such a year, that is a correct statement.

**Q:** That is not what you are saying. I will repeat it again, "We have not suppressed any occasion on which Irving has used accepted and legitimate methods of historical research, exposition, interpretation. There were none." You are referring to my entire corpus of writing.

**A:** Indeed, yes, and I am following on the statements in the previous paragraphs and pages where I describe the methods used to draw up the report, and the word "occasion" there

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refers to the various topics that we looked at, which are outlined in the previous paragraphs.

**Q:** I would not want to rewrite your report. What you should therefore written surely was---

**A:** I am sure you would.

**Q:** -- not "there were none" but "there were none in the few instances that we examined". Is that you are trying to say?

**A:** I do not accept that there were few instances.

**Q:** Three instances, Reichskristallnacht, Dresden and the Adjutants. Is that correct?

**A:** That is not correct at all, Mr Irving. We examined a great many other instances.

**Q:** But then you continue in the next paragraph of course, then comes the purple prose as to what you alleged to have found swimming around in this cesspit of David Irving's writings. "I was not prepared", you write, "for the sheer depth of duplicity, his numerous mistakes, that is the bottom line but one, and the egregious errors". On the contrary, "they were not accidental", you say, on the contrary, it is obvious that they were calculated and deliberate. Now, do you still stand by this assessment?

**A:** Most certainly, yes.

**Q:** In all my writings? Or are you just referring to these few passages that you are being specific about?

**A:** I am referring to the passages, the instances which we

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examined.

**Q:** I think it would probably be helpful to his Lordship if you just listed on the fingers and thumbs of one or two hands which specific instances this sweeping and rather brutal judgment applies to?

**A:** They are listed on the contents page of my report, my Lord.

**MR JUSTICE GRAY:** Yes.

**Q:** These are the only instances you are referring to with the sweeping judgment, in other words you are not going to pass judgment on the rest of my writings?

**A:** Well, I am satisfied, as I say in the report, that we examined a sufficient number of instances to assure ourselves that they were representative of your writings.

**Q:** All the rest. I am afraid I was not properly listening to your answer in response to his Lordship's question. Who picked these instances? Was it picked in committee with the Defendants? Did they say, why not go for Reichskristallnacht, pick on Dresden too, he is weak on that? Did you have a free hand?

**A:** I had a free hand and I picked them myself.

**Q:** No suggestions were made from the Defence upon instructing solicitors?

**A:** Not to my recollection, no.

**Q:** Happened to pick on Reichskristallnacht and happened to go to Dresden, although not very

familiar with my work

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previously?

**MR RAMPTON:** My Lord, in fairness to the witness, Mr Irving probably was not listening, often one does not listen very carefully when cross-examining, there was an earlier answer to the effect that what started the topics listed at paragraph 4 of the contents page on the second page was the very first item in that entry, "Irving's chain of documents" and thing leads to another, therefore.

**MR IRVING:** Well, the chain of documents, of course, refers specifically to Hitler's responsibility for the Final Solution.

**MR RAMPTON:** Yes, but it includes, for example, eight or nine examples, just as an example, Reichskristallnacht, which in itself is an enormous subject.

**MR IRVING:** It does not include Dresden and it does not include ----

**THE WITNESS:** No. As I explained in the report, I thought that it was not really sufficient just to look at the chain of documents. The reason for that was that it might be arguable, as a number of your reviewers have indeed argued, that you were, as it were, unsound on that one issue, but sound on everything else. So I decided to look at Dresden because that is the book which established your reputation and has probably sold more than -- correct me if I am wrong -- any other of your books.

So that seemed to be one of your strongest

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books, if not your strongest book, so I decided to look at that as well. I did not want to confine myself, in other words, simply to the chain of documents relating to Hitler's responsibility or, you would argue, non-responsibility for the Final Solution.

**Q:** Could it be that you set out with the belief that I had used these methods that you describe as sheer depth of duplicity and of distortion and the rest, and that you had preconceived that notion, then you picked on three or four roads by which to arrive at that particular Rome, so to speak?

**A:** No, that is not the case at all; as I describe in the report, I had very little knowledge of your work and I was aware of your reputation as having been somebody who was in many cases, in many areas, a sound historian, and I was rather surprised at the results that I found. I described that all in my report and that was an honest description of my reaction.

**Q:** Are you going to be prepared to eat your words if we take each one piece by piece and find out that you were misjudging me?

**A:** Let us see.

**Q:** Then we shall come to that ----

**MR JUSTICE GRAY:** Can I ask you this, Professor Evans? Did you consider Mr Irving the military historian, if you follow what I mean by that? It is not really your subject, as

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I understand your evidence this morning?

**A:** Yes, it seems to me that he is a military and political historian.

**Q:** I do not doubt that, but I just wondered whether you have considered as a separate aspect of his historical writings his writings on military as opposed to political history?

**A:** No, because they do not really relate to this case.

**Q:** Well, I thought that might be your answer, yes.

**A:** Obviously, though, it is enormously -- as you can see, this is a 740 page report.

**Q:** I am well aware of that.

**A:** It took an enormous amount of time and effort to do and there is simply a limited amount of time available.

**MR JUSTICE GRAY:** Yes. No, it is not a criticism at all. I just wanted for myself to know. Thank you.

**MR IRVING:** So if somebody had mentioned the name "David Irving", would you have said to yourself, "Oh, yes, that is the Holocaust historian"?

**A:** No.

**Q:** You would have said, "That is the specialist in Third Reich personalities" or "The specialist in Naval war" or what? Would anything have occurred to you?

**A:** Well, you have written on a variety of subjects, of course, but they have mostly been, with the exception, I think, of the book on Hungary in 1956, books about Germany and the Second World War and aspects of German

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politics, German personalities, biographies of leading German figures and aspects of the war.

**Q:** You say on page 20 -- my Lord, now at the top of page 20 of his report -- "That is precisely why they are so shocking. Irving has relied in the past, and continues to rely in the present, on the fact that his readers and listeners, reviewers and interviewers lack", well, "expertise" you say there. You are saying that everyone who reads my books, effectively, are ignorant and so they cannot spot how duplicitous I am. Is that what you are saying?

**A:** Let me read the sentence: "Irving has relied in the past, and continues to rely in the present, on the fact that his readers and listeners, reviewers and interviewers lack either the time, or the expertise, to probe deeply enough into the sources he uses for his work to uncover the distortions, suppressions and manipulations to which he has subjected them".

Let me carry on just in the next sentence, if I may: "The late Martin Broszat and the American historian Charles W Sydnor, Jr., whose work is referred to below, are virtually the only previous historians to have gone some way down this road".

**Q:** I said in about six lines what you have said in 12, that roughly what I said was right, that they were so ignorant ----

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**A:** No, that is not true at all. That is why I read the sentence out. I said "either the time or the expertise".

**Q:** To see through me, is that what ----

**A:** To uncover -- I do not want to read it all over again, Mr Irving.

**Q:** This list of ignorant reviewers and listeners and readers of my books, does it include people Captain Stephen Roskill, the official Naval historian?

**A:** I did not describe him as ignorant, Mr Irving.

**Q:** Well, you said they did not have the time or the expertise.

**A:** I said they lacked either the time or the expertise. And anyone who has been involved in reviewing books knows that, particularly if you are reviewing for a daily or Sunday newspaper, you have a very tight deadline to meet and you do not have the time to go back to the archives and check everything out.

**Q:** You have reviewed books for the Jewish Chronicle, have you not?

**A:** I have reviewed books for the Sunday Telegraph, I have reviewed books ----

**Q:** Answer my question. You have reviewed books for the Jewish Chronicle?

**A:** I have indeed reviewed books for the Jewish Chronicle.

**Q:** So you are familiar with the fact that they do not have enough time, when you are reviewing books, this is where

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your expertise there comes from?

**A:** I said you do not have enough time to go back to the archives and the original sources to check the statements, and also, as I go on in the report to say, that, normally speaking, reviewers of academic, scholarly and non-fiction works generally, unless they have reasons to suppose otherwise, make the basic assumption that the author is honest and reporting honestly what he or she finds.

**Q:** Knows what he is talking about. Well, that is the assumption that we are making in this court about you too, is it not, really, that you are not prejudiced or biased or that you have no private animosities towards anyone?

**A:** I am glad you think so.

**Q:** Yes, it is an assumption we all make. But now can I come back to my question, which is that these ignorant reviewers and listeners, for whatever reason, do they include people like Captain Stephen Roskill, the official Naval historian?

**A:** I do not describe them as "ignorant", Mr Irving. I say they lack either the time or the expertise -- one or the other.

**Q:** Professor AJP Taylor, would that include him?

**A:** He was not a Professor, but, aside from that, I think he is one of the historians who ----

**Q:** Professor Hugh Trevor Roper, would you include him in that kind of wayward, negligent category, a reviewer?

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**A:** As I go on to say, the ----

**Q:** But we are going to go on to the next two names you have mention in a minute, but let us deal with ---

**A:** You have mentioned.

**Q:** --- this little catalogue of experts who have, apparently, totally negligently spoken and written highly of my works.

**A:** Well, let me go on to say that in dealing with the reviewers of your work, I try to make a distinction between journalists, on the one hand, who maybe accept it but clearly do not know an awful lot about the subject ----

**Q:** Can I mention some more names? And

**A:** --- and historians with a general kind of expertise, but not specific knowledge of the sources --

**Q:** Would Hans Monson have had ----

**A:** --- and then historians with a specific expertise in the source materials on which you base your work ----

**Q:** Would Hans Monson ----

**A:** --- and it is the last ----

**MR JUSTICE GRAY:** Mr Irving, I think, if I may say so, can I try to help you in this way so that we can move on? I am well aware that there have been quite a large number of distinguished academics who have paid tribute to your work as a military historian.

**MR IRVING:** Until comparatively recently, my Lord.

**MR JUSTICE GRAY:** Well, leave that on one side.

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**MR IRVING:** Well, after the 1988 watershed.

**MR JUSTICE GRAY:** Does it really help to fire these names at Professor Evans? I do not think it does. It does not help me.

**MR IRVING:** Do I not have a right to destroy his expert report?

**MR JUSTICE GRAY:** Yes, you do, but I would rather you did it by taking the particular criticisms that he makes of you and try to destroy them, rather than deal with it in a rather indirect fashion.

**MR IRVING:** Well, can we move on to the two names you mentioned, Professor Broszat, we have mentioned him briefly. I am not going to go further into him. You mentioned a second name there, Charles Sydnor?

**A:** Yes.

**Q:** Are you referring to the review he wrote in a journal called, I think, European ----

**A:** "Central European History".

**Q:** "Central European History".

**A:** Indeed.

**Q:** Have you compared that with the original article by Martin Broszat and have you seen that one is purely derivative from the other?

**A:** I do not think it is purely little derivative. I think Sydnor had his own -- well, let me say two things. First of all, I think it is true that Broszat provided, not only

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Sydnor but also Trevor-Roper with a number of the criticisms that they made of your work, but I do think Sydnor does go beyond that. He is a man who has a particular expertise on the SS and, indeed, he did have research assistants and research grants to write his review.

**Q:** To write his review?

**A:** Yes.

**Q:** Very nice.

**A:** He acknowledges that in his footnote.

**Q:** But it is very largely derivative from Professor Broszat in the way that I have suggested?

**MR JUSTICE GRAY:** Well, Mr Irving, come on. Let us move on to the criticisms that are made by Professor Evans against you, rather than discussing whether one other author's work is derivative from another.

**MR RAMPTON:** My Lord, two or three pages later we find Professor Evans saying, "Mr Irving gives no example of where writers copy what each other write", and that pre-empts that particular question, so I will not ask it.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** Will you go now to the bottom of page 21?

**A:** Well, let me just make a point there, that I am not aware of anything you have written that says that Sydnor copied what he wrote from Broszat.

**Q:** I wrote a reader's letter to the magazine concerned which

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they published.

**A:** I have read it.

**Q:** Yes. Would you now go to the bottom of page ----

**A:** But you do not make that accusation there, to my recollection.

**MR JUSTICE GRAY:** Professor Evans, we are trying to move on. Do not put the brakes on.

**MR IRVING:** Page 21.

**MR JUSTICE GRAY:** 21.

**MR IRVING:** My Lord, I find it very helpful when you do tell me to move on because I have no way of knowing whether I am barking up the wrong tree or not.

**MR JUSTICE GRAY:** I am trying to give you the odd hint -- I meant that in a sort of -- I mean that to be helpful.

**MR IRVING:** "The position can be summed up", you say, in these last two lines on page 21, "The position can broadly be summed up by saying that there is a general consensus that a decision was taken at the highest level". We are talking about the decision to kill Jews, right?

**A:** Yes -- to kill all the Jews in Europe in a systematic way, yes.

**Q:** "... that there is a general consensus that a decision was taken at the highest level some time between the beginning of 1941 and the spring of 1942". Are you a believer in the writing of history by general consensus then?

**A:** Ah, now, well, what I am saying is that I am trying to sum

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up the accepted state of historical knowledge, and ----

**Q:** Accepted state of historical knowledge?

**A:** Yes, the general state of historical knowledge in which ----

**Q:** Can I remind you of one or two other previous general consensus -- I believe it is fourth declension -- in history previously? There was at one time a general consensus that the world was flat, was there not, and there was also a general consensus that the sun moved around the earth. Was that another general consensus that was generally accepted?

**A:** Well, I think scholarship has moved on a little since those days.

**Q:** But is it not dangerous to write history or to do astronomy or anything else by general consensus, would you agree? There is a case for the outsider to come along and say, "I may be right, I may be wrong, but let us rethink this"? Do you agree?

**A:** Well, let me go on to say what I say in the next sentence which is: "The limits set by the available evidence do not allow of a date, say, in January 1993, or January 1943. The view that, for example, no decision was ever taken, or that the Nazis did not undertake the systematic extermination of the Jews at all, or that very few Jews were in fact killed, lies wholly outside the limits of what is reasonable for a professional historian to argue

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in the light of the available evidence." That is not to say that nobody should or people should not be allowed to challenge these things, but simply to say that this is what you face and, of course, it is based on an enormous amount of research by a very large number of people in the archives, in the original documents, and that you have to deal with all that research and all the documents

which have been thrown up.

**Q:** So you say that people should not be necessarily prevented, they should be allowed to say these things without being harassed, arrested or imprisoned or stripped of their Professorship, but that these are generally not acceptable opinions?

**A:** There are several questions there, I think.

**Q:** Let us deal with just one.

**A:** First of all, I believe in free speech, so you can say whatever you like so long as it does not offend the laws of the land. What one does, as a university Professor, is slightly more circumscribed, that is to say, I think, as an academic historian, you have the duty to confirm to academic standards in the evaluation of evidence and in the views that you put forward, leaving entirely aside whatever people who have been dismissed from their university posts might have done by way of running against the laws of the land in terms of racist statements or whatever.

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**Q:** Let us just look at the first thing you say here: "The view that, for example, no decision was ever taken", and you consider this is one of the views that is totally beyond the limits. Are you not familiar with the fact that this is precisely the view espoused by Professor Martin Broszat in his famous 1977 paper? He said he came to agree with David Irving that probably there was no decision, and this is also the view taken by Raul Hilberg, is that not right?

**A:** If you present to me the passages in their work where they say that, it is not quite my understanding of what they say.

**Q:** Well, I believed that you were an expert and this is why you were being paid a very substantial sum by the Defence to stand in the position you are in now, that you knew these things?

**A:** Yes, and I am already, leaving aside your cheap jibe about money which I treat with the contempt it deserves ----

**Q:** It was not cheap, from what I hear.

**A:** --- and I hope the court will as well ----

**MR JUSTICE GRAY:** This is degenerating and please don't let us let it.

**MR IRVING:** My Lord, was this not a justified question?

**MR JUSTICE GRAY:** I do not really think that -- the problem I have with this is that Professor Evans has introduced a number of other authors in support of his criticisms. To

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that extent, I suppose it is legitimate for you to introduce, as it were, the other side of the coin. But I will say again, what is going to help me is to look at the individual criticisms and see whether Professor Evans is right when he says you have manipulated the data. I am not stopping you going through these earlier sections, but, without disrespect to Professor Evans, I can tell you I have not marked many of these early pages because they seem to me so broad and general that -  
---

**MR IRVING:** They are very broad and general but ----

**THE WITNESS:** They are intended, my Lord, if it helps, just to set the background.

**MR JUSTICE GRAY:** Yes, I realize that, but, in the end, it is the guts of it that we have to tackle.

**MR IRVING:** Yes, but if he is ----

**THE WITNESS:** I mean, if it helps, Mr Irving, of course I accept that your work has had many very favourable reviews from many distinguished people.

**MR IRVING:** That is not what we are talking about. That is now beyond dispute. What we are saying here is that it is wrong for you to say in your report, in the opening, scene-setting passage, that the view that no decision was ever taken is beyond the pail and no reasonable person would now say this, when, in fact, I have mentioned to you two names of very famous, notable, academic historians, Monson (sic) and Hilberg, who have adopted precisely this

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view and have not been disproved.

**A:** Well, that is my assessment of ----

**Q:** I mean Broszat and Hilberg, I am sorry.

**A:** That is my assessment of the situation of research in this field.

**Q:** At the end ----

**A:** If you wish to produce documents which go against that, you are quite welcome to do so.

**Q:** Well, I did take it, Professor, that you had studied the documents in this case which include on several places in the expert reports the precise statements by Martin Broszat and Hilberg to this effect.

Would you go to the end of this particular paragraph ----

**A:** I do, Mr Irving, outline Broszat's ----

**Q:** --- On page 25?

**A:** --- views on the decision-making process in my report, and I do note that because he thought of the decision-making process as coming from, as it were, the bottom up, that that inclined him to be sympathetic to your particular line on Hitler. So if that helps at all, I do not dispute that.

**Q:** At the end of the last line and a half on page 25, you say: "Irving has fallen so far short of the standards of scholarship customary among historians that he does not deserve to be called a historian at all". Is this still

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your view, having heard all the evidence over the last four or five weeks, that I show no scholarship ----

**A:** Yes, it has been ----

**Q:** --- I do not deserve to be called a historian?

**A:** --- reinforced by what I have read in the transcripts over the last weeks. I thought it would be helpful to the court to outline my conclusions in advance, as it were, instead of keeping the court guessing and waiting as it ploughed through my report. But, of course, it is somewhat kind of upside-down, if you see what I mean? I mean, this is, in a sense taking the conclusion in advance.

**Q:** Let us go now to page 26 where you talk about my publishing career, you say most of my books about the Nazi leaders and Nazi Germany. Are you familiar with the book I wrote on the German atomic bomb project, which was the first book ever written on that subject and which was very highly praised by Nobel prize winner like Otto Haan, Verna Eisenberg?

**A:** No, I am not. I have not read that one.

**Q:** This book was not provided to you by the Defence instructing solicitors to form your judgment on?

**A:** Let me come back to the point, Mr Irving, that you have written about 30 books, some of which are more relevant to the issues which are at the centre of this case, and others and in the time available I am sure you would agree

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I could not possibly read through them all, even with a team with two research assistants working for me. Therefore, I selected the ones which I thought were most relevant to the issues which are at the centre of this case.

**Q:** But you have allowed yourself, notwithstanding that, some pretty sweeping judgments on my credentials, have you not?

**A:** On the basis of what I read which I think is a fair selection.

**Q:** But at the end of that paragraph ----

**A:** Let me remind you, this a 740-page report. There is an enormous amount of detail in it, and it simply was not possible to go any further in the time available.

**Q:** But if you make seeping judgments about author's entire corpus as a historian over a 39-year writing career, and you say that he has not deserved the title of historian or he is not a scholarship and all the rest of it, one assumes that you are familiar with all his works, including these ones which have not been the least bit controversial and attracted the highest praise from people in positions to know?

**A:** No. I make it quite clear in the report that I am not familiar with all of your works, that I have done a selection for the reasons that I have said, but ----

**Q:** You are familiar with my book on the Hungarian uprising?

**A:** No. That seemed so far away from the issues at the centre

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of this case that it really was not one that I should have read.

**Q:** But you do pass comment on it on page 27?

**A:** Yes, in this section, Mr Irving, I am simply trying to give a brief run down of what you have written. That is all I am trying to do.

**Q:** But in the process of running me down you might also have paid attention to the book I wrote on the German Intelligence Service, the Forschungsamt, and on the German Eastern Frontiers, the history of the German Eastern Frontiers, but they appear to have escaped your attention also?

**A:** For the reasons I have said, I did not have time to read all of your books. However, as I say in the report, I am quite satisfied on the basis of what I have read that reading more would only lead to the same kind of conclusions that I have drawn from what I have read.

**Q:** You comment on page 28 at the end of the first paragraph on my website?

**A:** Yes.

**Q:** You say that it contains materials by myself or by people who are congenial to me and views that are congenial to me. Is that a fair description?

**A:** Where do I say this?

**Q:** At the end of the first paragraph on page 28: "This is constantly changing", you say, "but it includes lengthy

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documents and analyses produced or reproduced by Irving himself as well as by others whose views are congenial." In other words, what are you implying is I just have a gallery of claqueur?

**A:** No, not at all, Mr Irving. This is a section in which I am trying to outline the availability of documentation on which it is possible to base an assessment of your work.

**Q:** Are you not familiar with ----

**A:** I am saying that simply because, therefore, it is possible to take this into account. That is all I am saying there.

**Q:** Are you not familiar with the fact that if you go to my website you will find not only

documents to support my cases, such as they are, but also opposing documents fairly and prominently displayed, and that I have included links to all the hostile websites in the manner which is now part of the courtesy and etiquette of the internet?

**A:** Yes, and you include daily transcripts of this entire proceedings and indeed a copy of my own report.

**Q:** I have made it available.

**A:** But that is not the point I am trying to make here. I am simply trying to outline the fact that there is an enormous amount of material which was available to me in writing this report.

**Q:** But you are not trying to make the point ----

**A:** It is not intended as criticism. I am not night trying to

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make the point that you do not produce any others. That is not what I am arguing about.

**Q:** But the way you have written it implies that I only print or reproduce or publish materials that are congenial to me?

**A:** No, it does not. I am sorry. Let me read the sentence: "The is", it is the website I am referring to, "This is constantly changing, but it includes lengthy documents and analyses produced or reproduced by Irving himself, as well as by others whose views are congenial to him." That follows a sentence saying he has also made his views in a variety of, and so on, a frequent writer of letters to newspapers, all these books, that is all I am trying to say.

**Q:** Where do you say in that paragraph that I also include the views of those which are diametrically opposed to me?

**A:** It is not relevant to what I am saying there. What I am saying there is that there is a lot of material on which to base an assessment of your work. All I am saying there is that your website is part of the basis on which it is possible to assess your work.

**Q:** You appreciate that running a website costs a lot of money. Is there any reason why I should put material which is opposed to my viewpoint unless I was scrupulously fair in everything I do in public life? In other words, the exact opposite of what you described earlier in your

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report as being unscrupulous and manipulative and deceptive?

**MR JUSTICE GRAY:** Can I put it this way, so we can perhaps move on. Would you agree that it is credible that Mr Irving puts on his Internet website material which is opposed to him, such as your report?

**A:** Yes, of course. Obviously it is in the interests of getting more users for the website to give to do that kind of thing. I do not dispute that at all. I am not criticising you at all.

**MR IRVING:** Moving on now to qualifications which is 2.2.1. You quite rightly say that in all the examinations I took at school history was the only subject I flunked?

**A:** I do say that.

**Q:** Is that one of your lighter remarks rather in the vein of the thing in the pornographic section?

**A:** Yes. I just thought it was a nice quote.

**Q:** In fact you have four 'A' levels and I have nine. So how does this shape itself?

**A:** I do not know how many years. Did you do them all at once?

**Q:** I kept on plugging away. If we now continue to where, looking at whether you have to be an historian to be an historian, so to speak?

**A:** Yes.

**Q:** In your view, do you have to be an academic historian? Do

you have to have degrees to be able to write history?

**A:** No. I say so here that this is not, I think, a particularly strong powerful criticism. The work has to be assessed on its merits. There are, as I say, any number of ----

**Q:** Very reputable historians?

**A:** -- Reputable historians who do not have formal academic qualifications.

**Q:** People like Walter Laqueur?

**A:** Or Tony Fraser, many people. We are all agreed on that.

**MR JUSTICE GRAY:** We are all agreed about this, so we can pass on.

**MR IRVING:** My Lord, the point I am making is that paragraph 2.2.2 in the second line, having made that point and very generously saying there is a good deal to say for this argument, he then goes on to say: "As he suggests in the above passage, he has no academic as an historian".

**A:** Then I go on to say in the next sentence: "Although these are serious initial disadvantages for becoming a professional historian, there are plenty of examples of reputable and successful historians whose lack of formal academic qualifications is as striking as Irving's." So I am agreeing with you.

**Q:** Sometimes your bias does come through, does it not? If you go to the first line of the next paragraph, 2.3.2: "Irving tells anyone willing to listen that he is an

expert historian". That is a bit of a sneer there, is it not?

**A:** I would be happy to withdraw that if you think it is a sneer. It is nothing to do with your academic qualifications.

**Q:** When we are talking of withdrawing things, later on, on line 4 of that paragraph, you have withdrawn quite a lot, have not, where you put the three dots?

**A:** Let me have a look.

**Q:** Can you have a look, please, at the 1977 edition of my book Hitler's War? Do you have it, my Lord?

**MR JUSTICE GRAY:** Yes, I have it.

**MR IRVING:** Line 4. We will see exactly what you have left out.

**A:** I do not think I have it here.

**MR JUSTICE GRAY:** It can be provided. It is the introduction.

**MR IRVING:** Page xii.

**A:** I do not have xii here.

**MR JUSTICE GRAY:** There is a bundle which does not have the introduction. Can you find one which does.

**A:** It has the introduction.

**Q:** That is where it is, xii.

**A:** Yes. There are different editions of this book, my Lord. I think that is the problem.

**MR JUSTICE GRAY:** Yes, but you have the 1977 edition?

**A:** Yes, I have it.

**MR IRVING:** I am terribly sorry, we are looking at the wrong thing. It is footnote five we should be looking at and it is the speech in Victoria.

**A:** Yes.

**Q:** I am terribly sorry.

**MR JUSTICE GRAY:** Start again.

**MR IRVING:** I have written in the margin "Pure Gold" so I think it is going to be worth looking at. I have said: "What is omitted? Pure gold, read it out". This is a speech, is it not, that I made in Victoria on October 28th 1992 on the subject of freedom of speech, having been just awarded the George Orwell Freedom of Speech prize and shortly before I was taken off by eight Mounted Policemen in handcuffs.

**MR JUSTICE GRAY:** Can the Defendants side produce a reference for this?

**MR RAMPTON:** I am just trying.

**MR JUSTICE GRAY:** That is very kind.

**MR RAMPTON:** H1 (i), tab blank, page 29.

**MR IRVING:** You have made two omissions, have you not?

**A:** Can you point me to the page?

**MR JUSTICE GRAY:** Page 29, yellow tab.

**A:** Which is the page on which this statement occurs? .

**MR IRVING:** I am sorry, my Lord. I should have come better prepared with the actual missing passages available.

**MR JUSTICE GRAY:** It is unusual that you are not.

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**MR IRVING:** Would it be helpful if I passed on to the next one?

**MR JUSTICE GRAY:** I was going to suggest that. They have found it.

**MR RAMPTON:** Page 31, my Lord, third paragraph at the bottom of the page.

**MR JUSTICE GRAY:** Thank you very much. Page 31 in the stamp at the bottom of the page.

**A:** Yes.

**MR IRVING:** It begins, does it not, "I have spent 30 years now working in the archives in London, in Washington and Moscow, in short around the world. If I express an opinion, it is properly a reasonably accurate opinion which I have arrived at over a period of years", and then you have left something out. Can you tell us what has been left out?

**A:** Yes. Without fear or favour to either side and certainly not as a result of being bribed or corrupted or intimidated.

**Q:** "In researching Hitler" does it then continue?

**A:** No.

**MR JUSTICE GRAY:** No.

**MR RAMPTON:** That is a confusion. The "researching Hitler" bit is a different footnote. It is footnote 6.

**MR JUSTICE GRAY:** I realise that, because it comes after the little (v). That is obviously right, Mr Irving.

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**MR IRVING:** Now we are back to Hitler's War again.

**A:** I omitted that because I do not think you have been bribed or corrupted or intimidated.

**MR RAMPTON:** I am waiting for my bag of pure gold. I do not understand.

**MR IRVING:** Gold with a capital G I think is going to come now beyond (ii) of the 1977

Hitler's war. In fact, you are going to dislike me over this because, although the footnote says it is the 1977 edition, my Lord ----

**A:** It might be 1991.

**Q:** It is the 1991 edition and it is pages 6 to 7.

**A:** It is in fact I think 7 to 8, not 6 to 7, so you are wrong there too.

**MR JUSTICE GRAY:** Come on.

**MR IRVING:** Can we begin with the middle? "For the few autobiographical works I have used, I prefer to rely on the original manuscripts rather than the printed texts as in the early postwar years apprehensive publishers, especially the licensed ones in Germany, made drastic changes in them", and then you have left out a bit?

**A:** Yes. For example, there is a lot of detail there which is not really of any concern to me.

**Q:** Then you continue "But historians".

**A:** Yes.

**Q:** What you are saying is that everything you left out is a lot of detail which is not of concern to you?

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**A:** Mr Irving, to borrow your own phrase, I did not want to fill my report with acres of sludge.

**Q:** Although it provides verisimilitude to the allegation?

**A:** I am not disputing it here. I am trying to present your own point of view here as succinctly as I can.

**Q:** Did your Lordship identify the passage left out?

**MR JUSTICE GRAY:** Yes I did. It is the sort of point you need not labour. I understand what the point is.

**A:** If it helps, I quite accept that you have identified the forgeries and falsifications. I am not disputing that at all.

**Q:** Is it not so that on these two pages, pages 30 to 31 of your expert report, you rather pour cold water, cold douche, on the idea that I have succeeded in spotting source document after source document, particularly in the form of diaries or alleged diaries which turn out to have been phoney or prettified up?

**A:** Where do I do that?

**Q:** In paragraph 233, and I will read it out while you are going back to it. "(Irving) listed a whole variety of diaries and other sources on which he claimed -- without any references to back his assertion up, however -- previous historians had relied ...." Now of course you see the point why I am irritated that you left out the detail I had put in which you chopped out, because you said it did not concern you.

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**A:** I am not disputing this at all. What I am really writing about here is your claim that other historians, reading on in the paragraph, your "idle predecessors" had failed to detect them each successive biographer has repeated or engrossed the legends, historians have never troubled to consult basic documentation, and so on. That is what the issue is here. I am not disputing at all that you have identified ----

**Q:** There are numbers of diaries floating around which are still broadly quoted by the great historians, even somebody as reputable as Andreas Hilgruber has relied on the Engel diary for

example?

**A:** I thought you did not read the work of other historians, Mr Irving.

**Q:** I am very familiar with what Andreas Hilgruber has written in the criticisms of his work in this respect.

**A:** So you do read other historians.

**MR JUSTICE GRAY:** Professor Evans, may I make a suggestion because we are going to be here a very, very long time. It is really is best not to argue, as it were. It is tempting, I know.

**A:** My Lord, the point I am trying to make in this passage is not that Mr Irving has not discovered falsifications and forgeries. I accept that absolutely. The point I am trying to make here is that, without any references or support, in any references to documents or other

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historians' work, he is levelling unjust accusations at other historians. That is the nub of this paragraph.

**Q:** You go on to then criticise him for not bothering to visit so and so.

**A:** I am sorry, my Lord, no, I do not. I am saying that he has accused other historians of not bothering to visit.

**MR JUSTICE GRAY:** You are right to correct me.

**MR IRVING:** Was that criticism by me justified that other historians failed to visit these people?

**A:** You have not provided any documentation of this allegation.

**Q:** Well, do I not in the introduction to my book Hitler's War draw specific reference to the widow of Walter Havel, the widow of Anst von Bisecker, who was the mother of the later president of Germany, who all provided their private papers and diaries to me of their late husbands?

**A:** I do not dispute that they have provided you with material, Mr Irving. I am not disputing that at all.

**Q:** These are specific examples of widows who had not been visited by these lazy German historians. I am not inventing this, am I?

**A:** But you have not provided any support of the accusation that later historians have repeated or engrossed the legends created by their predecessors and so on and so forth.

**Q:** Let me put it in question form. If German historians have

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existed from 1945 to approximately 1970, 25 years without visiting the widows of these well-known Germans, who might very well have the private diaries of their late departed husbands, is this not laziness on the part of the entire body of German historians, academics or otherwise, not to have made such visits to these people?

**A:** No, I do not accept that. Historians are constantly discovering new sources. There are many historians who have discovered sources that you have not discovered, but I would never accuse you of being lazy.

**Q:** Is it not remarkable that not one single German historian had visited the widow of Ribbentrop's state secretary to ask, do you have your husband's diaries in 25 years?

**A:** The normal procedure with papers and files is that archivists approach people whom they think might have them and that is what is normally done. That has of course taken place.

**Q:** In this case clearly they had not. The Institut fur Zeitgeschichte had not bothered to visit them. The Bundesarchives had not bothered to visit them?

**A:** However the Institut fur Zeitgeschichte had a great number of former leading Nazis in to give

interviews, collected a great deal of material, so it is very difficult to criticise them, particularly since you have described them in your own work as being an admirable institution.

**Q:** Commendable, yes. Would you go to the next paragraph,

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please, which is paragraph 2.3.4? I am trying to make forward progress. On line 3 you criticise the fact that I constantly say the German historians have just quoted each other and it is the biggest active incest since 1945, I have occasionally said, they just run around quoting each other.

**A:** Yes.

**Q:** Each one assuming that the other one had the source.

**A:** Yes.

**Q:** You have said, give me one example or justify this have you not, in that paragraph?

**A:** Yes.

**Q:** You were not here two or three days ago when we read one page from the history published by Michael Berenbaum. Do you know who Michael Berenbaum is?

**A:** Yes, I do.

**Q:** The ex director of the US Holocaust memorial museum. Do you know who Professor Aberhard Jackeln is?

**A:** Yes, indeed I do.

**Q:** Are you aware that Aberhard Jackeln wrote a paper in a book recently published by Berenbaum in which he looks at the historiography of the Holocaust?

**A:** I am not familiar with that one, no.

**Q:** If I tell you that that paper contains -- I know what your answer is going to be -- a statement by Aberhard Jackeln that, until my book Hitler's War was published,

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historians had just quoted each other, or they had not bothered to do the research, they had only started researching once my book was published with my outrageous opinions, as he calls them, does that not justify my statement that until that time, 1977, there had been no independent research?

**A:** Well, first of all, I would have to see that statement by Jackeln to make sure that it says what you say it says and, secondly, then I would have to check it to see if he justifies it by reference to the work of other historians.

**Q:** If, since 1955, approximately, the American National Archives in Washington had on microfilm available freely in the public domain microfilm copies of all Heinrich Himmler's papers, and all his handwritten telephone notes and all his handwritten diaries so far as they were in United States hands, is it not to be criticised that not one single German historian or scholar or any other historian or scholar had made any use of them until I came along and used them?

**A:** There are two points there. First of all, it depends on what historians actually are researching as to what sources they consult. Secondly, of course, it depends on the use they make of them. Trying to cut this discussion short, I do not dispute that you have been the first person to read and discover many documents. I am not disputing that at all. What I am disputing is the fact

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that you criticise other historians for relying on weak and unprofessional evidence, and quoting

each other for the last 45 years, without providing any substantiation of those statements whatsoever.

**Q:** Professor, I agree with you, but is it not true that at the time I wrote *Hitler's War* in 1977, this was a perfectly justified criticism to make, and that nobody had done the research until I came along?

**A:** Research on what, Mr Irving?

**Q:** Heinrich Himmler's handwritten telephone notes, for example. We have 300 pages of Heinrich Himmler's handwritten telephone notes; you would imagine that one historian would have bothered to transcribe them.

**A:** Yes, but you state in 1991 that conventional historians of the Jewish Holocaust have not consulted the Himmler telephone notes and pocket diaries, and historians have certainly used them between 1977 and 1991.

**Q:** By that time they had come along and started using them, that is correct, but I published the original introduction with an addendum. But, in the light of what we have been saying in the last 20 minutes, is not your judgment that I do not deserve the title of historian and do not deserve the title of scholar rather harsh and unjustified? Would you be prepared to reconsider that opinion now?

**A:** I think it is harsh, but I do not think it is unjustified. It is not a question of what you discover or

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what you bring to light, it is a question of what you do with the material that you have got.

**Q:** If what I did with it was make available my transcripts of the Himmler telephone notes immediately to all other historians by placing them in the archives in Munich, is that reprehensible?

**A:** No, it is thoroughly commendable but that is not what I mean. What I mean is what you do with it in the way that you interpret it, which we still have not got on to.

**Q:** But, if I deliberately and duplicitously misinterpret or distort a document and simultaneously place the document in the public domain in easily legible form, it is rather self-defeating because then all the good historians and all the scholars, as they call themselves, will come along and point out the fact that I have been duplicitous. Is that not so?

**A:** Ultimately yes, but, as I have said, it does require a considerable research effort to do this.

**Q:** That presupposes that I have done it deliberately, that duplicity is deliberate, does it not?

**A:** Yes indeed.

**Q:** If the duplicity is there but has been inadvertent, then that is precisely what an inadvertent duplicitous deceiver would do. He would put stuff in the public domain without realising that he had inadvertently mistranslated something or distorted something. That would be the

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innocent interpretation to be placed on that kind of activity, would it not?

**A:** That is so convoluted that I find it very difficult to follow.

**MR JUSTICE GRAY:** It is really quite straightforward.

**MR IRVING:** The genuine deceiver would not simultaneously place the clue to his deceit in the public domain, would he?

**A:** Ah well, let me make two points there. One is that in the end you are not going to be able to keep them out of the public domain. That is going to be very difficult and, of course, a number of the documents which you misinterpret and manipulate are in the public domain anyway.

**Q:** Do you say that I misinterpreted and distorted them deliberately? Is this your contention?

**A:** Yes, that my contention. You know there is a difference between, as it were, negligence, which is random in its effect, i.e. if you are simply a sloppy or bad historian, the mistakes you make will be all over the place. They will not actually support any particular point of view.

**Q:** Like the example I gave of the waiter who always gives wrong change but only in his favour. That is not random?

**A:** Yes. The waiter sometimes gives too much change. That is random.

**Q:** I have never yet met a waiter who has given me too much change.

**A:** On the other hand, if all the mistakes are in the same

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direction in the support of a particular thesis, then I do not think that is mere negligence. I think that is a deliberate manipulation and deception. Let me give a parallel.

**Q:** A short parallel, please.

**A:** All right, a short parallel.

**MR JUSTICE GRAY:** No, as long as you like. We are now on something which is central and important.

**A:** Thank you. I refer to this in my report. There was a very bitter controversy nearly 20 years ago now over a young Marxist historian in America called David Abraham, who wrote a book about the support of industrialists and agricultural pressure groups for the Nazis in the late Weimar Republic and he was accused of massive falsification and manipulation of the source material. And in his reply he admitted that his German had been bad, he had researched very quickly and he had made a lot of mistakes but he claimed that it had been simple incompetence and mere negligence and that his mistakes counted in many cases against him. Then indeed he was able to show one or two instances of this, but his critics I think succeeded in showing that the general tendency of his mistakes was to exaggerate the support that industrialists gave to the coming of a Nazi government. Therefore, I think quite rightly, they were able to, as it were, convict him of manipulating the evidence. So I

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think there is a distinction to be made there that is really quite a clear one.

**MR IRVING:** That is a fair example to give and I am sure his Lordship was quite right to allow you to develop it at length. Did this Abraham simultaneously donate his entire research materials to a public domain archive where all his critics could immediately catch him out?

**A:** They were already in archives, most of which had wide access.

**Q:** That is how he was caught out?

**A:** Indeed, yes.

**Q:** Would it make sense for somebody who had limited and privileged access to papers by virtue of having read Heinrich Himmler's very difficult handwriting, for example, simultaneously to make records available to his potential critics if he was going to act in a deliberately deceitful way?

**A:** Let me say there is a number of instances where I think that you have made it very difficult, deliberately difficult, for other researchers to track down the sources of what you say.

**Q:** I would like one example, please?

**A:** One example is the testimony of Police Officer Hoffmann in the 1924 Hitler trial, where you simply refer to microfilm transcripts. Another one would be in your references to Ingrid Wecker to source some of your views on the

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Reichskristallnacht. There are others which I detail in the report which do make it very time consuming and very difficult to track down.

**Q:** Obviously I cannot answer your points here because I cannot lead evidence, but will you take it, Professor, that we have dealt with, not the Wecker matter, but we have dealt with the microfilm matter quite extensively under cross-examination. I am sure his Lordship will look that up in due course. On the microfilm of the Hitler treason trial in 1924, my Lord, we dealt with that. I can remind your Lordship that Professor Evans was using the printed edition of the trial and I was using the original three microfilms of the 8,000 pages or so of the transcripts.

**MR JUSTICE GRAY:** I am afraid I do not have that, to be honest, in my mind at the moment.

**A:** The printed edition is a complete edition of the microfilm.

**MR IRVING:** The printed edition appeared, did it not, several years after the microfilms did?

**A:** Oh, yes.

**Q:** Relatively recently.

**A:** You could have been more precise in your references.

**Q:** Am I not right in saying the printed edition appeared several years after my Hermann Goring biography was published and so I could not possibly have referenced it

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from the printed edition?

**A:** I am not saying you should have referenced the printed edition. I am simply saying first of all the printed edition is the same as the microfilm edition because you disputed that in cross-examination, and secondly I am saying that you made it difficult to consult your source, which is the microfilm edition, because you did not give any precise reference.

**Q:** Have you looked at the microfilms of that treason trial?

**A:** No I have not. I have seen the printed edition.

**Q:** Are you familiar with whether they have frame numbers or not?

**A:** You do not give the frame numbers.

**Q:** No, but would you accept that, if they do not have frame numbers then you cannot give frame number references?

**A:** If that is the case, yes, but you can of course be helpful to the reader by pointing to roughly where it comes.

**MR JUSTICE GRAY:** Are you putting, Mr Irving, that these microfiche did not have frame reference numbers?

**MR IRVING:** I had to leave it exactly the way I said it my Lord.

**MR JUSTICE GRAY:** What is the answer to my question?

**MR IRVING:** I put to the witness the possibility that it had no frame numbers in which case I would not have been able to quote them.

**MR JUSTICE GRAY:** I am asking you a question though and I think

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I am entitled to because I want to know how you are putting your case. Are you making it an allegation which is part of your case that these particular microfiche did not have frame numbers, so that that was the reason why you could not accurately refer?

**MR IRVING:** To be perfectly frank, my Lord, it is 12 years since I wrote the book and I cannot remember. But that would be one logical reason why I did not give frame numbers where

normally I do give frame numbers, as your Lordship is aware.

**A:** But you did not provide the dates, did you, for when the testimony was given, for example, which would be helpful to the reader?

**MR IRVING:** That again I cannot tell you without looking at the book. Would you go to page 32, please, paragraph 2.3.6? You have been very harsh about just about every other Hitler historian have you not? Every Hitler biography, you do not find words of praise for any of them?

**A:** Not a lot, no.

**Q:** Joachim Fest is overblown and over-praised?

**A:** This is not "every other" of course. There have been scores, hundreds, of Hitler biographies.

**Q:** These are the major ones.

**A:** These are the leading ones, that is right, yes.

**Q:** These are the main ones. You describe Joachim Fest, his book as being overblown and overpraised?

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**A:** Yes.

**Q:** You describe John Toland's work as hopelessly inaccurate. You are relatively kind about Alan Bullock, which is, I suppose, you call his book "for the time very credible" which is a kind of back handed complement, is it not?

**A:** It was written about five years after the war, I think, immediately after the war.

**Q:** You do not have nice words to say about anybody really, apart from Ian Kershaw on the next page.

**A:** That is true.

**Q:** Now that you know that he wrote to us, apologising that his knowledge of German was very limited ----

**A:** I do not know that, Mr Irving, because I have not seen the document that you are referring to.

**Q:** If I tell you that he wrote us a letter apologising that he could not give evidence for this case because his knowledge of German was too limited, would you accept ----

**A:** No, I will not. I will have to see the letter before I accept it.

**Q:** If anybody wrote a letter saying that his knowledge of German was very limited, would you say that he could not have a thorough knowledge of the archival material which is what you say in lines 2 and 3?

**MR RAMPTON:** I do think in this particular instance, most of time I have not intervened because I know that Mr Irving is not a professional advocate and he gives evidence all

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the time while he is cross-examining, which I would never be allowed to do, without producing material. In this case I would like to see the letter if it is to be relied upon.

**MR IRVING:** We will produce the letter. There is no problem about that, my Lord.

**MR JUSTICE GRAY:** I think it is a fair request so perhaps tomorrow morning you can do that.

**MR IRVING:** Certainly. If Mr Rampton has any criticisms to make of the way that I am cross-examining, I am sure that your Lordship would not object to him raising his objections at the time.

**MR JUSTICE GRAY:** If and when he does, then I will deal with it and in the meantime I am trying, as I have said many times, to make allowance for the fact that you are not as familiar as some of us are with the rules.

**MR IRVING:** I am also trying not to lead evidence. I have tried to restrict it to asking questions in difficult circumstances.

When you say in the fifth line of that page 33 that there are hundreds of historians, so that you rather imply that my criticism is a bit overreaching, that I imply that I am the only one with a thorough knowledge, and of course there are hundreds of historians, would you accept that that applies to the situation now at the end of the 20th century, the beginning of the 21st century,

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rather than back in the 1970s when there were relatively few who had this knowledge of the archives. Is that correct?

**A:** Well, the point I am making there is that, to quote the previous sentence, that simply to concentrate on biographies of Hitler is to deliver a completely misleading account of the state of research in the field in which you work. As I say, somewhere in the report, I think research in the archival material really began in a serious way in the 1960s and the 1970s, but of course we are concerned here not just with the 1977 edition of your book but also with the 1991 edition of your book, in which you make the same sweeping condemnations of professional historians as you did in 1977. If you think that the situation has change in the intervening period, then I think you should have said so.

**Q:** I draw attention, witness, purely to the fact that you are talking about there are hundreds, and that this report is written now of course and not in the 1970s, and would you in the 1970s or 1960s have said there are hundreds of historians who were equally capable? Would you have written that sentence back at the time that I wrote these books?

**A:** In the 60s I would probably have said scores, by the 70s probably hundreds. If you take the Institut fur Zeitgeschichte in Munich alone, they have a very

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substantial staff, and there are many other institutes, the Institute of Contemporary History in London, Yad Vashim and many other institutes which were around in the 1970s which did employ professional historians who did archival work on Germany in the second world war.

**Q:** Witness, what is your opinion of the Nuremberg records, the printed Nuremberg volumes, the blue series and the American dream series, the Nazi conspiracy and aggression, would you consider them to be a source that you would recommend to students to use as source books?

**A:** Yes. You use them yourself.

**Q:** In what respect do you suggest that I use them myself? Do I use them as a reference to go to, to check up on something, or do I use them as the basic quarry in which I mine for the original sources on which to write books?

**A:** You use them in your work. You use them in this proceedings.

**Q:** Are you not familiar with these strictures that I place on the use of the transcripts of the Nuremberg trials? Are you not familiar with the fact that I allege that there are discrepancies?

**A:** Would you give me an example?

**Q:** I can only ask you questions.

**MR JUSTICE GRAY:** No. Do not feel inhibited to that sort of question.

**MR IRVING:** I will give an example in this direction, but first

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of all I will ask a question, if I may. Witness, have you ever listened to the wire or tape

recordings of the proceedings at Nuremberg and compared them with the blue volumes, the printed text?

**A:** No, I have not.

**Q:** Now I will answer your question. I have done precisely that for one entire day and compared the blue volumes with the testimony given by a man whose biography I wrote, Field Marshal Milsch, and that was sufficient to put me off those transcripts for life.

**A:** Well, first of all, I think I would like to see an accurate transcript and the inaccurate transcript, and secondly, Mr Irving, you have just criticised me for making sweeping statements about your work on the basis of reading a selection of it, and here you are, having read one day's transcript of the Nuremberg trials, and condemning the lot.

**Q:** Yes, if you find one source is polluted, would you not tend to go to a different well spring and drink from somewhere else, put it like that? You would not just say, well, just this one cupful of water had the strichnine in it but the rest is probably OK? Would you put it like that?

**A:** I do not think that is a very happy comparison.

**Q:** Are you familiar with the bound volumes, the American printed volumes, of the documents that were used at

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Nuremberg?

**A:** Yes.

**Q:** Have you noticed one distinguishing feature about the selection of documents that is made? Would I be right in saying that the documents that are printed are purely the documents used for the prosecution and that not one single Defence document has been printed in those 46 volumes?

**A:** I think that is right, yes.

**Q:** You think that is right?

**A:** Yes.

**Q:** Does this suggest to you that this might possibly lead to a skewed or distorted version of history if one was to write history relying extensively or partly or to any significant extent on a corpus of evidence where only the prosecution case was in print and the Defence case was not represented at all?

**A:** No.

**Q:** As far as exhibits are concerned?

**A:** I think you are quite right in saying, if you relied on the Nuremberg documents exclusively, and you did read anything else, then of course that would be very unsatisfactory.

**Q:** I refer you back to your paragraph 2.3.7 where you refer admonishingly (if the word exists) to the major documentary collections that have been generally available to historians for decades, tons of captured German

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documents to prepare their indictments in the Nuremberg trials and many of these were printed in the published record of the trials. You do not mention the fact that the only ones printed are the prosecution documents, do you?

**A:** The point I am trying to make, Mr Irving, in this paragraph, is simply that there was an enormous amount of material available for studying the Third Reich and its policies in the Second World War. That is all I am trying to make. I am not making any statements about how reliable any of these documentary recollections might be.

**Q:** Yes, but just on the basis of the last two or three minutes of cross-examination, it does appear

that I have applied a more critical mind to these document collections than you have, and you are the scholar and I am the amateur. You are the gentleman and I am the player.

**A:** That may appear to you. It certainly does not appear to me. It is very, very general. It is a very general paragraph, vast new masses of documents, both official and private in provenance have become available, widely available to scholars. This is not an area of history like the 5th century when historians had to make do with sparse and obscure source material. I am simply trying to make the point to help the court reach an assessment of this case, that this is an area where there is an enormous mass of material available. That is all I am trying to

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say. You know, I am trying to say it as briefly as I can, to keep the report short. I do not then want to go into a great long disposition about how much is reliable and how much is not.

**Q:** You are saying that this paragraph is waffle, really, is it not?

**MR JUSTICE GRAY:** I think we have spent enough time on this paragraph, Mr Irving, I am going to say just this as well. I have some sympathy with you because, after all, these first 70 to 100 pages are there, and they contain material which I fully understand you regard as offensive. I am not saying you are right to regard them as being offensive, and that is why you are going through them, but in the end the bit that matters starts about page 106.

**MR IRVING:** The detailed criticisms?

**MR IRVING:** You are absolutely right, my Lord, but I would regard this part of the cross-examination as going to the credibility of the witness.

**MR JUSTICE GRAY:** Yes. Well, in parts I think it has, and again I cannot absolutely stop you.

**MR IRVING:** My Lord, you can stop me at any time.

**MR JUSTICE GRAY:** I can. What I mean is that I am not going to stop you because I think some at any rate of these questions based on these passages are probably legitimate. If I give you another hint, and it is only a

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hint at this stage, that I am not really finding this of any particular value to the task I have to perform, then perhaps you would pass on through it a bit more rapidly.

**A:** Perhaps I can help too?

**MR JUSTICE GRAY:** Well ----

**A:** At least one of the questions which Mr Irving has asked is already dealt with in my responses to his written questions, so we are going ----

**MR JUSTICE GRAY:** He has not had a chance to look at those.

**A:** I know. I think that is the problem.

**MR IRVING:** At the risk of testing your Lordship's patience, still on page 33, three lines from the bottom: "This is not an area of history like the 5th Century when historians have to make do with sparse and obscure resource material to reconstruct what happened."

Is this not precisely what we have been struggling to do for the last five weeks in this courtroom?

**A:** No, I do not think so.

**Q:** We have been struggling to reconstruct what happened not on the Eastern Front where we agree the documentation is there, but what happened, for example, to the Jews from Europe?

**MR RAMPTON:** My Lord, I must intervene again. I think Mr Irving really has a misconception about what this case is about. We have not been struggling to reconstruct that

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at all. What we have been struggling to reconstruct is Mr Irving's state of mind.

**MR JUSTICE GRAY:** That true is, but is he not entitled to make the point to Professor Evans that one of the problems all historians have dealing, for example, with the issue of Hitler's knowledge of a genocidal gas extermination programme, that actually the documentary, leave aside the other material, is very sparse?

**MR RAMPTON:** That is a perfectly fair point, but I do believe Mr Irving is -- that is a completely fair point and that is what the question I think started out as being ---

**MR JUSTICE GRAY:** I think it did, yes.

**MR RAMPTON:** But it turned into what I have repeatedly perceived to be a misconception of what this case is about. This is not some historical tribunal of enquiry.

**MR JUSTICE GRAY:** No. I think that does need to be said quite often, I agree.

**MR RAMPTON:** It does.

**MR IRVING:** It should not be a tribunal of historical enquiry, my Lord. On November 4th I did plead with your Lordship not to allow it to become an enquiry into what happened, because my submission was that this was not what that case was about.

**MR JUSTICE GRAY:** I think everybody is agreed about that.

**MR IRVING:** I think that now Mr Rampton realizes that particular bear skin has floated away down the river, he

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is now trying to get back on to the other track again.

**MR JUSTICE GRAY:** I am sure I follow what is meant by that.

**MR IRVING:** I translated the German.

**MR JUSTICE GRAY:** What, bear skins in German?

**MR IRVING:** Yes.

**MR RAMPTON:** Yes, but I still do not understand it.

**MR JUSTICE GRAY:** We will not struggle to. We will get on. Next question.

**MR IRVING:** I only have two more points to make, my Lord, in that case. This is at the foot of page 35, near the foot of it, paragraph 2.4.1. You are talking about evidence given after the event in the form of testimony in a public trial is relatively sound. Unless Mr Rampton has an objection, this is again quite a key issue.

**MR JUSTICE GRAY:** That is a perfectly fair point.

**MR IRVING:** Do you maintain, therefore, that what is stated in any tribunal, regardless of how long after the war, is sound?

**A:** No. I have put the word "relatively" in there, and then of course I add, well, two sentences either side of that. The first is, the greater in distance the time of events to which they relate the more critically they must be examined, I think that is true.

**Q:** This is a secondary source, is it not?

**A:** I mean sources after the event, sources which are produced afterwards and rely on memory or the work of other

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historians, and secondly that this court testimony must of course be assessed by an historian as to the purpose or purposes with which it was given. I am saying you have to regard it with caution.

**Q:** Yes.

**A:** As you do all material. It is, of course, the greater in distance in time the events the more critically one has to look.

**Q:** I am only going to deal with this very briefly, my Lord, and this is the question: Do you ever apply your mind, witness, to the question of what pressures of a psychological nature or other nature may have been applied to a witness to make statements on which you have relied?

**A:** I think you try to put your mind inside the mind of the person giving the evidence, and you ask yourself what interest they would have in saying one thing or another. So, prima facie, it would seem obvious that a former Nazi who was deeply implicated in the crimes of Nazism would have an interest in trying to exculpate himself in giving evidence. In terms of what pressures were put on somebody, then I think you have to look for evidence of pressures.

**Q:** Can I stop you there. You say a former Nazi might try to exculpate himself. Would there be a temptation in a Fuhrer state to exculpate himself by saying that he was acting on higher orders, regardless of whether or not it

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was true?

**A:** We are talking about a different period now. We are talking about during the Third Reich?

**Q:** Yes, that is what we are interested in here.

**MR JUSTICE GRAY:** No, I think trials after the war of Nazi Generals.

**MR IRVING:** Trials after the war, but suppose a General or an SS Obergruppenfuhrer like Karl Wolf or someone like that put on trial, would there be a temptation, hypothetically, for him to say: "Well, I did not do this on my own initiative. I was told it was the Fuhrer's orders", just for an example? Would there be a temptation do you think?

**A:** No, I think that would be difficult, because the classic defence "I was only obeying orders" has not been one that has been widely accepted by courts.

**Q:** But it was specifically excluded at Nuremberg, was it not? It was in the permitted at Nuremberg, the high orders defence?

**A:** Yes.

**Q:** What about in the German courts, was it permitted?

**A:** Let us take the Frankfurt Auschwitz trials of 1963 to 4, and there was a very extensive affidavit there by historians which tried to sketch out the possibilities there were for evading orders, and indeed historians and law courts have always been exercised by the problems posed by that particular defence. On the whole I do not

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think it is one that would recommend itself to people. It is far better to say that you did not know about it than simply, yes, you did know but you were only obeying orders.

**Q:** How reliable would human memory be after 20 years, do you think?

**A:** I am not a psychologist. I think that one has to be one has to be sceptical and critical about what people say, but you cannot dismiss it out of hand. Many of the interviews which you conducted 20 or 30 years after the events involved, I think that one has to be very critical and very sceptical about what these people are saying and ask why they were saying it and what interest they had in taking the line they were taking. But that does not mean one dismisses it out of hand. You go through the normal historical procedures of comparing what they say with the documentation that is available, preferable contemporary documentation.

**Q:** My Lord, I have now reached the end of my prepared questions. I had prepared to ask further questions today but that was on the area you were not going to allow.

**MR JUSTICE GRAY:** Yes, that was on bundle E?

**MR IRVING:** On bundle E, yes.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** You have promised me additional time for dealing with Professor Evans.

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**MR JUSTICE GRAY:** Yes. I am not going to compel you to carry on if you have run out of questions.

**MR IRVING:** I have questions prepared here but not in a form that would be useful to the court.

**MR JUSTICE GRAY:** Yes. I think I have probably removed a couple of hours by saying that you should deal with bundle E later.

**MR IRVING:** By way of submission.

**MR JUSTICE GRAY:** I would not say I have removed. I have postponed the two hours it will probably take. So I am not critical by of you for having run out, but you have run out. There is nothing you want to deal with now? I cannot immediately think of anything. Mr Rampton, can you?

**MR RAMPTON:** I cannot. I think it would be unsatisfactory for a number of reasons for Mr Irving to go back into the witness box ----

**MR JUSTICE GRAY:** I think it would.

**MR RAMPTON:** --- for further cross-examination.

**MR IRVING:** I would be quite happy to go back into the witness box.

**MR RAMPTON:** No. I was going to offer to cross-examine him tomorrow, but your Lordship said, no, that is not a good idea.

**MR JUSTICE GRAY:** I think it is even less a good idea now.

**MR RAMPTON:** So do I. All I can suggest is that we go away and

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prepare, is it Dr Fox tomorrow?

**MR IRVING:** He is coming tomorrow morning.

**MR RAMPTON:** He will not be very long.

**MR IRVING:** Because he will not be allowed to adumbrate on the matters that he was going to I think.

**MR RAMPTON:** That is a matter for his Lordship, but if he strays much beyond what is in his written statement then I shall have something to say.

**MR JUSTICE GRAY:** I have not yet re-read his statement.

**MR RAMPTON:** It is quite a long statement. It is somewhat representative, but it is quite long. Normally speaking nowadays, judge alone particularly, the witness statement stands as the evidence and if I do not cross-examine the witness goes away again.

**MR JUSTICE GRAY:** Yes. I have not played it quite in that way.

**MR RAMPTON:** There is flexibility.

**MR IRVING:** As he is an expert on the police decodes, he is one of the world's leading experts on that, I had intended asking him questions about those, but if Mr Rampton objects ----

**MR RAMPTON:** I would need to know what he was going to say.

**MR JUSTICE GRAY:** Do you want to thrash this out? If he maybe not going to be able to give any admissible evidence, it is better that he does not have to come all the way here. Do you want to have an argument about it now?

**MR RAMPTON:** No. I have nothing to say about what evidence he

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might give about decodes because it is not in his witness statement. If he is going to give evidence about the decrypts, I must have a witness statement in advance and he had better not come tomorrow at all.

**MR JUSTICE GRAY:** Technically that is right. What is he going to say, do you hope?

**MR IRVING:** I was going to question him as an expert on the Bletchley Park operations and the extent of the decodes, and what one could have expected, what he has seen in the decodes, the work he has done on them. He has spent six months of his life reading right through them.

**MR RAMPTON:** I think in all the circumstances I do need to have prior notice of that.

**MR JUSTICE GRAY:** Can we just focus to see quite what the issue is going to be? The evidence so far is, and correct me if I am wrong about this, is, yes, they would have been able to intercept and decode what you might call middle level kind of communications.

**MR IRVING:** Also from Himmler downwards, from Himmler to the Eastern Front.

**MR JUSTICE GRAY:** That is really the issue. I suppose you want to see how far you can take it up the ----

**MR IRVING:** We could usefully ask him, has he seen any Hitler orders of any nature whatsoever, and also what he has and what he has not seen in these archives.

**MR JUSTICE GRAY:** That is certainly relevant, but I think

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Mr Rampton does need to have advance notice so that he can consult his own experts and put his case in cross-examination.

**MR RAMPTON:** I would need, if this is to be taken seriously in the context of this case, which I can see it might be ----

**MR JUSTICE GRAY:** It is certainly relevant.

**MR RAMPTON:** I quite accept it is relevant. I need to have chapter and verse from Dr Fox on paper. I then need to have time to have the accuracy of what he says checked by others.

**MR JUSTICE GRAY:** That is fair.

**MR RAMPTON:** I really cannot just accept it like that.

**MR JUSTICE GRAY:** If they were intercepted, I am surprised they have not surfaced.

**MR IRVING:** If what has surfaced. ?

**MR JUSTICE GRAY:** If high level messages from Himmler and so were intercepted at Bletchley on matters relevant to this case ----

**MR IRVING:** My Lord, with respect, I have brought to the attention of your Lordship already the ones of December 1st and December 4th 1941 where Himmler orders, says to Jackelm, "You have exceeded your authority and the guidelines. Any further arbitrary actions will be punished", you will remember.

**MR JUSTICE GRAY:** That was a Bletchley intercept, was it?

**MR IRVING:** That was from Himmler to Jackelm intercepted by the

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British, yes. It is a very important message on which I rely very strongly. It indicates that one would have expected messages to be there.

**MR JUSTICE GRAY:** As I say, it is plainly relevant. But I do not suggest you need to do it in huge detail given the pressures you are under.

**MR IRVING:** I did not want to go beyond the actual messages I have already produced, my

Lord. I wanted to ask him then on the basis of his expertise what else, what the scope of the documentation is and has he seen anything, and does the documentation cover the entire spectrum from the most trivial matters like parking tickets, all the way up to these mass shootings on the Eastern Front, and so on.

**MR JUSTICE GRAY:** What I think Mr Rampton is entitled to is ----

**MR IRVING:** A little notice.

**MR JUSTICE GRAY:** --- probably on one page, like one of the things you do for me, just really giving the gist of what he is going to say. That is enough.

**MR RAMPTON:** Yes, I do, but I also will likely need to time to get some help with it because I cannot ask questions about something about which I know nothing. If I am told that I should not take Dr Fox's word for what he says, then I have to go and do some -- somebody has got to go and do some work.

**MR JUSTICE GRAY:** I see that. We may have to lose Dr Fox from

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his Friday slot.

**MR IRVING:** We cannot do this by Friday quite clearly. In that case I will have to introduce him sometime next week, but I will fax to the Defence solicitors a one page proof of what he intends to say.

**MR JUSTICE GRAY:** Dr Fox is relatively available, is he?

**MR IRVING:** Except on Mondays. He cannot come on Monday. He is a lecturer I think at the University College or Jews College or University of Canterbury somewhere.

**MR RAMPTON:** Can I suggest that he be deferred until after Professor Evans has finished?

**MR IRVING:** Yes.

**MR JUSTICE GRAY:** Yes, that is a good thing anyway.

**MR RAMPTON:** It is much better from your Lordship's point of view and from the Professor's point of view.

**MR JUSTICE GRAY:** We are not sitting on Friday that is now obvious.

**MR RAMPTON:** No.

**MR IRVING:** I hope your Lordship does not begrudge me the fact that I have not got another 45 minutes?

**MR JUSTICE GRAY:** No. We will adjourn now.

**(The witness stood down)**

**(The court adjourned until Monday, 14th February 2000)**

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