

PROCEEDINGS - DAY NINETEEN

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(Day 19) Monday, 14th February 2000

MR JUSTICE GRAY: Yes, Mr Irving.

MR IRVING: May it please the court. I have given your Lordship a little bundle of documents. That is a bundle of translations, my Lord, is that right, which your Lordship asked for, the Kommissar order and various other documents. I do not think your Lordship needs to look at it now, but your Lordship did ask for the translations.

MR JUSTICE GRAY: That is very kind of you. Thank you. The usual question, where should it go?

MR RAMPTON: We do not have them.

MR JUSTICE GRAY: Where is the Kommissar order in German?

MR IRVING: I have a set of copies for the Defence, but I forgot to bring them.

MR JUSTICE GRAY: Could somebody look out where the Kommissar order is in German?

MR RAMPTON: We do not have the translations, so I do not know what document it is.

MR JUSTICE GRAY: Do you remember the Kommissar order being referred to? I am not actually sure we have it in German either. Anyway, can I leave it with you?

MR IRVING: Yes, guidelines and Kommissar order.

MR JUSTICE GRAY: Yes.

MR RAMPTON: The one of May 1941, is that the one?

MR IRVING: That is correct, yes.

MR JUSTICE GRAY: June, I think.

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MR IRVING: My Lord, I have also given you a little bundle which I have called temporarily bundle F, Professor Evans. These are documents which, in the course of cross-examination, I intend to put to Professor Evans.

MR JUSTICE GRAY: It is very helpful to have them all in one place.

MR IRVING: I have provided the defence with four or five sets.

MR JUSTICE GRAY: Thank you.

MR RAMPTON: My Lord, there is something I should wish to mention, if I may. I do it now because time is getting short.

MR JUSTICE GRAY: Yes.

MR RAMPTON: I received on Sunday, yesterday, what purports to be a further witness statement of Dr Fox.

MR JUSTICE GRAY: Yes.

MR RAMPTON: Has your Lordship been sent that?

MR JUSTICE GRAY: I do not think so, no.

MR RAMPTON: I think your Lordship should be given a copy.

MR IRVING: I have a copy but in fact I decided not to call that witness. I should say that now in fact.

MR RAMPTON: That is helpful. I can sit down and be quiet.

MR IRVING: Quite simply, the witness was going to testify on two matters. One was what Mr Rampton referred to as freedom of speech matters, and I was also going to add to that the police

decodes, but I decided on balance that I know as much about the police decodes as he does. We

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have both worked on the same body, so I think it would help to save the court's time if we do not call him and just rely on his written statement.

MR JUSTICE GRAY: It is a matter for you, obviously.

MR IRVING: My Lord, I now wish to continue the cross-examination of Professor Evans.

PROFESSOR EVANS, Recalled
Cross-examined by **MR IRVING**, continued.

MR JUSTICE GRAY: Yes. Professor Evans, come back into the witness box. I wondered before you start, Mr Irving, if I might ask one question that is in my mind of Professor Evans. It is this. You were asked, you remember, on Thursday what material of Mr Irving's you had been studying in order to arrive at the conclusions you arrived at in your written report.

A: Yes.

Q: Your answer was that you had focused, at any rate, on what Mr Irving described as the chain of documents on which he relies for his contention that Hitler was relatively friendly towards the Jews. I should know myself the answer to this, but where does Mr Irving make his reference to the chain of documents? I think it is his phrase, is it not?

A: Yes, it is.

Q: I simply cannot remember where and when he made that reference.

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MR IRVING: My Lord, perhaps I can help? I have made reference in various speeches to the chain of documents of course, and talks, and probably in the introduction to ----

MR RAMPTON: Your Lordship will find it on page 220 of Professor Evans's report at paragraph 4.3A(1).

MR JUSTICE GRAY: Now that is on the transcript, that may really be enough, but can I go to it?

MR RAMPTON: BBC Television in June 1977.

MR JUSTICE GRAY: I think that is sufficient, Professor Evans. Thank you. Yes, Mr Irving. Do you want to pause and find it? It will be quicker if you have it, I suspect.

MR IRVING: I made a number of sets for the gentlemen of the press this morning so that they can follow what we are doing, because there were complaints about that, my Lord. Today I intend to continue to explore in general, if I can just in two lines tell you what I am going to be doing, the credibility of the witness with special reference to the remarks that he has made about my methodology in the introductory parts of his report. We will certainly cover the first 100 to 150 pages of the report today, my Lord.

MR JUSTICE GRAY: You must take your own course, but bear in mind in the end I am anxious to look at the individual criticisms as well as the general comments.

MR IRVING: Yes. (To the witness): Professor Evans, today is the 55th anniversary of the air raid on Dresden. Would you have described that as a Holocaust?

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A: Yes, I could have described that as "a" Holocaust, but I would, of course, make a distinction between that and "the" Holocaust as it has come to be known. One can use the term "Holocaust". It is, I believe, used for any event which involves large scale fire or burnings commonly used in every day reporting. That is a distinct thing from "the" Holocaust which I think has a special meaning.

Q: That is the etymology of the word. It means "consumed by fire" or "sacrificed by fire". Are you aware that in your report the phrase "Holocaust denier" occurs 261 times?

A: I have to confess I did not count.

Q: In fact, the words "denier" or "denial" occur 352 times, which is a degree of repetition, would you agree? Are you obsessed with Holocaust deniers?

A: I most certainly am not. I have to say I have not really confronted the phenomenon until this case but, of course, it is at the centre. It is perhaps the central issue in this case and so I think, since I was asked to write about it in my report, it is inevitable that that phrase occurs many times.

Q: You say you were not confronted with it until this trial. Do you normally write about things you have not studied in any kind of depth?

A: I think that historians always need to move on to new subjects, face a new challenge, otherwise they would be endlessly repeating themselves.

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Q: Can I draw your attention to page 206 of the book which you wrote? Do you recognize the book that you wrote? This is the American edition?

A: Yes, indeed.

Q: I will just read out a passage, if I may, of your own words from page 206: "Holocaust denier literature which declares that six million Jews were never murdered by the Nazis and that Auschwitz and similar extermination camps are fabrications of a postwar anti-German proJewish political lobby" -- is the way you still define Holocaust denial, the statement that Auschwitz and the other camps did not exist?

A: Could I have a look at that passage, please?

Q: Yes. It is on page 206 of the book.

A: Thank you very much.

Q: What I am asking you is has your position changed in view of the ----

A: Page and what?

Q: 206. It is the paragraph beginning "Extreme relativism" and towards the end of that paragraph, I repeat: "Thus 'Holocaust denial literature' which declares that six million Jews were never murdered by the Nazis and that Auschwitz and similar extermination camps are fabrications of a postwar anti-German proJewish political lobby". My question is this. Is this the way you define Holocaust denial now or have you changed?

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A: Yes. That is rather carelessly phrased, I am afraid. I think I was trying to say there -- "extermination" is the central word there, that such camps were used mainly or exclusively for extermination. I can see what you mean. It is slightly carelessly phrased, I have to admit.

Q: Is it possible to accept that the Nazis murdered in the most brutal manner very large numbers of Jews by whatever means and still be a Holocaust denier, in your view?

A: That depends on what you mean by "very large numbers". I think I defined in my report what

I mean by Holocaust denial.

Q: Like one or two million people. Would that be acceptable?

A: I think you have to take the different -- I have listed four what I think are central elements of the Holocaust denial.

Q: Yes.

A: And those four elements I think go together, they do include a minimisation of numbers.

Q: So any reduction of the numbers, whatever, is a denial?

A: I think it is difficult to be very precise about this. I say in my report that the generally accepted number by historians is between 5 and 6 million, and there are a number of disputes about that, but it does go together with the three other conditions of Holocaust denial which I lay out in my report. Of course, I think I do say in my report that some people would, as it were, fall into one

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category of the four, but not into the others.

Q: Yes. Were these four categories arbitrarily set up by you, like to make them fit like a shoe the Claimant in this present case, or did you always have these categories in mind long you before you were commissioned to be an expert witness in this case?

A: Neither, to be honest. When I was commissioned to be an expert witness, of course the first thing I did was to study the literature on Holocaust denial, and from that literature, as you can see from my report, I go through it at some length. There are varying different definitions of conditions by the different political scientists and historians who have written about it, but those four I think are common to all of the definitions that I looked at in the course of preparing this report.

Q: Yes. They do vary, though, do they not, these four sets of definitions by the different authors?

A: I do not think these four sets really vary. Of course they are put in slightly different ways and different authors add on other conditions, some of them peculiar to the time at which they were writing.

Q: So, if somebody was to knock off two or three million arbitrarily from the figures, that would be Holocaust denial?

A: If it is arbitrary, then I think it involves an element therefore of falsification of history, which then I think

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falls into that category, but I do want to stress that these four conditions should be taken together.

MR JUSTICE GRAY: It is not all or nothing, is it? You can get somebody who is an outright 100 per cent denier and somebody who perhaps does not deny it to the same full blooded extent?

A: Exactly, my Lord, it is not a hard and ----

Q: I think arguing about definitions is not hugely productive?

MR IRVING: I agree, my Lord. We should not really be asking an expert witness about meanings of words, I appreciate that, my Lord, but I am working towards something. You have a little bundle of documents in front of you, a loose bundle called F?

A: I do not, actually.

Q: Will you turn to page (it should be) 37, which is a photograph?

A: They are numbered on the bottom?

Q: They are numbered on the bottom, the one after that please?

A: Yes.

Q: Do you agree that that says it is a plaque, is that correct, a memorial plaque?

A: That is right, yes.

Q: Do you recognize that plaque?

A: I do not, to be honest, no.

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Q: Will you agree that it says: "4 million people suffered and died here at the hands of the Nazi murderers between the years 1940 and 1945"?

A: Yes, that is what it says.

Q: Will you now turn the page please? Is that another plaque?

A: Yes, that is right.

Q: Do you recognize that plaque?

A: I do not now that I can see what it is.

Q: Does it appear to be in the same place as where the previous plaque was?

A: I will take your word for it.

Q: Do you agree this one says: "Never let this place be a cry of despair and a warning to humanity where the Nazis murdered about one and a half million men, women and children, namely Jews from various countries of Europe"?

A: That is right.

Q: Is this also Auschwitz?

A: They are both in Auschwitz, yes.

Q: So somebody has arbitrarily reduced the figure from 4 million to about 1.5 million? Is that Holocaust denial?

A: No, I do not agree that the reduction was arbitrary. I think inevitably in the immediate aftermath of the war there was an enormous amount of uncertainty about the numbers who had died. This does not have a date on it, but I think the 4 million is a plaque which was erected

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very shortly after the war and, as research progressed, then the true number of people who died in Auschwitz was more closely approached, so it is an arbitrary reduction.

Q: Is the first figure, which is the figure of 4 million, in any way associated with the figure of 4 million that was propagated by the Soviet Union in the first postwar years for the victims in Auschwitz, in your opinion?

A: I have to say I do not know enough about Auschwitz. I am not an expert on Auschwitz. You had an expert on Auschwitz here.

Q: We will keep it in general terms. If you were told (as we have heard) that Dr Piper, the director of the Auschwitz State Museum at the time that first plaque was in existence, and who arranged for it to be removed and replaced by the second plaque, has stated that the first plaque was purely propaganda, would you accept that this is evidence of politicization of the Holocaust and the figures connected with it?

A: I think, well, I would have to see Dr Piper's statement before I could accept that is what he said, of course. I mean ----

Q: Can I draw your attention back we -- will leave that subject. Can I now take you back to your book, please?

MR JUSTICE GRAY: You have not got your answer yet. I think the object of the exercise is to get the answer to the question, Mr Irving.

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MR IRVING: My Lord, his answer was the now familiar one that he has not seen the document.

MR JUSTICE GRAY: No, well, he was actually going on to say something else. Would you like to complete it?

A: Yes. Obviously, I accept that there is an element of propaganda in the official memorialization by the Soviet Union and its satellites in the period of Communism. That is particularly evident, for example, in the absence of any mention of Jews in this first plaque, whereas in the second one it does say mainly Jews. I think it is the case that in the postwar years the Soviet Union and the authorities in Communist Eastern Europe did want to minimise the element of Jewish dead amongst the ----

MR IRVING: As evidence of general Polish anti-semitism or?

A: No, I do not think that is true. I think it is a number of different things. It is not that.

Q: While you have your book in front of you, Professor Evans, will you remain on page 206 and look at the next paragraph briefly, which begins with the words: "A leading authority". I am sorry, my Lord, that I should have provided your Lordship with the lines I am going to refer to, but it is very brief.

A: Yes.

Q: I will read it out: "A leading authority on this literature, which is Holocaust denial literature, Professor Deborah E. Lipstadt", that is the Second

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Defendant in this case?

A: That is right.

Q: "... of Emery University, Atlanta, Georgia, consistently refuses to take part in public debates with the deniers on the ground 'to do so would give them a legitimacy and a stature that they in no way deserve'?"

A: Yes.

Q: Have you any comment on this refusal to debate? Is it a position of strength or a position of weakness, do you think?

A: I think it is a position of principle.

Q: A position of principle?

A: I do not think it is a tactical consideration, in my understanding of it.

Q: Is it a principle that you, as an academic, would willingly adopt?

A: I think, yes, I do not think that Holocaust deniers are academics or scholars or academically or scholarly respectable, and I would not take part in seminars or discussions with them on that basis.

Q: So Holocaust deniers, as you once again use this favourite phrase of yours, are a form of low academic life or low life, in fact, because most of them who have not been academics find themselves cast out? Is that your opinion?

A: I do not agree with any of those statements. First of

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all, it is not a favourite phrase of mine. It is a phrase which I have to use because it is at the centre of this case, as I make no apology for that. I do not like using phrases like "low life" or "low form of life" and, to my knowledge, I have never used those phrases. The problem is not that they are not academic; the problem is what they are engaging in, in my view, is a politically motivated falsification of history, and that is why I think, on the whole, I would endorse and accept

Professor Lipstadt's position.

Q: But is it not equally arguable that the use that is made of the Holocaust and that immense tragedy inflicted on the Jews during World War II has just been equally politicized for other purposes, whether good or bad?

A: I think there is, obviously, a political element in a great deal of historical writing, if not all historical writing, to some measure or other, but I would distinguish between the historians', as it were, control of that through reference to the documents and through the attempt to arrive at an objective interpretation which is in accordance with the documents, on the one hand, and deliberate falsification and invention on the other. I think the Holocaust deniers belong to the latter category.

Q: Would you consider ----

A: And, of course, in academic and scholarly discussions, one

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puts aside political aspects and concentrates on the issues.

Q: But it is a commonly held view, even among Jewish academics, that the Holocaust is being abused for political purposes now. Are you aware of the writings of Norman Finglestein, for example? Do you have any opinion about his qualifications as an academic or as a writer?

A: I have -- I am eagerly awaiting his book. He has written an article and a couple of reviews which I think give some foretaste, but I would not want to make a judgment on these views.

Q: Have you, by any chance, read what he wrote in The Times Literary Supplement, I believe it was, in January, suggesting that the whole of the Holocaust propaganda campaign started around about the time of the 1967 June war?

A: I think that both Finglestein and Peter Novic, whose book I have read with great interest, and Tim Cole.

Q: Would you identify Peter Novic, University of ----

A: The University of Chicago, yes, and another similar book by Tim Cole of the University of Bristol, I think -- are talking about the public presentation of the Holocaust ----

Q: Are they ----

A: --- and the political ----

Q: --- Holocaust deniers in your book?

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A: No, they are not because they are not, they are certainly not denying that it happened in the terms in which I described it in my report. They are talking about the public presentation of history, as in these memorial plaques that you have illustrated. That, I think, is a different thing from the scholarly working up of history. None of them would fall into any of the four, or satisfy any of four, conditions that I have laid down for Holocaust denial. They do not minimise the numbers. They do not deny the use of gassing to kill large numbers of Jews. They do not deny that is systematic, and they do not claim that the evidence was invented or fabricated. They are talking about something quite different which is the public presentation and use which, indeed, of course, by its very nature is going to be subject to political influences.

Q: Yes. They are all American academics, are they?

A: No. Tim Cole is a British academic. Finglestein, I am not sure, I think he is American.

Q: Yes. Would they be able to propagate their views safely in this country or in France or in Germany, do you think, without fear of either losing their academic privileges or even arrest and

prosecution?

MR JUSTICE GRAY: Mr Irving, I do not think that is a question that is really going to help in this case, if I may say so.

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MR IRVING: My Lord, I am just trying to establish that Holocaust deniers, if I can adopt the witness's phrase, do not have it easy to propagate their views, and if the debate seems lopsided, it is because, on the one hand, people refused to debate and, on the other hand, the people are arrested and locked away.

MR JUSTICE GRAY: Yes, but you had rather veered off Holocaust deniers to the historians who take the view that there has been some politicization of the Holocaust from 1967 onwards.

MR IRVING: In that case, may I just revert very briefly to Professor ----

A: I mean, my answer is yes, if that helps. I mean, Dr Cole has not suffered at all from his book and Professor Novic's book is about to be published in this country.

MR IRVING: You have expressed words of distaste for Professor Faurisson who, of course, is no longer a Professor?

A: Where do I do this?

Q: When you were last standing and the witness box on Thursday. I mentioned his name. You said you did not consider him to be an academic and you ----

A: I think -- I am not sure I said that. I would have to see the transcript.

Q: Yes. Are you aware of the damage that was inflicted on Professor Faurisson for holding his principles and views, for holding to his principles as a Holocaust denier?

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A: I am aware that he was deprived of his university post, most certainly, yes.

Q: Would you turn, please, to page 57 of the bundle, the little bundle? I am very sorry, it is at bundle E, my Lord.

MR JUSTICE GRAY: Yes, I know.

MR IRVING: The global bundle. I am afraid that you may not have the photographs there.

A: I only have 55 pages, I am afraid.

MR JUSTICE GRAY: So have I.

MR IRVING: In that case I will produce two pages to you. That is Professor Faurisson after he was taught a lesson for his principles and views. Is this the way you think academics should be dealt with?

A: Most certainly not, no.

Q: Thank you very much. The reason I am asking that, my Lord, is evident because I wish to bring to the attention of the court the dangers that befall somebody in public life who is accused of being a Holocaust denier.

MR JUSTICE GRAY: Do it, by all means. I am not quite sure that I see how that advances your case here.

MR IRVING: Oh, very definitely, my Lord, I submit. I have already suggested it in connection with the Hamas and Hisbollah allegation; I have been exposed to very severe risks. In connection with being accused of being a Holocaust denier, I have been exposed to the risk of what

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happened to Professor Faurisson. His jaw was smashed so badly, it was wired together for six weeks and he had acid poured in his eyes, and he was a man slightly older than myself.

MR JUSTICE GRAY: I think I have tried to explain to you earlier that all this sort of thing can be relevant to damage, but it has to be linked to the Defendants.

MR IRVING: I shall be making a submission on damages later on.

MR JUSTICE GRAY: Just bear in mind that that is the way I am seeing it.

MR IRVING: As this witness did refer to Professor Faurisson in terms of rebuke, I thought it appropriate to show him photographs of what happened to people who stick to their principle at the other end of the scale.

A: I do not think you can make me responsible for what happened to Professor Faurisson.

Q: No. Witness, you have read or your researchers have read very large parts of my diaries and private papers and lectures and speeches?

A: Yes.

Q: Have you at any time in any of those readings come across any evidence whatsoever that I was associated with the Hamas or the Hisbollah terrorist leaders or with Lewis Farakan, the notorious black American anti-semitic?

A: Well, that was not what I was asked to do, so we did not read them for that purpose.

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MR JUSTICE GRAY: Even so, can you answer?

A: We read the material in order to, well, I am trying to explain that my expertise may be not very good at that particular level, there were other expert witnesses who were asked to do that. I did collect information which is on page 174 and afterwards of my report, which is about your connections with Holocaust deniers, and I did find -- I am trying to find it in my report -- connections with Ahmed Rami, page 198.

Q: Can you tell the court what these alleged connections were?

A: Yes. You appeared on the same platform as him in the so-called Leuchter Congress, 23rd March 1991.

Q: Is there any reason why I should have recognized Mr Rami, in your opinion?

A: I think if one appears on a platform with other speakers, one knows who they are.

Q: Is there any connection at all between this Mr Rami and the gentleman, Mr Farakan that I mentioned, or the Hisbollah and the Hamas?

A: I have to claim that I do not have any direct expertise on that. I cannot say.

Q: Have you found any kind of correspondence between myself and Mr Rami? Has any been shown to you?

A: Not to my recollection.

Q: So apart from this ----

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A: But, as I say, that is not what I was really looking for. I am really concerned with looking at connections between you and people whose main business is Holocaust deniers.

MR JUSTICE GRAY: So the answer to the original question, whether you have discovered any links, as it were, is no?

A: Is no, that is right. That is not to say that there is not any but...

Q: No, but you have not come across it?

A: I have not come across it, no. I mean, he, Rami, occupies about four lines of my report.
MR IRVING: Yes. Is there any particular reason why you mentioned Rami in this connection? Is he a terrorist or an extremist? I mean, to me, he unknown. I know nothing at all about him.
A: Well, I find that difficult to believe since you appeared on the same platform as him in a meeting, a public meeting. He is an extremist who runs an extreme anti-semitic website which I have looked at.
Q: When you say that he appeared on the same platform, do you have photographs of him standing shoulder to shoulder with me or are you just saying that he was there one day and I was there the next day?
MR JUSTICE GRAY: Do you challenge having been on the same platform as him?
MR IRVING: I want to know what he means by this, my Lord.
MR JUSTICE GRAY: No, I am asking am asking you because you

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have to put your case, Mr Irving. I mentioned that on Thursday. Is it your case that you have never appeared on a platform with Mr Rami?
MR IRVING: Never knowingly appeared.
MR JUSTICE GRAY: Never?
MR IRVING: If I can put it like that, my Lord.
A: I footnote video tape 201.
MR JUSTICE GRAY: Never knowingly appeared? I see.
MR IRVING: Well, quite simply, because when is this video taped alleged to have been?
A: 23rd March 1991.
MR IRVING: 1991. So it is nine years ago and this is somebody who has, apparently, stood near me on a platform and this is good as the connection gets?
A: Well, you were both speakers. As I say, this is not a very important part of my report; it only occupies a few lines.
Q: Will you turn to page 37 of your report, please? We are now moving on, my Lord. Paragraph 244. You talk about the unreliability of Hitler's former aids as a source?
A: Yes.
Q: And, effectively, my gullibility in falling for everything they said?
A: No. I would not accuse you of being gullible, Mr Irving.
Q: My lack of critical nous, shall we say, in accepting what Hitler's Adjutants and secretaries and people have told me

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-- is that the burden of that paragraph 244?
A: Critical intention, I think.
Q: Do you accept, however, that on numerous occasions I have persuaded Hitler's private staff and the Adjutants and their juniors to reveal to me matters which were against their interest, or against the interest of Adolf Hitler which is probably more significant? Do you accept this is true? Do you remember from The War Path where Hitler's private secretary, Krista Schroeder, describes to me on the night of the long knives, June 30th 1934, when they returned to the Chancellery afterwards Hitler vanished and had a shower?
A: Yes, I remember that.
Q: Do you remember what Hitler said to her when he reappeared, roughly?
A: Very vaguely. You would have to remind me of the exact words.

Q: "So Fraulein Schroeder, now I have had a shower and I feel as clean as a new born babe"?

A: That is right.

Q: Do you feel that speaks highly for Adolf Hitler, that he murders his closest compatriots and has a shower and washes himself clean?

A: No, I do not. But you do say in a document which I quote on page 604 that, once the former members of Hitler's staff, once you had won their confidence I think you mean,

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they thought well now at last they were doing their chief a service. So it seem to be your view that you persuade them that they were doing Hitler a service by talking to you.

Q: I think the sense is that they were doing history a service.

A: That is not what you said.

Q: They were telling the story -- what are the exact words that I used?

A: The exact words were, and I think you have reversed the sense here a bit, once they had won your confidence -- I think you mean once you had won their confidence -- and they knew you were not going to go and report them to the State Prosecutor, they trusted you and they thought well, now at last they were doing their chief a service.

Q: Yes. How would they be doing their chief a service if they told me details of how Hitler had ordered the liquidation of the inmates of a concentration camp?

A: That is not what Krista Schroeder said, was it, to you?

Q: I am giving specific examples now. You said that I persuaded these people to talk, but that I then fell for them, so to speak, and that I did not manage to use my methods, my oily greasy methods, shall I put it like, in fact to get from them information against their self- interest which is what I contend I did.

A: Oily and greasy are not my words.

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Q: They are words I put in -- I oiled these remarks out of them, shall I put it like that? If I put this one example to you, that I persuaded an SS officer who was on Hitler's staff to describe to me the meeting between Hitler and Himmler in April 1945, where Hitler gave the order to liquidate all the inmates of Buchenwald if they could not be evacuated in time, do you remember that episode?

A: Yes, I do.

Q: Was that in any way -- did it reflect well on Adolf Hitler, do you think?

A: No, it certainly did not, but obviously there are some places in which they do reveal things, at which some of them reveal things, which are not ----

Q: I will give you only one further example because I do not wish to test his Lordship's patience but it is important here because I am accused of having exonerated Hitler and fallen for the Adjutants' wiles. You are familiar with the colour photographs that are in some of my books of Adolf Hitler's staff, are you?

A: Yes.

Q: Will you accept that these photographs were taken by Hitler's film cameraman whose name was Walter Frenz?

A: Yes.

Q: He described to me, did he not, a visit to the Eastern Front with Heinrich Himmler in August 1941 where they witnessed a mass shooting outside Minsk, to which shooting

you also refer of course, do you not?

A: Yes.

Q: This man Walter Frenz was present. Are you aware that he described to me in great deal at 2 o'clock one morning the whole episode, including how Himmler told him to take photographs of the shootings, and other very vivid details?

A: Yes.

Q: Was that in any way in his own interest to tell me that story?

A: We are moving slightly away here. What we are talking about, of course, is their attitudes to, or what they report of, Hitler and Hitler's views, and in that case it really does not apply to that.

Q: We will move on to Hitler's views in this connection in a minute, but will you just answer my question? If Walter Frenz told me this story, how he was with Himmler and witnessed a mass shooting, and took photographs of it, did that in any way reflect well on either himself, the witness, or on Adolf Hitler, for that matter?

A: I would think no, but then he might have thought something different.

Q: If I now tell you that Frenz took photographs back to Hitler's headquarters and showed them to Hitler's Chief Adjutant, and the Chief Adjutant said, "If you know what is good for you, you will destroy these photographs,

Mr Frenz", is this a significant contribution to a historical debate which I, with my methods, obtained, do you think?

A: The answer is, if that is the case, then yes. I am not denying, Mr Irving, that your interviews with Hitler's former staff have contributed in some ways to historical knowledge, not at all.

Q: So your judgment against me in that paragraph is overhasty, would you agree?

A: No, I do not agree. I think, taken as a whole, your interviews with Hitler's staff, as I show in a chapter of the report, are uncritical, and in some cases also involve elements of falsification of what they actually said, or of the nature of their sources that you used.

Q: I will come to those particular episodes later on, but in general?

A: This is a general statement which is a conclusion drawn from the detailed cases that I look at later on in the report.

Q: You have said that I used these statements only in the service of their chief, so to speak, and I did not put in material from the Adjutants or the secretaries which was unfavourable, and that I was uncritical in my assessment of these sources, and I have given you three episodes where quite clearly I persuaded members of Hitler's staff to reveal from their innermost memory things that they

probably told nobody else.

A: Where do I say the things that you say I say?

MR JUSTICE GRAY: I do not think the word "always" is to be found, Mr Irving. I think that is the difference between you.

MR IRVING: That is why I suggested that the phrase overhasty was probably justified, and overhastily rushed a judgment on me, which is not borne out by all the evidence my Lord.

MR JUSTICE GRAY: The evidence I think I am hearing from Professor Evans is that usually -- that may be an under statement -- you are portraying these Adjutants as having told you things

which are in Hitler's favour, but sometimes not. Is that a broad summary?

MR IRVING: To use one of Mr Rampton's favourite phrases, I would say "so what"? Quite clearly, if these Adjutants have sat for many hours talking to me, I have used all the information they have given me, and some of it has been in favour and some of it has not. What I have not done, and this is my question now to the witness, did I make appropriate use of the information that I obtained from these various witnesses, in your opinion?

A: It depends what you mean by "appropriate".

Q: Did I make appropriate use? In other words, did I rely on them solely, shall we say, for important episodes of history when I could not find any documentary substantiation?

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A: Well, they form an important part of your case that Hitler did not know about the extermination of the Jews, at least before the autumn of 1943, because what you argue about the Adjutants is that they all say that Hitler never actually discussed the extermination of the Jews with them, and in the sense that, if you look at their statements carefully, and I detail some of these later on in the report, you will see that they do not infer from the fact that this was not discussed as they claim, the fact that Hitler did not know about it. That is your inference. Indeed, a number of them explicitly stated that they were pretty sure that Hitler did know.

Q: There is a typical example of that, Albert Speer. Did Albert Speer say to me it was never discussed in front of him, but did he then go on to say that in his opinion Hitler must have known, roughly?

A: As I recall, yes.

Q: Is that not an illogical kind of position for an intelligent man like Speer to adopt, that it was never discussed but somebody must have known? If it was never discussed, how could he guess?

A: As I recall, Speer argued at some length, and there is a degree of self-exculpation here, I think, in Speer, that Hitler simply did not want this to be talked about in his inner circle.

Q: My final question on this particular angle is this. When

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you have read, as you or your researchers have, my interview notes on all these ladies and gentleman on Hitler's private staff, did I conceal anything detrimental that they told me? In other words, the Walter Frenz episode, the shootings at Minsk, Hitler's remark to Krista Schroeder, "now I have had a shower and I feel as clean as a new born babe", did I conceal that or did I properly use it in my books?

A: You did not conceal either of those two things, no.

Q: So what I found I used?

A: Not in every case. There is an example in detail later on which we can discuss.

Q: Can you tell us what that example is from memory?

A: Not from memory, I am afraid.

Q: Yes. Perhaps we can wait until we get to it. There is one further question. Has any other writer apart from me got as close to these members of Hitler's private staff?

A: No, I think that is quite right.

Q: So, if I had not done it, then a body of information would have been lost for the world of academics and scholars?

A: We have discussed this before. I do not dispute the fact that you have obtained a great deal of material, not just interview material but also documentary material, which other historians have

not obtained.

Q: Were any of these Adjutants interrogated at Nuremberg?

A: There is an awful lot of them, there is about 25 of them.

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I am sure you know more than I do about their interrogations at Nuremberg. Some of them of course were put on trial or were witnesses in subsequent trials.

Q: Very few of them.

A: Karl Wolff is the obvious one.

Q: Is it not right that Karl Wolff was not put on trial until the 60s because a secret deal had been reached between him and the Americans?

A: I do not know about the secret deal but he was not put on trial until 1964, I think.

Q: Have you not heard of Operation Crossword in which Karl Wolff was engaged in Italy at the end of the war, his negotiations with the OSS?

A: You would have to provide me with documentary evidence for a deal, I think.

Q: I am going to go on to page 38, my Lord. Now we are dealing with the Hitler's diaries forgeries, paragraph 246.

A: Yes.

Q: Do you accept that once again I came into early possession of unusual materials? In this case they turned out to be fake.

A: Yes. Were these the materials which you purchased in October 1982 and were intending to sell to McMillans?

Q: What is your evidence for the word "purchased"?

A: This is in audio cassette 75, where you said you bought

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them from the forger and then you recognized them as forgeries after examining them.

MR JUSTICE GRAY: Mr Irving, can I interrupt and make this enquiry of you, really? . I realize that Professor Evans refers to the Hitler diaries in his report. I am just wondering what relevance they have to the issues in this action. Can you help me? I am sorry to interrupt you but are obviously starting on a fresh point.

MR IRVING: If I am familiar with Professor Evans' arguments of having flipflopped, changed my position on them, and ipso facto being unserious, is that right, Professor Evans?

A: I do not use the word "unserious", but I derive from Robert Harris's book, which seems to me to be a reliable book, written I think partly in co-operation with you, certainly with use of materials you supplied to him, the fact that having declared that the diaries, quite rightly, were forgeries, you then subsequently declared that they were genuine. If you tell me that that is not true, of course I would have to accept it.

MR JUSTICE GRAY: Let us see where we are going with this. This is not, I do not think, any part of the pleaded case. Mr Rampton, that is right, is it not?

MR RAMPTON: That is right, my Lord.

MR JUSTICE GRAY: You are in the difficult position, Mr Irving, because here is the principal expert witness for the Defendants making this criticism of you and it is a

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serious criticism, but it is not one that in the end plays any part in the Defendants case.

MR IRVING: I read your Lordship's mind as being that you will pay no attention to this. In that case I will move on.

MR JUSTICE GRAY: I will not.

MR IRVING: In the next paragraph 247 you mention Gerhardt Weinberg.

A: Yes.

Q: Is he one of the historians whose views you accept?

A: On what?

Q: Is he an eminent historian? He is not a Holocaust denier, is he?

A: He is an eminent historian.

Q: In fact, he is now retired and his chair is occupied by Christopher Browning, is it not?

A: That is the case, yes.

Q: I am going to be looking at Professor Jackeln, my Lord, Professor Aberhard Jackeln, who is a historian whose name will come up I think more than once over the next few days. He played a part in the Hitler diaries. I am not going to look at the Hitler diaries as such but I am going to ask questions which I think have relevance to establishing the reliability of Professor Jackeln. Is it right that Professor Aberhard Jackeln very early on came into possession of one of the diaries, the 1935 Hitler diary?

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A: From what I remember of Mr Harris's book, which is the source of my information, yes. That is to say, I do not rely on Professor Jackeln in my report.

Q: Really I am trying through you to find out what we know about Professor Jackeln as far as reliability goes, as far as his credentials go.

A: Yes. It does not really play a role in my report. That is to say, I am not writing about Professor Jackeln's reliability.

Q: Did you write that Jackeln authenticated some of the Hitler materials?

A: I did not, no. It is my understanding from Mr Harris's book that he had doubts about him. Of course I am aware of the fact that Professor Jackeln did include some forged material in a book that he edited of Hitler's writings.

Q: You are not familiar with the fact that he authenticated the 1935 Hitler diary on behalf of a Stuttgart millionaire?

A: I am not, but if that is in Mr Harris's book ----

Q: You mentioned the other materials. He believed that a very large number of poems and handwritings apparently by Hitler were genuine, is that correct?

MR JUSTICE GRAY: We seem to be back on the Hitler diaries. I thought we had agreed ----

MR IRVING: No we are now off that. We are now on Jackeln, very firmly on Jackeln, my Lord.

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A: That is correct.

Q: Did he publish these in a semi-official volume called Hitler's Entire Manuscripts?

A: Indeed he did.

Q: Did it take him a substantial length of time to confess that these were from the same source, the forger Konrad Kujau?

A: If you tell me it did, then yes. He certainly in the end I think recognized that they were forgeries.

Q: In fact he wrote a report, did he not, in the Journal of Contemporary History in which he admitted that 4 per cent of that volume was fake, only 4 per cent? Is that correct?

A: Well, I do not recall it but I will accept your word for it.

Q: In your little bundle of documents which I gave you this morning, would you just turn rapidly to page 41, which is a photograph of a train?

A: Yes.

Q: The large endless train of wagons with people stuffed in like cattle, is it not?

A: They do not appear to be ----

Q: Several hundred people to each coal wagon?

A: I would not say like cattle. They do not appear to be grossly overcrowded. They are full.

Q: Are you aware Professor Jackeln used this photograph as an

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illustration for Rumanian Jews being shipped to the gas chambers at Auschwitz?

A: I am not.

Q: On a television programme. Can you confirm that that is fact Hamburg railway Station after the war?

A: Very difficult to say.

Q: If I tell that the rubber stamp on the back of the original photograph says Hamburg -- it is in the Hamburg Railway Station archives now, in their picture archives.

A: Right.

Q: What would your opinion be of a historian who uses photographs in that manner, photographs of a postwar scene, and says that it is a photograph of Jews being shipped off to Auschwitz?

MR JUSTICE GRAY: I am a bit bewildered by this, Mr Irving. You said "so what?" to me not very long, "so what?" to you. Why does whether Professor Jackeln mistook Hamburg Railway Station for a convoy taking Romanian Jews to a concentration camp matter? It is your reliability, not Professor Jackeln's that is in question.

MR IRVING: If Jackeln's words are going to be used against me, as they will be, in expert reports, then I am entitled, in my view, to put to the court the qualifications that Professor Jackeln has.

MR JUSTICE GRAY: Again, you are in the difficulty that Professor Evans has relied on other historians in his

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report, but in the end it must be Professor Evans' view, whether I accept it or not, that counts.

MR IRVING: Yes.

MR JUSTICE GRAY: I am not actually going to stop you, but I really do not think at the moment, until we get to a point where Professor Evans says, "Jackeln says this, ergo it must be right", that this is really helpful. There is an awful lot of material to be covered in Professor Evans' report, but we have not really begun to grapple with it yet.

A: Let me answer the question. Of course, what I think of him depends in this instance on whether he knew that that was a picture of Germans in Hamburg on a shopping trip to the Ruhr in 1946 and then deliberately presented it, and falsely presented it, as Rumanian Jews being shipped off to Auschwitz, or whether it was a genuine mistake. You yourself have said in the course of this trial that historians make many errors, and that one wants to correct them, and one attempts to do so. You pointed out an error in your own 1991 edition of Hitler's War, the absence of your name on the title page, so we all make mistakes. There is a distinction which I drew on Thursday,

which I would hold to, between, as it were, genuine mistakes and errors, which unfortunately historians are all prone to, on the one hand, and deliberate falsification on the other.

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MR IRVING: I have to let you get away with that, because I am not allowed now to ask any further questions about the photograph or about ----

MR JUSTICE GRAY: I did say I was not stopping you, but I was telling you that at the moment I do not find it very helpful. Do not say you are not allowed to; you are allowed to.

MR IRVING: Is Professor Jackeln a recognized authority on Hitler and the Holocaust? Has he written books and articles about it?

A: Yes, he has written books and articles about Hitler in particular, Hitler's views.

Q: Does it diminish him in your esteem that he has fallen repeatedly for forgeries produced by a notorious forger, that he has published them, that he did not willingly confess that they were forgeries or where they came from, and that he has relied on a dubious photograph?

A: Well, you mentioned one instance in which he fell for material from a notorious forger. If you can show me there are many others, then I will accept the word "repeatedly".

Q: Do you agree that, in dealing with your treatment of the Hitler diaries, you accused me of liking the Hitler diaries and believing they were genuine because they gave a favourable impression of Hitler?

A: Again, I am following Mr Harris there. Let me quote him

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in explaining why you endorsed them at a late stage, "Finally there was the fact that the diaries did not contain any evidence to suggest that Hitler was aware of the Holocaust". Really I am following Mr Harris's argument there.

Q: On what basis do you say ----

A: That was one of a number of reasons which he puts forward for your having endorsed them at a late stage.

Q: On what basis do you say that these fake diaries showed Hitler ordered a stop to the Reichskristallnacht?

MR JUSTICE GRAY: Mr Irving, I did say quite a long time ago that I am not going to pay any attention to the Hitler diaries because it is not any part of the Defendants' case. Really these questions are directly focused on the Hitler diaries, so I do now say you must move on.

MR IRVING: In paragraph 2.4.9, lines 5 and 6, there is a sentence there beginning, "If an obvious forgery like the Hitler diaries gives credence to my views, I will use it". Is that not a reflection -- am I allowed to say that, my Lord?

MR JUSTICE GRAY: I have already told you in the clearest possible way that I am not going to place any reliance in forming my judgment on what did or did not happen in the case of the Hitler diaries, so questions about it can only do you harm.

MR IRVING: Three lines from the bottom of that page 40 you

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accuse me of rendering my footnotes deliberately opaque.

A: Yes.

Q: Can you think of any reason why a researcher or writer who has spent a lot of his private

funds, who is not a tenured professor, who is entirely reliant on his professional income, obtaining access to sources, might wish to leave his footnotes opaque?

A: Yes. Either in the case of your extremely vague references to the author Ingrid Weckert in your account of the Reichskristallnacht, because that source is discreditable, because she is an anti-semitic politically motivated falsifier of history upon whom you rely in part of your account

MR IRVING: Do you consider that anti-semitic ----

MR JUSTICE GRAY: Let him finish his answer and then ask you next question.

A: Or that the sources do in fact, if anybody goes to the immense trouble of tracking them down as in the instance we already mentioned on Thursday, the evidence of the policeman Hoffmann at the 1924 trial of Hitler, if that source in fact contains things which you do not want to appear and you do not want people to know about. So it is a kind of judgment call on your part that you need to give a source, but you do not want people to find out too easily what is there.

MR IRVING: Can you think of no innocent explanation why the

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aforementioned author might leave his sources opaque?

A: No.

Q: Are you familiar with the kind of scholar and academic who will pretend that he has done the research, who will pretend that he too has been to Canberra and Ottawa and Washington and Moscow, he will quite the file and he will quote the document number and even the page number in that file to give the impression that he has been there and done the work?

A: Give me an example.

Q: I am just asking you if are familiar with that kind of scholar?

A: I cannot think of any examples. Try and give me one.

MR JUSTICE GRAY: Is that legitimate, I really do not know as a matter of a historian's proper approach? If you have seen some other historian give a reference for a particular proposition as being File X in the Washington archive or wherever, is it then illegitimate for the next historian simply to cite that as being the authority without actually going to the Washington archive and looking for himself?

A: Well, it is normal, my Lord, to say file so and so in the archive as cited in such and such a book. If you simply say file so and so in the archive, that does suggest you have been there. It is what I would call slightly sharp practice.

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MR IRVING: If, for example, you found in a book by David Irving on Winston Churchill unusual sources and you were an academic and a scholar, if you did not want to be associated with him, would there be a temptation just to use that file in the French National Archives or whatever it is and pretend you had seen it yourself, but not of course that you had it from David Irving's book? Would there be that temptation?

A: I would not be tempted. I can only answer for myself.

Q: You would not be tempted to use the source?

A: I would want to go, if that was the work I was doing, to the archive and check the source. I would not take it on trust as it appears in your work.

Q: Even if you could go to some archives like the Institute of History where I did in the meantime deposit all the records so that you could check it out? Do you appreciate that there

might be an innocent reason on the basis of what I have said, on the basis of my questions, why an author might sometimes wish to make it slightly less easy for a crooked scholar to steal his brain work?

A: You would have to show that there were crooked scholars around who are all desperate to steal your brain work. I do not believe that that is the case, so I do not really accept that there are innocent reasons. It is quite straightforward. If you cite an original or any source, if you use a source in your work, you footnote it in order

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to enable other historians to go and find it and you are as helpful as possible to them. It is part of the kind of checks and controls which historians have, and this curious way we have to enable other people to challenge our own work and to falsify it and say that we are wrong. It is part of what I would call being an objective historian is.

Q: Do you agree that there are two kinds of books? There are the super academic works as submitted for PhDs or for some other kind of academic qualifications where everything has to be rigorously footnoted according to a standard scheme, and books which are sold in Books Etc. and Waterstones where books have to fit in within a reasonable size, number of pages, and that, if you put all the footnotes in to that scheme, you are going to end up with an uncommercial book. Do you agree with that proposition?

A: Not really, no. I think there is a large kind of scale of books, or a spectrum of books, from the academic PhD theses which is not really publishable as a book in many cases and has to be rewritten, where everything has to be all the Is dotted and all the Ts crossed all the way down to very general non-fiction books which do not have any footnotes in at all and everything in between. So I think there is a very wide spectrum. In respect of your works, Mr Irving, Hitler's War is over 800 pages long. It is a very long book, and the claim that you make for it is that

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it is based on an enormous mass of research and there are a lot of footnotes in it. It does give the appearance, as your other books do, of being a scholarly work. You make a great deal of the fact that you use a large number of source.

Q: Professor Evans, when your researchers were researching in my files at the Institute of History in Munich, did they come across a thick file there which was about 1,000 pages long, consisting of the original annotated footnotes of Hitler's War which were referenced by number to every single sentence in that book?

A: No.

Q: It was not part of the published corpus, it was part of the original manuscript, but it was chopped out because of the length.

A: No, we did not see that.

Q: Have you seen isolated pages of that in my discovery in so far as it related to episodes which were of interest, like the Reichskristallnacht?

A: I do not, to be honest, recall, but that does not mean to say that we have not seen them.

Q: You said that my footnotes are opaque because they do not always give the page reference. Do you agree that, on a page which we are going to come across in the course of this morning, of your own expert report, you put a footnote in just saying "see van Pelt's report", see

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expert report by Robert van Pelt, and that expert report is about 769 pages long, is it not?

A: Yes.

Q: That is not an opaque footnote?

A: No, because, when one says see this or see that, that means that you are not relying on that for what you say. It is simply a further reference directing the reader, if the reader wants to gain further information about that particular topic, to go there. If I were relying on Professor van Pelt's report for anything I say in my own, which I am not, then I would footnote it as precisely as I could.

MR JUSTICE GRAY: Why are you not?

A: Why am I not relying on Professor van Pelt?

Q: Is there a reason?

A: Well, his report is about something different from mine and I thought I should reach my own conclusions on the basis of my own work, but I do cross-reference other expert reports in so far as I think it is useful.

MR IRVING: It is a strange kind of cross-reference that just says "See expert report" by somebody.

A: Well, can you point me to the page?

Q: We will come to it later on. I am just looking for it and I do not want to hold up the court. If you would you go now to page 41 of the expert report, please, paragraph 251? Can I ask that you be given bundle H1(i), please, so

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we can see what you have omitted from the quotations? It is a passage where you say: "They are not lies, what I have published, they are true. At any rate, the truth as I perceive it". Then you omit bits.

A: Where is this -- yes.

Q: That should be H1(i) at page 94?

A: Page 94. Yes.

MR JUSTICE GRAY: Whereabouts on the page, bottom of the page, is it?

A: It is near the bottom of the page.

MR JUSTICE GRAY: Yes.

MR IRVING: Do you not admit a passage there about how it gets far more expensive the closer you approximate towards the truth, that it is quite easy to find out 90 per cent of the truth, and then it gets a bit more expensive to get 95 per cent of the truth, and to get absolute truth is impossible, but it gets more and more and more expensive? That is roughly the sense of it. I do not have it in front of me, but I am familiar with the speech.

A: That is where you say it is a shame that we lost the United States.

Q: Yes. "They are not out lies, what I have published, they are true, at any rate, the truth as I perceive it"?

A: Yes.

Q: Then you left out the explanatory bit?

A: No. "Even the most erudite and hard working historian", I

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say, "is never going to obtain 100 per cent truth. He is only going to approximate it", and that, I think, gives the sense of what you are saying. I come back to the point, I echo the point that you have made about your own work, this report is already 740 pages long, and in this quotation, I

think I give the essence of what you are saying there.

Moreover, of course, I do put the ellipse in, three dots, to tell the reader that I am leaving something out there so the reader can do, as you have done, go back and check the speech and see if I have left anything out that I should not have left out. That is not the case in quite a number of the cases in which you abbreviate quotations from the original sources, as I have shown in my report.

Q: Yes, but ----

MR JUSTICE GRAY: But it is fair to say Mr Irving does go on really to say he is one of those writers who does try to get the extra 10 per cent and get 100 per cent accuracy? I think that is the burden of the passage as a whole.

A: Yes, indeed, yes.

MR IRVING: Unfortunately, not everyone has our patience to go and look up the original document to see what has been replaced by the three dots. There is another passage, while you still have that H1 in front of you, please, can I ask you to go to page 106 of H1(i)? This has a rather

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more important kind of material that has been left out of the indented paragraph?

A: Yes.

Q: In the middle of page 41 of the expert report, my Lord.

MR JUSTICE GRAY: Yes, I have it.

MR IRVING: Your Lordship will see that the witness has omitted all the reference to the organized campaign of window smashing and so on that went on around this country to persuade Waterstones not to stock my books and other booksellers. He then goes on to mock me for suggesting that there is a campaign, having cut out the material relating to it out of the quotation.

A: Sorry, where do I mock you?

Q: Page 42 at 254: "Irving does not appear to believe that other historians can rise to the challenge; rather he believes that there is an international campaign organized by the Jewish community in many countries to stop him from speaking and selling his books"?

A: Well, that is my sense of what you believe. I do not see anything mocking in that. I am trying to convey your own point of view there. Once again, of course, in this passage that you mention, there are ellipses to denote that I have omitted some material, and really what I am trying to do here is to describe your view of history. I am not really concerned with all the details that you give here about the campaign which you allege is being

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conducted against your work. That is not what I am concerned with.

Q: Here you go on about the campaign I allege has been conducted against my work, but you have deprived his Lordship of knowing details of what that campaign is; the fact that there was an organized campaign of window smashing in the big book stores to persuade them not to stock my books.

A: How is that relevant to my report? I really do not see it.

Q: Because you say (as you have just said) that I allege there is a campaign and you say in paragraph 2.5.4 that I seem to believe that there is a campaign to stop me selling my books, and yet you have cut out of that quotation concrete evidence of the campaign that has been going on?

A: But it is not my concern in this report to deal with the campaign. I have given your view here that there is a campaign, and I think in the context of a report which is about your treatment of

historical subjects, that that is enough. If I went, if I had gone in this report into every issue like that, it would have been enormously long and I really do not think that is relevant to what was asked to do.

MR RAMPTON: I should intervene. Mr Irving actually misread the report. It is only so that it gets on the

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transcript. The report actually did not say "he seems to believe".

MR JUSTICE GRAY: "He believes".

MR RAMPTON: It says "he believes".

MR JUSTICE GRAY: I did notice that.

MR IRVING: If had omitted any reference to book burning from a passage about the Nazi activities in 1933, that would have been duplicitous, would it not?

A: It depends what you are trying to write about the Nazi activities in 1933.

Q: They were suppressing books that they disapproved of.

A: If you are writing a dissertation about the Nazi policy towards the Civil Service or the Nazi policy towards the Bau(?) in 1933, then I do not think book burning would necessarily have been a relevant consideration.

Q: If I had omitted the book burning in Berlin in March 1933 from my Goebbels' biography, then this would have been duplicitous, would it not, and if I had just said, "Well, that did not really belong"?

A: That is certainly true since Goebbels was centrally concerned with it.

Q: If I had omitted the window smashing, which is very apposite, from the Kristallnacht, that would also have been duplicitous, would it not?

A: Absolutely, yes.

Q: So why is it not duplicitous that you omitted that passage

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from that passage you quoted?

MR JUSTICE GRAY: I understand your point, but the fact is in paragraph 254 Professor Evans does refer to your belief that there is an international campaign to prevent you from speaking and selling your books. So he is not actually concealing it, is he, in his report? Anyway, I understand the point, but let us go on to the next point.

MR IRVING: Many paranoid people have beliefs which are not supported by evidence, my Lord, but if there is a campaign of window smashing which is in the discovery, which is in the documents before the court, the witness should not have cut it out of the part that he quotes.

MR JUSTICE GRAY: I understand that is the criticism you make of him, yes.

MR IRVING: That is my submission. That I regard as earning all the adjectives that have been heaped on me by this witness.

(To the witness): In that same paragraph, 254, we are back to your report, Professor. You say: "Irving does not appear to believe that other historians can rise to this challenge, rather he believes there is an international campaign ordered by the 'Jewish community (our traditional enemies)'"?

A: Yes.

Q: What entitles you to equate those two as though I had said

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that the traditional enemies of the truth or free speech are the Jewish community?

A: Well, on your website you list, you have a section where you list the traditional enemies of free speech.

Q: Which includes the Jewish community leaders, yes.

A: Nearly all of them. I think there is only one organization there which is not a Jewish organization.

Q: But you put the words "Jewish community" in quotation marks as though you are taking it out of some document of mine?

A: I did not want to imply that there was a Jewish community in that sense. That is why I put it in inverted commas.

Q: You refer quite correctly to my website where I have a menu of traditional enemies of free speech, some of whom are specific organizations which are Jewish in character? That is correct?

A: Nearly all of whom -- all apart from one.

MR JUSTICE GRAY: Have you got the reference for this either in your own report or in the website file because I would quite like to see it if the point is being taken. It is difficult ----

MR RAMPTON: My Lord, I ----

A: It is page 168 of my report, my Lord, where I detail a number of cases where Mr Irving has equated -- I quote here a speech in 1992: "Our old traditional enemies ... (are) the great international merchant banks are

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controlled by people who are no friends of yours and mine', who were 'annoyed' friend by" ----

MR IRVING: What paragraph is that?

A: 168, paragraph 50.

Q: Is there an ellipsis in the middle of that?

A: Yes.

Q: Will you please look at the document and see the four sentences, three fullstops, four semi-colons and 86 words that those three dots represent?

A: Could you direct me to ----

Q: And see if that is a genuine quote?

A: --- the document, please?

MR JUSTICE GRAY: Yes. That is fair.

MR IRVING: That is the document, I am very familiar with that quotation.

A: Could you direct me to it, please?

MR IRVING: This is highly illuminative and illustrative of this witness's methods.

MR RAMPTON: I think it is the Clarendon Club. I think your Lordship has probably already seen that, in fact. Unfortunately, mine is not here.

MR JUSTICE GRAY: D2(ii).

MR RAMPTON: Yes. It is K4, tab 5, Clarendon Club.

MR JUSTICE GRAY: I am not sure this is actually going to be the answer to the question, but that may be wrong.

MR IRVING: The question is what do those three dots represent?

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A: K4?

MR RAMPTON: K4, tab 5.

A: Yes, 5, I have that.

MR RAMPTON: This is the Clarendon Club in September 1992 which I think is the reference we have here?

A: "Our old traditional enemies".

MR JUSTICE GRAY: Bottom of page 3 of 13.

A: Yes. Right, shall I read that out, if you would not mind?

MR JUSTICE GRAY: Yes.

MR IRVING: My first question is ----

A: May I read that out then?

MR JUSTICE GRAY: He is just going to read it first and then ask the question.

A: It is about Andrew Neil, the Editor of the Sunday Times, and the Goebbels' diaries which he was publishing in your -- from you, and that he had come under pressure "'from our traditional enemies, pressure not just from the advertising industry, pressure not just from the self-appointed, ugly, greasy nasty, perverted representatives of that community, he came under pressure from the international community too because the Sunday Times, like many other newspapers, needs international capital to survive and the international capital is provided by the great international merchant banks, and the great international banks are controlled by people who

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are no friends of yours and mine".

MR JUSTICE GRAY: That appears to be Andrew Neil speaking.

MR IRVING: What I am looking at is what those three dots represent which is not just ----

MR JUSTICE GRAY: Pause a moment. We will get to that in a second.

A: I take that to be Mr Irving's paraphrase and version and gloss on what Mr Neil was saying.

MR JUSTICE GRAY: So the answer is yes, but it is a gloss?

A: A very heavy gloss, my Lord, I think, and it goes on to say, "And Andrew Neil found that these 60 foot long posters had annoyed these people, and they put immense pressure on him, and we know this because from all over the world I have been getting press clippings", and so on and so forth.

MR IRVING: Where do the three dots end and the sentence resume?

A: "... are the great international" -- "our old traditional enemies are", it is three lines up from the bottom of page 3 and the sentence resumes four lines down from the top of page 4, so that is, five lines are omitted there.

Q: My point is, my Lord, that when you see three dots in the middle of a sentence like that, you are entitled to assume that a few words have been left out of a sentence, not that two words have been taken from one sentence and then

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sentences later they have been glued on to.

MR JUSTICE GRAY: Well, I think the point, and bear in mind we are not really concerned with your criticisms of Professor Evans, rather the other way round, but the point is whether anything has been left out that materially affects what is quoted. It seems to me that in this particular instance what has been left out by Professor Evans really makes no difference. Indeed, in many ways he might have made his point more strongly if he had put in what he had left out, the reference to "the self-appointed, ugly, greasy, nasty, perverted representatives of that community".

MR IRVING: I agree, my Lord, but my point is that if I had adopted that kind of abbreviation in

a paragraph, and I had cut out three or four sentences, full stops, semi-colons and 86 words and replaced them by three dots, it would have been completely reprehensible and it would have been rightly pounced on by all the witnesses in this case.

MR JUSTICE GRAY: I would not have thought it was reprehensible unless it did some injustice to what remains quoted.

MR IRVING: If I can put it another way? If I were an editor in a reputable publishing house and I caught one of my authors doing that, then I would sit on him like a tonne of bricks and say, "You cannot do this".

MR JUSTICE GRAY: Anyway, let us move on.

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A: Yes. If I can just say, my Lord, the point that I make repeatedly in my report is that the three dots, as it were, are missing from Mr Irving's manipulation of quotations. He does not ----

MR IRVING: Have you found one instance where I have not replaced missing materials with the appropriate ellipses, I ask you, Professor.

A: Plenty, yes.

Q: And you have referred to them actually in your report?

A: Yes, yes.

Q: We shall take that when we come. Can you give one example from memory?

A: For example, in your -- yes, from memory, your account of the discussions between Admiral Horthy and Hitler and Ribbentrop in 1943, when you actually mix up, when you transpose a phrase from Hitler from one day to the other in order to make him look better without any indication that you have actually done this.

Q: This is totally different from the question I asked you. Have you found one instance where I left words or a passage out of a document and did not replace it with ellipses?

A: Exactly, then that is exactly my answer.

Q: No.

A: I am afraid it is, Mr Irving. Shall we turn to the pages ----

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Q: Please do, yes.

A: --- in question?

MR JUSTICE GRAY: It is around page 440. I think it is 444, but I may be wrong.

A: The point here is that you transpose the sentence from ----

MR IRVING: We are not talking about transposition here.

A: Well, what we are doing is that you leave out the entire gap, the entire enormous passages, between the discussions of 16th and discussions of 17th of April 1943, and you ----

Q: I think you are deliberately obscuring the issue. This is not the answer to my question.

A: I am sorry, I am not deliberately obscuring ----

MR JUSTICE GRAY: Well, let him give it and then you can, of course, make the point that it is not an answer to the question. Sorry, Professor Evans, carry on.

A: Here is your -- you simply go straight on, what you said, "'They can hardly be murdered or otherwise eliminated', he protested. Hitler reassured him there is no need for that".

MR IRVING: Are you suggesting I left material out of that sentence?

A: That implied, that implies, that there was no gap at all between these two sentences.

Q: You know as well as I do, Professor, what the etiquette

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for use of ellipses is. Is that correct?

A: Indeed, yes.

Q: That is not an appropriate place for the insertion of ellipses. One has not left material out.

A: You have taken a Hitler statement from one day and transposed it to another.

Q: We are not talking about transposition.

A: You have an left enormous amount of material out there and given a completely misleading impression of the discussions which took place.

Q: Professor, would you accept that if you quote one sentence from a report, by definition, you are leaving out the whole of the rest of the report, and you do not replace the rest of the report with ellipses, is that correct?

A: It depends how you do it. I mean, for example, I could have done in my report, instead of having an indented quote with ellipses in, I could have had a number of separate quotes as you do here, separated by your own or my own commentary, but the effect is the same.

Q: In the case instanced here it would not have worked, would it, because you said "the merchant banks ..." and then you go on using the verb of another sentence.

A: Yes, I do not think that what I have left out, had it been put in, would have given what you said, another impression, a different meaning.

Q: Why do you say that I equate the traditional enemies of

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free speech with the "Jewish community", in quotation marks, when it is quite plain from everything that I have written that they are part of the bundle of people who try to suppress free speech, either by refusing to debate, or by smashing windows, or by putting pressure on publishers, or by inserting filters in the Internet or whatever?

A: I have already given my answer to that, the fact that on your website your list of the traditional enemies of free speech includes ----

Q: Is entirely Jewish, is entirely Jewish community, is it?

A: 90 per cent, I think.

MR JUSTICE GRAY: I wish we could find it because, if Professor Evans is right, it is an answer to the question and it is quite an illuminating answer.

MR IRVING: I agree, it is. Would you agree that the Australian Government is one of the people listed on that pull down menu?

A: I would have to see the list.

Q: Would you agree that Cyber Patrol which is a filtering system for the Internet Surf Watch?

MR JUSTICE GRAY: Until and until we find it, Mr Irving, this is a bit difficult, is it not?

MR IRVING: I am trying to put some ideas in your Lordship's mind, that this witness is not accurate when he says 90 per cent of the representatives on there are. Obviously and finally one further question on this, would you agree

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that in view of the fact that these particular bodies are the ones who have inflicted most damage on me over the last 10 years ----

A: Let me just quote, Mr Irving, another quote from page 168 from a speech you made in the Clarendon Club again, 29th May 1992 ----

Q: Is this relevant to the questions that we have asked?

A: "I never used to believe in the existence of an international Jewish conspiracy", you said, "I'm not even sure now if there's an international Jewish conspiracy. All I know is that people are conspiring internationally against me, and they do mostly turn out to be".

Q: ...

A: "... (drowned out by laughter and applause) which I think it is fairly clear that the next word was going to be "Jews".

MR IRVING: My Lord, I am not able to put bundle E to this witness and ask him questions on the documents which will substantiate what I just said in that speech, but certainly when we come to submissions which I am going to make, then I will justify that particular element.

MR JUSTICE GRAY: I am not sure why you say you are not ----

MR IRVING: Because your Lordship has said that this is not the appropriate time to introduce bundle E with the documents on the global endeavour to suppress my rights to publish and write.

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MR JUSTICE GRAY: No, and the reason I said was that it seemed to me that the point went to the damage that you say you suffered as a result of what you say are libels. That is something you can deal with in your evidence or in submissions. But if you are challenging -- but, you see, it is coming in a slightly different context. I think really, and when one gets to the bottom of it, it is further evidence -- I think this is the thrust of what Professor Evans is saying at the moment -- of an anti-semitic attitude.

MR IRVING: I agree, if left alone.

MR JUSTICE GRAY: On that, you are entitled to cross-examine. I hope you do not understand that one document may be relevant on two issues. On one issue ----

MR IRVING: I will not use the licence that your Lordship has given me.

MR JUSTICE GRAY: On any reliance that Professor Evans places on particular documents as showing your anti-Semitism, you are perfectly entitled -- I make this absolutely clear -- to cross-examine. So if you want to show him that document from your bundle E, then please do, or your clip E. It has not become a bundle yet, has it?

MR IRVING: It is quite substantial. Do you have bundle a bundle E in front of you? That is how big it is. It has been quite a major conspiracy. This is only a part of it.

MR JUSTICE GRAY: I am not encouraging you to go right the way

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through it. It is simply that if there is any ----

MR IRVING: No, my Lord, but I think, firstly, one or two general questions.

MR JUSTICE GRAY: Page, Mr Irving?

MR IRVING: I am going to ask him one or two general questions first to set the scenery.

(To the witness): Witness, is it your opinion that that remark you just quoted is evidence of an anti-semitic state of mind?

A: Sorry, which remark was this?

Q: You one that you decided to read out about the international conspiracy.

A: Conspiracy, yes.

Q: Is criticism of Jewish people or community permitted for whatever reason?

MR JUSTICE GRAY: We had this yesterday. I do not think we need to traverse that ground again.

A: Of course.

MR JUSTICE GRAY: When I say "yesterday", I mean Thursday.

MR IRVING: If you are shown scattered evidence of a concerted endeavour by representatives of that community to abrogate my rights to write and publish, over a period of, say, 25 years, around the world, would you be satisfied that that was a justified comment to make in those conditions?

A: Well, that is a very hypothetical question. In order to be -- I mean, I am constitutionally disinclined to believe in international conspiracies, and it would take a very

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great deal to persuade me that there was an internationally orchestrated conspiracy of this kind. It is the belief in an international Jewish conspiracy is a central element, in my view, of the most extreme forms of anti-Semitism.

Q: You talk about an international Jewish conspiracy, you are just talking about the kind of protocols of a Zion conspiracy, are you, or is one entitled to believe in a specific endeavour to achieve a certain aim, namely to silence David Irving as being a particularly dangerous historian? Is that an acceptable concept in your mind? Can you believe there is such an endeavour ----

A: I do not myself believe there is such an endeavour, no.

Q: If ----

A: But I have to say that it has not been a part of my task to investigate whether there has or not. I am not speaking, in other words, as an expert when I say that.

Q: My Lord, I am wondering what use it is going to be to put these documents piecemeal to this witness. I do not think it is at this point.

MR JUSTICE GRAY: None at all. I mean, his position is very clear. He does not believe that there is an international Jewish conspiracy. Therefore, he thinks that when you talk of one, you are displaying evidence of anti-semitism. That is the end of it as far as this witness goes, I think.

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MR IRVING: Yes. As long as your Lordship appreciates that the time will come when I will justify whatever remarks I made.

MR JUSTICE GRAY: Absolutely.

MR IRVING: The only problem is we have a rather unruly witness, I think, who ----

MR JUSTICE GRAY: No, that is not an appropriate comment at all.

MR IRVING: Well, I think it was not necessary really for him to have read out that passage if he was not prepared really to be cross-examined on it in depth on his own knowledge.

MR JUSTICE GRAY: Well, it happened. It was not unruly behaviour.

A: Thank, my Lord.

MR IRVING: Do you accept that this phrase "the enemies of free speech" to which the full phrase applies, "the traditional enemies" includes governments, political groups, trades unions and others as well the Jewish community leaders and other organizations?

A: Sorry, where is the passage then where you say that? Are we back to the website again?

Q: No, I am back to your reference in that paragraph, to paragraph 2.5.4 to "the Jewish community" which you now admit is a phrase that I do not use.

MR JUSTICE GRAY: Have we got the reference in the website?

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MR IRVING: Paragraph 2.5.4, my Lord, of his report: "Irving believes that there is an international campaign orchestrated by the 'Jewish community' ('our traditional enemies') as though there is an equation between the two, an equation, shall we say?"

A: Well, Mr Irving, you do in your speeches repeatedly refer to "our traditional enemies", and I think it is clear, in my judgment, that by "our traditional enemies" you mean, essentially, the Jews.

Q: Is it not true that the phrase that I use is "the traditional enemies of free speech"?

A: Not always, no. You refer to "our traditional enemies" on a number of occasions.

Q: Is it not obvious that one is the short form of the other?

A: No.

Q: "Our traditional enemies" is three words and "the traditional enemies of free speech" is five or six words. One is the short form of the other?

A: I quote on page 168 "our traditional enemies", "our old traditional enemies", and so on.

Q: Yes, but you appreciate that when you are speaking you do not use again and again and again exactly the same phrase, you modify it slightly. Sometimes you use the long form and sometimes you use the short form?

A: Well, I have gone through a number of your speeches, Mr Irving, and you do use exactly the same phrases on a

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number of ----

Q: "The traditional enemies of free speech"?

A: --- because you speak in a number of different places, "our traditional enemies".

Q: And "the traditional enemies of free speech".

A: You have used both of those formulations.

Q: Yes, and "the traditional enemies of free speech", as I formulated them both in public and on my website, include the people who are trying to censor the Internet, is that correct?

A: I think, Mr Irving -- correct me if I am wrong -- you have taken to talking about the traditional enemies of free speech more recently. In the early 1990s, it was -- you were much more inclined to talk about our traditional enemies.

Q: Do you have any evidence, any kind of statistical evidence, for that or that just a gut feeling you have that makes you say that?

A: That is just an impression I have on looking at and reading your speeches and your writings.

Q: But you have no evidentiary basis for that apart from your recollection?

A: That is my impression from having read your material.

Q: Will you now answer my question and say, is it true that on my website and elsewhere I have listed as the traditional enemies of free speech, governments, trades

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unions and people who are censoring the Internet?

A: Again, Mr Irving, we are back to the problem ----

Q: And there are separate dossiers on each of those people?

A: --- that we need to look at that page of your website where you ----

MR JUSTICE GRAY: We are going to have to pause until somebody has been able to find it. I do not mean pause altogether, I mean come back to it.

MR IRVING: I have one more question.

A: All I can say is that when I checked out, the list provided of some traditional enemies of free speech, there were virtually all Jewish.

MR RAMPTON: Can I intervene because it involves a technical problem which is beyond me. Could I ask Miss Rogers to explain it?

MR JUSTICE GRAY: Would you mind, Miss Rogers?

MS ROGERS: My Lord, what happens is if you click on the website, there is what is called down a pull down menu which lists the organizations under a heading, but I am told -- I cannot do it-- by others as well it is not possible to print the pull down menu.

MR IRVING: On Mackintosh it is.

MS ROGERS: What one could do, one could either type out the list, or perhaps your Lordship, with assistance, could go on Mr Irving's website and have a look and see the list.

MR JUSTICE GRAY: I will do that. Is it possible to give me a

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reference to where I will find it on the website?

MR IRVING: [Www.fpp.co.uk/trial](http://www.fpp.co.uk/trial).

A: It is very easy, my Lord, to find it on the website. It is a very clearly organised website.

MR JUSTICE GRAY: Right, thank you very much, Miss Rogers. I am not surprised you ----

MR IRVING: So that each of these particular things has a dossier, right? Each of these organisations, the Anti-Defamation League, the Board of Deputies, each of them has a dossier?

A: Right.

MR JUSTICE GRAY: Mr Irving, shall we leave it that I will have a look, and I know what the question is, whether they are mostly Jewish organizations or whether they are not.

MR IRVING: My Lord, you are just going to have a look at the menu, are you not, is that correct?

MR JUSTICE GRAY: I am not going to browse generally through the Internet. No, I did not mean that in any way critically of it. I just am not going to; there is plenty else to be doing.

MR IRVING: Because there are 53 megabytes of information on that and I have idea which particular part of the forest you are going to get lost in. (To the witness): Do you accept that there is concerted campaign by the traditional enemies of free speech to refuse to debate with people like me?

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A: I do not accept the concept of traditional enemies of free speech, to start with. I do not accept that there is a concerted campaign. No, I have not seen evidence for that.

Q: Are you familiar with the number of times I have been invited to speak at universities over the last 10 years and the university has then come under pressure to cancel the invitation?

A: I am not, no, but I can quite believe that that is the case.

Q: Has this happened to other historians like John Charmley?

A: I do not regard you as an historian, Mr Irving. Let me make a distinction between universities and other venues. By appearing at a university and speaking in a university, I think you lay a claim to being an academic or being a scholarly historian which you receive an endorsement from by the fact that you appear at a university.

Q: I am careful not to create the impression that I am a scholar. Nothing would frighten me more.

A: I think you try and give that impression in your books. You may have a different definition of "scholarship" from the one that I have. There is a distinction to be made, surely, if you take

United States of America where nobody stops you from going around making speeches wherever you want to apart from universities.

Q: Are you familiar that I have lectured at the National

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Archives in Washington?

A: On what occasion?

Q: About five years ago on Hermann Goring.

A: I am not familiar, no.

Q: Are you familiar with the fact that I have lectured at Harvard on Adolf Hitler at the invitation of the Master of Harvard, Dr Richard Hunt?

A: On what occasion was that?

Q: This was 1977, I lectured on Hitler's War.

A: Yes, I am familiar with the fact that you have talked to many academic institutions in the 1970s, including my own college in Cambridge, I believe.

Q: Indeed. I have spoken at Caius and I have spoken at various other colleges around the world until the problems arose. Are you familiar with the fact that these problems were generated by outside organisations?

A: I would have to be provided with evidence of that, I think.

Q: Are you familiar with the fact that I was in the University of Cork in Southern Ireland?

MR JUSTICE GRAY: Mr Irving, how is it going to help me that you were addressing the University of Cork? We really must keep an eye on the ball. We have spent a very long time deal with these preliminary passages and I can understand why, for forensic purposes you are concentrating on those earlier passages, but in the end we

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must get to the specific criticisms because on that really Professor Evans is hanging his case against you. It stands or falls by that.

MR IRVING: I agree, but we have just this witness say, "I do not consider you to be a historian", and then it turns out that large numbers of academic bodies consider me to be a historian whom they would willingly hear, were it not for the violence that is threatened if I do attend. This is the reason that I mentioned that fact, my Lord.

MR JUSTICE GRAY: Yes.

MR IRVING: Go to page 44 of your report, please, 2.5.6. Do you accept that the Board of Deputies of British Jews in 1919 acknowledge that I am "one of the world's most thorough researchers and an exciting and readable historian"? You put it in quotation marks.

A: I think I can accept that, yes.

Q: So you did ----

A: I would not dispute the fact that you are a thorough researcher. I have not disputed that in this case.

Q: You agree that that report does exist?

A: I accept your word for it. I have not seen it myself.

Q: Would you accept that the report is currently lodged in the files of the Canadian government where it was placed by an organization with the intention of getting me denied access to Canada?

A: That I would require evidence, I think particularly with

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the intention. Since I have not seen the report, I am only citing it second hand here, for the purposes of talking about your reputation as an historian, as a researcher, I am not concerned with any other aspects of the report which, as I say, I have not read myself.

Q: On paragraph 2.5.8 on the same page, once again you are coming down pretty heavily on the historical profession, are you not? I wonder sometimes what your colleagues say in your common room when you go back to Caius about the way you are blackening the name of historians whom you disagree with.

A: Could you point out to me the blackening of historians' names?

Q: You are saying that those with the general knowledge have been kind to me, whereas those who are experts like yourself are rightly rude -- is that the burden of that?

A: No. Let me read you the sentence. I am making a distinction between different kinds of historians with difference kinds of expertise in reviewing and commenting on your work. I quote here: "Those with a general knowledge have mostly been quite generous to Irving, even where they have found reason to criticise him or disagree with his views; but they have also seldom been entirely uncritical of Irving's work and his methods". Is that blackening their name?

Q: Can I draw your attention to footnote 34?

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A: Yes.

Q: That is the New Statesman 1977. Is that not ten years before I published my biography on Winston Churchill?

A: That, I take it, is a review of your book on Hitler.

Q: Yes, so my views on Churchill are neither here nor there in such context.

A: They appear in your work on Hitler.

Q: Can I ask you now to turn to page 45, where there is once again reference to my attempt to show that Hitler urged restraint in the Reichskristallnacht?

A: Yes.

Q: Do you consider this to be a completely ludicrous version of history, that Hitler was the restraining influence that night? Is this your conclusion?

A: Yes. It depends exactly what you mean by "restraint" but I think I am summarizing what Hinton Thomas says in that review there. I think that is probably his phrase.

Q: But you devoted quite a lot of this report -- my Lord, I think this is something we can dwell on for a moment or two, which is the Kristallnacht?

MR JUSTICE GRAY: We are certainly going to have to spend some time on Kristallnacht. Whether this is the right context to do it I do not know, because in the end, as I say quite often, it is Professor Evans' views and his criticisms that matter, not what other historians may have felt.

MR IRVING: Oh dear. I will see how far I get with this one

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then.

MR JUSTICE GRAY: It is for me to make up my mind, when I know what the criticisms are and I know what your answer is, whether I think it is well founded.

MR IRVING: The allegation is that I have been perverse, if I may put it like that, in suggesting that Hitler was a restraining influence that night of all nights. It turns out -- would you turn to page 48 of your little bundle please, which is F?

A: Is that the one with the pictures?

Q: That is the one with the pictures. On Thursday we found out that you knew who Professor Burrin, a Frenchman, was.

A: Burrin, a Swiss, I believe.

Q: You said that yes, he is an academic, an acceptable historian with the highest credentials. Is it right that he is Professor of International History at the Graduate Institute of International Studies in Geneva?

A: I will accept your word for it.

Q: Yes. If we go to page 57 of his work, which I have extracted in that bundle for your Lordship, do we not find there that he expresses precisely the same view as I do? In fact, two years before I did in my Goebbels biography, so it cannot be derivative in the slightest way, he seems to have been surprised by the extent of the destruction, Hitler?

MR JUSTICE GRAY: Page 57? Do you mean that?

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A: Page 48 of the bundle, my Lord, which is page 57 of the book Hitler and the Jews, the Genesis of the Holocaust. By Philip Burrin, who is an intentionalist historian. Would you explain what an intentionalist historian is in the great debate?

MR JUSTICE GRAY: It is not a functionalist historian. I think I know the answer.

MR IRVING: Very good.

MR JUSTICE GRAY: Thank you.

MR IRVING: Your Lordship has grasped it quicker than I ever did.

MR JUSTICE GRAY: Let us get on.

MR IRVING: Page 57 on this book?

A: I am not sure I would describe Burrin as an out and out intentionalist in his book on Hitler and the Jews.

Q: "Whilst Hitler could only have endorsed the concept of exacting reprisals, namely on the Jews, he seems to have been surprised by the extent of the destruction. Soon he will be able to gauge its impact. (Jump a sentence) In each case Hitler covered for Goebbels who did not derive the hoped for benefits from the affair." Is this Professor perverse, do you think, for adopting that on the basis of---

A: I have to say I do not agree with that interpretation. I do not agree at all.

Q: Yes, but you would not describe him as perverse?

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A: It really comes down to how he has arrived at that, the methods he has used to arrive at that conclusion.

Q: Of course, he did not have the Goebbels diaries then.

A: Without looking at this in detail, it is very difficult to say.

Q: Yes.

A: My criticisms of what you have to say about the Reichskristallnacht depend to a large extent on the methods you have used to arrive at the conclusions you arrive at. I think this is only a brief -- if I recall rightly and I may be wrong -- paragraph in a work which is almost entirely devoted to the wartime. It is part of a very brief broad summary.

Q: So what are you saying is that this view that Hitler was taken by surprise by it and that he covered for Goebbels but did nothing else, it is not perverse when it is stated by a professor of

international history, but it is perverse when it is stated by David Irving?

A: First of all, he does say that Hitler authorized the holding of spontaneous demonstrations, whatever that means. He was surprised by the extent of the destruction. I do not accept either of those points of view but, as I say, I do not know to what extent this rests on his own research, or to what extent this is just a very brief summary. I suspect this is just a single paragraph. Knowing what I recall of the book, it is

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nearly all about the years 1939, 1940, particularly 41 and 42.

Q: It is a pretty revolutionary statement for a Professor to make though, is it not, at that time, to come out you and say that he thought that Hitler was not behind the Kristallnacht?

A: I do not think he says that.

Q: It is not exactly a throw away line, is it?

A: He says that -- it is speculative, is it not -- he could only have endorsed the concept of exacting reprisals. I have to say simply I do not agree with that point of view. It really comes down to how you arrive at that and the documentary basis for it.

Q: Moving on to the next paragraph in the middle of that page 45 back in your report, you refer to my omitting key passages of this kind from his discussion of documents such as Hitler's Political Testament. Is this Hitler's Political Testament that I am holding in my hand?

A: Let me say I do not refer to that. I am referring to Sir Martin Gilbert review and I am saying what he says. In all this passage I am simply trying to summarise what other historians have said.

MR JUSTICE GRAY: I know.

A: I do not necessarily endorse every single point they have made. I am trying to establish reputation.

MR JUSTICE GRAY: You have created a problem. You understand

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that, Professor Evans?

A: Yes.

Q: And I am trying to find the way through it without any unfairness to Mr Irving. Obviously the views of Sir Martin Gilbert command enormous respect, but I say again in the end it is for me to look at the evidence in huge detail, as we are going to have to, and then look at the criticisms, look at your answer and make up my own mind. Obviously it is of importance to note what Sir Martin Gilbert and these others say, but in the end it cannot impact very much on my decision.

MR IRVING: In my submission, this witness has relied very heavily on sources of a particular colour, if I can put it like that, and the reliability which I would challenge, then surely I am entitled seriatim to take these sources until your Lordship has really run out of patience.

MR JUSTICE GRAY: I do not see why you have to take it that far, in a way. I have made my view pretty clear. I understand why you are doing this. Professor Evans possibly regrets one or two sections of his report for that reason. Maybe he does not, I do not know. What I am anxious to do, I make no secret of this, is to get on to the specific criticisms and see how much there is in them. Take it rapidly, if you would, Mr Irving.

MR IRVING: I will put on seven league boots. Did Sir Martin Gilbert rely on this book, Hitler's Political Testament?

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A: I really cannot say. I cannot answer for Sir Martin Gilbert.

Q: You have criticised me through him for not relying on Hitler's Political Testament?

A: I thought it necessary, since you made a great deal of this in your reply to the Defence initially at the beginning of this whole case a couple of years ago, of your reputation as a historian, to go into that, and that is what I am talking about here.

Q: Are you familiar that Hitler's Political Testament is a forged document, and I know the Swiss gentleman who forged it in his own handwriting? There is every reason therefore why I should not have relied on that document.

A: That is not really relevant to what I am saying here. What I am saying here is that you have been criticised by other historians.

Q: 2.5.10, please. I am sorry, the last lines of 2.5.9. Do you remember you are quoting Michael Howard criticising me for not crediting other historians where they had done the work?

A: Yes.

Q: Can I, in view of the fact that you have not done so, call the court's attention to the review that Michael Howard wrote, which is in the little bundle at page 33? Does your Lordship have it?

MR JUSTICE GRAY: Yes.

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MR IRVING: I think in your Lordship's copy I may have highlighted a few sentences in yellow.

MR JUSTICE GRAY: Page 33 of your E?

MR IRVING: Of F.

MR JUSTICE GRAY: I am sure you have, and it is very helpful when you do. I will read out the passages you have highlighted in my copy if you like.

A: May I read out the passage in my report in full? The military historian Michael Howard ... praised the 'very considerable merits' of The War Path and declared that Irving was 'at his best as a professional historian demanding documentary proof for popularly held beliefs'. That is very positive and I am trying to convey there the positive impression that Howard gives. Then I go on to his criticisms: "Howard pointed out that Irving's account of an episode such as the enforced resignation of Generals Blomberg and Fritsch before the outbreak of the Second World War was not as original as he claimed and added nothing to the story already told by other historians. 'It would be nice', he wrote, 'if Mr Irving occasionally recognised that other men had been there before him and done a competent job of work'. This is not a damning review. I am not trying to convey the impression that it is. Of course, since, Mr Irving, you say you never read other historians' work, that last criticism of Sir Michael's is really not very surprising.

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MR IRVING: Oh dear. I wish you had not said that. Can I now draw your attention to the next item in that bundle, which is page 34? That is a letter from me to the newspaper that published that review.

A: Can you direct me to the bundle?

MR JUSTICE GRAY: Page 34 of the slim F.

MR IRVING: Now you will see what has happened, will you not? Can I show you the book? First of all, is this the book?

MR JUSTICE GRAY: Yes, I have the point.

A: Yes I have the point too. That is one historian. Many other historians ----

MR JUSTICE GRAY: I think climb down on that one.

A: I will climb down on Professor Deutsch, but he is not the only historian who has written about this subject.

MR IRVING: Just so that the people behind me know what has happened, is this the book to which you were referring by Professor Harold Deutsch?

A: What you say in that letter, as you point out, Professor Deutsch in his book had based his account on material that you had supplied to him.

Q: Let me get a lot mileage out of this. First of all, is Professor Deutsch Jewish?

A: I have no idea.

Q: Take it from me that he is a very good old Jewish friend of mine who is one of the United States old guard of historians?

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MR RAMPTON: There comes a time, even when it is a litigant in person, where we cannot have continually, we have had it all the time, evidence from counsel's row. I do not really mind. I am really standing up for rather a different reason. We have done 45 pages in a day and a half. At that rate Professor Evans will be in the box for another three weeks.

MR JUSTICE GRAY: I am very conscious of that. I do not know the shape of what is to come. I have not counted my interventions, but they have pretty numerous. The difficulty, Mr Rampton, if I may explain, is that Professor Evans has made reference to these other historians and their views. That does rather open up cross-examination.

MR RAMPTON: It only does if those references are (a) likely to be relied on by me, which is not very likely, and (b) and much more important, if they are likely to influence your Lordship. This is not a jury trial. If your Lordship were to make it clear, if it be the case, that this part of the report is not an important part ----

MR JUSTICE GRAY: I think I have made that clear effectively on a large number of occasions.

MR RAMPTON: I had thought so, and it does seem to me that this is a rather futile game of ping pong that is going on at the moment, and far better to get on to the detailed criticisms. Professor Evans has said a number of times

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why he does not regard Mr Irving as a reputable historian. It is because of the way he treats his material. Then we ought to be looking at that, in my submission.

MR JUSTICE GRAY: Mr Irving, that really is very much what I think I have been trying to say to you very often. I am giving you, as I have said many times before also, as much latitude as I reasonably can, but I do think you really must get on to the specific criticisms. We are going very, very slowly and this morning I really have not found hugely helpful in terms of the task that I am eventually going to have to perform. That is my problem.

MR IRVING: I am trying to undermine your Lordship's confidence in this witnesses as being somebody who has the ability and the impartiality and the historical background to pass judgment on myself.

MR JUSTICE GRAY: If I may say so, that is a perfectly legitimate thing to do, but in the end you cannot just attack credibility. You have to get on to the nuts and bolts of the report and show why they are not credible, as opposed to attacking Professor Evans' credibility on a more broad brush basis. Do you see what I mean?

MR IRVING: In that case it would have been well if Professor Evans had not written the initial 100 pages in his report.

MR JUSTICE GRAY: I think I said that myself and I do rather take that view. He did. You know my view of it. You are

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a litigant in person and you are, if I may say so, handling your task extremely well, but one of the things that you do learn is to take hints if you are doing it professionally. I understand how difficult it is for you because there is stuff in those first 150 pages which you understandably take fierce objection to.

MR IRVING: It sets my teeth on edge, a lot of it.

MR JUSTICE GRAY: It is not going to bulk very large in my thinking.

MR IRVING: Your Lordship knows how your Lordship is thinking but, with respect, I do not. You have a poker face and a complete mask like demeanour which keeps me totally in the dark. People ask me when I go home how have you done and I say I not know.

MR JUSTICE GRAY: That is probably best. Anyway, I have given the hint yet again. Mr Rampton is going shortly to ask me to make a ruling about it and, if I have to make a ruling, you know the way I am thinking at the moment, so let us get on.

MR IRVING: Can we leap forward to page 47 of your report, please? Harsh words on John Charmley now, a right wing historian at the University of East Anglia.

A: What is harsh about that? He is right-wing. I do not think he makes any secret of that. He is a former colleague of mine.

Q: Does that disqualify somebody if they are right-wing?

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A: No, certainly not.

MR JUSTICE GRAY: That is enough about Mr Charmley. On to your next point. I am not being flippant at all, but there is nothing there for you, Mr Irving, I do not think, so come on.

MR IRVING: Can I ask your Lordship to go to page 26 of the little bundle, please? Recently received, but if your Lordship feels it is irrelevant, then I shall move on.

MR JUSTICE GRAY: He pays you a warm tribute and wishes you well in your libel action.

MR IRVING: Can I take you to page 49, please?

A: I am just saying that I quote Professor Charmley and saying that he admires Mr Irving in my report.

MR IRVING: My Lord, if I am referred to as some kind of pariah in the academic community whose views are worth nothing, I find myself ----

MR JUSTICE GRAY: That is not the way I approach it. I am trying to find a way round this problem because I can see you are not going to take my hint. I have seen plenty of evidence, you have shown me a lot of evidence, from very distinguished people like Lord Trevor-Roper paying you tributes and, as a military historian, I certainly accept the evidence that I have heard about the number of people who have a very high regard for you. But in the end it is not as a military historian that you are appearing really in this trial. You are appearing for the very specific

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detailed criticisms of your approach made by Professor Evans, and those are what matter.

MR IRVING: You are talking about assassinations, is this right Professor?

A: Sorry, where is this.

Q: On page 49, and the suggestion which is implicit in that paragraph that the British did not carry out assassinations, that I should not have hinted that we did, and Irving's claim that the democracies had no hesitation about killing their foreign opponents. Do you accept that the British did carry out assassinations in World War II?

A: I am describing Trevor-Roper's view of your work, and I am recounting what he says in a section that is about your reputation as an historian, where I try and lay out what your reputation amongst professional historians has been and is. I am not responsible for justifying every last detail of what every historian I quote has written about your work.

Q: Do you reference the assassination of Chancellor Dollfuss in 1934?

MR JUSTICE GRAY: I am sorry, I am not going to go into the assassination of the Austrian Chancellor in 1934. It has nothing to do with this case at all. You have to move on, Mr Irving. I really am not going to let this case grind almost to a halt on peripheral material.

MR IRVING: I am moving on. A 700 page report has been dumped

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on me by this expert witness in which he has used this material to blacken my name and set my teeth on edge. It has been very widely quoted and I do not know what your Lordship is attending to or not.

MR JUSTICE GRAY: I am not attending to other historians' views about the issues I have to decide. In the end they are for me to decide, apart from those who have provided reports.

MR IRVING: Move to page 57, please. I have leapt 20 questions there, my Lord.

MR JUSTICE GRAY: I do realize you have. I recognize that.

MR IRVING: 2.5.29, please. The allegation that I invented sources by Mr Charles Sydnor.

A: Once again, this is still in a section that is discussing your reputation amongst other historians.

Q: So you feel quite comfortable in throwing these kinds of reports or allegations or opinions of other historians at me to criticise my reputation without investigating how true they were?

A: It is not a central part of my report, Mr Irving. I am simply trying to establish that some historians have been extremely critical of your methods. That includes particularly Sydnor and Brozsat. I am aware of the fact that you replied to Sydnor and I dealt with that in my response to the written questions which you submitted.

MR JUSTICE GRAY: Do you adopt Sydnor's criticism? This is

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Mr Irving's problem and I am not unsympathetic towards it. You recite the criticisms that Sydnor makes and then you in some way seem to rather disavow them when you come to give evidence. Are you saying that what Sydnor said is a justified criticism? Or are you simply giving it as background, as it were, to your own criticisms? That is his problem as you, I am sure, understand.

A: I can see the problem.

Q: If you say well, no, I am not making that any part of my case, then it may be that Mr Irving will feel we can forget about Mr Sydnor.

MR IRVING: Yes. We could do that with a whole number of my critics.

A: What I am saying, trying to be as precise about it as possible, is that it seems to me that Sydnor is an authoritative critic, but of course I cannot say that every one of his criticisms is justified. It is not in the end part of my case at all. I am not taking up these points and making them in my own treatment of your work. I make a whole set of separate points about your work.

This is to do with your reputation amongst historians.

MR IRVING: Can I draw your attention to the middle sentence where you say: "In his efforts to present Hitler in a humane light", which is one of the allegations against me, "Irving, wrote Sydnor, manipulated sources, invented incidents" -- that is a pretty serious allegation --

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"(such as Hitler's supposed rebuke of the Judge Freisler at the conspirators' trial) and once more, as so often, failed to give proper documentary references".

Professor, in your work at the Institute of History in Munich though my papers, did you not find the papers of Hitler's Adjutant Schaub?

A: Mr Irving, you did not respond to that criticism in your reply to Professor Sydnor in Central European History.

MR JUSTICE GRAY: No, but, I think, Mr Irving, you may not have heard or digested what Mr Irving said. He said: "It is not in the end part of my case at all. I am not taking up these points and making them in my own treatment of your work. I make a whole set of separate points about your work".

I understand that really to mean that it is what appears from about page, I do not know, 120 onwards which Professor Evans relies on and he does not rely, unless they happen to be in both, on the criticisms by Sydnor. I would have thought that that is sufficient for you to be able to say, "Well, right, I can forget about the recitations of other historians' views and get on to what matters".

MR IRVING: Except that I would have submitted, my Lord, that in every single instance where he has produced such an episode, I am able to justify myself, as, for example, and this is not without significance as far as his credibility

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as a witness is concerned and his credit worthiness. I will take him to one further episode and then we will skip another 20 pages. (To the witness): Page 59. You applaud, shall we say, John Lukacs' attack on me, is that right, for having invented sources and all the usual allegations?

A: No, I do not applaud it. I am summarizing it as part of a discussion of your reputation amongst historians.

Q: Right. He writes: "Mr Irving's factual errors are beyond belief. He says that '40 per cent of the prisoners in southern France turned out to be Russians" as one example of how erroneous and factually erroneous I am?

A: Yes.

Q: Can we go very rapidly to make progress, not just to the review which we will have a look at, but to page 23 of bundle F?

A: Yes.

Q: Is that a telegram from General Devers to General Marshal and General Eisenhower?

A: Yes.

Q: Does the sentence that has been ringed on it say: "Prisoners captured are between 1,500 and 2,000 of which about 40 per cent are Russians"?

A: Yes, if I just explain that this telegram was issued on 17th August. It notes that the 6th Army Corp. were ashore by 1800 hours. "They occupied all small towns in this

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area which they say delineated by map references, and they are advancing on Toulon which the 3rd Division expects to reach by the morning and landing operations were continuing. The prisoners captured are between 1500 and 2,000 of which about 40 per cent are Russians". So the first point is that -- well, there are many points -- the document does not say that 40 per cent of the prisoners in southern France turned out to be Russians. It just says that 40 per cent of the prisoners taken in a small area of southern France, Near Toulon, in the first few hours of an American landing were Russians. It does not say the Russians were volunteers. So it seems to me that this is an egregious misinterpretation of this document. You are blowing up a small report into a large generalization.

Q: This is the report by the Commanding General in command of the entire sector, the entire landing operation, in southern France. I do not really want to spend more time on this than to say that, quite clearly, the reference in my book depended solely on this telegram from Eisenhower's personal papers.

MR JUSTICE GRAY: Professor Evans, it is right, is it not? I mean, this is from the Advanced Detachment of Allied Forces Headquarters for the attention, for his eyes only, to Generals Marshall and Eisenhower. It can hardly be a reference to some little skirmish. I mean, it must be a

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global report. Is Mr Irving not entitled to make the point?

A: My Lord, he is talking about a few hours of a landing in a relatively small area with 1500 and 2,000 captured prisoners which is really a very small number. I do think it is a manipulation of this source to generalize about 40 per cent of the prisoners in southern France which must refer, surely, to the whole of the southern half of France over the whole period in which the fighting was going on.

MR IRVING: No I think you will find ----

A: I think this is a classic example of ----

Q: --- before the words ----

A: --- of Mr Irving's blowing up a small source into a large generalization.

Q: I think you will find that before the words "40 per cent" the phrase is "in the initial phase of the attack 40 per cent", but he has cut those words out?

A: If you present me with the document, I would be happy to concede that if he has manipulated that.

MR JUSTICE GRAY: That is a very good illustration of the problems we run into. You have not got the war between the Generals here, have we?

MR IRVING: No, I have not got it here with me, my Lord, but we have a much more serious problem with this witness, and this is that he has repeatedly relied on documents which are not in the H1 series ----

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A: I am sorry, but the fact remains they were not volunteers. Russians who joined the German armies were in many cases, effectively, forced to do so.

Q: They were called Hilsswillige, were they not?

A: They were not volunteers.

Q: "Hiwis", is that right?

A: That, of course, is a classic piece of Nazi rhetoric.

Q: Is it not true that they joined with the intention of fighting the Bolsheviks and then found they

had been sent to another front?

A: Not in all cases, not at all, no. They were -- Russian prisoners of war in Germany were in extremely difficult conditions. Some 3 million were, effectively, deliberately left to starve and die by the Germans in the course of war, and the alternative to being pressed into the German Army was quite clear to many of them.

Q: John Lukacs has published a book recently, has he not?

MR JUSTICE GRAY: Mr Irving, may I just try to help you because I do see your problem and I am actually sympathetic with it. If I tell you that my approach to these opening paragraphs, pages, where the views of other historians about your work are recited at length and in a very critical vein, if I tell you my attitude to them is going to be that they count for virtually nothing, so far as I am concerned, when I come to judge the criticisms made of you by Professor Evans, and I go a little bit further

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than that, and say it is my view that it is in every way -- this is not a criticism of Professor Evans personally -- unfortunate that they are there because they could be taken to indicate a preconception about the validity of the criticisms.

MR IRVING: I think they are grossly prejudicial, my Lord.

MR JUSTICE GRAY: Does that satisfy you that you really are not going to lose by not spending long, in fact I hope no longer, on these other historians' views?

MR IRVING: But you do accept my belief that they are grossly prejudicial ----

MR JUSTICE GRAY: I chose my words with a certain amount of care. They are capable of giving rise to the impression that there was a preconception that there were justified criticisms about you. In the end, I think Professor Evans accepts that he has justify his own criticisms in his own terms and as a matter of his own beliefs.

A: Yes.

MR IRVING: Can you turn to page 63? We are now moving on to publishers. I will not deal with any more historians then. 2.5.38, can you accept that, in fact, my main publishers in that era were Macmillan and Hutchinsons and not Penguin? They were my major hard back publishers.

A: Yes, I mention publishing house -- your books are published by a variety of mainstream publishing houses, including Penguin Books, Macmillan, Hodder and Stoughton,

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HarperCollins, Grafton Books and Corgi paperbacks.

Q: But they ceased publishing me, did they not?

A: I think that is correct, yes.

Q: Are you implying they ceased publishing me because of inherent faults in my works or because of some other reason? Do you have any knowledge one way or the other?

A: I am trying to see where I describe this. You have no longer been published -- since the late 1980s you have no longer been published by major houses, but instead you have brought out your books under your own imprint.

Q: You are aware, in fact, that Macmillans continued publishing me until 1992?

A: Yes.

Q: Are you suggesting that Macmillans and Hutchinsons and the other major hard back publishers ceased publishing because they found faults in my work?

A: I mean, one has to kind of guess really, I think, because I have not had access to any documentation which they have, but, as you know, the normal process among publishers of non-

fiction is to have manuscripts and books submitted to referees for comment, and it may well be that that is the reason why they did not. I mean, your views have changed on a number of matters.

Q: Have you any reason to ----

A: Or did change in a number of matters, particularly on the Holocaust in the late 1980s, and I think it is not

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unreasonable to see a connection between the change of your views that took place in 1988 when I think you became a Holocaust denier, and the fact that within four years major publishing houses were not publishing your work any longer.

Q: Is it in your knowledge of the publishing industry normal for publishers to come under outside pressure?

A: It depends what you mean by "outside pressure". As I said, publishers commonly send manuscripts and books out to a variety of referees who report on them. In a sense, if they get adverse reports from those referees, I guess that is outside, that is some kind of outside contribution.

Q: You have no knowledge of Macmillan ever having sent any of my recent and final books out to outside referees, do you?

A: I do not know whether you have submitted your manuscripts to them or not. This is only a very brief reference here in a few lines.

Q: Have you ever heard of a major publisher ordering the total destruction of an author's works under the effect of outside pressure?

A: Under the threat of legal action.

Q: No, not under threat of legal action?

A: That is outside pressure.

Q: Under threat of political pressure?

A: Not to my knowledge, no. That is not to say it has not

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happened.

Q: On page 63 you refer to the fact that reputable historians do not get themselves arrested and deported and all the rest of it. Is that correct?

A: Yes, I think so. Yes.

Q: Is Salman Rushdie a reputable historian?

A: No, he is a novelist.

Q: Is he reputable?

A: He is a novelist.

Q: Blamed for his own misfortune?

A: He is a novelist. I am not talking about novelists. I am talking about reputable historians.

Q: Is it reputable to abandon your principles in order not to get arrested and deported?

A: I find that a difficult question. I mean, that is so hypothetical. I am not quite sure who you are referring to.

Q: Well, you used the word "reputable".

A: All I am saying here ----

MR JUSTICE GRAY: Mr Irving, this is getting you nowhere.

A: All I am saying here is that, as I say: "It is impossible to think of any historian of any standing at all who has been subjected to so many adverse legal judgments", and also who has ----

Q: Are you aware there has been only one adverse ----

A: --- experienced so many difficulties.

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Q: --- legal judgment against me, and that this was in Germany in January 1993? Are you aware what that judgment was for?

A: I thought you had an adverse legal judgment against you in the case of your book on the Convoy of PQ17, I think it was called.

MR JUSTICE GRAY: Well, we are certainly not going to go into that.

MR IRVING: Are you aware of what the adverse legal judgment in Germany in January 1993 was for?

A: Yes.

Q: Would you tell the court?

A: I think it was for Holocaust denial, was it not?

Q: No, it was not for Holocaust denial. It was for saying that the gas chamber at Auschwitz (i) which is shown to the tourists is a fake.

A: Without seeing a copy of the judgment, I could not confirm that. That is not my understanding of what the judgment was.

Q: Those are the words complained of and that is what I was fined on. Will you comment ----

A: Well, if I have copy of judgment in front of me, then I will, then I will be prepared to comment on that.

Q: Would you go to page 66 of your report? We now come to Irving and Holocaust denial.

A: Yes.

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MR JUSTICE GRAY: On that issue, Mr Irving, can I just before we embark on it so that we do not misunderstand one another, I have got now a definition from the Defendants of what they mean by "Holocaust denial" and you have cross-examined about that and I bear in mind the points you have made. I have all the statements that the Defendants say you made which they rely on as amounting to Holocaust denial. I have the context of the denials so that I can see any points you have to make on context, you have given your evidence about what you meant.

I am just wondering where we go with the evidence on it. Is it not in the end a question for me to look at what you have said or you are reported as having said and making up my mind whether you constitute a Holocaust denier in the sense the Defendants define that term?

MR IRVING: This is true, but I am trying to organize that word in the order of things. This is a useful paragraph to look at because in this paragraph, my Lord, he states that Holocaust denier is the central allegation against me in Lipstadt's book, in the book by the Second Defendant. I was going to ask whether he does not agree that the allegations about manipulation, distortion and deliberate mistranslation are far more serious for a professional historian.

MR JUSTICE GRAY: Well, that is a perfectly fair question.

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A: Well, the answer is I say a central allegation, not the central allegation.

MR IRVING: Well, nit-picking aside, will you now answer the question? Would you not agree

that the allegation about manipulation, distortion and deliberate mistranslation of original records are far more serious to be slapped on a professional historian like myself or a professional writer like myself, if you do not like the word "historian"?

A: Well, I describe it as a central allegation because it is not the only one. It does, to my mind, as it were, contain within it the allegation that you manipulated, falsified history, and it is an allegation to which in your plea to the court, your written submission to the court initially, you take extremely strong exception, so I felt it necessary to go into it.

Q: By what -- I cannot really question ----

MR JUSTICE GRAY: I am not sure you have answered the question quite.

MR IRVING: I beg your Lordship's pardon?

MR JUSTICE GRAY: I do not think that the Professor has answered your question quite.

MR IRVING: It is important.

MR JUSTICE GRAY: I think it is an important question and I think it is worth spending a few moments on.

MR IRVING: Because they have not exactly put these ones in

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section 5, so I am entitled to ask how serious these allegations are as seen by an acknowledged historian who is an expert witness on the matter.

MR JUSTICE GRAY: Professor Evans, it is an fair question.

A: Yes.

Q: In the end, the sting or the main sting, as it is sometimes called, against Mr Irving is that he has manipulated data and so come to deny the Holocaust in the sense ----

A: Or the other way round, that he is denying the Holocaust and, therefore, manipulated data.

Q: Yes, I follow that.

A: The two are bound up together, my Lord, and I am trying to unpack them here. So certainly, of course, the allegation that he has manipulated data is in that sense the crucial allegation in Lipstadt's book.

MR IRVING: Professor, are they not separate allegations? They are four separate allegations, are they not? He manipulates, he distorts, he mistranslates and, on top of all that, he denies the Holocaust?

A: No, I think they are bound -- I mean, you can separate them out, and they are also very closely connected. I think the burden of the charges put forward in Professor Lipstad's book is that Holocaust deniers, by definition, as it were, manipulate and falsify history, falsify the data.

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Q: But if you were to take for a moment ----

MR JUSTICE GRAY: Let the Professor finish his answer.

A: Well, I had, my Lord.

MR JUSTICE GRAY: You had finished?

A: Yes.

MR IRVING: If you were to wrench the Holocaust denial allegation out of the book and just leave the rest of it, the manipulation, the distortion and the mistranslation, that would still be a pretty serious allegation to make of an historian, would it not?

A: Indeed, yes.

Q: You could not say, "Well, it is OK because we do not accuse him of Holocaust denial which is the big one"?

A: Indeed, yes.

Q: Yes, it would be a very serious allegation if it were made against any historian ----

A: Yes.

Q: --- in order to prettify the image of Adolf Hitler in history he deliberately distorted. These are serious allegations ----

A: Yes, absolutely. I agree.

Q: --- to make? Yes. It would render him virtually unpublishable in the world of serious writers?

A: Yes.

Q: What do you think the Second Defendant meant and the First Defendant in publishing it when they describe me as being

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the most dangerous spokesman for Holocaust denial, the word "dangerous"?

A: Yes, I think what was meant by that was that you more than people like, well, I think it is because you had a reputation for being a serious historian in the 1970s, 1980s, and that, therefore, that gives you a certain authority which is not the case with, say, Professor Faurisson, exProfessor Faurisson, or the other Holocaust deniers, Arthur Butts, and so on.

Q: So did I suddenly go mad or something that changed me from being a translator who did not distort and did not manipulate, and I suddenly abandoned all my principles and methods and everything I had taught myself and I suddenly went wrong in some way? Is this what the allegation is?

A: No, I have just described what I think the allegation is.

Q: Apparently, you say that until the 1970s or 1980s I was OK?

A: No, I did not say that. I was talking about your reputation.

Q: Reputation?

A: Even in that case, and when one goes into it (as I did) and we have been over that, there are some historians who had pointed out in the 1970s and 80s that you did engage in distortion and manipulation. Nevertheless, I think, and I have tried to convey this in talking about your reputation, that you did have quite a widespread

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reputation as an expert historian of the Second World War, and that is I think what Professor Lipstadt meant by saying that you were a dangerous spokesperson for Holocaust denial. You did change your views -- you describe yourself how you changed your views as a result of the Leuchter report at the end of the 80s and the court has been into that over the past few weeks.

Q: Yes, but the word "dangerous" is what I am looking at. Why is the word "dangerous" used instead of "formidable" or "one to be taken seriously"? The word "dangerous" implies that I am a danger to something, does it not? It presupposes that I am a danger -- would you say I am a danger to somebody's interests? Is this what is implied by that?

A: No, I do not think that is what that means. It is difficult to second guess why the word "dangerous" is used here rather than, as you say, "persuasive" or "formidable", but I think, in the context of Professor Lipstadt's book, that means that you are more likely, indeed, to be persuasive than some of the other figures in this scene.

Q: I am dangerous to the whole of existing history of the Holocaust? Is that what is implied by that?

MR JUSTICE GRAY: Well, that is, in the end, a matter for me, what Professor Lipstadt would have been understood to mean, but it seems to me it is pretty clear that the

danger is that a lot of people will -- I was going to use the word "swallow", that is a bit offensive -- accept the denial case.

MR IRVING: Yes, or take it seriously and start asking awkward questions, my Lord.

MR JUSTICE GRAY: Let us proceed on that footing.

MR IRVING: If you would now turn the page, my Lord, we now come to page 67, and this is where I have to ask your Lordship's guidance. The expert witness is here giving an opinion on the meaning of words, and all the authorities that I have consulted suggest that this should not be.

MR JUSTICE GRAY: Well, I am not sure I really agree with that. On the other hand ----

MR IRVING: Your Lordship agrees there are authorities that say that expert witnesses cannot give evidence on the meaning of words?

MR JUSTICE GRAY: Yes, there are, but, I mean, not in this context. I think Professor Evans is perfectly entitled to say what he understands the Holocaust to be referring to, but is it going to help me because, in a sort of broad sense, everybody knows perfectly well what is referred to by the Holocaust.

MR IRVING: I strongly disagree, my Lord, with the utmost respect. We were asked this very early on by Mr Rampton, your Lordship will remember. Your Lordship will remember that I said that, to my mind, the Holocaust is the visual

image that people have. I, first of all, defined it as being the immense tragedy inflicted on the Jewish people by the Nazis and their collaborators during World War II which I think is a very fine definition, but there are countless other definitions.

MR JUSTICE GRAY: What I would suggest to you is that time in cross-examination of Professor Evans is not going to be well spent by discussing various meanings ----

MR IRVING: Meanings of words.

MR JUSTICE GRAY: --- or definitions of the Holocaust. You can do that in submission, and I think it would be much more sensible to deal with it in that way.

MR IRVING: Yes. On page 71, my Lord, you will find the vague footnote that I referred to earlier.

MR JUSTICE GRAY: Yes.

A: That simply says: "If you want to know more about Auschwitz read Professor Robert Jan van Pelt's report".

MR IRVING: All 770 pages of it?

MR RAMPTON: My Lord, it is only fair to point out that this report is directed at the court and the author of this report, Professor Evans, is entitled to assume that the court will read the whole of van Pelt's report.

MR IRVING: It is a rather superfluous kind of footnote, is it not?

MR JUSTICE GRAY: Well, I understand it is a general reference to van Pelt.

A: I am simply trying to say there I really am not -- I really do not, I want to save space, I do not want to say too much about Auschwitz because that is a subject dealt with by another report. That is really all that footnote is trying to say.

MR IRVING: Page 74 -- are we making fast enough progress, my Lord, now?

MR JUSTICE GRAY: Faster.

MR IRVING: 3.1.14, line 2, you say: "The essential point is that there is wide agreement that there was a systematic attempt".

A: Yes.

Q: Now, I am nervous. As soon as we have the word "systematic" coming in, of course, then the court pricks up its ears?

A: Yes.

Q: Is "wide agreement" sufficient proof, in your view, or do you want to be more rigorous with our methods?

A: I am trying to summarize here what the concept of the Holocaust or, well, what I am saying actually is that the term, the word "Holocaust", is a secondary issue. I think in order to ----

Q: Are wide agreements always right? There was wide agreement that the earth was flat ----

MR JUSTICE GRAY: We had this almost exact exchange on Thursday.

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A: We have had this before.

MR IRVING: I am glad that your Lordship is familiar with that. In other words, "wide agreement" is not sufficient evidence alone; we do need more rigorous support, do we not?

A: What I am saying, of course, is that there is wide agreement based on an enormous amount of research into a very large quantity of documentation ----

Q: Well, did you say three lines from the bottom ----

A: --- which I do not think you can say is true of the belief that the earth is flat.

Q: You do say three lines from the bottom: "The Nazi authorities also left an enormous quantity of documentation providing detail of the policy of extermination".

A: Yes.

Q: Have we not been hearing now for four weeks that there is no such documentation?

MR RAMPTON: No, my Lord, that is simply not right. I do not know if Professor Evans has been in court all the time, I am sure he has not, but your Lordship will recall that Mr Irving himself, on the basis of a very considerable volume of documentation, has conceded -- I use that word advisedly -- not only that the systematic shooting of vast numbers of Jews in the East, in Russia, happened, but that it happened on Hitler's authority.

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MR IRVING: Of course we are not talking just about the shootings on the East, are we?

MR RAMPTON: Just, no.

MR IRVING: We are talking about we have a major problem with what happened elsewhere.

MR RAMPTON: We are talking about something like 1.2 million people, on Mr Irving's figures.

MR IRVING: I think that the question I should have asked is, is there a vast body of documentation giving evidence, providing details, of the policy of extermination in Auschwitz and the other camps like that?

A: That is not what I say. All I am trying to do here is to advise the court that there is a very large quantity of documentation, something which I am sure the court now realizes.

Q: On page 79 at line 5 you refer to a recent Holocaust denial work. Is this a massive tome by one Barbara Kulaszka with the title: "Did Six Million Really Die"?

A: I cannot recall whether it is a massive tome.

Q: It is about 650 pages, A4 size?

A: Edited.

Q: Edited. Am I right in saying that this is an account by Barbara Kulaszka of the trial in Toronto on the history of Auschwitz, shall we say?

A: I think that is right, on the Zundel trial.

Q: Am I right in saying that Barbara Kulaszka, being a

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solicitor of the Court of Ontario, is an officer of the court and well qualified to write this kind of summary?

A: That, I am not sure. I think she has some kind of legal status. I took this to be a work of Holocaust denial from its contents.

Q: So that a summary of the evidence for the Prosecution and the Defence in a law court can be taken to be a work of Holocaust denial?

MR JUSTICE GRAY: Whether it could or it could not, it has nothing to do with this case.

MR IRVING: My Lord, the reason I am bringing it to your Lordship's attention is that I have provided in the little bundle a two-page summary at pages 20 and 21 by this solicitor of the issues of Holocaust denial which is a very useful summary of what is said about it and what the various authorities are. That is from that particular publication. Your Lordship might find it useful at some time just to digest its contents. I put it no stronger than that.

A: I do take Barbara Kulaszka to be an advocate of Holocaust denial from the contents of what she writes.

Q: In other words, because a solicitor writes an account of the trial of a Holocaust denier, giving the Prosecution and Defence case, it is the work of Holocaust denial?

A: Let me say, I do not think it is a neutral account and the fact that she is a solicitor is neither here nor there.

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MR RAMPTON: No. In fact, I am told that she was Zundel's solicitor and also Mr Irving's.

MR IRVING: Well, of course, Mr Rampton will be familiar with the concept that she is an officer of the court and is subject to certain basic principles and etiquettes. My Lord, might I suggest that we pause there for our lunch break?

MR JUSTICE GRAY: Yes, the time has come, certainly. Where are we going after the adjournment?

MR IRVING: We will make future progress into the parts your Lordship is interested in.

MR RAMPTON: I have laid hands on (because they have been given to me) some pages showing recent references on Mr Irving's website, I think it is Mr Irving's website, to what he calls some "traditional enemies of free speech".

MR JUSTICE GRAY: Have you got a copy?

MR RAMPTON: We have had these printed out. It may not be the whole story by any means.

MR JUSTICE GRAY: That is very helpful. Thank you very much. Then you can return to this, if you want to, Mr Irving, briefly at 2.00. So 2 o'clock.

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

Professor Evans, recalled.
Cross-Examined by **Mr Irving**, continued.

MR JUSTICE GRAY: Yes, Mr Irving?

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MR IRVING: My Lord, we are now well into Holocaust denial and trying to make forward progress. Professor Evans, have you had any discussion since Thursday with anybody else about the evidence you are giving, or with the instructing solicitors in this case?

A: No.

Q: None at all? You know that you are not allowed to, do you not?

A: I do indeed, yes.

Q: Can I ask you to go to page 89 of your expert report please, looking at paragraph 5: "The murder by shooting of thousands of Jews is not the same as the extermination by shooting, gassing starvation and deliberate neglect of millions of Jews which forms an essential part of the Holocaust as conventionally understood".

A: Yes.

Q: No doubt you mean the shooting or gassing or starvation or deliberate neglect -- is that right?

A: Yes, of course.

Q: You do accept that I have written in most of my books, in recent years certainly, about the shootings in a way which makes it quite plain that I do not deny that they took place?

A: Yes.

Q: So we are limiting really the allegations of Holocaust denial to the more narrow front of the fact that I call

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into doubt the existence of gas chambers for mass extermination of Jews.

A: I think that is one very important element in it. As I say here, there are a number of different elements to Holocaust denial. One of them is what I call here the extermination by shooting, gassing starvation and deliberate neglect of millions of Jews, plus the systematic nature of this, plus the number, the millions of Jews as opposed to thousands, as I put it there, and the allegation of the fabrication of evidence for the Holocaust as conventionally understood. All those things belong together, as I said this morning.

Q: I am moving forward now into the hundreds, I think. I did ask you -- this is a written question, in fact page 91. You commented once or twice on the index to my books.

A: Oh, yes.

Q: You say that you write the index of your own books?

A: Yes.

Q: Do you accept that most reputable publishers in fact have the index prepared by an outside indexing professional?

A: No. Not in the case of scholarly works of history. My experience in research books authors, historians, are very keen to index their own books. In any case, my comment on indexing is simply because, in your written reply to the Defence, you draw attention to index entries in your books, so I assume that that meant that you accepted that

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they were genuine, and accept some responsibility for them. Otherwise you would not have drawn attention to them.

Q: But you do accept that, in the case of all my books with the exception of one, I have no part in the preparation of the index?

A: If you say so.

MR JUSTICE GRAY: How does that work? I am asking you because you are the witness. How easy is it for the writer of Hitler's War, for example, to get somebody else to do his index?

A: I think, my Lord, correct me if I am wrong, what would happen is that an author would simply say to the publisher, well, employ a professional indexer, and there are such individuals, and take the money off my royalties, something like that, to pay the fee.

Q: I follow how it might work financially, but what I do not understand at the moment is how the professional indexer is going to know what to put in the index.

A: Well, that is a problem. They are professional indexers so they use their own judgment as to what is important and what is not. You start with place names, person names, and then a number of subjects that you think are important in the book.

MR IRVING: As the author of some 30 books, perhaps I can explain to your Lordship that there is a professional

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society of indexers and there is actually a British Standard for indexes, believe it or not. The wise author is well advised to leave the index to the professionals rather than to attempt to do it himself. The only book that I have indexed in fact was The Destruction of Dresden, the recent edition?

A: I disagree with that. I think a wise author should index his or her own books. It is a way you maintain control over what the index says.

Q: Except you cannot draw conclusions from the content of the indexes of my books as to the author of those books, if I say that the author did not write the index.

A: Mr Irving, you are the one who drew attention to the index in your reply to the Defence of the second Defendant. You cite index entries as evidence of what you write about the Holocaust. That is the only reason why I use the index so you yourself rely on them.

Q: I do not want get sucked into this particular morass. Will you agree that the only reason the index was cited was to draw the attention to pages that were there by reference and not to the actual index itself?

A: Indeed, yes. Obviously.

Q: If you now have a look please at page 93, just going back, you refer to the fact that these editions of Hitler's War were published under the same cover, line one?

A: Yes.

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Q: And you will agree with me, do you not, that you comment frequently on my having omitted things from the later edition of my book, that passages were omitted?

A: Yes, in particular references to the Holocaust.

Q: Would you accept that Hitler's War in the first edition was 959 pages long, that is this edition, the first edition, and that The War Path was 328 pages, and that the 1991 all in one edition was less than a thousand pages, so there must have been substantial abridgement in order to fit them all into one volume?

A: Indeed, yes. It is not the fact of abridgement that I am commenting on but what is excised.

Q: Will you accept that, in the course of abridgement, by virtue of the task of abridgement, things get omitted?

A: Indeed, yes, of course. That is what abridgement is.

Q: Page 93, paragraph 1, two lines from the end, you say, the liquidation programme and the systematic murder are 'notions' as much as Hitler's knowledge of them. Are you suggesting that the word 'notions' is mine? You put it in quotation marks.

A: Yes. I quote you here saying that Hitler made statements in 1942 and 3 which are incompatible with the notion that he knew the liquidation programme had begun and that Europe's Jews had been systematically murdered.

Q: Will you accept from me that a digital search of the text for the word "notions" found it only once in a 1940

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reference to the French campaign?

A: Well, "notion" is in the singular. That is why the plural failed.

Q: Notion or notions. In other words, once again, you put a word in quotation marks as though it is by me which is not actually by me. It is just your word.

A: I am sorry, it is. It is your word.

Q: Well, I am just saying it is not, because I have done a word search on the entire text and it is not in there. Will you now carry on to page 93, the last line, that I have removed all mention of the word 'extermination' from the book.

A: I have to say I do not accept that. I am quoting your words there, the notion that you knew a liquidation programme had begun. It is in the introduction to the 1991 edition.

Q: Would you look at the last line of that page, please, the introduction to the 1977 edition of the book? I am sorry, in the later edition of the book, I have removed all mention of 'extermination', is that correct?

A: I am trying to find this. Where is it?

Q: The last line of page 93 and the first line of page 94.

A: The introduction? Yes.

MR RAMPTON: My Lord, I intervene to correct an error by Mr Irving, no doubt perhaps not for the last time. Page 90 of the introduction to Hitler's War, first complete

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paragraph, "On several occasions in 1942 and 1943 Hitler made in private statements which are incompatible with the notion that he knew that a liquidation programme had begun".

MR JUSTICE GRAY: I think that is right, Mr Irving, is it not?

MR IRVING: Yes. Will you now go to the last line of 93 and the first line of 94, where you say that I have removed all mention of the word 'extermination'?

A: No. I do not say that.

Q: All mention of ----

A: The introduction -- let me read those sentences. The first reference in the introduction on pages 17 to 21 is the defence of Irving's views of Hitler. "It has already been pointed out above how it differs from the corresponding introduction to the 1977 edition of the book in removing all mention of the extermination of the Jews".

Q: Will you accept that the word 'exterminate' or 'extermination' occurs 29 times in that book?

MR JUSTICE GRAY: It depends in reference to who.

A: It is the introduction I am talking about.

MR JUSTICE GRAY: I did not hear your answer, Professor Evans.

A: I am referring to the introduction. I am not claiming that the word does not occur in the whole book.

MR IRVING: At page 96 you refer to the fact that from the second edition of 1991, the 1991 edition, looking at the first line of paragraph 7, "Even more strikingly the

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testimony of Morgen and Lorenz and the Slovak Jews has entirely vanished".

A: Yes.

Q: Which Slovak Jews are you referring to?

A: Verba and one other.

Q: Verba and Wetzler, is that correct?

A: Yes.

Q: Is it possible that I had learned something between the two editions that made me totally distrust the evidence of Verba?

MR JUSTICE GRAY: How can he know that unless you put what it was?

MR IRVING: Thank you, my Lord, for inviting this. Will you turn to the little bundle, please?

A: I can cut this short. I footnote this. I explain in footnote 14 on page 97, since having written this book in 1977, you said, "I understand that that Slovak report is open to some question", so I point that out.

Q: Yes. It was not just open to some question.

A: Well, that is what you said.

Q: Could you go to pages 4 and 5 of the little bundle F? This goes to a rather wider issue in fact than just the footnoting. Pages 4 and 5 of the little bundle F, is this an article from the Toronto Star as reproduced on my website?

A: It is an article in your website. It is not reproduced in

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the original. It is not a photocopy. It is copied.

Q: Does it purport to be reproduced from an article from the Toronto Star dated January 24th 1985?

A: It does purport to be that, yes.

Q: Is the headline, "Book an artistic picture, survivor never saw actual gassing deaths"?

A: That is the headline, yes.

Q: Is it an account of testimony given by the afore mentioned Verba in the Toronto trial of Zundel in which, under cross-examination, Verba, and this is the indented passage, "yesterday admitted he was never inside that particular bunker" and Verba had seen, it was the roof he had seen of the mortuary and not a gas chamber. That is the indented passage.

A: That is right, yes.

Q: Does the rest of the article suggest that Verba was not a very reliable eyewitness of what he claimed to have seen or reported on?

A: It suggests that there are some aspects of what he original originally said were not reliable but he insists that others were, according to the article.

Q: Yes. I am sure, if he had been in Auschwitz as he undoubtedly was, he was able to testify to certain aspects of what he had seen, but on the important issue of the goings on in gas chambers, it turned out he was not an eyewitness and was therefore in no sense reliable as a

witness. Is that correct?

A: Yes. I do point that out in the footnote, as I have had said. You understand it is open to some question. It seems to me a fair comment.

Q: Your Lordship will appreciate that the reason I have brought that to your Lordship's attention is it goes to the question of eyewitnesses again. This was an eyewitness of crematorium No. 2, the big building. It turns out that he collapsed under cross-examination in Toronto. Under that circumstance was I right therefore in later editions of the book to omit his testimony or reference to it?

A: It depends rather on what testimony you were omitting. For example, he does say that he heard things from reliable sources, that he insisted he had made accurate estimates of the number of murder victims, and so on. But, if those passages which you omitted concerned those which he himself admitted were wrong, then of course you were right to omit them.

Q: Thank you. Can we now go to page 100, where we are now dealing with my biography of Hermann Goring. Do you have that in paragraph 1?

A: Indeed, yes.

MR JUSTICE GRAY: Are we leaving Hitler's War?

MR IRVING: For the moment.

MR JUSTICE GRAY: I realise for the moment. Can I ask

Professor Evans a general question? It may be rather difficult for you because you may not have it all in mind at the moment. In so far as reference was made to the Jews in the first edition of Hitler's War 1977, and the references to Jews in the second edition 1991, quantitatively and indeed qualitatively, I suppose, did you notice a significant difference? I have just been looking at the indexes in both instances. Are the excisions significant?

A: Yes, they are. Mr Irving himself said that he removed all references to extermination camps and death factories from the 1991 edition which I quote on page 100 near the top, so they are significant changes.

MR JUSTICE GRAY: Yes. Sorry, Mr Irving, you are going on to Goring.

MR IRVING: Yes. If the witness again says that I removed all reference to extermination camps and death camps, then I draw attention to the fact that the word "exterminate" occurs 28 times in the second edition of the book, my Lord.

A: That is not quite the same thing, of course.

MR IRVING: Did I understand your Lordship to say that you were comparing the indexes of the two volumes?

MR JUSTICE GRAY: Yes, I was.

MR IRVING: May I draw attention to the fact that the index of the 1991 edition that you have there was prepared by the

American publishing company Avon, which was highly inadequate, whereupon we commissioned a separate index, which I can provide your Lordship. We have that index available. It is about 50 pages long of typescript, much more comprehensive, and a comparison --

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MR JUSTICE GRAY: I follow that the index being different may have been rather less detailed

in one case than the other, but it may be a worth while exercise to see what was there in the first edition and what has come out.

A: The point, Mr Irving, is that you yourself, as I note in paragraph 2, page 93, drew attention in your written reply to the Defence, you drew attention to the 1991 index entries as evidence that you were not a Holocaust denier. So I am puzzled as to why you should be disputing the accuracy of it.

MR IRVING: I draw attention to the pages referenced by those indexes but, of course the actual index itself which his Lordship is doing a statistical comparison with, he should therefore use the correct index rather than this rather cheap index produced by the Americans. The third edition of the book which is going to press this month has an even better index being prepared. But, once again, the index is not -- can I now proceed to Hermann Goring?

MR JUSTICE GRAY: Yes. That was my fault, sorry.

MR IRVING: Your question, as I understood, was purely about the comparison between the indexes of the two or the

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actual mentions in the book?

MR JUSTICE GRAY: It was more whether the index would suggest that there was quite a lot that was not repeated in the 1991 edition gives a fair impression of whether there were significant omissions and the answer that Professor Evans has given is yes.

MR IRVING: The 1991 edition was a very truncated edition in its original incarnation.

MR JUSTICE GRAY: That makes it even odder.

MR IRVING: At page 100, please, Professor Evans, we are dealing now with the biography of Hermann Goring. You have in the fourth line of that paragraph noted that the book was published in 1989. What conclusions do you draw from that?

A: That you had completed it, roughly speaking, a year or slightly less before.

Q: So what you are suggesting is that by that time I had taken on board the Leuchter report, is that right?

A: Yes. That would be my assumption, the way books were published.

Q: You had my diaries available when you wrote your report, or researchers had the diaries available. Can I read to you the entry in my diary of January 11th 1988, which is only one line long, "January 11th 1998, 4.45 p.m. posted rest of Goring by Data Post courier to New York". Will you take it that that implies that the book was completed

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on January 11th 1988 therefore?

A: Yes, though of course then you have the opportunity to make revisions in the proof.

Q: Will you accept therefore that the book was delivered to the publishers three months before I first set eyes on Fred Leuchter or the Leuchter report?

A: The manuscript yes, but you do have the opportunity to make changes to the proof, do you not?

Q: And that, if I did not make such changes in proof stage, therefore this would invalidate any points you seek to make based on the presumption that I had the Leuchter report information at that time?

A: That is an interesting point, but it does not really affect what I say about the Goring book.

Q: If you are seeking to make some kind of watershed around the time that I learned of the Leuchter report as being April 1988, this is significance that the Goring book was completed

before the watershed and delivered to publishers. Are you familiar with the fact that publishers frown on any kind of proof stage corrections, their authors' corrections, charges levied, are you familiar with that?

A: It is a matter of negotiation. You can usually make up to about 10 per cent changes. It is matter of negotiating percentages of what you are allowed to change. It depends on the publisher and so on.

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Q: Have you any evidence that the manuscript that I delivered to the publisher in January 1988 was different from that subsequently published in 1989?

A: No, I do not.

Q: In other words, the Goring book counts as a pre watershed book and there is no evidence to the contrary?

A: Unless what you are telling me is that the watershed might have been slightly earlier than the Leuchter report, which is a very interesting point. What I have to say about the Goring book does not really depend on that. That is, if you like, an assumption on my part which may have been wrong. What is important about it is that you point to it as evidence that you are not a Holocaust denier, and I examine it briefly on pages 100 to 103, and point out that what you say in the book is not incompatible with Holocaust denial.

Q: Yes, but at the time you wrote that you presumed that I was post watershed, so speak, and that was why you confidently adopted these interpretations.

A: No. I adopted the interpretation on the basis of what I read.

Q: Do you know of any evidence that Hermann Goring was aware of the goings on in Auschwitz, the mass extermination in gas chambers which is part of the Holocaust story?

A: Oh goodness.

Q: Any documentary evidence?

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A: I have not presented any documentary evidence for the court. I am not really concerned with that issue. What I am concerned with in this section are your views on the Holocaust as exemplified by the Goring book.

Q: Did I not write in the Hermann Goring book on pages 343 to 9, this is your second line at page 101, that in the winter of 1941 to 42 Goring heard rumours of mass killings in the East, which is of course what we all accept happened, that there were these mass killings?

A: The operative word there I think is "rumours".

Q: Yes.

A: You continue: The surviving documents provide no proof that these killings were systematic, they yield to no explicit orders from above and the massacres themselves were carried out by the local Nazis, by no means all of German, points which I think you have now admitted are wrong.

Q: Now that we have access since 1988 when this manuscript was delivered to the police decodes, we are able to establish with much greater detail, is this not correct, precisely how these things happened?

A: Yes, but part of my point is that in 1977 in Hitler's War you took a rather different attitude to these matters.

Q: Different altitude in which direction?

A: You accepted much more that there was systematic mass murder of Jews.

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Q: On the Eastern Front, the shootings or altogether?

A: Altogether.

Q: In other words, at that time I accepted the whole package uncritically?

A: Oh, I do not know whether it was uncritical or not. You seem to accept a large part of it, certainly that there were mass murders of many millions of Jews, including the use of gas. I think you did accept that in 1977, and there really is not any evidence in the Goring book that you accept it there.

Q: You appreciate that, when I wrote the Hermann Goring book, I did so on the basis of his as yet unpublished diaries and other documents to which I had had very limited or exclusive access like the entire transcripts of his conferences and documents like that, which other historians had not seen, and therefore I was probably entitled to express a view of my own on the basis of those documents?

A: No. It is a matter of how you comment on these things. If you cite, as you do on page 469, Goring claiming under interrogation that the extermination camps were merely propaganda, I always thought he said there were places where people were put to useful work, you do not actually comment on that, you just seem to accept that.

Q: In other words, I should have done what an establishment historian would do and immediately pooh-pooh the notion

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that somebody as powerful as Goring could have been unfamiliar with what was going on, should I?

A: It seems to me a responsible historian should comment on that statement, yes.

Q: He should just have said, the documents suggest this but common sense suggests differently? Is it perverse not to make such a comment, just to leave the documents to speak for themselves?

A: What we are dealing with here is the allegation that you are a Holocaust denier, and my point there simply that what you are saying in the Goring book is not incompatible with your being a Holocaust denier, although in your reply to the Defence you say that it is.

Q: Can we go on to page 106? We have now crossed the 100 mark. Professor, will you accept that I have let you off a lot of hooks which I considered were buried in the first 100 pages?

MR JUSTICE GRAY: That risks undoing the good that you have just pointed out you have done as he will ask what hooks and then we will be back.

A: I promise not to ask that, my Lord. I will not accept it.

MR IRVING: Page 106, halfway down paragraph 1, the second paragraph on the page, you say, "Within a couple of years, however, Irving was declaring himself to be an expert on the subject".

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A: Yes.

Q: When have I declared myself to be an expert? We are talking here about the mid 1980s, are we not? Within a couple of years Irving was declaring himself to be an expert on the Holocaust?

A: Yes.

MR JUSTICE GRAY: I take that to be 1988, actually.

A: 1988.

MR JUSTICE GRAY: It is within a couple of years of 1986, and that is Zundel.

A: I follow it on by talking about Zundel, where you were appearing as an expert witness.

MR IRVING: Was I appearing as an expert witness on the Holocaust or as an expert witness on Adolf Hitler's role in directing the Third Reich?

A: As I recall, you were appearing as an expert witness on the Second World War.

Q: So, in other words, not an expert on the Holocaust?

A: I think that is included. The point in any case is that you were asked on the numbers killed in the Holocaust, you gave your opinion as I quote it there, and therefore you are lending the imprimatur of your expertise to those views. If you did not have any expertise on the numbers killed in the Holocaust, presumably you would have said that you did not have any expertise.

Q: Defence counsel is there putting something to me and

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asking me for a comment, and I begin my reply, the last three lines on that page with, "I am not familiar with any documentary evidence of any such figure".

MR JUSTICE GRAY: No. You have the emphasis wrong. "I am not familiar with any documentary evidence". I think that is fair, Mr Irving, if you read on.

MR IRVING: For the purpose of what I am saying, my Lord, it is I am not familiar. I am not claiming to be a Holocaust expert?

A: Mr Irving, here you claim in the witness box in that particular trial, "I am not familiar with any documentary evidence of any such figure of 6 million, it must have been of the order of 100,000 or more but to my mind it was certainly less than the figure which is quoted, 6 million", and so on. You were giving that testimony as an expert. In August 1988 you told an audience in Toronto, "I have now begun over the last few months going around the archives with a completely open mind looking for the evidence myself because of Auschwitz, just to take that one cardinal tent pole of the case, if Auschwitz itself was not an extermination factory, what is the evidence that it was"? You claimed that you were looking in 40 different government and private archives to see what they had on Auschwitz. You were writing a book on Auschwitz according to one of your speeches.

Q: Can halt your flood there and say----

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MR JUSTICE GRAY: He is answering the question.

A: I am trying to answer your question. You said that this final book you claimed you were writing on Auschwitz would pull off a coup even more spectacularly than exposing the Hitler diaries as a fake, and all that seems to me to be evidence that you were proclaiming yourself to be an expert on the Holocaust. You said you had been fined in a German court. In 1992 you said you had been fined in a German court for uttering an opinion, a sincerely held opinion, "an opinion, I would venture to add, which I hold as an expert on the Third Reich", and the opinion was that the gas chambers shown to tourists in Auschwitz was a fake. That seem to me to constitute a claim for expertise on the Holocaust. You are writing a book about Auschwitz.

Q: I did not say that I am an expert on the Holocaust, did I? I said I am an expert on the Third Reich, is that right?

A: You were claiming expertise by saying that you were doing an enormous amount of research on Auschwitz.

Q: Excuse me. Is it not right I did not say I am doing it, I have begun recently visiting the archives, is that right?

A: Indeed, and you have ----

Q: Is that immediately? Does one become an instant expert by visiting the archives? Is that the inference one is giving?

A: You said that your opinion that you were fined for in

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Germany you held as an expert on the Third Reich, which of course includes the policy of exterminating the Jews, although you may not think so.

Q: Proceeding to page 107, paragraph 3, it is your contention, am I right in understanding, that somebody who seeks to suggest that the figures have been exaggerated is a Holocaust denier?

A: No, that is clearly not true. It is a matter of emphasis. As you know, estimates of the figures have varied between about 5.1 and 6.1 or over 6 million.

Q: In the individual operations ----

A: So the person who, like Raul Hilberg, whose opinion I respect, would say that it is in the sort of low 5 millions would no doubt think that claims of over 6 million were exaggerated, but that does not make him a Holocaust denier.

Q: I am talking about the component atrocities like their shootings and so on.

A: Yes.

Q: Are these figures absolutely cast in stone or is it possible that any of these individual figures have been exaggerated by the officers concerned?

A: These are -- we are talking about the Einsatzgruppen report, is that right?

Q: Yes, the body counts by the Einsatzgruppen.

A: My point here is that you are in paragraph 3, page 107, is

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that you are suggesting without any evidence whatsoever that the numbers of Jews killed listed in the Einsatzgruppen reports were exaggerated by the task force leaders. "Statistics like this are meaningless", I quote you as saying. "It is possible that sometimes an overzealous SS officer decided to put in a fictitious figure".

All this is -- I mean, elsewhere you are extremely concerned to have authentic, authenticated documentary evidence for what you are saying or for, let us say, Hitler's involvement in the extermination of the Jews, but here you are indulging in what I think is wild speculation unsupported by any documentary evidence at all. That is the point I am making in this paragraph.

Q: So when you see a figure referred to in a decode or in a telegram or in a report, you accept that this figure is necessarily accurate and there is no need to analyse it and investigate the feasibility of such a figure?

A: No, I did not say that. I mean, I think obviously one looks for documentary evidence which will corroborate it or falsify it, but I think that is rather different from speculating simply that the officers might have written in phoney figures. There is no evidence for it.

Q: Was one of the German Army officers who were put on trial after the War by the British for his part in these atrocities Field Marshal Von Manstein?

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A: Yes.

Q: Have you read the account of his case by Paget QC who was his Defence counsel?

A: I have to say I have not, no.

MR JUSTICE GRAY: That does not stop you asking the next question if you want to, although I am not necessarily encouraging you.

MR IRVING: I cannot lead evidence. We have had this same problem before. I should really bring along the pages and put the pages to the witness. That is the only way to do it, my Lord, I think.

MR JUSTICE GRAY: I do not think anyone would mind if you put the next question and just see if you can get an answer from Professor Evans.

MR IRVING: Very well. If Manstein's Defence counsel in this British Army court in Hamburg put it to the prosecutors that the Einsatzgruppen did not have the logistical means, in terms of manpower and truck space, to carry out the killings they claimed to have carried out, would that not be justification for casting doubt on the integrity of some of the figures?

A: No, not of itself. I mean, I think one would have to look at the evidence which was presented of the logistical means and weigh it against the evidence for the numbers killed.

Q: To your knowledge, had any of the historians on the

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Einsatzgruppen carried out this kind of exercise, carried out feasibility studies on the numbers?

A: I cannot answer that in reference to what the Defence said in the Manstein trial, but certainly there is a great deal of writing about the Einsatzgruppen which goes into enormous detail about what they did.

Q: There is. Do you accept that SS officers would have had a motive to try to inflate their achievements in order to compare their prowess as opposed to the neighbouring Einsatzgruppen, if I can put it like that?

A: I do not really know of any evidence for that.

Q: Was there a similar phenomenon in the Vietnam War that you are familiar with?

A: I really do not know.

Q: Moving on to the famous December 1942 document, the report to Hitler with the 300,000 figure in it, are you roughly familiar, in vague terms, with that document?

A: Yes.

Q: I do not think there is any need to look at it. You comment on the fact that I said that I was unhappy about it because it is an unusual, isolated document. We are now at the top of page 108, my Lord.

A: Yes, I have that.

Q: Is a responsible historian not entitled to be unhappy about a document if it appears to stick out slightly from the rest of the body of documentation?

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A: Well, I think what you -- firstly, this is a habit that you have, Mr Irving, of labelling documents that you do not like as being orphan documents. In the course of this trial in your work you have accumulated enough orphan documents to fill half an orphanage. There are many of these documents -- I have counted at least half a dozen -- and the problem is ----

Q: I do accept the document is genuine.

A: --- when you encounter, when an historian encounters a document that runs counter to the thesis that he or she is trying to put forward, then you have to take it seriously. You do not try to find every possible means you can of discrediting it and doing away with it. You have to look at

it and try to deal with it. That may be it that it means you have to revise the views that you came to the document with.

Q: Are there not certain questions that a responsible historian should put when he is facing a document like that look which is egregious, that he should say to himself (a) is the document genuine -- well, we have decided that it is -- but (b) what about the content of the document? Is it serving a particular purpose which is not what might at first appear. Should he not ask himself questions like that?

A: I think you ask all the questions on all documents. You ask the question, who wrote it? What for? Who was it

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addressed to? Is it authentic? And so on.

Q: And the more remarkable the document, the more unhappy you should be, if I can put it like that?

A: I think you look at all documents -- one should look at all documents in roughly the same way.

Q: Yes. You comment on the fact that my books do not publish photographs of concentration camp victims. I am now on paragraph 5, 109.

A: Yes.

Q: Page 109, paragraph 5: "By contrast", you write, "there re no pictures of concentration camp or extermination camp inmates or victims". Is this a serious criticism of my works?

A: Yes, I think you have an illustration section in the 1991 edition of Hitler's War where you include three photographs, but over two entire pages, of the victims of allied bombings of German towns, but you have no pictures of concentration or extermination camps' inmates or victims nor of any of the shootings, and so I add. So that does seem to be me to be evidence of imbalance.

Q: Yes. Are you suggesting that I should have included the drawings by David Olaire which have been figured in this case, for example?

A: I do not want to go into any particular ones, particular photographs.

Q: Would you accept ----

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A: But there are well-known attested photographs of the shootings, for example, which you could have included. There is a selection of photographs you could well have included.

Q: Would you accept that as a publisher of books where we attach importance to high quality photographs, we are faced with the problem when it comes to finding photographs of concentration camp or extermination camp victims or mass shootings?

A: I do not think that that was your motive for not including them.

Q: Will you accept that there are problems, that the archives do not hold such photographs?

A: No. I will not accept that. I think there are such photographs of photographs.

Q: Are there photographs of unimpeachable quality and integrity?

A: Quality, some of them, obviously, are not of very high quality, but it is still, I think, incumbent on anyone who wishes to give a balanced view of who were the victims of the Second World War and wants to include photographs of them, to try to give a balanced selection of photographs on both sides, and not just put the German victims of allied bombing raids, and having the only photograph of the Nazis' Jewish victims is of a train at Riga, a series of passenger

carriages, and people handing luggage out of

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the windows.

Q: We will come back to that picture in a minute. But can I ask you, are you familiar with the scandal surrounding the German photographic exhibition of atrocity photographs recently?

A: The Vermacht Exhibition, yes.

Q: Yes, what was the complaint about most of those photographs?

A: It was, well, this is a complex issue because there are allegations and counter allegations on both sides.

Q: Has the Exhibition been closed down?

A: It has been withdrawn for -- the issue here, my Lord, is that there has been an exhibition, a travelling exhibition, in Germany of crimes of the German Army in the Second World War which includes a number of photographs which it is now alleged by critics of the Exhibition were not, in fact, of victims of the German Army at all, but victims of the Russian NKVD; and there are counter allegations that these allegations have been brought by people with extreme right-wing connections and to discredit the view that the German Army was not behaving properly ----

MR IRVING: I interrupt you there and ask ----

MR JUSTICE GRAY: No, I am quite interested in that.

A: --- and it is an extremely, it is a complex issue. But I think it is clear that some of the photographs there are

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not genuine photograph and not what they purport to be, though it is equally clear that I think that some of them most probably are, and the Exhibition has been withdrawn in order to try to sort all this out by means of research. That does not mean to say, of course, that there are no photographs which you could have used.

MR IRVING: Is it not true that the Exhibition was finally closed as a result of two learned papers published in learned journals, one by an Hungarian historian and one by a Polish historian?

A: Indeed, and, according to an article in Das Spiegel ----

Q: And they are not extreme right-wingers?

A: According to an article in Das Spiegel, these are two people who have extreme right-wing connections. Now, that does not necessarily invalidate everything they have said, but, as I recall the controversy, that the counter argument is that their criterion for what is a crime of the German Army is extremely narrow. They will not accept, for example, these two authors will not accept, that crimes carried out by local units in Lithuania, or wherever it might be, at the behest of the German Army are crimes of the German Army. So it is a very convoluted debate.

But the point at issue is that -- to come back to it -- are you really saying that there no pictures, no genuine pictures, at all anywhere of any victims of the

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Nazis? You could just as well have put up photographs of people who were killed by the Nazis. You could have had a photograph of Anne Frank, for example.

MR JUSTICE GRAY: The case that is being made is that there are no good quality bona fide such photographs. That is what you have put, Mr Irving?

MR IRVING: Absolutely right, and I am about to move on to the justification for that in a second.

A: Well, I do not accept that there are no bona fide photographs is my answer to that and that, irrespective of the quality, it does behove a balanced historian who wishes to give an objective account of these events to include something other than just photographs of the victims of allied bombing raids on Hamburg and...

Q: Before we leave the Exhibition, is it right, have you heard it said that the reason why German historians were frightened to write the learned pages that would expose the Exhibition in the way the Hungarian did is because they would then have been prosecuted under German law?

A: I have not heard that, no.

Q: You accept that the photographs that I published in my books, both in the Hitler biography and in the Nuremberg history, are original photographs from original negatives, do you accept that?

A: It looks like it, yes.

Q: The photograph which you object to, a photograph of a

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train load of Jews at Riga station -- it might be useful if his Lordship sees the photograph?

A: I am not saying it is not genuine.

MR JUSTICE GRAY: I remember it really.

A: I am really not saying it is not genuine. Nowhere do I say that.

MR IRVING: Will you accept the photograph was given to me from an album taken ----

MR JUSTICE GRAY: He is not doubting its genuineness.

A: No, it is perfectly OK.

MR IRVING: It is a question of the selection of the photograph and the reason I selected that rather than one of the more traditional pictures which you are familiar with.

MR RAMPTON: Your Lordship might care to look at the file copy.

MR JUSTICE GRAY: Yes, I was reminding myself why it is there.

MR RAMPTON: The file copy has been skewed because one of the pages is the wrong way round. Can I pass up a copy of the original book?

MR IRVING: I am indebted to you. While that is being passed, if I can explain, perhaps, by way of a question that that ----

MR JUSTICE GRAY: I think I have got it, but maybe I am wrong.

MR IRVING: My Lord, the son of one of those policemen, you can see on the platform at Riga -

MR JUSTICE GRAY: Yes, I have it.

MR IRVING: The son of one of those German policemen on the

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platform at Riga has the album of his father, and he provided me with the original negatives to make those prints from. That is why I have picked that particular photograph. It is an identifiable event, an identifiable train load of Jews, arriving at Riga. I do not know what happened to them. One I can only fear the worst for them.

MR JUSTICE GRAY: But there is something in the text, I think, about the photograph, is there not, or about this consignment?

MR IRVING: This is five days after the famous Bruns episode, my Lord, of November 30th.

MR JUSTICE GRAY: I probably have this wrong, but do you not somewhere say that the

photographic evidence does not bear out the notion of cattle trucks and ----

MR IRVING: I did not say that, no, my Lord. The only comment there you will find is whatever the caption says.

MR JUSTICE GRAY: You certainly do not say it in the caption.

MR IRVING: I certainly do not say it in the caption, and I do not think we do deny that there were cattle trucks used in the later stages of this atrocity.

A: No, it is simply that you do not mention it in your caption.

MR IRVING: In the caption, of course, I can only point out what is in this photograph. In the Nuremberg book, if I can just jump on one or two pages of your -- do you wish to make a comment?

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A: No, that is all right.

MR JUSTICE GRAY: Well, what you do say in the text -- I have just found it; it is all a bit jumbled up in the copy -- "A rare original photograph shows the next train load of 1,200 Jews leaving for Riga. Except for one uniformed SD officer near the third open carriage door, the escorts are all elderly German police officers with two Latvian police in the right foreground".

MR IRVING: Which rather bears out, my Lord, what one of those decodes said that a train load of 1,000 or 900 Jews was going escorted by 14 local policemen, if you remember?

MR JUSTICE GRAY: That is the point you are trying to make with this photograph, is it not?

MR IRVING: No, my Lord. A picture is worth 1,000 words which is one reason why I have supplied so many pictures to your Lordship rather than documents.

MR JUSTICE GRAY: Thank you very much.

MR IRVING: It is an original photograph, high quality photograph, of the tragedy actually happening, and it is a photograph of unquestionable authenticity that was supplied to me by one of the policemen's sons.

The allegation against me on page 109 is that this only picture shows an orderly scene (as though I had deliberately picked a photograph with an orderly scene) of passenger carriages and people handing luggage out of windows, no brutality, no herding and no whips. Well,

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I am sorry. Are you suggesting that I should have abandoned this photograph and looked for a more hackneyed stereotyped photograph, Professor?

A: I am afraid I am, yes. I think that you should have balanced out your picture, your extremely gruesome pictures which you put in the book of victims, emotive pictures of victims of the bombing raids, including a dead child clutching the body of an adult over -- a very large reproduced picture. I think you should have balanced that with pictures of the victims of the Nazis. If you only look at the pictures section, the impression given is that, well, how jolly nice this train is at Riga, what a nice time they are having?

Q: On the contrary, is that not a picture of the utter banality of this kind of atrocity, that there are people handing baggage out of windows and stepping on to a platform ----

A: Sorry, there is no mention of any atrocity there in the caption at all.

MR JUSTICE GRAY: So how do you react to the suggestion that the reason for not including the sort of picture you have just been describing is the utter banality of those kinds of photographs? I think that was the suggestion.

A: Yes. I find that very hard to accept, that pictures of, let us say, the victim, people about to be

shot by the Einsatzgruppen lining up in front of a ditch are banal

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pictures. It does not matter how many times they are reproduced, they still remain, I think, very shocking.

MR IRVING: Professor Evans, how often have you seen pictures in my books that are familiar to you from other people's books? Never? Once?

A: Plenty of portraits, I think, which I am familiar with. You include lots of portraits of individuals which are quite familiar.

Q: Colour ones or black and white?

A: Some of these pictures are not familiar. I am not disputing that these original pictures that you got, that they are very high quality, and so on. What I am talking about is the balance of the presentation and, indeed, the captions.

Q: You wanted me to include the fact that travel without food and water, for example, if I look at the second line from the end of that paragraph?

A: Not if they did not, no.

Q: The evidence is from the decodes that they did, that they had the food and water they needed for these journeys?

A: That the people who travelled in the autumn of 1941 on these particular trains did, yes.

Q: But that is what this picture shows, is it not?

A: Yes, I am not saying you should not have included that picture. I am saying that you should have had a balanced selection.

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Q: I should have skewed it the other way?

A: It is not a question of skewing; it is question of balance. What you have is an illustration section with some very good pictures, original ones that I have not seen before, absolutely authentic, rare, and so on. But that these give the impression, the way they are cumulatively arranged, that there were massive numbers of victims of allied bombings, and that that is, as you say, 48,000 people died in devastating Holocaust in Hamburg. You are trying to establish, at the very least, I think, an equivalence, and the impression given by the imbalanced selection of pictures is that it is more -- that the bombing of German cities is a more serious crime than the killing of millions of Jews. That is what I take from your -- not having seen it before, that is what I take it from your illustration section.

Q: Is there no equivalence between these crimes -- not on any level?

MR JUSTICE GRAY: The question is that the bombing by allied planes of German cities is morally equivalent to the extermination that Professor Evans believes took place, is that the question?

MR IRVING: In certain circumstances it was and that is certainly...

MR JUSTICE GRAY: What is your reaction to that, Professor Evans?

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A: I find that a very difficult question to answer. I am not a moral philosopher.

MR IRVING: Do you not later on in your report say that it is totally wrong for me to suggest that Dresden would now be a war crime if it was repeated?

A: I do not think you say that, you say that it is a certified war crime, I do not believe it has been certified as a war crime. That is not to say that I approve of it, but we are not really dealing here with the moral issues or with what happened. We are dealing with your presentation. In my view, this selection of illustrations is imbalanced.

Q: Well, go to the next book then, "Nuremberg, the Last Battle", where once again you find fault with my selection of illustrations, although on this occasion I have included victims of what can loosely be called the Holocaust. I have obtained from a German sale an original soldier's album from the Balkans showing these German soldiers brutally stringing up obviously defenceless civilians and hanging them. They are the most brutal photographs I have ever seen. They are nightmare photographs. Yet here too you find fault with what I have done.

A: Let me just read your captions: "Punished", headline, "... snapshots from a German soldier's photo album. The daily routine of a cruel warfare in the

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Balkans. A German soldier is found mutilated. The German troops take reprisals stringing up the men folk in the village like washing on a line. One by one, a chair kicked away ... (reading to the words) ... and then painful death by strangulation. For crimes like these, German Generals are executed at Nuremberg ..."

Second heading: "And unpunished. No Allied General is ever called to account for the appalling fire raids on Japan, above, or Dresden, left and below. In each of these 1945 raids about 100,000 innocent civilians are burned alive", and we know that that is a grossly exaggerated figure, "in what is now only universally recognised as a crime against international law" which I do not believe it is.

MR JUSTICE GRAY: We will leave that one -- we will not chase that one.

MR IRVING: Professor, you are not an expert on international law. I have a lot of evidence that it is, my Lord, but I am not going to put it to the court.

MR JUSTICE GRAY: We will not chase that one. I think it is not the point.

MR IRVING: Yes, but on the photographs here again, it seems I just cannot do right. My Lord, you do not have the photographs in front of you, do you?

MR JUSTICE GRAY: No, but I think this is not an unimportant point, I think I can get them quite easily. I know

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exactly the ones that are being referred to.

MR IRVING: Yes. It is a whole page of photographs, snapshots from a soldier's album showing the reprisals they have taken against these people in a Balkan village.

A: Yes, you do make it clear that they are reprisals for what you call the mutilation of a German soldier.

Q: And I do have to admit that I have not published the most gruesome photographs for obvious reasons of taste.

A: That did not stop you publishing the photographs of the victims of the Hamburg bombing raid.

Q: Believe me, the ones that I did not publish in the Nuremberg book were unpublishable.

A: What I am trying to establish here is that you are trying to set up an equivalence between the two sides in order to diminish the importance of the Nazi extermination of the Jews.

Q: If an author has ----

A: And, indeed, I mean, in some sense, I think these captions and illustrations do have the effect of suggesting that what the Allies did was worse than what the Germans did.

Q: Worse?

A: Yes.

MR JUSTICE GRAY: Because they got away with it scott-free.

MR IRVING: If an author has sincerely held views ----

A: And because the pictures are more -- have larger numbers, more gruesome, and so on.

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Q: If an author has sincerely held views on the morality of what both sides did in World War II, by way of killing innocent people and civilians, is this grounds for him to be held up to public ridicule and opprobrium and obloquy?

A: This is systematic distortion, I think, in your presentation of these pictures, the selection that you make.

Q: Is not the systematic distortion that practised by those who have suppressed the evidence of crimes that the Allies committed during World War II? I do not really want to go far down this particular road, his Lordship will not allow us.

A: I am not here to defend the bombing of Dresden and the bombing of Hamburg, goodness knows. I do not think that these have been suppressed at all. There has been an enormous amount of debate and discussion about these and passionately argued on both sides.

Q: What about an author's right to write about it if he has these views sincerely, can he do so without fear ----

A: I think an author has ----

Q: --- of being labelled a Holocaust denier?

A: Well, I think an author has a view to try to maintain a certain balance when talking about the atrocities, to use that word, committed on both sides.

Q: Yes.

A: And I do not think you do that.

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Q: Have I not had a record ever since my very first book of speaking out against this kind of air warfare right up to the present day in Kosovo, and does this not entitle me to adopt a kind of moral equivalency between the two crimes, although, obviously, there is no comparison on scale?

A: Yes, but what you are doing is to try to establish, both in terms of numbers as I am arguing in this action and in terms of the atrocities, the impression to your readership and your audience that the allied bombing of German cities was as bad as or worse than the Nazi killing of Jews in Auschwitz and elsewhere. That is really what this is about.

Q: In a few pages' time you say, "On one particular night we only killed 17,000 people by burning them alive in 20 minutes", is that right?

A: Could you point me to that passage?

Q: Page 114.

A: Yes.

Q: Line 5, you are suggesting that killing 17,600 people by burning them alive in the space of 20 minutes is in some way, I do not know, not a crime?

A: No. What I say here is that ----

MR JUSTICE GRAY: Read it out, would you, Professor Evans, since that suggestion is being put?

A: Yes, I will read that out, yes. This refers back to a

lengthy quote on the previous page where you talk about 25,000 people being killed in 25 minutes in Pforzheim by an allied air raid in 25 minutes, and in Auschwitz there were 25,000 killed in four years. "When you put things into perspective like that, it diminishes their Holocaust - that word with a capital letter", "their" meaning , presumably, the Jews.

I point out in the passage that you cite that your equivalence does not stand up to examination, quite apart from the gross minimization of the Auschwitz figures because you exaggerate the number of deaths caused by the Pforzheim raid, which was estimated in a report of the Statistical Office of the City of Pforzheim in 1954 not as 25,000 or 27,000, as you claim, but as 17,600. So you are deliberately trying to say 25,000, 25,000, and, in fact, it is not that equivalence at all. That does not mean to say that I justify the bombing of Pforzheim; that does not come into it at all. I am simply trying to talk about the way that you present these things.

MR IRVING: Can we just go back to Nuremberg, please? You suggest that at the end of paragraph 8 on page 110 that the way I juxtaposed those photographs was intended to imply to the careless reader that the perpetrators of the atrocities were Jews, that the atrocities were committed by Jews and that they were getting their -- is there any

justification at all for this suggestion?

A: Yes. It seems to me that that is what seems to be the suggestion.

MR JUSTICE GRAY: I think I had better have a look at that.

MR IRVING: I think your Lordship ought to have a look at it because it is a serious allegation.

MR JUSTICE GRAY: I could not find the photographs.

MR RAMPTON: My Lord ----

MR JUSTICE GRAY: It is between 182 and 183.

MR RAMPTON: In Nuremberg it is after 182.

MR JUSTICE GRAY: I follow that. Where does it come in the great wodge of photographs?

MR RAMPTON: It is after a panorama of Nuremberg Defendants with somebody or other giving a -- Robert H Jackson giving a speech for the Prosecution, I think.

MR IRVING: I will have the actual book brought tomorrow, your Lordship.

MR JUSTICE GRAY: Mr Rampton has it; I may have to look at it because I have a slight feeling that ----

MR RAMPTON: It is worth looking at the original actually, if I may suggest it?

MR JUSTICE GRAY: I have a feeling the photograph has not for some reason found its way into my ----

MR RAMPTON: I think the witness should have it too.

MR IRVING: Again the quality of the photographs is remarkable. They are original colour photographs to the

Nuremberg trials and this is the standard I am going for.

MR JUSTICE GRAY: That is not really the point, is it?

MR IRVING: Well, it is the basis I make the selection of books that I publish.

MR JUSTICE GRAY: Actually, I would rather look at the original. Well, the point that Professor Evans is making is, obviously, in reference to the photograph on the left-hand side under the text and they do have a Jewish appearance.

MR IRVING: Undoubtedly, they are Jews. Undoubtedly, they are also being swept up into the general Holocaust on that site. But I think to suggest that by the juxtaposition of the photographs I had implied in any way at all that they were guilty for whatever had befallen the German troops or whatever, that is perverse and unjustified and certainly unintentional on my part.

A: Well the caption does say: "A German soldier is found mutilated. The German troops take reprisals".

Q: Yes. But, as you know, the reprisal is just swept up, a round number of males in the area and liquidated them, murdered them?

A: It is a question of what the captions and the pictures suggest.

Q: But nowhere is it suggested in the caption that the Jewish victims on those pictures have been picked for that reason?

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A: No, it is a matter of suggestion really. It was what the pictures suggest. I mean, of their very nature pictures are suggestive, captions are short. As you say, they are very powerful -- worth a thousand words.

Q: To summarise, before we move on, this is a page of photographs of victims of the Nazis, is that right?

A: I believe I say so, yes.

Q: So that your suggestion in the previous book that I do not publish photographs of the victims of the Nazis does not always hold up?

A: Well, I say you -- in the previous book I mention that you have a picture of the train at Riga. That is the only picture of the Nazis' Jewish victims to set aside several extremely graphic pictures of the victims of allied bombing raids.

Q: So, somebody who is minimizing something like that in their books is a Holocaust denier, is that part of the element?

A: What you are trying to do -- all of this is about your attempt to establish an equivalence between the two, as it were, to suggest that essentially all sides in the Second World War committed crimes of some dimensions. That is what we are really talking about. I think that is an element in Holocaust denial.

Q: In Sir Winston Churchill's books, were there any photographs at all of train loads of Jews at Riga or

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anywhere else on his History of the Second World War, six volumes?

A: I do not recall. I am not sure I see the relevance of that in any case to what you do in your books.

Q: That is for his Lordship to decide. If someone like Sir Winston Churchill writes a six-volume history without mentioning the Holocaust or the killing of Jews in seven lines, does that make him a Holocaust denier or does it mean times have now changed?

MR JUSTICE GRAY: I think we can do better than take time with that question.

MR IRVING: We can indeed, my Lord, we are now going to come to a little piece of gold on page 111. In paragraph 10 you accuse me once again of exaggerating the numbers killed in allied bombing raids. The number of Germans killed in allied bombing raids, is that correct?

A: Yes, that is right.

Q: But you do not distort documents or quotations in order to justify that kind of allegation?

A: I am not sure what you are referring to here.

Q: All will shortly become plain. Will you go to the next paragraph 111?

A: Yes.

Q: Here you say on page 441 of Goebbels: "He describes the numbers of those killed in the bombing raid on Hamburg on 27, 26, 28 July 1943 as 'nearly 50,000'".

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A: Yes.

Q: That was the big fire storm, was it not, that summer?

A: Yes, that is right.

Q: Operation Gomorrah, the British call it?

A: Yes, it is 48,000 in the captions of Hitler's War which I cite on page 109.

Q: Is 48,000 a number that you had seen regularly in connection with air raid victims in Hamburg, that operation, the fire storm raids?

A: No. I go into this in the same paragraph, that the probable number, the generally agreed number is between 35,000 and 40,000, that 74,000, or nearly twice 74,000 as you put in a letter to The Spectator in 1989, is a wild exaggeration.

Q: So you rely entirely on that letter to The Spectator, do you?

A: No, 50,000, I do not know where you get the figure from. It is plucked out of the air of 48,000.

Q: So in 1989 you say he put it far higher than I did, claiming that, while 74,000 people had died at Auschwitz, "nearly twice as many died in the July 1943 RAF Dacken Hamburg"?

A: That is right.

Q: That is the quotation from my letter to The Spectator, is it?

A: Yes.

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Q: Can we have a look at that letter to The Spectator; it is worth having a look at?

MR JUSTICE GRAY: Where do we find it?

A: It is in your bundle.

MR IRVING: It is not in my letter. I do not know. If we are lucky, it is in the bundle.

MR JUSTICE GRAY: Well, I think we will get it from E12, page 312, will we not?

MR IRVING: I do want to see it.

MR JUSTICE GRAY: Yes, I think that is fair.

MR IRVING: Otherwise, I can tell you from memory what the actual quotation is.

A: I have to see it, I am afraid.

Q: You have to see it, you are afraid?

A: Yes.

Q: Otherwise, I will tell you from memory and I will bring the letter in tomorrow. There is only one word missing.

MR JUSTICE GRAY: Can anyone on the Defendant's side help?

MR RAMPTON: We are trying, my Lord; it is a chase to find Irving's documents.

MR JUSTICE GRAY: The trouble is if we come back to it then we have to start all over again, that is the problem.

MR RAMPTON: I agree. Let me put it like this. If the word "as" was in after the word "many", would that change the meaning of that sentence?

A: Yes, of course it would.

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Q: If it said, "nearly twice as many as died in the July 1943 air raid", would that change the meaning?

A: Yes, of course. That would make it 30, 37, is that right?

Q: Would it totally deflate the point of the whole paragraph and the paragraph before, as far as exaggerating air raid figures goes?

A: No, it would not, because you describe, you give the number as nearly 50,000 on page 441 of Goebbels.

Q: Is not the commonly accepted figure for these series of air raids on Hamburg 48,000?

A: No. It is between 35,000 and 40,000.

Q: On page 2, I am sorry, the next page, 112, line 2, you say 31,647 dead had been found?

A: Yes.

Q: And you are familiar with the pictures of what it looked like inside bunkers?

A: Yes, indeed.

Q: The flat tyres, the little heaps of ash which had been human beings? Have you seen the photographs on the streets of the heaps ash?

A: Indeed I have. I take it that that is why official German estimates at the time put the total as somewhat higher at 35,000 or even 40,000.

Q: And you have never seen a figure of 48,000?

A: Only in your work.

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Q: Have you read the official history of the strategic air offensive against Germany by Nobel Frankland and Martin Webster?

A: No, but I am relying here on work produced in Hamburg by Hamburg historians.

Q: You do accept, though, that if my version of that quotation is correct and you accidentally or otherwise omitted the word "as", your entire argument that I have doubled the number of people is unjustified and you are going to have to withdraw that, are you not?

A: Yes, because, as I say here, I cite it from Eatwell.

Q: So we will put the blame on Professor Eatwell?

A: Well, if indeed the word "as" is missing.

MR RAMPTON: We cannot find it in the Eatwell documents. I am sorry, it is not in the Evans' documents.

MR JUSTICE GRAY: In Eatwell book?

A: No. It is in an article.

MR RAMPTON: We will check that.

MR IRVING: I have the actual original Spectator letter at home. I know that, my Lord, I was looking at it last night.

MR JUSTICE GRAY: Bring it in if you would not mind. We are not going to be able to track it down today.

MR IRVING: If your Lordship thinks it is relevant.

MR JUSTICE GRAY: I think in fairness to you, if Professor Evans has misinterpreted what you said, I think it is

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right that I should know that. I do not think this is a point that is at the heart of the case, but in fairness to you, you ought to have the opportunity to show it to me.

MR IRVING: It is at the heart of the allegation that I happily double air raid figures to make a point.

MR JUSTICE GRAY: Well, that is one aspect of a broader point that Professor Evans is making ----

MR IRVING: Yes.

MR JUSTICE GRAY: -- about what is described, rather inappropriately, as moral equivalence.

MR IRVING: Also it is useful at various other levels all the way down to how easy it is to make simple errors that can totally innocently reverse the meaning of a document. This literally reverses the meaning of that particular document, the one word.

So all the rest of that paragraph about the probable number, therefore, is between 35,000 and 40,000 (I am on page 112 like 7), "Irving's wildly invariably categorical statements of 48,000", just like today I still say 48,000, nearly 50,000 or nearly twice 74,000, that of course is the wrong bit, is it not?

A: If that is that true of course it is wrong, yes, and I would withdraw it.

MR JUSTICE GRAY: I really think we have probably got everything we possibly could out of that paragraph.

MR IRVING: Moving on to the next paragraph, we are now dealing

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with the number of people who I suggested unequivocally can be shown as having died in Auschwitz, in the last line I say: "Around 100,000 dead in that brutal slave labour camp", and, Professor, you take exception to that sentence, do you not?

A: Yes.

Q: You think the figure should be much closer to 1 million or?

A: About that, yes. Slightly more.

Q: No doubt 20 years ago you would have said the figure would be closer to 4 million?

A: Not 20 years ago, no.

Q: No?

A: I do not think so.

Q: So you would have discounted what the memorial said?

A: We have already been through this, but that was the product of immediate postwar circumstances when not a great deal was known.

Q: You do not just go with what the prevailing wind suggests is the latest figure; you do your own independent thinking about it?

A: I am not a specialist on Auschwitz, Mr Irving. So I accept what is the general consensus of scholarship on this issue.

Q: Yet if anybody does try to analyse the figures on the basis of other sources than what the memorial says or what

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the Auschwitz State Museum says or what Sir Martin Gilbert says, he is a denier?

A: Well, it is not a question of just what they say. There is a very large, substantial amount of work. This court has been spent several days going through a whole mass of evidence about Auschwitz.

Q: Yes, but it is the word "analyse" I am looking at. If you look at page 113, paragraphs 13 and

14, I say: "Anybody who wants to analyse any part of the Holocaust story is dismissed and smeared as an anti-semite or at the other end of the scale a pro-Hitler apologist and a Nazi apologist." You then comment in paragraph 14: "Analyse here is a synonym for refute or deny"?

A: Yes, that seems to me it is. It is a euphemism. You are very careful to avoid the word "denial" as much as you can, or you have been in what you have written and said about the Holocaust, but clearly as it stands this statement is absurd. Historians are analysing the Holocaust story all the time.

Q: But are they?

A: It goes on massively.

Q: Are they analysing figures all the time?

A: Yes. There is an enormous amount of work that is in progress. There are hundreds of historians working on this. There are large institutions which are devoted to analysing all different parts of the Holocaust story, and

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nobody is dismissing them as anti-semites or Nazi apologists. What you have here is "analysed" as a euphemism for "deny".

Q: So analysing is all right until we look at the figures and then it becomes denial?

A: No. Historians are looking at the figures all time.

Q: What kind of historian do you have to be then to avoid that word "denial"? Do you have to avoid my name or do you have to be left-wing or what?

MR JUSTICE GRAY: This is semantic. We know what the definition of Holocaust denier is as contended for by the Defendants. The issue we are trying to explore is whether you, Mr Irving, fit that definition. I really think semantic discussions of this kind are unhelpful.

MR IRVING: I was scene setting with a broad brush, and now we are going to start getting out the small sable and start painting in some of the detail.

Professor, if there are either logical calculations that you make or there are bodies of documents that you can make which would enable one to reassess the figures, I am avoiding the word "analyse" now, but to reassess the figures, would that be a justifiable exercise for any historian of whatever colour?

A: Yes, certainly. For example, new material is becoming available or has become available since the collapse of the Soviet Union in East European archives which has

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helped in reassessments.

Q: Yes. In about 1989 Soviet Union released the death books, did they not, of Auschwitz relating not to all the years but some of the years?

A: That is right, yes.

Q: Would you expect these death books, the registers of deaths of people in Auschwitz, to have provided some kind of impetus to this calculation?

A: They are certainly a significant document, yes.

Q: I am avoiding the use of the word "analyse". It would be justifiable to look at those records for any person and try to do some kind of meaningful calculation and try to work out whether these were comprehensive, all-encompassing death books, or whether they were only part of the body of Auschwitz or what?

A: Indeed, yes. You have to remember, of course, that those large numbers of people who were taken straight to the gas chambers on their arrival at Auschwitz were not entered in the camp

registers, and so do not appear in the death books.

Q: This is an important part of the Holocaust history, is it not, the notion that a large number of people arrived at the camp, were unloaded and were sent straight to their deaths in the gas chambers, is that correct?

A: I think, yes.

Q: What kind of people were they?

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A: It is described as more than a notion.

Q: What kind of people were then selected for death?

A: Well, I am not an expert on Auschwitz, but my understanding is that the process of selection generally tended to take into the camp or register in the camp those who were considered to be capable of working and those who were not, particularly women and children, were sent to the gas chambers.

Q: Women and children were sent to the gas chambers. Professor, will you have a look at page 35 I think it is in my bundle, the little bundle you were handed this morning? It is another of these pictures speaking louder than words things again. Is that a photograph showing people standing behind barbed wire?

A: Indeed, yes.

Q: What kind of age are those people?

A: It is very difficult to say. They look like -- it is difficult to say. One or two children, some adolescence.

Q: Does the caption provided by Associated Press say: This is somebody standing among a group of children?

A: Indeed, yes.

Q: When the camp was liberated by the Red Army?

A: Yes.

Q: Why would they have had children in the camp?

A: There could have been any one of a number of reasons. I mean some children were retained for medical

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experimentation, that is a particular reason. There were numbers of allegedly or so-called pure bred gypsy children who were kept. There were a number of reasons.

Q: Is there any indication on the caption that these were the experimental ones or the gypsy ones?

A: I really could not say.

Q: It just says there were children who were in the camp at the time of the liberation?

A: There is no indication of what they are doing there or why they were there.

Q: You said also the ones who were sick were also selected for death?

A: On the whole, yes.

MR RAMPTON: My Lord, I think this is really a little unfair. Professor Evans is not a Holocaust expert. Professor van Pelt has already told your Lordship, which Mr Irving knows perfectly well, that the gas chambers ceased operation in October 1944.

MR IRVING: My Lord, Professor Evans on page 114 has gone in some detail into the death books.

MR JUSTICE GRAY: Yes. My own feeling is that we went into all these questions, particularly

the camp registers, in great deal with Professor van Pelt. You are right in saying that Professor Evans does mention gas chambers in Auschwitz, but he has told you he does not regard himself as a great expert, besides which Mr Rampton's last

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observation does seem to be a fair one, does it not?

MR IRVING: I completely endorse this, and I always bow to Mr Rampton's wisdom which is far superior ----

MR JUSTICE GRAY: You do not need to do that.

MR RAMPTON: I have no wisdom but I have a wizard short-term memory.

MR JUSTICE GRAY: It is right, is it not, that the gas chambers ceased to exist when they were really destroyed in 1944, so that if there were transports including women and children you would expect to find them within the barbed wire at Auschwitz in 1945?

MR IRVING: They must have arrived then as children and they must have avoided selection somehow as children.

MR JUSTICE GRAY: It may be that the selection process stopped when the gas chambers disappeared.

MR IRVING: If your Lordship will rule that this witness should not be asked questions about Auschwitz, then I will happily comply.

MR JUSTICE GRAY: No, I cannot do that, because he has referred to Auschwitz in his report and therefore he is, it seems to me, amenable to cross-examination on that topic. But if I were you, I really would not bother to cover the same ground, because you cross-examined Professor van Pelt ----

MR IRVING: I agree, but I am in difficulties because this witness has covered the same ground, particularly in his footnote, for example, No. 13 where he says: "As we have

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seen, the camp records did not include those killed or shortly on arrival".

MR JUSTICE GRAY: I know. That is why I am not going to rule out this cross-examination, but I say again, the bits that matter in Professor Evans' report start in, I am afraid it is still 30 pages time when he starts to make the historians' criticisms of you, and that is the meat of his report. But I cannot stop you, it seems to me. I can encourage you to take it quickly.

MR IRVING: Which is what I am doing.

MR JUSTICE GRAY: I can suggest you might not think it really worth doing at all.

MR IRVING: My Lord, this is short track I am taking at present.

MR JUSTICE GRAY: Right.

MR IRVING: If I could take you now to page 115, we are now going to deal with Professor Hinsley. On paragraph 16 you say Hinsley did not claim that nearly all the deaths were due to disease. Professor Hinsley is of course a recognized authority, he is not?

A: He was, yes.

Q: He is an official British historian of the British Intelligence Services?

A: He was, yes.

Q: In volume 2 of his work he published an appendix, did he not, on the police decodes?

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A: Yes.

Q: In the first line you write, in paragraph 16: "All he wrote was that the British decrypts of encoded radio messages sent from Auschwitz did not mention gassings", but in fact if you look at your footnote 18 on the next page he is slightly more specific, is he not? He says: "The returns from Auschwitz, the largest of the camps with 20,000 prisoners, mentioned illness as the main cause of death", is that correct?

A: Yes.

Q: "It included references to shootings and hangings", and then he continues: "There were no references in the decrypts to gassing".

MR JUSTICE GRAY: Mr Irving, I am sorry, I am going to interrupt you because I think we may be able to take this a bit more shortly. Professor van Pelt said, well, that probably is right and it is not very surprising because the decrypts were talking about what was going on in the camps, and the whole point about the gassing was that it was not going on in the camps in that sense. Mr Rampton, am I wrong about that?

MR RAMPTON: That is absolutely right.

MR JUSTICE GRAY: That was what he said?

MR RAMPTON: That is absolutely right.

MR JUSTICE GRAY: Therefore, this point -- I am not saying it is not a good point on Hinsley and the decrypts, but that

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is the explanation we have had so far.

MR IRVING: I must have nodded when Professor van Pelt said that, my Lord, because if he had said that I would certainly queried that and said: Well, where were the gassings takings place then?

MR RAMPTON: I can also tell your Lordship, to save coming back to it, this comes from Mr Irving's website, that on 13th September 1941 Deluge, who was the Chief of the Order Police, sent a message to the forces in Russia about confidentiality and he said this: "That information which is containing State secrets calls for especially secret treatment. Into this category fall exact figures executions. These are to be sent by courier".

MR JUSTICE GRAY: Yes, but that is another point. Am I wrong about what I recall Professor van Pelt having said?

MR RAMPTON: No, you are absolutely right. What van Pelt, amongst others, has said, it is in his report and I think he also said it in the witness box, is you would not expect to find details of the gassings on the decrypts for two reasons. First, because it was secret, as this message suggests, but much more important because the people who were gassed on arrival were never registered and would not have been subject of the codes anyway.

MR JUSTICE GRAY: Yes, I thought he had said that. We can look up the reference if you are doubtful.

MR IRVING: My Lord, that was a horrendous interruption

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Mr Rampton and I withdraw the nice remarks I said earlier.

MR JUSTICE GRAY: Do not upset Mr Rampton, but I had rather encouraged that, I am afraid it is my fault.

MR IRVING: Deluge was only referring to the shootings on the Eastern Front. Deluge was only responsible for the shootings on the Eastern Front. He was in no way responsible for the

concentration camp system which came under a completely different hierarchy. I am sure Mr Rampton knows that.

MR RAMPTON: No, the point is the same.

MR IRVING: But I will move on from there because clearly we are not going to ----

MR JUSTICE GRAY: If you want to take a short break, Mr Irving, at any stage you only have to ask. You know that, do you not?

MR IRVING: Can we move on to page 118. We are getting very close now to the ----

MR JUSTICE GRAY: Yes.

MR IRVING: You refer to the aerial photographs, but, witness, you are not an expert on Auschwitz, so there is no point really asking you about this at all, is there? I mean all the statements you made about Auschwitz and in these 180 pages so far are, effectively, off the top of your head, because you have not studied it to the same degree other witnesses have?

A: I am not making statements about Auschwitz. I am making

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statements here about what you write about Auschwitz, and this is a particular section here which is, if I can find the beginning of it, about the figures, the numbers killed, and I am trying to go through what you write about it.

Q: Yes. Are you not familiar with the history of the operation of the Haganah in Germany after World War II?

A: No, I am not. My point here is that you claim that the Jews who disappeared did not die but were secretly transported to Palestine by the Haganah and given new identities, rather than have being killed in Auschwitz. I have to say I find that quite a fantastic suggestion for which you provide no documentary basis, even though in other areas, as we have seen repeatedly, you demand the most strictest criteria of documentary support for any statements made about the Nazis policy towards the Jews and what happened to the Jews and so on.

Q: Would it fair to expand that sentence that you have just read out slightly: He has, for instance, claimed that some of the Jews who disappeared, because obviously I am not claiming that all Jews disappeared went to Palestine? What you meant there was that I am saying that some of the Jews or a part of or a large part of the Jews but not all of, right?

A: I would have to go back to what you wrote there.

Q: Clearly I have not suggested that all the Jews who

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disappeared went to Palestine, have I? Do you agree?

A: I am afraid I would have to go back and check. I mean where have the bodies gone from -- "There is no trace in Allies' aerial photographs of mass graves in Auschwitz. Where have the bodies gone?" You have supplied more than one answer. So, these answers may cover different groups of Jews of course.

Q: Yes. So you accept then that I am talking about a part of the missing Jews?

A: Well, the implication in what you write is clearly it is a very significant part, as again your claim that some of the missing Jews had fled to Dresden and were killed in the February 1945 bombing raid.

Q: Can we just stay with the Palestine ones? You say that you are not familiar with the operations of the Haganah in Germany after World War II, operating in conjunction with UNRRA, the Refugee and Relief Agency?

A: No, I am not, no. You do not provide any evidence that they were secretly transported to

Palestine by the Haganah.

Q: Do you accept that there is a very lengthy report on the operations of the Haganah in the American Government archives about 250,000 pages long by the Military Governor of Germany describing how ----

A: Mr Irving, I am concerned with what you write here and what you write is a suggestion which is unsupported by

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anything like that, that large numbers of Jews were secretly transported to Palestine by the Haganah and given new identities, therefore, rendered untraceable, and did not die in Auschwitz and other extermination camps or were not shot and killed.

Q: So you maintain that this did not happen? You are casting doubt on it?

A: No, I am not talking about what happened and what did not happen. I am talking about what you present as having happened.

MR JUSTICE GRAY: And the evidence for that?

A: And the evidence.

MR IRVING: Yes, but I just tried to put to him this lengthy report in the American Government archives and the witness interrupted me halfway through.

A: I am sorry. What I am trying to say is that irrespective of that, you do not cite that as evidence. You are simply suggesting, as it seems to me out of thin air, that large numbers of Jews were secretly transported to Palestine and did not die in Auschwitz.

Q: Will you accept that I do not write passages like that out of thin air?

A: No.

Q: That in fact I probably have a very good source which for one reason or another I have not identified?

A: No, I am sorry, I will not.

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Q: In other words, you believe that I write this out of thin air, that I make it up?

A: I do not see any evidence that you have not made it up.

Q: And you are not prepared to accept my suggestion that there is this very lengthy report in the US National archives on the operations of the Haganah written by the American Military Governor?

A: Well, you can suggest whatever you like now. The point is what I am doing is looking in here, in this report, is looking at what you have written and said in the past and the documentary support or otherwise that you have adduced for it.

Q: Let us approach from another angle then, Professor. You are aware of the fact that there are now substantial claims being made against the Swiss and American and German companies and so on for compensation? Have you any idea how many Holocaust survivors are now claiming compensation, a figure?

A: I do not know. It depends what you mean by Holocaust survivors as well.

Q: Well, if I say that the number of claimants is 450,000 now at the end of the 20th century, the beginning of the 21st century?

MR JUSTICE GRAY: I do not know where you get that figure from. I think Professor Evans is entitled to say, well, on what basis are they claiming? Are they claiming

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because they were in Auschwitz, in some other camp, or perhaps in no camp at all, they were dispossessed by the Nazis?

MR IRVING: If they are Jewish Holocaust survivors, my Lord, and there is that number of them extant at the end of the 20th century, then you can do actuarial calculations backwards to work out roughly how many would have survived, given certain obvious adjustments you have to make for age and so on, that the older ones would have stayed behind, the younger ones would have emigrated, and you can come up with ball park figures. But the Professor has not done this kind of calculations, so there is no point asking him.

MR JUSTICE GRAY: But your suggestion, therefore, is that these are 450,000 true Holocaust survivors in the sense that they come from one death camp or another?

MR IRVING: They were Jews who were subject to the Holocaust as I defined it, which is one more reason why my definition is the right one, that they were Jews who were subjected to the Nazi atrocities during the period of the Third Reich of whatever kind.

MR RAMPTON: I am sorry, I simply do not understand this. If this is about claims against Swiss Banks who are holding or have held property taken from victims of the Holocaust, we might be talking about the great grandchildren of people who survived who had a claim on the property.

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MR JUSTICE GRAY: That is what was going through my mind.

MR IRVING: And also the slave labourers, the great grandchildren of the slave labourers cannot claim compensation.

MR JUSTICE GRAY: Let us go back to where we started. You were suggesting that the bulk, or a very large proportion, of the people in Auschwitz disappeared because they went secretly to Israel and I think Professor Evans ----

MR IRVING: My Lord, I have not said either the bulk or a very large portion. I just said part. This is what I was trying to nail the witness down on when he says, "Irving claimed that the Jews who disappeared did not die", what he meant by the Jews. Obviously it does not mean all of them. He is meaning part of them.

MR JUSTICE GRAY: Leave aside the exact number. He is saying that he does not accept that there was any evidence for that statement, and I have not got clear when you first saw this report you have talked about by the Haganah. When did you first see that?

MR IRVING: Seven or eight years ago my Lord.

MR JUSTICE GRAY: Was that the source for your claim?

MR IRVING: Yes, very definitely.

MR JUSTICE GRAY: And that says? What is its conclusion in terms of numbers?

MR IRVING: The American Military Forces described how the Haganah, operating in conjunction with the United Nations

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Rescue and Relief Agency, visited all the displaced persons camps, very well organized, with walkie-talkie radios and trucks picking up all the Jewish victims from those camps, loading them on board, and then they vanished sunset.

MR JUSTICE GRAY: My question was really about numbers. How many are we talking about?

MR IRVING: The report, I would have to have another look at the report to give your Lordship a number, but it was sufficiently important to have a 250-page report on it written by the

American Government Military authorities. I adduce this purely as one way in which one cannot look at pure figures, because there are leaks, if I can put it like that.

A: Let me just make two points, if I may. One is you are presenting evidence of this report which I have not seen, I have not had the opportunity to see, so I do not know whether your account of what is in it is accurate or not and I really cannot comment on it. The second is that you do not cite it when you gave this particular speech. As far as the numbers, again you plucked, you have presented a number of what you describe as "Holocaust survivors" who have claims of one sort or another against banks and so on elsewhere, and I quote you have alleged that large numbers of so-called Holocaust survivors, as you have described, have made it up, put tattoos on their own arms and so on.

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MR IRVING: I shall have to turn the tables on you and say that, if you are going to suggest that I said large numbers have done that, then I would ask you to provide any evidence for that assertion.

MR JUSTICE GRAY: You said one lady and you said she was not atypical.

MR IRVING: I said she may have very well have a genuine tattoo on her name. I think those were the precise words I used about Mrs Altemann, that may very well be a genuine tattoo on your arm. If I can now pick up the other point that I did not provide a reference for this episode in my speech, one does not put footnotes in speeches.

A: No, you but you say where you get the evidence from in a speech.

Q: Can I now move on, in the spirit of his Lordship's desire for progress, paragraph 21, you say that my allegations of this nature derive ultimately from the Holocaust denier Paul Rassinier.

A: Yes.

Q: Have you any evidence at all that I have ever read the works of Paul Rassinier?

A: You did write an afterword to one of his books, which I find it difficult to believe you wrote without having read it.

Q: Professor, believe. That is all I can say. That fact that I am invited to write an afterword on a particular

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topic for a book which I then deliver without reading the book should not surprise anyone?

A: It does not say very much for your responsibility as historian, Mr Irving.

Q: I have no responsibility at all whatsoever for the content of somebody's book if I am invited to write an historical afterword on it and, if you know the content of that afterword, you see that it no bore no resemblance or relationship to what was in the book at all. Do you agree with that?

A: You did have some very kind words to say about Mr Rassinier in your afterword. You have a rather obscure but very positive introductory paragraph talking about his work, and I find it quite extraordinary that you would write such a thing without actually having read it.

Q: Will you tell court what we know about Paul Rassinier? Was he a right-wing extremist?

A: It is in my report. I have a few paragraphs about him a bit further on.

Q: Was he a right-wing extremist?

A: He was one of the earliest and most important Holocaust deniers.

Q: Was he a right-wing extremist?

A: I am not sure about his politics.

Q: Or was he in fact a communist, a left winger, who was incarcerated in Auschwitz because of

his political views?

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A: Initially, yes. I think that is why he went into Auschwitz. I do not think that is how he came out.

Q: He is a kind of eyewitness with first hand experience, is he?

A: Yes, he is a curious and interesting figure.

Q: A curious and interesting figure?

A: --- who seems to have been, I am trying to find my references to it. It is on page 192 of my report. Rassinier was a Holocaust denier who published his book with Grabert Verlag, which is a well-known Holocaust denial publishing house in Germany.

Q: Everybody in your vocabulary is a Holocaust denier, Holocaust denial, right-wing extremist?

A: I did not say right-wing extremist.

MR JUSTICE GRAY: Let the witness finish his answer.

A: This what this trial in part is about.

Q: Is it more significance that in fact he was a left winger who was incarcerated in Auschwitz because of his political views?

A: It seems that he was beaten up by a communist fellow prisoner for having failed to pay his respects to the former German communist leader Thalmann, who was in the camp, and that this seems to have turned him against the communist party, and that he seems to have been well treated by the an SS guard. Certainly after the war he defended the SS and started to deny the existence of gas

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chambers, asserting that the Jews are mainly responsible for starting the second world war and so on.

Q: Unlike yourself and myself, this was a man who had been in Auschwitz and so possibly his word deserves some kind of respect.

A: I am not sure he was in Auschwitz.

MR JUSTICE GRAY: Buchenwald, was he not?

A: Buchenwald I think.

MR IRVING: I think he was also in Auschwitz at some stage. Anyway he was in the German concentration camp system and he wrote about it.

A: That is why I consider it a curious case that he had the views that he had.

Q: And I therefore did the wrong thing by writing an afterword to his book?

A: I certainly think you did the wrong thing in writing an afterword to his book without actually having read the thing and making statements about the book in that afterword.

Q: Did I say in my afterword I have read this book and find it jolly good?

A: I think one assumes it. You said things about Rassinier's views in your afterword which makes me assume that you are familiar with them.

Q: I am familiar with them to the extent that I have just described them to the court. He was a left winger who was

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sent to the concentration camp for his political views.

A: So you were familiar with his views then on the Holocaust.

Q: I have always known the fact that he has been a doubter and I see no reason at all why I should ----

A: I find it difficult to know what we are disputing here in that case.

Q: What we are disputing is on what basis you say that my views derived from Paul Rassinier?

A: I said ultimately. I am quite prepared to accept that there may have been intervening stages for his views. For example ----

Q: If I have never read any of his books, how can my views as far as the death roll and anything else possibly have derived from Mr Rassinier? You now accept that this is just another of your wild and unsubstantiated assertions, is it not?

A: No, because his views then became taken up into the general discourse of this particular -- I do not want to keep using the words "Holocaust denial" but I suppose it is unavoidable -- that they were represented by a number of other people.

Q: He just wanted to shoe horn his name in somehow, is that right?

A: The idea is in his book and in his work it is put forward by you, the same view, and it seems therefore reasonable to conclude that somehow it has found its way from him to

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you, since it has no evidential basis.

Q: On page 120 now -- we will leave Mr Rassinier -- at paragraph 24, you say what Irving did concede in his 1992 speech was that there were some authorised mass shootings on the Eastern Front.

A: Unauthorized.

MR JUSTICE GRAY: What page?

MR IRVING: Page 120, my Lord, of his report. You say that I conceded this in 1992. Had I ever denied that there had been shootings on the Eastern Front? Does not the word "concede" imply that I was now reversing a previously held stand or conviction?

A: No. I did not mean it to. I made it quite clear that you say this repeatedly, that there were unauthorized mass shootings of Jews behind the Eastern front.

Q: In other words you have used the word "conceded" as just another loaded word you can use to help put some spice in the paragraph and flavour----

A: I do not think it is that spicy, Mr Irving.

Q: It was not before, but you put in a word like "concede" or on the next page 121, first line, "Irving agreed once more conceding that"?

A: You have to put that in the context of what I say in the previous paragraph, which is where you go through the usual litany of stuff about casting doubt on the estimate of the numbers killed. You are trying to say that there

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was never any written order from Himmler stating that Hitler decided the Final Solution and so on and so forth. I am using the word "concede" here to balance out what I say in the previous paragraphs. What I am saying really is that your views conform to those of Holocaust deniers, but in this case you do say that there are some unauthorized mass shootings.

Q: The words Holocaust denier are becoming more and more meaningless as we progress. If you look at the first on page 121, "Irving agreed once more", conceding (this is 1995) there again these are loaded words, Irving agreed once conceding that "there is no doubt in my mind that on the Eastern Front large numbers of Jews were massacred by criminals with guns, SS men,

Ukrainians, Lithuanians, whatever, to get rid of them". That is a strange kind of Holocaust denier.
A: What I am saying here is that Holocaust deniers, including Monsieur Faurisson, whom I quote on the previous page as saying the same kind of thing, agreeing with you, have always admitted or said that there were unauthorized massacres of Jews behind the Eastern Front. Therefore, that is not evidence of, as it were, not being a Holocaust denier. That has always been a concession they have made to those who have argued that the Nazis killed large numbers of Jews. You yourself have now of course admitted in the course of this trial that there were up to a

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million Jews who were shot behind the Eastern Front as part of a systematic plan.

Q: Why do you say admitted?

MR RAMPTON: Let him finish.

MR JUSTICE GRAY: May I make a suggestion and see whether you agree with it. Your thesis, whether it is right or wrong, is that Mr Irving denies to an extent the fact and the scale of the extermination and whether it was systematic. It seems to me that, if that is your thesis, when you get Mr Irving, he will not like the word, making admissions or concessions that particular events happened, you are going to describe it as an admission or a concession. Is that why you use the word?

A: Yes, exactly.

Q: It is not really in any sense intended to be denigratory of you, I think?

MR IRVING: I disagree, my Lord. In the context of this report it is used as a loaded and as an emotive word.

MR JUSTICE GRAY: I do not read it that way. I really do not. You can take it from me that I do not.

A: I certainly did not intend it that way. It is difficult to find another word in this context.

MR JUSTICE GRAY: That is true.

MR IRVING: Page 123, please, paragraph 27, "The standard works on the Holocaust", you write, "make it clear both that a substantial proportion of those killed were shot or

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starved to death or deliberately weakened and made susceptible to fatal diseases as a matter of policy, and that gassings took place at other centres besides Auschwitz, including notably Belzec, Sobibor and Treblinka". That is you writing that, is it not, Professor Evans?

A: Yes.

Q: From what part of that statement or cataclysm that you have written down there yourself do you believe I differ? Is there not one line of that statement with which I agree?

A: Well, it looks at the previous part of that paragraph, where you say that, "The Holocaust with a capital 'H' is what's gone down in history in this one sentence form, so to speak: 'Adolf Hitler ordered the killing of six million Jews in Auschwitz'". What I go on to say is that nobody in fact has ever argued that six million Jews were killed by gassing at Auschwitz, or indeed six million Jews were killed in Auschwitz. That is not the common definition of "the Holocaust" and I am trying to say that your notion that that is what the Holocaust with a capital 'H' is is a figment of your own imagination.

Q: You have now skirted around answering my direct question. The final sentence of that paragraph is your definition of the word "Holocaust" and there is not one line of that with which I disagree, is there?

A: Yes, there is. Gassings took place at other centres besides Auschwitz, including notably Belzec, Sobibor and Treblinka. You denied altogether----

Q: This is a point that his Lordship is familiar with, I have conceded in all my books as well.

A: I wrote this report before this trial, Mr Irving.

MR JUSTICE GRAY: I am not sure about Belzec.

MR RAMPTON: No. The concession was recently made in the course of this trial.

MR JUSTICE GRAY: And conceded Belzec too?

MR IRVING: Yes, my Lord, and also in the books as well.

A: I could not know, Mr Irving, what you were going to concede when I used the word in this trial.

Q: They are also in the books, are they not, the fact that these gassings took place, exterminations in Belzec, Sobibor and Treblinka? The only point I am holding out on is that crematorium No. 2, that particular building.

MR JUSTICE GRAY: You are now. Yes, I agree. I did not realize that you had been conceding this all along, and indeed I thought at the earlier stages of this trial you were not conceding it, but anyway.

A: This is not the case, Mr Irving.

MR IRVING: It is an important point.

MR JUSTICE GRAY: Yes, I think it may be. Which books, Mr Irving, can I ask you that? Hitler's War? Do not answer if it is difficult off the top of your head.

MR IRVING: It would be time consuming to look it up but I will look up the references overnight, my Lord.

MR JUSTICE GRAY: That is fine.

MR IRVING: I have tripled lined that in the margin, that particular part of the report, as being a definition with which I wholeheartedly agree.

MR JUSTICE GRAY: Yes?

A: My view is that you did not agree with that definition when you said, "The Holocaust with a capital 'H' is what's gone down in history in this one sentence form, so to speak: 'Adolf Hitler ordered the killing of six million Jews in Auschwitz'".

MR IRVING: That is the popular view, is it not?

A: No.

Q: The man on the Clapham omnibus view. If you say to him, "What is the Holocaust?", he will say, "Is that not that guy Hitler, did he not kill 6 million Jews in Auschwitz?" Is that not the common view of the Holocaust now?

A: "The Holocaust with a capital 'H' is what's gone down in history in this one sentence form, so to speak: 'Adolf Hitler ordered the killing of six million Jews in Auschwitz'". I am not aware of anybody in print who has argued or suggested that.

Q: Even when I am quite specific about how huge the figures concerned are, I am looking now at the next paragraph, you dismiss that as being just one occasion when

I accidentally or inadvertently conceded these huge figures.

A: Well, let me make a couple of point about that. That is the only occasion I could find.

Q: Yes.

A: I did not find any more. And, of course, when you say 4 million, then you say that is of course due mainly to barbarity and typhus and epidemics, as you say, and you have many other statements which I cite in my report, where you say the Nazis killed in the order of thousands at a time, not millions, as you said in 1990.

Q: Can we just ----

A: I also make the point that of course that last statement, the statement before the last one, the last statement I quoted you as saying the Nazis killed of the order of thousands at a time, not millions, as in 1990, and your exceptional figure, the only instance I could find of 4 million, where you mentioned barbarity and typhus and epidemics was in 1995. In other words, that is after Professor Lipstadt's book was published.

Q: Can we just reel back slightly there? Looking at the last sentence in paragraph 29, the Nazis killed in the order of thousands at a time, not millions. I am not going to bother the court with looking up what the omission is because I will presume it is not important. But it is perfectly correct, is it not, that the Nazis killed them

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thousands at a time, did they not? They did not kill them millions at a time?

A: I guess it depends what you mean by "at a time".

Q: In other words, there is one trench with thousands being lined up and shot into it on a particular morning. That statement is accurate, is that right?

A: In that sense, yes, of course.

Q: And July 27th 1995 is over a year before the writ was issued in this particular action?

A: Yes, I do quote this here, but I do point out that it is after Professor Lipstadt published her book.

Q: Have you any evidence that I took cognisance of the content of Professor Lipstadt's book or indeed even of her opinions before the middle of 1996?

A: No. I am not suggesting anything. There is no suggestion in my report that you said that because Professor Lipstadt had published her book.

Q: Is not the evidence in fact that some time in 1996 I obtained a copy of the report of the book round about April when I was marketing the Goebbels biography, and that I immediately wrote a letter before action and took legal steps. So it was 1996 after I made this broadcast?

A: Yes. I am not suggesting anything else. as I said, I repeat myself, I am not suggesting that you said this because of Professor Lipstadt's book.

Q: So this broadcast cannot have been self-serving in any

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particular way in connection with this action?

A: I am not concerned with why you made this broadcast.

Q: Would it be possible that I made those statements because I considered them to be true, in your view?

A: Perfectly possible, yes. Let me quote the whole statement we are talking about. "I have to say, the figure I would have to give you is a minimum of one million, which is a monstrous crime, and a maximum of about 4 million, depending on what you mean by killed. If putting people into a concentration camp where they die of barbarity and typhus and epidemics is killing, then I would

say the 4 million figure, because undoubtedly huge numbers did die in the camps in the conditions that were very evident at the end of the war", and on other occasions, as I go on to say, you have argued that the deaths from disease in the camps were due in large measure to the allied bombing of the factories that made the medicines in Germany.

Q: Professor Evans, have I put this July 1995 broadcast with those figures on my website for the world to see already for a couple of years now?

A: It is here in my report, Mr Irving. I have not suppressed it.

Q: No, but is there any indication that it was a one off on my part and I blurted it out by mistake at four in the morning, this is after all Australia I am talking to?

A: When did you put it on your website?

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Q: Well, within the last year or two.

A: That is after the beginning of this action.

Q: Yes. In other words, there is no reason to suggest that this is a one off broadcast. You said that it is the one recorded episode. There may have been more episodes when I gave the same kind of figures.

A: It is the one recorded episode when I wrote this report which I finished last spring, spring last year.

Q: But in fact the figures I give there are probably pretty accurate, are they not? Killed by all means? Order of one to four million? Hilberg says 5.1 million, others say 6 million, does that make me a Holocaust denier because I come down to four?

A: I think, in conjunction with the other things -- well, let me say two things. First of all, this is an isolated statement by the time I had written this report, and you had not made it before Professor Lipstadt wrote her book. You have many other statements where you give much lower figures, and indeed the interviewer Rawden Casey was extremely surprised that you should give this figure. Secondly, you suggested and you have to take this as a kind of package, that huge numbers died in the camps in the conditions that were very evident at the end of the war, and that epidemics ----

Q: We will come to that in a minute.

A: -- and squalor and so on were an extremely important part

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of this. Therefore this is not part of a deliberate systematic extermination of the Jews by the Nazis. So you have to take that together with other things.

Q: Are you saying that all ----

A: Of course, four million is a figure that is well below the range of figures which responsible historians of the Holocaust consider, even leaving apart the question of the deliberate and systematic nature of the killing.

Q: If we look at the 6 million figure or the 5.1 million figure, are they all people who met a violent death?

A: Well, I guess it depends what you mean by violence. I think the argument is that these are people who were killed as a result of a systematic mass murder by the Nazis.

Q: Privations killed them as much as violence, right? Starvation, epidemic, brutality, exhaustion?

A: Indeed, yes.

Q: Which is exactly what I said in the radio interview, correct?

A: As I said, you have to take that in conjunction with how and why you think that people died of

typhus and epidemics in the camps.

Q: Because I do not buy the whole 6 million, I am a Holocaust denier. I am suddenly not a responsible historian?

A: I think you have to take this together with other aspects of what you have said and written about the Holocaust. As

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I say, we are focusing here on one statement you make where quite exceptionally you go up to 4 million, and in many other places you did use before that much lower figures.

Q: You are aware that that radio broadcast was subsequently broadcast around the world by the newspapers; it was headlined in Australia and headlined in other countries around the world, and never once did I issue a dementi. I was quite happy to accept that I had stated those figures. Have you seen the press clippings?

A: I have not, no, but I am happy to accept that though.

Q: Can we now move on to the matter you wish to raise, which is the death by epidemics?

MR RAMPTON: Before we do that, can I draw your Lordship's attention to the stated position on the pleadings? I am sufficiently still enough of an anorak occasionally to refer to the pleadings. In relation to Belzec, Sobibor and Treblinka as at 18th March 1997 when the Reply was served, the allegation had been that Belzec, Sobibor and Treblinka were established as extermination camps as part of Aktion Reinhardt, Mr Irving said this:

"The Plaintiff was not aware of any authentic wartime archival evidence for the allegations raised in this paragraph. Aktion Reinhardt was named after Friz Reinhardt, the Civil Service, in the Reichs Finance Ministry in charge of exploiting the assets of deceased

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and murdered Jews and other concentration camp victims. It is denied that Aktion Reinhardt was itself an extermination operation."

MR JUSTICE GRAY: Yes. My recollection is that in the initial stages Mr Irving was not accepting ----

MR RAMPTON: That is right.

MR JUSTICE GRAY: --- during his evidence that there was any gassing there, but when pressed he did. His position has evolved, in other words.

MR RAMPTON: The position has evolved to this, that he accepts there were Jews killed by gas at those camps. He is, I think to be fair, unsure of the scale.

MR JUSTICE GRAY: Well, my recollection is he has actually had figures put to him which he has accepted.

MR RAMPTON: Then your Lordship's memory is better than mine.

MR JUSTICE GRAY: Mr Irving, I think that that is historically right, for whatever it may be worth.

MR IRVING: Your Lordship will undoubtedly refer to the transcripts when the time comes, whatever I said in the transcripts. My recollection of the matter is that in order to speed the trial along we have stream lined a lot of the arguments and concentrated on certain institutions and centres, and left it like that.

MR JUSTICE GRAY: Yes.

MR IRVING: It is not a formal concession. It is not a denial, but it helps to speed the process of the trial along. If

I were to start digging my heels on all the other sites and locations and events and episodes then we would be here until Christmas.

MR JUSTICE GRAY: Do not overestimate the importance of the speed of the trial. Obviously we have a duty not to waste time, but you cannot found your concessions on a wish to keep the trial moving along. They are either concessions, and I use that word I think correctly in this context, or they are not.

MR IRVING: My logic there is to say that if I am proved wrong on the main camp, on Auschwitz two, then what happened or did not happen in Sobibor, Treblinka and Belzec is neither here nor there. If, on the other hand, I am proved right on Auschwitz two, then equally what happened in Sobibor and Treblinka and Belzec is neither here nor there.

MR JUSTICE GRAY: We may have to examine that further, but I am conscious you are trying to sustain a cross-examination and it is very difficult for you to have to argue. Mr Rampton was right, I think, to get up and say what he did. I certainly do not want to take you out of your cross-examination.

MR IRVING: He is certainly right to have pointed that out, although he very correctly read out exactly what the pleadings said, and the pleadings did not really justify the burden that he sought to place upon them.

MR JUSTICE GRAY: I think I know what you are getting at. Why

do you not resume your cross-examination. If you are running out of steam ----

MR IRVING: I am not running out of steam. There is one other point I believe that the witness wishes to make which concerns the epidemics in Buchenwald at the end of the war.

A: Let me go back and say that I quote you on page 106 in saying in 1998, you were asked: If Holocaust is representative of the allegation of the extermination of 6 million Jews due to the Second World War as a direct result of official German policy of extermination, what would you say? You replied that: "I am not familiar with any documentary evidence of any such figure of 6 million. It must have been of the order of 100,000 or more".

MR IRVING: I would wish to see, to quote your words, I would wish definitely to see exactly what has been left out there, because that is such a remarkable statement in that form that I cannot accept that is a complete ----

A: Well, you have had the opportunity to do so. You have had my report since July I think.

MR JUSTICE GRAY: We have probably got it. What page were you reading from, Professor Evans?

A: 106.

MR IRVING: 106.

A: Right at the bottom.

MR JUSTICE GRAY: We have the testimony. Unfortunately we have

not got a page reference. Yes, we have, page 12.

MR IRVING: By looking at the figures I think we are talking about how many are known to have died in Auschwitz.

A: That is not the question that you were asked. It is the extermination of 6 million Jews during the Second World War.

Q: That is why I want to see exactly what the testimony says. It would be clearly impossible for me to have said that the Holocaust was 100,000.

MR RAMPTON: No, it is not, Mr Irving is wrong. The question was: "And if the Holocaust is represented as the allegation of the extermination of 6 million Jews during the Second World War as a direct result of official German policy of extermination, what would you say to that thesis?" Then we get the answer.

MR JUSTICE GRAY: Where are you reading from?

MR RAMPTON: I am sorry, I am reading from the transcript of Mr Irving's evidence.

MR JUSTICE GRAY: I have got that, but I have pages running into the hundreds.

MR RAMPTON: 204 in the bottom right-hand corner.

MR JUSTICE GRAY: Do you want to see it, Mr Irving? You asked to see it and you are perfectly entitled to.

MR IRVING: I would wish to see the whole of it rather than just two or three lines that have been read out to me by Mr Rampton, to see what the context is.

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MR JUSTICE GRAY: Yes, that is fair.

MR RAMPTON: Then there was a further question on 205, my Lord: "Do you have any opinion as a result of your research as to the number of Jews who died in concentration camps during the Second World War? I am not sure that an opinion were here would be of use. I have opinions. I have opinions of the kind of statistical orders of magnitude where you can see there is a minimum number and a maximum number and I can only set these two limits and say that to my mind it must have been of the order of 100,000 or more".

MR IRVING: Yes, in other words 100,000 is the minimum ----

MR RAMPTON: Yes.

MR IRVING: --- of those died in concentration camps.

MR JUSTICE GRAY: He does go on to say that certainly less than the figure which is quoted nowadays of 6 million.

MR RAMPTON: With the ellipse it is accurately set out in Professor Evans' report.

MR JUSTICE GRAY: I think that is true.

MR IRVING: Just once again those three lines quoted in the report do not really give the flavour of the deliberations that go on. If I am being asked as how many Jews died in the concentration camps during the war years, and I do what any scientist would which is give a lower limit and an upper limit which in this particular case are very wide indeed, not less than 100,000, not more than 6 million,

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that is all one can say on the basis of the certainties that we have.

Is there anything further you wish to say about that, witness?

A: No.

Q: Do you now wish to say something about the epidemics in Belsen and the responsibility of the Allies for them?

A: Yes. I go on in my report to quote you, saying that it was the Allies: "We, the British and the Americans, were partially responsible, at least partially responsible, for their misfortune because we vowed deliberate bombing of the transportation networks, bombardation, deliberate ... bombarding the German communications ... pharmaceutical industry, medicine factories. We had

deliberately created the conditions of chaos inside Germany. We had deliberately created the epidemics and the outbreaks of typhus and other diseases which led to those appalling scenes that were found at their most dramatic in the enclosed areas, the concentration camps, where, of course, epidemics can ravage and run wild". That is you in 1986.

Q: You dispute that, do you?

A: Yes, I do. The conditions of epidemics are created, essentially, by the Nazis who ran camps in such a way that they were extremely unhygienic.

Q: How can you combat epidemics if you do not have the pharmaceutical products to combat them?

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A: Well, the point is that they -- first of all, the major epidemics were well before the end of the war. As you know, there is a major epidemic in Auschwitz in 1942 to '43, I think, and you are talking here as if this is only at the end of war.

Q: Are you also familiar with the fact that epidemic is a by-product of bombardment of cities, that the water mains are destroyed, the rats feed on the cadavers?

A: Well, we are not talking about the bombardment of concentration camps. We are talking about conditions extremely unhygienic in which the particular disease concerned was typhus which is a disease of dirt and lack of hygiene, and there is plenty of evidence that these are the conditions in the camps which the Nazis deliberately created.

MR JUSTICE GRAY: What would you make of an historian who says, I suppose, the political party which had rounded up a particular race and put them into camps where typhus broke out and killed huge numbers of them, how do you feel about an historian who says that the person who deliberately created the epidemics was the person who bombed the pharmaceutical factories which might have been able to provide the distribution which might have limited the typhus epidemic, how would you regard?

A: I feel that that is a reversal of the truth. That is extremely perverse. Typhus is a disease which the Germans

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knew very well how to combat. They had had experience of it from the First World War. There had been a lot of medical intervention by the Germans since well before that combating diseases in Eastern Europe.

MR IRVING: How do you combat typhus?

A: Essentially, by cleanliness. It is by, for example, giving the inmates of a concentration camp fresh clothing and bedding at regular intervals which was not done at all.

Q: What is the carrier of typhus?

A: It is the human body louse.

Q: And what is used for disposing of this typhus bearing louse?

A: Well, it is a question of prevention to start with, and that is the nub of the question. The concentration camp authorities did very little to prevent it because they did not provide conditions of cleanliness. It was exactly the same about the way in which they treated Russian prisoners of war.

Q: Are you not familiar with the fact that in all the concentration camps of the Nazi system they had fumigation chambers for cleaning the clothing of the incoming prisoners? They had the clean side, the dirty side, the showers, the baths, the hair cuts, the whole of this system that went with

this combatting of the typhus epidemic? Are you not familiar with that?

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A: Yes, it was an extremely ----

Q: In your statement the Nazis did nothing is, therefore, wrong?

A: It is extremely ineffective and I said did nothing to prevent it. I mean, it certainly did not. The evidence is there.

Q: So the fumigation chambers, what they there for if it was not to prevent the typhus plague?

A: It was done in a rather inadequate way. Obviously, there was some incentive on the part of the SS to try to restrict the level and spread of epidemics, but the fact is that unhygienic conditions were part and parcel of the inhumanity of the concentration camps.

MR JUSTICE GRAY: Mr Irving, we have to keep a slight grip on reality. It is your case that the typhus killed a very large proportion of the Jews who lost their lives.

MR IRVING: Yes.

MR JUSTICE GRAY: It is difficult in the next breath to say how wonderful the system of fumigating clothes and the like was.

MR IRVING: My Lord, that is not the way I put it, but this witness ----

MR JUSTICE GRAY: Well, it comes close to it.

MR IRVING: --- said the Nazis did nothing to prevent the typhus epidemics.

MR JUSTICE GRAY: Well, you were putting to him that they had

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done a very great deal. Well, if they had ----

MR IRVING: I picked up the words that they had done nothing and, in fact, we have been sitting here for five weeks listening to nothing but the evidence that they had fumigation chambers for dealing with these epidemics. Particularly in Auschwitz, they went very, very far indeed. I do not have the photographs here any more, but there were the water purification plants they were installing. They went a very long way to try to combat this appalling problem which spread across Central Europe from 1942 onwards and, of course, as the war approached its end, this problem reached its zenith with the total collapse of hygiene, the total collapse of medical facilities, the collapse of transportation, the shifting of tens of hundreds of thousands of people in these unhygienic conditions.

A: Well, the measures which were undertaken, fumigation and so on, were mostly undertaken after epidemics had broken out to try to limit them, obviously, because the SS in the camps would then feel that they are endangered themselves, and other measures which they did undertake when epidemics broke out were killing the sick by injections or putting them into gas chambers. So they did undertake some measures. But I cannot say that they were in the -- that they did very much to prevent the epidemics.

Q: Did the Germans not have an Institute of Racial Hygiene

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which did nothing other than combat epidemics? That is what it was created for?

A: I do not agree that the Institute of Racial Hygiene was about combating epidemics, no.

Q: Professor Pfannenstiel, was he not a member of that Institute?

A: The institute of Racial Hygiene was much more concerned with as it suggests, not hygiene in

common sense ----

Q: But did they not have ----

A: --- but it is to do with race.

Q: --- a special body set up doing nothing else than investigating the spread of epidemics because of the damage it was causing to German war effort?

A: Yes, what I said was that -- I am not quite sure what we are arguing about here, but what I said was that the conditions in the camps which favoured -- there were conditions in the camps which were deliberately created by the Nazis which were unhygienic, dirty, degrading and encouraged epidemics.

Q: Would you explain the word "deliberately"? Are you implying that these epidemic bearing lice in some way distinguished between the prisoner, on the one hand, and the SS guard, on the other? They knew which uniform to go for?

A: No.

Q: Why would anybody create an epidemic deliberately in a

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camp?

A: I did not say they created the epidemic. I said that they created the conditions. I mean, they knew full well what would ----

Q: They deliberately created epidemic conditions?

A: They full knew what would happen in those filthy conditions which they ----

Q: They negligently created epidemic conditions?

A: I do not think it was a matter of oversight on their part, Mr Irving.

Q: Have you read Professor van Pelt's book on Auschwitz in which he describes in great detail the negligence of the designers in this respect?

A: I have to admit I have not, no.

MR JUSTICE GRAY: In what respect in the design of?

MR IRVING: The layout of the camp. They said it was inviting epidemics, the way it was designed. The prisoners had to march long distances in order to get to hygiene facilities, and so on.

A: That would seem to confirm my point of view.

MR JUSTICE GRAY: That is rather what I thought, yes. I mean, does that not rather suggest that they were not too concerned about epidemics breaking out?

MR IRVING: Through negligence they have the camp badly designed is very different from saying that they deliberately created epidemic conditions?

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A: But you just maintained, Mr Irving, that they knew all about epidemics and they had institutes devoted to them and so on. It is rather puzzling that in that case it should be a mere oversight when they are building these institutions.

Q: So you agree that there were major epidemics in Bergen-Belsen and Buchenwald at the end of the war?

A: Yes.

Q: Were these deliberately created, is that your contention?

A: The conditions there were deliberately created by the Nazis, of course. In other words, had they wanted to prevent them, they could have done so.

Q: But they just let the epidemics run, did they?

A: No. As I have said, they then made attempts (which I have just described) to try to limit the epidemics. You can compare this, if you like, with prisoners of war camps for British airmen and troops in which hygienic conditions were a good deal better.

Q: Do you know how many people died in Dachau concentration camp in the first two months after World War II from epidemics?

A: A substantial number.

Q: Was it of the order of 20,000 prisoners?

A: I will take your word for it.

Q: Under American control, with the Americans deliberately spreading epidemics too?

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A: No, Mr Irving. They were dealing with the consequences.

MR JUSTICE GRAY: Mr Irving, this is all getting a little absurd. This all started out because you wrote or said that, "We", that is to say the Allies, "have deliberately created the epidemics" and maybe I have rather contributed to this by asking Professor Evans whether he thought that was a sensible view for an historian to take. We now seem to have gone the full circle, as it were. Anyway, I think we have probably exhausted the topic.

MR IRVING: I do not think I put it exactly they way your Lordship says. I say we deliberately created the conditions of chaos through our bombing campaign, Operation Point Blank and Eclipse and so on.

A: Well, may I quote to you, Mr Irving: "We had deliberately quote created the epidemics and the outbreaks of typhus and other diseases which led to those appalling scenes that were found at their most dramatic in the enclosed areas, the concentration camps" -- a lecture you gave in 1986.

MR IRVING: Oh, a speech?

A: Yes.

Q: A lecture? I thought it was from a book.

A: Well, I presume you accept responsibility for saying that, Mr Irving ----

Q: In other words, that is ----

A: --- whether you said it or wrote it.

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Q: --- from a transcript of a speech made by somebody, is that right?

A: It is a video -- an audio cassette of a speech.

Q: Have you not just read out a speech two or three minutes ago which was quite clearly vulgarized, the text?

MR JUSTICE GRAY: We can, if necessary, look at that speech if you think that the context makes any difference, but I think probably, Mr Irving, we can break off your cross-examination now.

MR IRVING: That would be a useful point to break off at this point, my Lord.

MR JUSTICE GRAY: Can I make an enquiry of you which is really to ask, and I expect Professor Evans would like to know the answer, what your estimate is as to the future of your cross-examination?

MR IRVING: Two and a half more days.

MR JUSTICE GRAY: How many?

MR IRVING: Two and a half more days.

MR JUSTICE GRAY: Right. Are you going to follow the ----

MR IRVING: I am going to follow the ----

MR JUSTICE GRAY: --- structure of his report?

MR IRVING: I think it is the only way to do it, my Lord.

MR JUSTICE GRAY: Yes, I think I agree with that. I think you are right. To the extent that there are matters raised in Professor Evans' report that are not any longer, I think, relied on as part of the Defendants' case, then you can

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probably not trouble with them or, at any rate, take them very shortly if you want to.

MR IRVING: Yes. Has your Lordship in your Lordship's memory which particular matters those are that are no longer relied on? Sikorsky is one, I believe?

MR JUSTICE GRAY: Sikorsky is certainly one. Hitler's adjutants, I think, has rather come back in again. I mean, I think it is probably not sensible for me to try to identify them now because I do not really have them in mind, but if the Defendants let you know whether there are parts in your report that are no longer relied on, that might simplify things all round.

MR IRVING: What about Moscow? Is there anything about Moscow in this report?

MR JUSTICE GRAY: I do not think there is.

MR RAMPTON: Not about Moscow. I have done that anyway. Moscow is certainly a live issue. There is nothing about Moscow in this report, as far as I know.

MR IRVING: My Lord, are you going to permit a further cross-examination of me?

MR JUSTICE GRAY: I think we have always contemplated there would be a further cross-examination, but it is not open-ended. It is dealing with left over topics.

MR RAMPTON: Can I tell your Lordship what I have left? I have got the Fleming book which has a reference to the Muller message to the Einsatzgruppen on 1st August 1941. I have

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got Kinner Zamos report of 16th December 1942. I have got Anne Frank. I have got the criminal statistics which is dealt with towards the end of Professor Evans' report, pages 692 to 8, and I have got a couple of other things which I am just having checked at the moment. If necessary, I will give notice and, of course, I have the political associations as well.

MR JUSTICE GRAY: Yes. That is very helpful, but if you are able to tell, or Miss Rogers or somebody is able to tell, Mr Irving that there are parts of Professor Evans' report which are no longer really relied on and, therefore, he need not trouble with them?

MR RAMPTON: I think it means we can regard the Adjutants and the Roman Jews as out of the ring.

MR JUSTICE GRAY: There may be other bits?

MR RAMPTON: Little bits, but those are the two main subjects, yes.

MR JUSTICE GRAY: Does that help, Mr Irving, a bit?

MR RAMPTON: Though I cannot guarantee it will not ----

MR IRVING: If I had known we could have torn up the first 120 pages of his report, it would have saved a lot of time.

MR JUSTICE GRAY: I am not sure that I would put it quite like that.

(The court adjourned until the following day)

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