

PROCEEDINGS - DAY TWENTY

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Day 20 Tuesday, 15th February 2000.

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

MR JUSTICE GRAY: Mr Irving?

MR IRVING: May it please the court. I have placed in your Lordship's bundle F a continuation of about 20 or 30 pages, and I have also provided your Lordship, as you have just noticed, with a copy of Nuremberg to which we were referring to yesterday.

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

MR IRVING: And if we can just take up one or two of the points your Lordship requested yesterday? Your Lordship requested a copy of what the pull-down menu says. That is in the bundle which I have just given you, bundle F. It is at the back of bundle F which your Lordship was using yesterday.

MR JUSTICE GRAY: The pull-down menu, where do I find that?

MR IRVING: If you go to page 93 of bundle F, my Lord, it should be -- unless the numbering has gone wrong.

MR JUSTICE GRAY: I had this in a different form yesterday, did I not, from Mr Rampton?

MR IRVING: Well, I did not have it yesterday from Mr Rampton.

MR JUSTICE GRAY: Did you not? Well, I got something.

MR IRVING: It is difficult to obtain, but that is the works of it, in what is called HTML.

MR JUSTICE GRAY: Having looked through it, whilst we are on

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this, it did appear to me that whatever their titles may be, they are mostly Jewish organisations of one kind or another.

MR IRVING: My Lord, that is not correct. If you look at the list, there are 16 items, of which seven are not, if I can put it like that.

MR RAMPTON: I do not think we have 16.

MR IRVING: That is precisely why your Lordship should be looking at my pull-down menu rather than the one given to you. Shall I read through them?

MR JUSTICE GRAY: I do not think that would serve any particularly useful purpose.

MR IRVING: No. But your Lordship will notice the Australian Government, the Centre for Democratic Renewal, the Coalition for Human Dignity, the German Government.

MR RAMPTON: There are only two I think that are not Jewish, my Lord.

MR IRVING: Searchlight ----

MR RAMPTON: Two National Governments.

MR IRVING: Well, Mr Rampton, if you would just allow me to finish reading out those that are not Jewish that are on the list?

MR JUSTICE GRAY: You read out the ones you say are not Jewish.

MR IRVING: I will start again. Australian Government, Centre for Democratic Renewal.

MR RAMPTON: That is Jewish.

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MR IRVING: I beg your pardon?

MR RAMPTON: It is Jewish.

MR JUSTICE GRAY: Let him read them, Mr Rampton, then we can debate it further, if needs be.

MR IRVING: Coalition for Human Dignity, the German Government, Searchlight, and Surf Watch Internet Censorship.

MR JUSTICE GRAY: Yes.

MR IRVING: Each of those, if you would click on that, you would come to a subindex, my Lord, which has the actual documents which qualified for inclusion in the list of enemies of free speech.

MR JUSTICE GRAY: Yes. I think this is in a way dicing with words because I have actually got the indices supplied yesterday. It appears to me, without knowing in detail what the individual items on the indices are, that really all of these organizations, there is a great deal of interplay, put it like that, between these organizations and what you would, perhaps, describe as the Jewish lobby. Is that not fair?

MR IRVING: In some of the documents quite clearly there is, in some of the documents listed on the index, and, obviously, I then have to make the point that this is a website which has been set up in response to the attack on me.

MR JUSTICE GRAY: Yes, I follow.

MR IRVING: So, clearly, this is not a global attempt to address all the world enemies of free speech when,

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undoubtedly, you bring in the Chinese Government and all sorts of other ghastly organizations, but these are the bodies that have impinged on my professional career. That is why they figure on my personal list of traditional enemies of free speech.

MR JUSTICE GRAY: I follow that. I think I interrupted Mr Rampton. Did you want to add anything?

MR RAMPTON: I was just going to say, Mr Irving has identified as being not Jewish I think four that, in fact, are Jewish. The only two that are not that we can tell are the Australian and the German governments.

MR IRVING: Perhaps you should say which of the four that you consider are Jewish.

MR RAMPTON: All the rest are Jewish.

MR IRVING: Centre for Democratic Renewal?

MR RAMPTON: Yes.

MR IRVING: A Jewish body?

MR RAMPTON: Yes -- so I am told.

MR JUSTICE GRAY: We may or may not come back to that at some later stage. Let us leave it for the moment. I cannot actually find my bundle F.

MR IRVING: I asked your clerk, my Lord, this morning to put the fresh documents into it.

MR JUSTICE GRAY: I then think I said not for the time being until I know that is what everybody thinks is right.

MR IRVING: Your Lordship will need bundle F9, in fact.

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MR JUSTICE GRAY: I do not seem to have F. Yes. So I put this in the back?

MR IRVING: That is correct, my Lord. Mr Rampton's intervention, of course, has highlighted the problem that I face in view of the fact that the representative of the Centre for Democratic Renewal and the Coalition for Human Dignity who gave statements relied which have been relied upon by Professor Levin, those statements are not sworn. They are just put in by way of evidence. They are relied on by Professor Levin. Professor Levin is not going to give oral evidence, so I cannot test the validity of any of the statements that Mr Rampton has made or any of the statements these witnesses have made.

MR JUSTICE GRAY: Professor Levin, who is not coming to give evidence, I had understood (and perhaps I am wrong about this and perhaps we can clarify now) that his report is no longer relied on.

MR RAMPTON: No, that is not right. There is a Civil Evidence Act Notice.

MR JUSTICE GRAY: For an expert?

MR RAMPTON: Yes, in respect of that. What weight it has is another question, but it has to be a 1968 Act Notice because this case was started before the 1995 Act came into force. So there is a Civil Evidence Act statement in respect of Professor Levin.

MR JUSTICE GRAY: It is highly unusual to have an expert's

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report subject to the Civil Evidence Act.

MR RAMPTON: It may be unusual but ----

MR JUSTICE GRAY: I do not know whether I have ever heard of it before.

MR RAMPTON: --- there is nothing the matter with it in principle.

MR JUSTICE GRAY: That may be right.

MR IRVING: It does place me at a serious disadvantage, of course.

MR JUSTICE GRAY: I know. Actually, I thought the disadvantage was less great than it now appears to be because I had wrongly taken it (and I am glad I have now discovered my error) that the Defendants were not any longer relying on Levin and Eatwell.

MR RAMPTON: If I can say this, quite frankly, I do not myself believe I need to depend very heavily on Professor Levin anyway for ----

MR JUSTICE GRAY: I think that is probably right.

MR RAMPTON: --- quite different reasons. The factual witnesses probably, so far as the United States and Canada are concerned, are more important.

MR JUSTICE GRAY: Yes. To help you with your difficulty, Mr Irving, can I suggest this, that when you come to be cross-examined, as you will be I think on ----

MR IRVING: Next week sometime.

MR JUSTICE GRAY: --- the sort of rogues' gallery point, if

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I can rudely call it that, namely your associating with these extremists.

MR IRVING: Guilt by association.

MR JUSTICE GRAY: Yes, well, that is the way you put it. I am not sure it is as simple as that.

MR IRVING: It is the way Morland J would put it probably too.

MR JUSTICE GRAY: Well, you might then take the opportunity, either in cross-examination or perhaps re-examining yourself, to make the points you are wanting to make in reference to Professor Levin or Dr Levin's report.

MR IRVING: I was proposing to make it by way of submission.

MR JUSTICE GRAY: All right. You can do it that way as well or instead, rather.

MR IRVING: But is a rather unfortunate halfway house that he is going to partly rely on Mr Levin's report, and we have no way of knowing which part he is relying on and which part he is not. Either he should or he should not, in my view, my Lord, and your Lordship may wish to make a ruling on that.

MR JUSTICE GRAY: Well, you may want to make the application that it is not legitimate for a party to use the Civil Evidence Act machinery to avoid having the expert witness in question called and cross-examined.

MR IRVING: Now that we are under the CPR, as we are, I think it should be either or.

MR JUSTICE GRAY: Well I am not going to that now because

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Professor Evans is, no doubt, wanting to get on with his evidence, but if you want to make that application, feel free to do so. But, as I say, I think it is unusual. Yes, now, are we ready to resume?

MR IRVING: One more minor matter, your Lordship asked to see the index of the Hitler's War books, the new version, and that also appended as -- it is the very last page of what you have.

MR JUSTICE GRAY: When you say the "new" version, the one that is about to come out?

MR IRVING: No, this was an index we commissioned for the 1991 edition, in other words, it is a fuller index for 1991.

MR JUSTICE GRAY: I see.

MR IRVING: It has now been superseded because we are about to do a completely updated edition.

MR JUSTICE GRAY: So this is just the extract dealing with...

MR IRVING: That, I presume, is the page that your Lordship was interested in.

MR JUSTICE GRAY: Yes, you are quite right.

MR IRVING: Also, finally, my Lord, if you look two items back from that, your Lordship will find The Spectator.

MR JUSTICE GRAY: Is this "as many as"?

MR IRVING: "As many as", yes, my Lord. Your Lordship will see that I was absolutely correct; either Professor Eatwell or Professor Levin or both omitted the word which completely reversed the meaning.

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MR JUSTICE GRAY: Yes. Professor Evans, this is a point at which I think you ought to join in, if I can put it like that. I think, Mr Irving, the point he made yesterday is right?

A: It is right, yes, indeed.

MR IRVING: Is it right to say that I, therefore, did not double the death roll by means of the comparison, in fact? I adhered to a death roll in Hamburg of up to or nearly 50,000?

A: That is right, yes.

MR JUSTICE GRAY: Not, I think, your error, but Professor Eatwell's?

A: It looks like it, my Lord.

MR IRVING: My Lord, the problem is Professor Evans' report has turned out to be a bit of a dummy minefield. I am advancing into it, but very gingerly, because I do not know where the real mines are and where the dummies are like that one, and this is what is delaying us.

MR JUSTICE GRAY: I am not sure I accept any of that, but let us move on anyway. We have

got to about 100?

MR IRVING: 128, my Lord, is where I propose to continue, my Lord. I am on 128 at paragraph 4, Professor Evans.

MR JUSTICE GRAY: You are still on the topic of Holocaust denial, are you not?

MR IRVING: We are, my Lord, and we are dealing just briefly with the experiment made with the gas vans. Your Lordship

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was concerned that I described this as an experiment in view of the large numbers. So Professor Evans has quoted me as saying, "So I accept that this kind of experiment was made on a very limited scale". Do you agree that there was, in fact, an experiment, Professor Evans, the use of the gas vans for a limited period of months on the Eastern Front and elsewhere?

A: You go on to say: "But, I don't accept that the gas chambers existed, and this is well known. I've seen no evidence at all that gas chambers existed". So what I am saying there in that quotation is that you say that gassing took place on a very limited scale, experimental scale, but, as you say, it was rapidly abandoned as being a totally inefficient way of killing people.

Q: Yes.

A: I understand that during the trial you have now admitted that that was wrong, that it was, that gassing was not merely used on a limited experimental scale.

Q: You are overlooking the use of loaded words like "conceded" and "admitted". Do you accept that, therefore, the gas vans were used as an experimental basis for killing, and that they were abandoned then for whatever reason afterwards?

A: No, I do not. They were used for killing on a large scale, as I think----

Q: Did they continue using them throughout the war or did

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they stop?

A: There was a transition to mainly using gas chambers, but they were used on far more than a limited scale, as I believe you yourself have said in the course of this trial.

Q: Looking purely at the word "experimental" at this point, you have agreed that Professor Burrin, the Swiss Professor is something of an expert. He is not an extremist or what you call a Holocaust denier.

A: That is so, yes.

Q: I just put to you one sentence from his standard work on this. This is on page 112 of Philip Burrin: "The gas truck had been an improvised response to a situation no one had foreseen or imagined". Would you agree with that?

A: I would have to see the whole passage. I find it difficult to comment simply on a single sentence taken out of that. In any case, the context of this section of my report is concerned with your denial that gas chambers existed, that gas chambers were used. That is the context.

Q: Before we move on, just a simple answer. You do accept therefore that the gas vans were used and then abandoned at some stage as a means of killing?

A: Well, yes. In the end of course the gas chambers were abandoned as a means of killing when they had fulfilled their purpose. I do not accept----

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MR JUSTICE GRAY: Mr Irving, I just want to see where we are going occasionally.

MR IRVING: That was the end of that.

MR JUSTICE GRAY: At an earlier stage in this case -- correct me if I am recollecting wrongly -- you were presented with a document which indicated that at Chelmno 97,000 Jews were killed in five weeks.

MR RAMPTON: Five months, my Lord.

MR JUSTICE GRAY: I agree you did not accept that figure was correct, but I believe you did accept in terms that the gas vans were not used on a solely experimental basis but were used for the systematic killing of substantial numbers of Jews.

MR IRVING: They were. I do not agree that they were used only at Chelmno. They were certainly used once at Chelmno because there was an explosion there, but there is no evidence they were used only there.

MR JUSTICE GRAY: I did not say "only there". I am using that as an illustration of what I had understood you to have accepted earlier in this case.

MR IRVING: I am trying to justify the use of the word "experimental" by the virtue of the fact that other historians of reputation have also described this as being an interim phase and it was abandoned, as it proved not to be a very feasible or practical way of doing things.

MR JUSTICE GRAY: That may be rather a different thing from

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saying it is experimental, but there we are.

MR IRVING: I think that you had fastened on the word "experimental" as being something repugnant in this particular connection and I can appreciate that, but I was just trying to establish what was meant by the word "experimental".

Can we now proceed to paragraph 6 on the same page 128, where we are talking about the subsequent Polish tests which attempted to replicate the Leuchter tests. You say that I allege that there was a refusal of the authorities to call for site examinations and that forensic tests were carried out by the Poles, but the results were suppressed". Is that correct in the last four lines on page 128?

A: Yes.

Q: Are you suggesting that I have got it wrong somehow?

A: In this paragraph I am trying to sum up your views as succinctly as I can.

Q: Do you accept that the Poles did carry out tests and suppress them?

A: No, I do not. I have to say I am not an expert on Auschwitz and there has been a separate, as I call attention to at the top of the next page 130, expert witness report by Professor van Pelt, who is an expert on Auschwitz, who goes into this in very great detail.

Q: Yes. So we will not dwell very long on this, but would

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you go to page 56 of the little bundle, which is the first page of the Polish report I am referring to. We are going to look at two dates on it.

A: Yes.

Q: It is a Polish document. I am told that the date at the top in Polish means 24th September 1990, and that is the date that the report was submitted by this Polish Institute to the museum at Auschwitz, as you can see in the address line on the top right quarter. If you look in the rubber stamp box, can you see a date on the final line?

A: Indeed, 11.10.1990.

Q: Did the Polish State authority, the Auschwitz authorities, at any time thereafter publish that report, or did it sit in their safe for some months and years?

A: I am not an expert on this subject. I cannot really comment. I think probably, if one consulted Professor van Pelt's report, one would be able to clear that up.

Q: You spent a whole page -- again on the foot of page 129 you say that Irving went on to claim that Dr Piper, in other words the Auschwitz State Museum, had suppressed the fact and filed the report away.

A: Yes, I say that.

Q: You disqualify the Leuchter report in your view. I have to ask you these questions because it is said that I have relied on the Leuchter report and that this was an

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unjustifiable act of a responsible historian.

MR JUSTICE GRAY: You do not have to ask these questions. I have already indicated that on Auschwitz -- I know it is referred to in Professor Evans' report -- it does not appear to me that, if I may respectfully say so, Professor Evans' opinions really bulk very large. I think that is really Professor van Pelt. So do not feel you have to ask these questions.

MR IRVING: I would like to ask him purely then about one matter. Is it right that you suggest that the report was not admitted as evidence at the Toronto trial, and that this in some way discredits the report?

A: No, I cannot see that in my report. I say it was discredited at the Zundel trial in 1988. That is my understanding, having read some of the transcripts of the trial.

Q: Was the report actually admitted as evidence of the Zundel trial?

MR JUSTICE GRAY: I think we know it was, do we not? We can move on.

MR IRVING: The point that I am trying to make, my Lord, is that I have had considerable dealings overnight with the Canadian solicitors involved in that action who confirmed to me -- I just put the essential three lines of their letter to you. The solicitor Barbara Kulaska has written to me saying that the Leuchter report itself was not filed

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as an exhibit for the sole reason that such engineering reports are not generally admissible under Canadian rules of evidence unless the other side consents.

MR JUSTICE GRAY: I treat that with a certain amount of scepticism. The evidence up to now is that it was not admitted in evidence at the Zundel trial because it was not accepted that Leuchter was suitably qualified as an expert.

MR IRVING: My Lord, with the utmost respect, I have to say that I have a very large bundle here now which contains the actual transcript on that matter between the prosecution and the defence and the court in Toronto.

MR JUSTICE GRAY: Shall we put that on one side? I do not suppose Mr Rampton has had a chance to look at what you are referring to me at the moment. At any rate, let us get on with Professor Evans. I am not shutting you out from adducing that evidence.

MR IRVING: I am prepared to make this transcript available to the Defence in this matter.

MR RAMPTON: I have the transcript. I used it in cross-examination of Mr Irving. It is perfectly clear the judge would not admit Mr Leuchter as an expert.

MR JUSTICE GRAY: What you have not seen is what Mr Irving is relying on from the Canadian lawyers giving an entirely different reason why.

MR RAMPTON: I have seen it. There is a one page letter

I think in this new bundle.

MR JUSTICE GRAY: What I am suggesting is that Mr Irving follows this up later.

MR RAMPTON: Yes, I agree. I attach no weight to what the lawyer says at all.

MR JUSTICE GRAY: Rather than now.

MR IRVING: Whether Mr Rampton attaches weight to it or not is neither here nor there. In that case I shall put it to your Lordship by way of submission later on.

MR JUSTICE GRAY: Would you mind.

MR IRVING: At page 130 line 8 you say that my arguments derive from previous work from well-known Holocaust deniers, and then you mention some.

A: Yes.

Q: Professor Faurisson. . Are you familiar with the expertise of Germar Rudolf?

A: I mention Faurisson there. I do not mention Rudolf there.

Q: I can make this very brief. Can you accept that there are a number of other documentary bases on which I base my arguments, for example the air photographs as interpreted by a man called John Ball?

A: It is clear I think that in the documents that I cite you do rely heavily upon Faurisson, whose work you did read in the late 1980s, as you recall in your diary.

Q: Which works of Professor Faurisson do you allege that I read?

A: It was an article in your diary entry of 26th July 1986. You wrote "Faurisson's paper on Auschwitz set me thinking very hard." I presume that is an article that he published or a paper that he gave to you.

Q: Are you suggesting that he is my only source, the only basis of my arguments that I do not rely----

A: No, I am not. I give that as an example there.

Q: When is set thinking very hard, as no doubt you have also been occasionally made to think very hard, you then start looking at other sources to see how one should finally align one's own political or scientific or historical viewpoint.

A: Yes. I say here that it derives from previous work by well-known Holocaust deniers such as Faurisson.

Q: Would you call Professor Hinsley a well-known Holocaust denier?

A: I do not think that these arguments, the arguments are derived -- you misuse Professor Hinsley's material in your work.

Q: But you have here referred of course only to Professor Faurisson. Does that imply that he was my only source of any change of mind or new direction of my thinking that I may have adopted?

MR JUSTICE GRAY: "Such as" are the words used.

A: "Such as", yes. You were familiar with the brochure, Did 6 million really die, by Richard Verul of the National

Front published under the pseudonym of Richard Harwood.

Q: You are saying I am very familiar with it. When did I become familiar with it?

A: You note in 1988 that you said in the Zundel trial in the evidence you gave over 90 per cent of

the brochure is factually accurate.

Q: Have you also read in the diary that the Verul report was given to me to read one day before I gave evidence, and that I looked at it the same as you look at documents here in order to be able to form an opinion of it?

A: I am saying you read it, Mr Irving.

Q: Yes, but are you suggesting that I thought it out and read it and then used it as a basis for my arguments?

MR JUSTICE GRAY: He cannot possibly answer that, can he?

MR IRVING: I mean, the allegation, the suggestion, the imputation, from the witness is that I have read it and used it as a source when, in fact, I read it as an expert witness has to read documents that are put to him.

MR JUSTICE GRAY: You just said you were familiar with it, Mr Irving.

MR IRVING: I had sufficient familiarity with it on the basis of 24 hours study in order to be able answer questions as an expert witness. This is the point I wish to put to him. If the witness makes a statement like that, which is intended to create an impression, then I am surely entitled to rectify the impression.

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MR JUSTICE GRAY: Well, you cannot ask him questions to which he obviously cannot possibly know the answer.

MR IRVING: My Lord, he can because the reference to this particular report is in my diaries which he has just quoted from and it makes quite plain that the Verul(?) Report was submitted to me. It was put to me by the Defence counsel to read in order that I could answer questions on it when I came into the box.

MR JUSTICE GRAY: Well, what is the answer?

A: I am not sure what the question was, my Lord.

MR IRVING: Are you familiar with, have you read my diary and do you accept that, in fact, the Verul report was put to me purely for that purpose?

A: That is what your diary says. I am familiar with the diary entry. The fact is that you read the report and you judged it 90 per cent correct. Similarly, you are familiar with the work of another Holocaust denier, Dr Wilhelm Steglisch which you have commented on on a number of occasions.

Q: Notwithstanding your desire to move on to other matters, can we deal with one thing at a time and say that a number of documents have been put to you by me in the last few days, is that is right?

A: That is right.

Q: Would you find it repugnant if people said you have relied on these documents that I have put to you and that

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you have read these Irving documents and that, therefore ----

MR JUSTICE GRAY: Mr Irving, please, come on. It is just becoming unhelpful and argumentative. Let us get on to what matters. I say that for, I should think, the 12th time.

MR IRVING: 132, Professor, page 132, line 4. I am afraid I have to demolish this witness in detail, my Lord. It is the only way I can do it.

MR JUSTICE GRAY: Mr Irving, I am sorry, I am intervening more than I want to, but I have

told you before that on Auschwitz I do not regard Professor Evans as being, if I may say so, authoritative. Therefore, you do not have to ask interminable questions about Auschwitz. What matters starts at about page 150, as I have said many times before.

MR IRVING: If I am accused of putting things into documents which are not in the documents, this goes to the root of one of the principal libels on my name, my Lord. That is in line 4. That is why I will ask this witness now to go to page 57 of the bundle and see the document to which I am referring.

MR JUSTICE GRAY: Page 54.

MR IRVING: Page 57. Is this an invoice for the supply of Zyklon-B to Auschwitz concentration camp?

A: Yes, it appears to be.

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Q: Do you in your report say: "It makes no mention at all of pest control"?

A: Yes, I do, yes.

Q: Would you now look at line 5 of the invoice, the typed portion? Do you agree that it says: "This material was sent to Auschwitz Abteilung, Entwesung und" ----

A: Yes. My mistake, Mr Irving.

Q: This is your mistake?

A: Yes.

Q: So, in other words, I did not fake and I did not distort and I did not insert and I did not manipulate on that particular document?

A: Let me read the paragraph. "The plates", we are still on the plates of your Nuremberg book, and the caption says: "Tonnes of Zyklon-B pellets, containing poisonous hydrogen cyanide, are shipped by the Degesch factory to the Pest Control division of Auschwitz and other camps including Oranienburg in 1944". The delivery note, though, only concerns Auschwitz. I agree I overlooked the mention of the pest control in Auschwitz, but it does not affect the other camps.

Q: It does not affect the other camp? But that is not the point I am making here. It is just that once again I have been accused of distorting and manipulating and you have now admitted that you are wrong?

A: Well, no ----

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Q: Just as on the Spectator letter and other things.

A: --- because you are illustrating, you have an illustration there of a note to Auschwitz and you are making claims on the basis of it about other camps.

Q: I am not going to put to you all the other invoices which I have in the file which show deliveries to the other camps which makes the point. But the point I am making here, will you accept that, is purely that you wrongly accused me of mistranslating or distorting a document?

A: I do not think I wrongly -- and I admit I am wrong on that point, yes.

Q: Thank you.

A: I have already admitted that.

Q: Footnote 60, very briefly, you reference there the Gerstein report. Will you now accept that the Gerstein report has been totally discredited by the people you call the Holocaust deniers because of the figures and ludicrous facts it contains?

A: No, I will not, no. As I have said, I am not an expert on this subject, but it is a report that is -- I will not accept simply on your word, that it has been discredited.

Q: The next footnote, No. 61, you refer to an interview between me and Radio Ulster, but, unfortunately, is not produced in any of the bundle of documents, so it is difficult for me to judge how accurate this is.

MR JUSTICE GRAY: Can you help about that, Professor Evans?

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A: I cannot, I am afraid.

Q: Do you know where the transcript is?

A: I am unable to locate it, but we can quite well dispense with that. There are plenty of other statements here on which we can rely, as in the very next sentence: "There were no gas chambers in Auschwitz" as you said on 5th March 1990.

MR IRVING: Are you familiar with the distinction between Auschwitz and Birkenhau?

A: I think we have been through this in this case, Mr Irving, and that ----

Q: No, but I am asking you. Are you familiar ----

A: It is generally understood that when one talks about Auschwitz, one talks about the whole complex of all the various camps inside covered by the name of Auschwitz. When one talks about Birkenhau, that includes Birkenhau.

Q: Have you been to Auschwitz?

A: I have not been to Auschwitz.

Q: So I cannot ask you and there is no point in my asking you questions about that. You refer on page 133 to the shower baths?

A: I am not, really not an expert on this. What I am trying to do here is to assemble evidence that you have denied that there are gas chambers, there were gas chambers in ----

Q: I am placed at a disadvantage and I appreciate his

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Lordship's impatience with this procedure, but you have rambled on for pages in your report about Auschwitz and included numerous false statements and I am trying to proceed at speed, but every time I ask you you say you are not an expert on this.

A: What I am trying to do here is to include and present numerous statements of yours to the effect that gas chambers were not used, did not exist, and so on, at Auschwitz and elsewhere. I presented a substantial number of these statements here. I do not really propose to read them out.

Q: Well, I am afraid you will have to do what I ask under cross-examination. One of them is look at line 1 at page 134, please.

A: Yes.

Q: "On 8th November 1990 he", that is Irving, "repeated the same claim to an audience in Toronto: 'The gas chambers that are shown to the tourists in Auschwitz are fakes'."

A: Yes.

Q: Do you now agree that this is true?

A: It is true that you said that.

MR JUSTICE GRAY: Do we have to go through this again? You say fake, Mr Rampton says reconstruction. I have the point.

MR IRVING: This is my way of now introducing a cardinal document which is on pages 59 and 60, my Lord, on which I shall very definitely rely. It is a visit by a very

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well-known French news magazine called L'Express on the anniversary of the liberation of Auschwitz. On page 60 there is the admission that everything in it is fake, and they do not know how to tell the tourists this.

MR RAMPTON: I really do not know where this is going. This was not put to Professor van Pelt who made it perfectly clear that the single gas chamber at Auschwitz (i), Sturmlager, is a post-war reconstruction and he explained ----

MR IRVING: It is a postwar reconstruction.

MR RAMPTON: He explained how it had been done and that the beginning and the end of that story. How Professor Evans is expected to deal with this, I do not know.

MR JUSTICE GRAY: The difficulty, as you know, is that one does have the section on Auschwitz. That is the problem.

MR RAMPTON: I know, but, as your Lordship knows, as I have shown your Lordship already and Mr Irving has been in court, again and again Mr Irving has referred to gas chambers in the plural, not just at Auschwitz but elsewhere.

MR JUSTICE GRAY: Mr Irving, I just have never from the word go understood the point that you make about these so-called fake gas chambers.

MR RAMPTON: There are two points, my Lord. First of all, Mr Rampton calls it a "reconstruction", I call it a "fake". The second point is if I am accused of having a

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criminal conviction in Germany, which is used against me by the Defence, I am entitled to point out the criminal conviction is for saying precisely this sentence and it turns out to be true.

MR JUSTICE GRAY: I am not remotely interested in your criminal conviction in Germany. I simply am not.

MR IRVING: I am indebted to your Lordship for saying that because the Defence has repeatedly referred to it ----

MR JUSTICE GRAY: I am now going to rule that you get on. Please, Mr Irving, this is enough about Auschwitz. I just do not think that there is anything to be gained by any further cross-examination on Auschwitz. You have spent a long time on it.

MR IRVING: Just about Auschwitz or about the Final Solution, my Lord?

MR JUSTICE GRAY: I am not stopping you on the Final Solution.

MR IRVING: Page 134. "Systematic nature of the extermination". You take exception to my suggestion that Jews were the victims of a large number of rather run-of-the-mill criminal elements, and I mention there the Latvians, Lithuanians and Estonians?

A: And Austrians.

Q: Yes.

A: And Germans.

Q: Are you familiar with the report by Jan Karski who was one of the first people to report on the Final Solution?

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A: Not -- I am not, no.

Q: In that case I cannot ask you about it. On page 135, paragraph 3: "Irving's view that these local initiatives were excusable", is the word "excusable" excusable in this context? Have I ever tried to excuse what the Germans are doing to the Jews?

A: Well, let me read what you told the press conference in Australia in 1986 which is the quote

beginning halfway down the quote on the previous page where you say, you are questioning whether the killing of Jews "was a tragedy ordered and organized on the very highest German state level, namely by Hitler himself. Because if my hypothesis is correct, it means that all these Jews - and it may be any figure, I don't look at the figure concerned - if my hypothesis is correct, it indicates that the Jews were the victims of a large number of rather run-of-the-mill criminal elements which exist in Central Europe. Not just Germans, but Austrians, Latvians, Lithuanians, Estonians, feeding on the endemic antisemitism of the era and encouraged by the brutalization which war brought about anyway. These people had seen the bombing raids begin. They'd probably lost women, wives and children in the bombing raids. And they wanted to take revenge on someone. So when Hitler ordered the expulsion, as he did - there's no doubt that Hitler ordered the expulsion measures - these people took it out on the person that

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they could".

Q: And you say this is somebody excusing the Nazis for taking these ghastly actions against the Jews?

A: It seems to me that that is the implication in that statement, yes.

Q: Is it not, in fact, a very sloppy use of the English language? What you meant was not "excusable" but "explicable" and there is a very great difference between these two words?

A: I think, given your attitude -- well, first of all, I find it very difficult to see how Latvians, Lithuanians and Estonians could get so worked up by bombing raids on Germany that they started killing Jews.

Q: Is that what I say?

A: It is the clear implication, "these people", and in the previous sentence you say, "Not just Germans, but Austrians, Latvians, Lithuanians and Estonians". "These people had seen the bombing raids begin".

Q: Are you familiar with the fact that Jan Karski, the man whom I previously referred to, warned the Polish government of the likelihood of pogroms in the Baltic states, and he had explained the reasons why in a 1940 report?

A: Mr Irving, there is plenty of documentation to show that there were, that Latvians, Lithuanians and Estonians and so on were involved in the mass killing of Jews with the

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encouragement of the SS unit and the Einsatzgruppen.

Q: But are you not by using the word "excusable" suggesting that David Irving said that what had happened to the Jews was right, that I am excusing it, whereas, in fact, I am explaining it and there is a substantial difference. Do you not agree?

A: No, I do not. I am afraid the tenor and tendency of your explanations is to find excuses.

Q: So ----

A: And you go on, and I go on to quote numerous places in the report at some length arguments which you put forward to try to suggest (and sometimes say in so many words) that the Jews were responsible themselves for the misfortunes which befell them.

Q: You still do not appear to appreciate the difference between the word ----

A: I think this falls into a pattern.

Q: --- to excuse and to explain. Your use of the word "excusable" implies that David Irving welcomed the Holocaust, that I am excusing it; whereas I am explaining it by saying, "These people had a vengeance, these people had a grudge, these people felt wronged, these people took

it out on the people they perceived as being the ones who did it". Is that an excuse or is that an explanation?

A: I think given the fact that they not been bombed, that is an excuse.

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Q: I think we can abandon bombing for a moment and point to other things. I do not want to go into the reasons why the Baltic Jews had a particular grudge, but that is neither here nor there.

A: Well, I think it is very much here or there. If you want to use as an explanation of the massacres of Jews by Baltic peoples, if you want to use in explanation of that allegations that you want to make about their maltreatment by Jews or justified -- or in some ways grievances that they had which were in some ways justified, that seems to me that you are excusing it.

Q: In other words, what you are saying is that I welcomed the Holocaust, is that the way you are trying to put it to the court?

A: I do not use the word "welcome", Mr ----

Q: Well, I am trying to understand why you use the word "excusable". If something is excusable, then this implies that the person who is making the excuses thinks it is a jolly good thing.

A: No, I do not think that is true actually. Those are two rather different things. Applauding something and excusing it are rather different things, Mr Irving, and I come back to this fact that you say, "These people had seen the bombing raids begin, they'd lost probably women, wives and children in the bombing raids". So these poor Estonians who had been subjected to allied bombings,

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therefore, felt so angry with the Jews that they took it out on them. Now, I do not think there is evidence that Estonians were heavily bombed by the Allies in 1941.

Q: Forget the bombing raids for the time being.

A: I am not forgetting the bombing raids because that is a central passage -- a central part of this passage, Mr Irving.

Q: My Lord, let me explain the reason why I am dealing with this at length. This is one of the issues pleaded. In the pleadings one of the complaints is that I am accused by the Second Defendant of having, I think, applauded the incarceration of the Jews in the concentration camps.

MR JUSTICE GRAY: I do not believe that she ever has made that accusation. What you are accused of in this part of the report is making excuses for those who took part in the ----

MR IRVING: Finding something excusable rather than explicable, and there is a substantial difference there. I find the use of the word "excusable" which I hope the Professor will admit was a slip, but now he is trying to justify it?

A: I will not admit it is a slip, no. I mean, I looked at this passage and it seems to me to excuse these massacres.

MR JUSTICE GRAY: Speaking for myself, I think I understand the point you are making, Mr Irving, and I understand the answer as well.

MR IRVING: In that case, I will now wish to speak another

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paragraph about the explanation why the Baltic Jews took revenge on their native Jewish population during the brief interregnum between the time the Soviets moved out and the German Army arrived. Did you appreciate that there were substantial killings in that period?

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

Q: So you make the allegations without the evidence then? You say that the bombing raids and so on, you say they had, the Nazis, the Latvians and Lithuanians the Estonians had no ----

A: Let me set the context here, Mr Irving, is that I am talking about your denial that there was a systematic element in the Nazi extermination of Jews.

Q: You are going substantially further; you are saying that I am welcoming it, I am excusing it?

A: I do not say you are welcoming it. Welcoming is different from excusing.

MR JUSTICE GRAY: Mr Irving, he is not saying you are welcoming it. He is saying you are making excuses for it.

MR IRVING: And this is precisely the point that I have to challenge, my Lord, because, of course, what I am actually saying is there are explanations for these pogroms committed by the local population against the Jews, and that is not making excuses for them in any way at all.

MR JUSTICE GRAY: I have already said, I understand the point

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you are making and I understand the answer.

MR IRVING: But it is a repugnant allegation to be made either ----

MR JUSTICE GRAY: There is no point in just using this point as a sort of punch bag and going on and on because I have the point.

MR IRVING: Well, I am beginning to feel like a punch bag when I read this report with things being thrown at me the whole time like that, and I find that allegation particularly repugnant. I have described the atrocities committed by the Nazis against the Jews and by their collaborators against the Jews in very much detail in my works and never at any time have I given even the slightest hint of relish or welcoming these things.

A: That is not what I am saying, Mr Irving.

Q: I have repeatedly tried to argue away the Wannsee conference, you say at the foot of page 137. I am not going to dwell at length on that. If you are an historian, you would, no doubt, know that there is a great debate raging among genuine historians and scholars -- to spare you any difficulties here -- as to whether the Wannsee Conference was important or not. Do you agree with that?

A: There are arguments about how important it was, yes.

Q: Yes, so if somebody tries ----

A: I do not think anybody has said that it was unimportant.

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It is a question of the level and degree of importance you attach to it.

Q: Do you agree that there is no reference to the word "liquidation" in the records or to any order by Hitler or to any systematic killing in the Wannsee Conference?

A: Yes, that is true.

Q: Middle of page 138, please. You say that I relied on Eichmann's testimony on other occasions but not when it does not suit me. This is another allegation of manipulation, right?

A: Yes.

Q: Can you tell me what other occasions I did rely on Eichmann's testimony? Are you just referring to the episode where he looks through the peep hole in the back of the van and saw the gas vans operating?

A: I think that is one of them, yes. There are others, I think, which I mentioned in the report.

Q: I relied on it when it suited me -- why would it suit me to use Eichmann's confirmation of

something which I, as a denier, am supposed to be denying?

A: Well, this comes back to the point that we talked about yesterday, that I made it clear that Holocaust deniers as a group have, on the whole, always admitted, as Faurisson said, there were some small scale, relatively small scale, killings on the Eastern Front of Jews, and that belongs to that.

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Q: Have you ever read very much of Eichmann's testimony either in his memoirs or in the subsequent trial in Israel?

A: I have read some, not the whole thing.

Q: Are you familiar with the passage where Eichmann, challenged about a particular episode, interrupted the interrogator two minutes later and said words to this effect: "I am sorry. You asked me two minutes ago about that episode, and I have to say now I cannot remember whether I am actually remembering it or just remembering being asked a question about it more recently"?

A: Well, you would have to show me that document.

Q: Do you agree that sometimes this happens in interrogations, that the interrogator puts questions with such force that sometimes the person being interrogated comes to believe what is being suggested to him by the questions?

A: Well, that is a very general statement, Mr Irving, and I suppose in some interrogations somewhere or other that kind of thing takes place.

Q: Going on to page 139, the Commissart Order, and the guidelines for jurisdiction issued to the German Army and armed forces in the spring of 1941. I am not asking you in detail about them, but would you agree that these are documents of a military nature?

A: I am sorry, I cannot see this.

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Q: 139, paragraph 11. We are dealing here with the orders to kill Jews, Red Army Commissarts and others in the German Army area?

A: Oh, yes, yes.

Q: So this is a reference to the Commissart order, is it not?

A: Yes.

Q: All I am trying to get from you is a concession that the Commissart order issued by the German High Command of the armed forces was a military document concerned with military measures and that it did not convey a clear and overriding intent to kill the Jews as such?

A: It is, no, it is an order that Red Army Commissarts will be killed. There were orders issued to that effect in its -- I mean, it is very hard to describe that as a military order in the sense that it did not seem to me, or to most historians, there to be any military justification for it. It is a political act.

Q: The simple question there is were they being killed as Commissarts or as Jews?

A: As Commissarts. The Jews are a separate matter in these orders.

Q: And do you accept that at this time the Soviet Union was not a signatory of the Geneva Convention on prisoners-of-war and, therefore, the Germans had no obligation whatsoever to treat their prisoners properly?

A: That is a rather different matter, Mr Irving, and actually

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issuing an order to the Army to kill Red Army Commissars is a very different matter from simply not treating people properly.

Q: Well, you accept that when nations become belligerent, they have a choice that they can make, they can agree both sides, they can become signatories and parties of a convention like the Geneva Convention on treatments of prisoners-of-war, and the Soviet Union had specifically opted out of it and, therefore, at no time opted into it, so the Soviet Union, legally speaking, Soviet prisoners could not expect to be treated as prisoners-of-war and, in fact, nor could German prisoners be expected to be treated as prisoners-of-war?

A: Well, if you are advancing that argument as an excuse or justification for the order to the Germany Army to kill all the Red Army Commissars found and for the deliberate killing of between 3 and 4 million Soviet prisoners-of-war by the Germans, then I do not think it is a very strong justification or excuse.

Q: Did you hear me express it in those terms as an excuse?

A: That seemed to me what you were saying.

Q: Was I not, in fact, just taking up the point you made before I mentioned the Geneva Conventions in which you referred to the illegal killing of these Commissars?

A: You have lost me, I am afraid.

Q: In paragraph 12 you refer to Holocaust denier, Paul

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Rassinier, and on the following page, the first line of page of 140, you refer to Austin App?

A: Yes.

Q: Why do you refer to these people? Is it not totally irrelevant to bring in all these names of people?

A: No. I am suggesting here that these are familiar -- the arguments you are putting forward are familiar arguments from well-known Holocaust deniers, advanced by many other Holocaust deniers.

Q: Unless his Lordship disagrees, what possible relevance does that have to this case that other writers have strange views?

MR JUSTICE GRAY: Very, very marginal, in my view, so we can move on.

MR IRVING: In other words, I need not prepare to address it?

MR JUSTICE GRAY: No, you do not.

MR IRVING: We do, however, on this point come to the important matter of the allegation by me that the Holocaust story in part is an echo of our own propaganda. My Lord, I do think we have dealt with this allegation before, have we, in this court?

MR JUSTICE GRAY: No.

MR IRVING: It is quite an intricate allegation, and, witness, you disagree with this. Can we take it in stages? Do you agree that the Allies at any time started making propaganda broadcasts to Germany with references to the

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extermination of the Jews?

A: Yes. I certainly agree with that.

Q: Can you put a rough date on when these broadcasts began?

A: Sometime in 1942.

Q: Sometime in 1942?

A: As I recall.

Q: Have you read the memoirs -- do you know who Thomas Mann is?

A: Yes.

Q: Was he a famous German novelist?

A: Indeed.

Q: Author of I think "Wooden Brooks" and various other ----

A: Yes, that is right.

Q: --- famous novels? Where was he during World War II?

A: He was in the United States.

Q: In the United States. Was he engaged by the Allies as a propagandist?

A: That, I am not sure about, but he certainly did make broadcasts, yes.

Q: Have you read his memoirs and his own diary?

A: No.

Q: If I put to you either now or later passages from the Thomas Mann diary of 1941 in which he describes making broadcasts relating to -- here we are ----

MR JUSTICE GRAY: In a way, Mr Irving, you have got your answer because Professor Evans has agreed that there were

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propaganda broadcasts from 1942 about the extermination of the Jews.

MR IRVING: I was going to bring you back to 1941. It may seem completely immaterial, my Lord, but -- in January 1942 Thomas Mann broadcast the following words in German: "[German - document not provided] "400 Young Dutch Jews have been brought to Germany to be used as experimental objects for poison gas in January 1942". Can you accept that if he writes that in his diary as a propaganda broadcast that he made that there was such a broadcast?

A: Well, could I see a copy, please?

MR JUSTICE GRAY: Do we need to take terribly long? This is actually 1942, not 1941, but you have got your answer that there was propaganda use being made of the alleged extermination of Jews.

MR IRVING: Right.

MR JUSTICE GRAY: From, at any rate, 1942.

MR IRVING: Buttressed with three more sources but we will not go into detail, my Lord. Have you heard of the Ringlebloom diary.

A: Yes.

Q: Will you accept that Ringlebloom makes reference in June 1942 in the ghetto to receiving broadcasts about the extermination of Jews with poison gas?

A: Yes, I will accept that.

Q: If you have read my Goebbels biography, as no doubt you

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have for the purposes of this case, will you agree that the German Propaganda Ministry monitored a wave of propaganda broadcast in November 1942 referring to the gassing, mass gassing, of Germans?

A: Yes.

Q: In other words, they were Nazi monitoring reports of the BBC. You yourself, Professor, are an expert because you have written a book on the subject, have you not, of German wartime morale, of the reports? I think you wrote a book, did you not, on the subject of reports on public opinion, morale?

A: No, no. I think the book you are thinking of covered the years 1892 to 1914.

Q: So this is the wrong war? In other words ----

A: It is not even the war at all. It is before the First World War, I am afraid.

Q: So you are not familiar with the SD reports or with the letter intercept reports or anything like that on German public knowledge?

A: Slightly familiar, but I would not say that I was a major expert on them. I mean, I know what the SD reports were. I have read a few of them, but I am in no sense a real expert on them.

Q: Yes, you are absolutely right. I am wrong. Your book was [German] was it not? So you have not read any of the corresponding reports on German public morale, public

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opinion, that were gathered by the Gestapo or by the Propaganda Ministry in the war years?

A: Only those which were cited in publication of other scholars and one or two in the original, but I have not read them thoroughly.

Q: How much talk was there in Germany during the war years of gas chambers, do you think, in public or in private?

A: I think that is very difficult to say. We have to remember that there was a great deal of secrecy surrounding them. I think there was a fair amount of talk about shootings behind the Eastern Front, but of course it was against the law, and punished severely, if you spread news about what was going on in concentration camps or extermination camps in Germany.

Q: Given that the BBC made -- I am going to keep this brief -- repeated broadcasts during 1942 about the Nazi atrocities, and about the extermination of Jews, and about gas chambers, even before the gas chambers began operating on a large scale ----

MR RAMPTON: Wait a minute. If Professor Evans is to deal with that, Mr Irving must give some precise dates. One remembers evidence is that the evidence is that Chelmno started killing people in gas trucks 8th December 1941, and that the three Reinhardt camps were in full operation during the summer 1942. I think we need some dates.

MR IRVING: With respect, Mr Rampton, I think, in view of the

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fact that Professor Evans has stated himself that he is not an expert on this matter ----

MR JUSTICE GRAY: No, Mr Irving, that will not do, will it? You cannot put a question which has as its premise a misstatement about the date when gas chambers began operating. That is the point that Mr Rampton is making. It does not impinge on that objection that Professor Evans may not himself be an expert. If you are going to ask that question, and it is a relevant question, you must premise it correctly.

MR IRVING: I was really trying to save the court time.

MR JUSTICE GRAY: That will not do either, Mr Irving, if I may say so.

MR IRVING: It will certainly take time for me to look up the actual dates and references and I do not want to take up the court's time shuffling papers.

MR JUSTICE GRAY: Can I reformulate it for you and try and help? Or would you rather do it yourself? Do it yourself.

MR IRVING: Your Lordship is much better reformulating questions.

MR JUSTICE GRAY: No. I think I must not interfere too much.

A: Can I say that what is at issue here are Mr Irving's statements that "the British Intelligence Service suggested a propaganda campaign against Germany on the basis of invented allegations of gas chambers", or another

quote at the top of page 141, "The story that the Germans are using gas chambers for the mass extermination of Jews is, so and so on forth, psychological warfare, etc, warned the cabinet this is a lie that we ourselves had invented." That is really what is at issue.

MR JUSTICE GRAY: I follow that.

MR IRVING: This is very helpful. In fact, the witness has been very helpful and this helps me to zero in on the particular matter. Witness, will you therefore go straightforward to page 148 of your report? You are quoting here from a clip of Foreign Office documents, are you not?

A: Yes.

Q: In the Public Record Office. They are well-known documents and I am going to rely on the final paragraph of page 148. Is this document dated August 27th 1943?

A: Yes, that is right.

Q: At this time does Mr Victor Cavendish-Bentinck, who I think later became Lord Portland, state, "I think that we weaken our case against the Germans by publicly giving credence to atrocity stories for which we have no evidence." Is that right? Does he write that?

A: That is what he says, yes.

Q: So at this time in August 1943 the British had no evidence of gas chambers, because that what is specifically being talk about in this document?

MR RAMPTON: The Professor must be allowed to read the preceding two paragraphs that he himself has set out in his report because that is to rip something right out of context.

MR IRVING: I thought it would be helpful to go forward to 1943 to see what we did not know.

MR JUSTICE GRAY: Let us see what the context is for what Cavendish-Bentinck said.

MR IRVING: As regards putting Poles to death in gas chambers, that is pretty plain, is it not here? Here is the Foreign Office saying we have no evidence for this, and yet back in 1942 they are making the propaganda broadcasts.

MR JUSTICE GRAY: Mr Irving, I am just trying to read it. Can you just pause for a second **(Pause for reading)**. I am bound to say that I do think that, in fairness to Mr Irving, one of the things about which Cavendish-Bentinck is saying that there is no evidence available to the British at that stage is the putting to death of Poles in gas chambers.

MR RAMPTON: Polish children, and the underline is in the original. It is not Professor Evans.

MR JUSTICE GRAY: I agree what is being talked of is killing Polish children, or selling them. But also, as a separate topic, it seems to me a fair reading of this suggests, the putting of Poles to death in gas chambers.

MR RAMPTON: Yes. Nothing to do with Jews so far as I can

tell.

MR IRVING: Are Jews Poles? Is there some distinction there, Mr Rampton?

MR JUSTICE GRAY: Anyway, I see the point. We have now at any rate seen the whole document.

MR IRVING: My Lord, now I see that I have your Lordship's ear, may I now ----

A: Could I just make a couple of points here? These documents emerged during the formulation of a joint British/American declaration on German crimes in Poland, which is released at the

request of the Polish government in exile, so it is focusing on Poles.

MR IRVING: Do you agree that the statement concerned is on the facing page 147, and that the sentence causing problem is the allegation on the authority of His Majesty the king that Poles are "now being put systematically to death in gas chambers", and the word "systematically" figures in that?

A: Yes. That is the first thing. The context of this is negotiations involving the Polish government in exile about German atrocities in Poland. The second point is that of course Cavendish-Bentinck's position is not necessarily to be accepted as a correct one. He was extremely sceptical, and indeed has been criticised by historians for his negative attitude towards reports. As he says, the Poles and, to a far greater extent, the Jews

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tend to exaggerate German atrocities in order to stoke us up.

MR IRVING: Are you saying that he was anti-semitic?

A: Thirdly, and the really crucial point here is that this is not the same as saying that these stories about gas chambers have been invented, deliberately invented. What he says is: "As regards putting Poles to death in gas chambers I do not believe there is any evidence that this has been done." I am bound to say that is probably correct. He goes on to say: "There may have been stories to this effect and we have played them up in PWE rumours without believing that they had any foundation".

MR IRVING: What is PWE?

A: Political Warfare Executive. "At any rate", he says, "there is far less evidence than exists for the mass murder of Polish officers by the Russians at Katyn. On the other hand we do know that the Germans are out to destroy the Jews of any age unless they are fit for manual labour". So what he is saying is this. He is not saying we have deliberately cooked up these atrocity stories. He is saying we have received stories which we are using. That is quite a different matter from what say. You say they are invented by the PWE. Secondly, he is saying it is about Poles, and he is making a distinction, saying explicitly that the Germans are out to destroy the Jews of any age unless they are fit for manual labour. That is

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really the context of the quote that you originally gave.

Q: Very interesting. Will you now tell the court who Victor Cavendish-Bentinck was?

A: He was a Foreign Office official, I think.

Q: He was Chairman of the Joint Intelligence Committee, was he not?

A: Right, yes.

Q: Did he therefore have access to every single scrap of intelligence evidence that came into the British community's hands?

A: I doubt very much whether he had that. He would have received more general reports, I imagine, but I am not an expert on British intelligence in the Second World War.

Q: As Chairman of the Joint Intelligence Committee he received all the police decodes, all the other decodes, all the intercepts, all the agents reports, all the prisoner of war messages, is that not right?

A: I do not know, to be quite honest. I am not an expert on British intelligence. That sounds an awful lot for one man to master by himself. As I said, I would imagine that he would have received summaries of some description.

Q: The fact remains that he states in August 1943, when requested to authorize a government

statement signed by Churchill and Roosevelt, that Poles were being systematically put to death in gas chambers on the facing page. He specifically issues a minute to the Foreign

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Office officials, saying, "We weaken our case by publicly giving credence to atrocity stories for which we have no evidence". He then goes on to say, "These mass executions in gas chambers", in other words the story of the mass executions in gas chambers, "remind me of the story of the employment of human corpses during the last war for the manufacture of fat, which was a grotesque lie and led to true stores of German enormities being brushed aside as mere propaganda". He is not pussy footing around with the way he is describing the state of British knowledge on gas chambers in August 1943, and yet you have accepted that during 1942 the BBC and the Americans repeatedly broadcast in German these stories of gas chambers, which must therefore have been invented.

A: I do not think that last statement follows at all.

Q: He says we have no evidence, so where else could it have come from?

A: He is talking about mass executions of Poles in gas chambers. He says: "We do know that the Germans are out to destroy the Jews of any race unless they are fit for manual labour." I think this is a good example, which you have just quoted, of the scepticism which unfortunately was engendered by the belief in many Foreign Office and other officials that a lot of the atrocity stories in the First World War were mere inventions of allied propaganda.

MR IRVING: My Lord, this now goes back to the reason for this,

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which is page 141, where the allegation is that I said this with no justification.

MR JUSTICE GRAY: You have to grapple at some stage, and I think you are inviting my comment, with this, that, whatever may have been the state of knowledge within British Intelligence in 1942 or even 1943, the Defendants say that you have been alleging that the Holocaust is an invention by British Intelligence after all that we now think we know about what went on in the concentration camps has come to light. I think that is really the thrust of their case. You have established, I think, if I may say so, Mr Irving, that propaganda use was made of alleged gassing in gas chambers at a time when the senior officials in British Intelligence had no evidence for it. But you have to grapple with the next stage of the Defendant's case on this and I am sure you are coming to it.

MR IRVING: I appreciate, and this is not the time to do that, but I can only tackle each particular part of the allegations against me piecemeal. I think I have shot that one right out of the water, if I may put it like that, that the allegation was that I had no foundation for saying that the Political Warfare Executive started the gas chamber stories running long before we had any proof for it.

MR JUSTICE GRAY: No. I think you are failing to understand

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the Defendants' point.

MR IRVING: I appreciate fully what your Lordship is saying.

MR JUSTICE GRAY: No, please listen. What the Defendants say, and Mr Rampton will correct me if I have this wrong, is that you are saying that the whole Holocaust story is a lie invented by British Intelligence. You have, as it were, part of the way along your line of

argument, but you have to grapple, as I say, with the fact that the Defendants are contending that you have been making the allegation that the whole thing is a lie invented by British Intelligence in the teeth, they say, of all the evidence that it was nothing of the kind.

MR IRVING: The gas chamber lie, if I can put it like this, is the story that the Germans gassed to death millions of people in factories of death. I am going to deal with that in a separate manner. We dealt with it partly with the witness van Pelt and I shall deal with it also by submissions on documents, and with further questions, either through this witness or other witnesses. But I can only tackle each element of this piece by piece. It may well be that there are bits of the story that I cannot bridge, rather the same as there are bits of the story in this systematic nature of the killing that the defence cannot bridge. The convergence of evidence here is, if I can establish there were no factories of death and that there were no holes in that roof, to put it bluntly, and

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if I can establish that PWE started the story of the gas chambers running in 1942, then I have got a substantial part of the way towards justifying what I claim, even if there are one or two bricks still left out of the wall, if I can put it like that.

MR JUSTICE GRAY: Yes.

MR IRVING: Moving to page 150 please -- we have now dealt with that, my Lord -- paragraph 21, witness, do you take exception to my suggestion that witnesses and survivors, by virtue of the ordeal they have been through, have been subjected to some kind of traumatic stress which would affect their powers of recollection?

A: Let me see what I say here.

Q: It is the final sentences on that page, really.

A: Yes, where you are asking a question about how you judge the credibility of Holocaust survivors, and you say, "I say that psychiatrists should concern themselves with this matter some time. There are many cases of mass hysteria". So I do take exception to the view which you put there that all the recollections of Holocaust survivors are the outcome of mass hysteria.

Q: Have I had said all the recollections of Holocaust survivors or just a part of them?

A: I think that is the clear implication of that.

Q: Are you aware, witness, that there is a body of medical expertise assembled over the last 50 years into precisely

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these matters of the ordeals suffered by concentration camp and slave labour camp survivors, what they have been through, the undernourishment, the effect this has on the powers of the brain, the bad nutrition, the post traumatic stress and all the rest of it and there have been very many learned disquisitions into this? The sentence which you have quoted was not intended to be some kind of slur on the character of people, the fact that somebody has a psychiatric disorder is in no way to be interpreted in a derogatory manner. It is just an attempt to analyse why sometimes they say things that do not exactly fit in with what the documents show.

A: I think you are saying it is more than sometimes, Mr Irving. I am not familiar with the literature you refer to.

Q: So, in analysing all the eyewitnesses and the sources that one is going to use in writing this kind of history, you cast aside the possibilities of medical problems or medical objections to relying too heavily on these sources?

A: I think you would have to look at each case in turn individually.

Q: Are you familiar with the case of Benjamin Gilcormesky?

A: I am indeed, yes.

Q: How you would assess his motivation, shall we say? Obviously he went through some kind of wartime ordeal?

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A: Very difficult to say. The evidence seems to be that he did not in fact.

Q: That he did not?

A: Yes. As I understand from what I have read, this is someone who claimed in a book, or wrote a book, called I think "Fragments", a Swiss gentleman, which was purported to be a story of his incarceration as a child in various concentration camps, and subsequently he was revealed to be an imposter.

Q: He was totally spurious, was he not?

A: He was completely spurious. He was not in the concentration camps. Indeed, I think he was born after the war and brought up in Switzerland. He was not Jewish and was not a victim in any sense.

Q: He was a spurious survivor of the Holocaust?

A: That is indeed correct, yes, as I understood it.

Q: He had a tattoo, did he?

A: I have no idea.

Q: Did he maintain that he had been in Auschwitz?

A: He maintained all these things, I have already said that.

Q: He described all the grisly horrors that he had seen?

MR JUSTICE GRAY: Mr Irving, you have your answer. He made it all up.

A: What seems to have been the case is that he had read an enormous amount about the Holocaust, and somehow persuaded himself that he had gone through it. That is a very

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unusual case and that is precisely why, of course, it has given rise to such widespread debate and such a number of essays, investigations, writings and so on.

MR IRVING: Was not the reason why it attracted widespread attention the fact that he was awarded literary prizes for his work, and that he was then found out to be spurious? Was that not the reason for the widespread attention?

A: It was widely praised when it came out, yes, and therefore the shock when it was discovered to be spurious was all the greater.

Q: You think that he is the only such case, do you?

A: The only one of which I am aware. It is a rather unusual thing to do. I think one has to admit.

Q: But he made a lot of money out of it, did he not?

A: That I cannot say.

Q: Well, if he won major literary prizes for his book?

MR JUSTICE GRAY: Mr Irving, I am conscious we are still on page 152. We have about 600 pages to go. It is not a race, but we have to keep an eye on what matters and what does not.

MR IRVING: I have said I will finish with the witness in two and a half days, my Lord.

MR JUSTICE GRAY: I want you to take your time when we get to what matters. We have not started on what matters, in my view.

MR IRVING: What matters is this witness's credibility, my

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Lord, and your Lordship may or may not have formed opinions about that. On page 153, half way down, line 4 of paragraph 26, you refer to the fact that I evade the question by pointing minor inaccuracies in details of these reports. Would you say that the inaccuracies that we have pointed to in the reports by Hoess and Gerstein and Verba and Bimko and Tauber were all minor?

A: I am referring here to a radio interview in June 1989.

Q: Yes. But what you are saying is that I pointed to minor inaccuracies in the reports of people on whom the Holocaust historians rely, the eyewitnesses, and I am just challenging whether these inaccuracies are in fact so minor. Are they not sufficiently large, in fact, to disqualify any reasonable historian from wanting to rely on that source?

A: No, I do not think on the whole they are sufficiently large. One has to reach a balanced judgment, in dealing with testimony after the event, sometimes many years after the event, as to how reliable it is. Of course, that kind of testimony usually contains some inaccuracies. The fact is that one should not use that as a basis for a sweeping dismissal of all this testimony.

Of course, there is a larger point here, that you yourself rely quite heavily on the postwar testimony sometimes obtained in interviews which were conducted by yourself of members of Hitler's entourage, which you do

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not approach in this critical way. You do not point to inaccuracies, and generally speaking accept it as the truth. So I think you have a double standard. You wholly dismiss all the evidence of postwar testimony from the victims of Naziism and you accept the postwar testimony of the perpetrators.

Q: I am not going to answer that point because this was not a question you were asked. Would you now go to paragraph 29 please? You deal there with a French woman called Marie-Claude Vaillant Couturier. Did you read her testimony at Nuremberg? Did you form an impression of her credibility?

A: Yes. This is dealt with at some length on the basis of Professor van Pelt's report.

Q: What was her maiden name?

A: I cannot recall that.

Q: Was she the daughter of Lucienne Vogal, who was one of Willi Muntzenberg's closest collaborators?

A: I will accept that, if you say that.

Q: You know who Willi Muntzenberg was?

A: Yes.

Q: Was he one of the leading commentators and agents and propagandists in, first of all, Russia and then in France?

A: Indeed, yes.

Q: So she came from these propagandist circles -- is that a reasonable derivation?

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A: No. I do not think, because you are a daughter of a propagandist, that makes you a propagandist.

Q: Did she then marry somebody called Paul Vaillant Couturier, who was the editor of Humanite?

A: I will accept that that is the case.

Q: Which is the Communist Party newspaper in France?

A: Indeed.

Q: When she was examined or cross-examined in Nuremberg by one of the defence counsel, Hans Marks, did he ask her whether she had any literary background or any training as a journalist?

A: You would have to present me with the documentation, I am afraid.

Q: What inference would you gather Mr Marks was trying to make from this question?

A: I really cannot comment without actually seeing a transcript.

Q: Is there any proof that this woman was ever in Auschwitz at all?

A: Her testimony.

Q: In other words, purely what she said?

A: There may be some other evidence, but I am not really an expert on Auschwitz.

Q: I am not only going to ask one more question. In view of that fact that she testified that at the time she was in Auschwitz she obtained records showing that 700,000

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Hungarian Jews had passed into the camp in 1944, when in fact that was the entire number of Hungarian Jews who existed, was she liable to have been testifying to something from her actual knowledge?

A: Let me say the point at issue in this paragraph of my report, I should make clear, is that you rely, and I think the court has been through this already ----

MR JUSTICE GRAY: Yes, we have.

A: On the notes of Judge Biddle.

MR IRVING: On the use I made of Judge Biddle's notes?

A: -- which you misinterpret in order to discredit this witness.

Q: Is it likely that Judge Biddle, being no fool, would also have seen through her on the basis of the cross-examination?

MR JUSTICE GRAY: Mr Irving, we are not going to go through that again.

MR IRVING: Right. At page 155 we come to the Anne Frank diary.

A: Yes.

Q: Was the Anne Frank diary a diary or a novel or both?

A: It was a diary.

Q: It was a diary. Was it one diary or was it several diaries?

A: That depends what you mean.

Q: In other words, did she write it and then did she rewrite

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it and then did she rewrite it?

A: As I understand it, it is a diary that is written through.

Q: Will you accept that she wrote it, and then she rewrote it, and then she rewrote it as a novel shortly before she was kidnapped by the Nazis?

A: No.

Q: What is your criticism of my -- in fact, I am sorry, page 156, line 2 of paragraph 31. You object to my calling the diary a novel, do you not?

A: Yes.

Q: Yet, if the final version of the diary, as has been determined by the experts in Holland, is

described as a novel, then that description by me is not unjustified?

A: You would have to show me the document of the experts in Holland which describe it as a novel.

Q: You object to the fact that I suggest that whole pages are written in ball point pen?

A: Yes.

MR JUSTICE GRAY: Mr Irving, if you are relying, just let me say what I am going to say, on what you describe as the determination by experts in Holland that it is a novel, at some stage that will be something you ought really to put to Professor Evans. I cannot find it but I think he deals with Anne Frank and her diary as a substantive criticism. Am I wrong about that?

A: Pages 156 to 7.

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MR JUSTICE GRAY: I thought you came back to it. Perhaps not?

A: No.

MR IRVING: My Lord, clearly, the reason I am asking these questions is that I understand that I am going to be cross-examined on this.

MR JUSTICE GRAY: Now is your chance. I suspect -- Mr Rampton will tell me if I am wrong -- that Professor Evans may be the right person for you to target your cross-examination on the Anne Frank diary.

MR IRVING: That is precisely what I was waiting for. Every new subject I adumbrate I am frightened of being stopped.

MR JUSTICE GRAY: I am trying to stop you when you are on irrelevances. It seems to me Ann Frank is perhaps relevant and therefore do not take that aspect too quickly.

MR RAMPTON: It is. The allegation is made against Mr Irving that without any foundation whatsoever he has alleged that the Anne Frank diaries were a fake, or are a fake. What is more, he has since admitted that he was wrong about that.

MR IRVING: Well, can we elucidate this matter in my cross-examination rather than your statements from the floor?

MR RAMPTON: Certainly.

MR IRVING: Witness, will you go to the bundle of documents bundle F, and look at one item there, which is page 86?

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A: Yes.

Q: Professor Evans, are you aware of the fact that the father of Ann Frank fought a number of libel actions against people who maintained that the diary was suspect?

A: Yes, I think he did.

Q: I think three or four libel actions. Are you familiar from the discovery with the fact that I corresponded with the father of Anne Frank on a number of occasions?

A: Yes.

Q: He never of course sued me for libel, did he? Is that correct?

MR JUSTICE GRAY: That is neither here nor there.

MR IRVING: My Lord, in the allegations is the fact that we paid damages, or I paid damages to the father.

MR JUSTICE GRAY: That may be relevant.

MR IRVING: That is why I was trying to get this admission from the witness that the father never sued me for libel.

MR JUSTICE GRAY: It is the other way round that may be relevant. If you paid damages because you had alleged that the diary was a fake, that, I would have thought, might be relevant.

MR IRVING: If your Lordship had waited, there would have been two questions, with a follow up, but we have not had an to the first one yet.

MR JUSTICE GRAY: Ask the question again.

MR IRVING: Witness, are you aware of any libel action brought

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by the father against me?

MR RAMPTON: My Lord, I do not know----

MR JUSTICE GRAY: I cannot understand what the relevance of that is.

MR RAMPTON: I do not make an allegation that the father sued Mr Irving for saying that the diaries were a fake. Maybe he could have done but, as far as I know, he did not and I have never said that he did.

A: I am trying to find the passage in my report which you are referring to here.

MR IRVING: Can we have an answer to the question?

MR JUSTICE GRAY: No, because the question, I have ruled, is irrelevant, Mr Irving. Can you please pay some attention to what view I rightly or wrongly am taking about some of your questions. Sorry, Professor Evans, you were about to say something?

A: No.

MR JUSTICE GRAY: Mr Irving, press on. You were asking the witness about page 86.

MR IRVING: Are you aware that, in the course of these libel actions, a German court ordered the father of Anne Frank to subject the diaries to chemical and forensic tests? Can I have an answer, Professor?

A: If you are telling me that, I will accept that that is the case, yes. They certainly were subjected to tests.

Q: Were the results of these tests leaked to the German

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magazine Der Spiegel in 1980?

A: I will accept your view that they were.

Q: Document No. 86 is a New York Post summary of what Der Spiegel has announced. Do you agree that this states that the finding is, on the second page, the result of the tests performed at the Bundescriminalamtlaboratories show that portions of the works, especially of the fourth volume, are written with ball point pen?

A: That is what it says, but this is of course is third hand information. It is a reporter who is reporting another reporter's view of a report. I think, before accepting that this particular reporter is giving an accurate account, I would need to see the original report.

Q: I do not really want to get bogged down in this kind of maze. Can I just put it to you like this? Will you accept that, on the balance of probabilities, the Bundescriminalamt did carry out tests on the ink and came up with the surprising conclusion that portions were in fact ball point ink?

A: It depends what you mean by "portions". I think that is the crucial point. My understanding, having read the summary of the forensic scientific investigations carried out on the diaries, in the introduction to the kind of official standard edition, scholarly edition, is that there were some small stylistic emendations in ball point pen, but that paper and ink and so on were all of the

diaries themselves were derived from the 1940s, i.e. before the end of the war.

Q: How long has this been your understanding? Did you have this understanding at the time you wrote your expert report?

A: Let me just see.

Q: In other words, is this knowledge about portions of the diary being rewritten in ball point ink or whatever recent or some years ago?

A: Well, I have looked -- my knowledge or whose knowledge?

MR IRVING: Your knowledge we are talking about.

A: My knowledge.

Q: At the time you wrote this report.

MR RAMPTON: Footnote 118.

A: Thank you. Yes, The Critical Edition, 1989.

MR IRVING: My question is, of course, if you were aware of the fact that these tests had been carried out and that there was this, shall we say, ambiguous finding?

A: I do not think it is ambiguous at all, Mr Irving.

MR JUSTICE GRAY: Yes, I wanted to ask about that.

A: It is quite clear.

MR JUSTICE GRAY: Professor Evans, may I put this question to you because then we can get on? Would it be an unfair reading of the report that you have just been shown by Mr Irving that it, in fact, far from confirming that it is a forgery, confirms that it is authentic because it says

that there are some sections which were added subsequently, but by necessary inference is saying that most of it was genuine and already there and not in ball point? Not very articulately expressed, but do you agree with that proposition?

A: Well, yes, and that is my understanding of the forensic investigations which were carried out both by the Federal German Criminal Office and by the Dutch Centre for War Documentation, that the diaries were genuine, but that there were some small stylistic emendations, certainly not whole pages or whole sections, let alone the whole thing being fake or a novel.

MR IRVING: Have I ever said that the whole thing was written in ball point pen?

A: You said whole pages are written in ball point pen.

MR JUSTICE GRAY: You said it was a novel, Mr Irving, did you not?

MR IRVING: The third version is a novel, my Lord. The third version is a novel with the names changed.

A: You did say in the Daily Mirror on 27th November 1979: "Many forgeries are among records, including the diary of Anne Frank". "The Anne Frank" -- another occasion in 1986: "The Anne Frank diary of which you have all heard is partly written in ball point ink, parts of the Anne Frank diaries are written in ball point ink".

Q: Are you aware of the fact that the father of Anne Frank in

one of the libel actions obtained an affidavit from a handwriting expert who testified that the entire diaries were written in the same handwriting of the same person, including, therefore, the ball point passages?

A: No, I am not aware of that.

Q: Whether that is true or not, in other words, this allegation that the entire diaries, or this finding by the expert that the entire diaries were written in one handwriting, was it not reasonable for somebody to say in 1979, as I said in the passage you just quoted, that the diaries were suspect?

A: That is not quite what you said, Mr Irving. You did not say they were suspect. You said they were fake.

Q: Let us take it stage by stage.

MR JUSTICE GRAY: Let the witness answer first. You suggested that you were only saying that they were suspect. Professor Evans, do you think that Mr Irving went further?

A: I do, my Lord. He is saying they are a forgery.

MR IRVING: Is that not a reasonable conclusion, if the father himself has produced evidence to the courts that the handwriting is the same the whole way through, graphological evidence by affidavit in one of these libel actions that the handwriting is the same and that the handwriting turns out to be partly in ball point ink?

A: Mr Irving, you said in 1993 that the diaries were a novel, the handwriting was not hers, whole pages were written in

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ball point pen, a 13 year old girl would not have the nouse to write a document of that sort at all -

Q: Professor Evans, can you stick with chronology ----

A: This is a long time after the ----

MR JUSTICE GRAY: Let the witness answer.

A: This is well after the official edition had been published in 1989. This is talking, what, four years after that.

MR IRVING: Can we stick to the chronology, please? We are at present back in 1979 and 1980, right?

A: Yes, and in my report, Mr Irving, I cite what you say in 1989, in 1993.

Q: And it is very convenient to confuse the chronology, but if we sort things out ----

A: There is not confusing about that chronology at all, Mr Irving. It is quite clear what you say in 1993; you assert that it is, that it is a fake. It is a forgery.

Q: Let us take this in stages. First of all, will you accept that the third edition written by the daughter of Otto Frank, Anne Frank, is written by her as a novel in which she has changed the names in her own diary into novel form?

A: No, the official edition published by the Dutch Centre for War Documentation is a diary.

Q: Will you accept that the third eversion she has written is written as a novel with the names changed in novel form?

A: I have to at this point confess I am not expertise -- I do

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not have the expertise to go into that amount of detail. I have looked at the official edition and it is quite clear to me that that is a diary.

Q: So if it is a diary, why are the names changed then?

A: The official edition.

MR JUSTICE GRAY: Well, I can think of all sorts of reasons. At the moment I do not understand the significance of Anne Frank ----

MR IRVING: Well, because he is emphasising there ----

MR JUSTICE GRAY: Please let me finish. I do not understand the significance of it having

been converted into a diary if it be the case that the original was a diary -- sorry, into a novel if it be the case that the original was a diary.

MR IRVING: If your Lordship attaches no significance to the word "novel", then I will abandon that particular line.

MR JUSTICE GRAY: My impression of the evidence so far is that you have dismissed Anne Frank's alleged diary as being in its totality no more than a novel, i.e. a work of fiction. If I am wrong about that, no doubt you will disabuse me.

MR IRVING: If your Lordship is going to attach importance to the word "novel", then perhaps we should look at precisely what the allegations are and the passages that are quoted. Can I just get the chronology straightened out because this is what the expert witness is, I think,

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seeking to confuse.

There are two important thresholds to be crossed here. The first threshold that we cross is the investigation by the German Government laboratory in 1980, and the second threshold is the authoritative investigation by the Dutch authorities which was a few years ago. Now, the question is whether I heeded each of these authoritative enquiries or whether I disregarded them.

A: And the answer is that you disregarded them.

Q: Well, let us take it stage by stage. Before 1980, was I entitled to say that because the handwriting expertise said that the handwriting was the same the whole way through this opus and parts of it were in ball point ink, therefore, the whole opus was suspect. Was that a reasonable conclusion?

A: No, I do not think it was because the parts that were in ball point ink were only stylistic emendations.

Q: But if they were said by the father to be in the same handwriting the whole way through -- this is the point I am trying to make -- if he produced expert evidence that the handwriting was unchanged?

A: Well, you would have to -- you would have to present me with the written evidence for the claims you are making. I find it very difficult to deal with it in the way that you are ----

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Q: Well, you have set yourself up here as an expert on this particular matter and now each time we come up with an important ----

A: Let me try to give the context of this again, I am trying to ----

MR JUSTICE GRAY: Page 156, the criticism you are making, Professor Evans, is of what Mr Irving said in 1993.

A: Yes.

Q: That is the criticism.

A: Exactly.

Q: There is no point, Mr Irving, in going back to 1980 because it was in the late 80s, as I understand it, that the scientific evidence, so the Defendants say, emerged which established that these were authentic diaries. You went on after that to say that they were novels and that a 13 year old could not have written such a document.

MR IRVING: My Lord ----

MR JUSTICE GRAY: That is the point that is made against you.

MR IRVING: What exactly is said in this 1993 passage? Your Lordship has it in front of you. It is the indented passage here: "Are you aware that they have made a full report? I say: "Doesn't

surprise me". This is a very selective excerpt. If there was any specific reference by me in 1993 for saying that the diaries in their totality are a fake, believe me, this expert witness would, surely, have quoted it?

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A: Well, let me quote 9th November 1993 broadcast. This is video tape 207, and it is in English in tape 213.

Q: Is this in your report?

A: No. This is in my response to your written questions, so it is available.

MR JUSTICE GRAY: Shall we try to find this? I would quite like to find it if we can.

A: My Lord. It is in my written response to Mr Irving's written questions.

Q: No, I meant the original. Is it in one of the bundles? 1993? Where was the speech? Do you know? Was it in Australia?

A: It is rather complicated, my Lord. It is a -- yes, it was in Australia. It is not clear whether it is Australian or American. It is a version of a Danish television programme which is also broadcast in German on German Television, but there should be a transcript of tape 213.

MR RAMPTON: My Lord, if your Lordship has got, I do not know what it is called, Evans 2, is it, the file Evans 2?

MR JUSTICE GRAY: Yes.

MR RAMPTON: Behind tab 1 there are Professor Evans' responses to Mr Irving's written questions. On page 5 -- sorry, somebody has restamped it. Page 5 is the internal numbering of that document. At paragraph 9 your Lordship will see set out the history, as it were, for the genealogy of this extract in the report. There is a "7"

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stamped at the bottom of the page.

MR JUSTICE GRAY: I do not know what you are looking at, but I am looking at, I think, something different.

MR RAMPTON: Well, the document is dated 7th February 2000 and it should be in the front of Evans 2.

A: This is the second set of replies to Mr Irving's written questions.

MR RAMPTON: Yes.

MR JUSTICE GRAY: Have I got it?

MR RAMPTON: You should have. It should look like that.

MR JUSTICE GRAY: Sorry. Yes, I have. I beg your pardon.

MR RAMPTON: In tab 1.

MR JUSTICE GRAY: Page 5?

MR RAMPTON: Page 5, paragraph 9. Page 5 at the top, paragraph 9, it runs over to page 6 is the history of this particular extract.

MR JUSTICE GRAY: Have you got this, Mr Irving?

MR IRVING: I do not want, but I wish to make some comments on this. Your Lordship will remember that on November 4th when we had the pretrial review, I expressed grave misgivings about the use of edited broadcast programmes with all the, I will not say the chicanery that has gone into it, but all the clever cross-cutting and, unless we see the transcript of the whole programme or, at any rate, very substantial excerpts which are clearly indicative that nothing has been put in or nothing has been cut out,

I would be very hesitant about allowing this kind of material which may be prejudicial to be put in in this form.

MR JUSTICE GRAY: Mr Irving, you say that, but if I read to you one of the extracts ----

MR IRVING: Yes, please do.

MR JUSTICE GRAY: --- it is in these terms: "To me, the Anne Frank's diaries are a romantic novel, rather like 'Gone With the Wind' and I would not read something like that".

MR IRVING: As a source, yes.

MR JUSTICE GRAY: How can the context really affect what you are saying which is that it is all made up?

MR IRVING: I am not saying that at all, my Lord.

MR JUSTICE GRAY: Oh, I thought you were saying...

MR IRVING: That is certainly not the point of what I am making. The Anne Frank diary, I am sure that your Lordship, like myself, has never had the pleasure of reading that particular work, but I have read a great deal about it, including the official Dutch investigation into it. I had lots of newspaper articles about it and I am quite familiar with its genesis; the way it started off first as a fragmentary diary, it was then rewritten by her in captivity because she had nothing else to do and then, as she grew up, she then rewrote it as a novel.

That is what I am saying there, but to take just that one sentence and to hang on that the imputation that

I am saying the whole thing is a pack of lies, which your Lordship just put on it, I think is a very adventurous forward step.

MR JUSTICE GRAY: Well, do we have the ----

MR RAMPTON: My Lord, I really do think this is becoming the most frightful waste of time.

MR JUSTICE GRAY: Well, at least it is relevant.

MR RAMPTON: I know.

MR JUSTICE GRAY: We have spent two days on the wholly peripheral matters.

MR RAMPTON: I have been as patient as I possibly can be, but now I really cannot sit here any longer because I have in my hand a piece of paper taken from Mr Irving's website, or through his website, on 7th February of this month of an interview that he gave to something called CNN, which is a satellite news station, and he was interviewed on 16th January.

MR JUSTICE GRAY: Yes, I have that. I have read that.

MR RAMPTON: This year.

MR IRVING: Here we go again. It is another very heavily cross-cut and edited broadcast.

MR RAMPTON: Well, I just read these four lines: "Interviewer to Irving: Did you say that the Anne Frank diary was a forgery? Irving: Guilty. Interviewer: Is it a forgery? Irving: No".

MR IRVING: Absolutely right. Absolutely right. Before 1979

I was of the opinion that it was a highly suspect document for precisely the reasons I have set out, namely the father said the handwriting was the same the whole way through. He produced expert evidence in court to that effect in order to win a libel action. The handwriting was partly in ball point ink. So the conclusions there are absolutely plain.

After 1980 we had the German Government investigation which confirmed that the ball point ink

was there and it was not until the Dutch carried out their authoritative tests that I was perfectly satisfied I had been wrong with that belief. I have made not the slightest hesitation in admitting that I was wrong, which is absolutely the right way to handle the matter.

But to take things out of chronology, which is what this witness has been doing, and to imply that by calling it a novel I am suggesting that the diary is in some way a pack of lies, is I think very unjust and not borne out by the evidence when it is presented in the proper sequence. But I repeat what I said about the prejudicial nature of producing fragments of very heavily edited sound bites from American or German or Danish television programmes. Your Lordship is familiar with how these programmes are concocted. The scissors play an important part.

A: My Lord, may I make three points?

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MR JUSTICE GRAY: Yes.

A: The first is when you describe something, when one describes something, as a novel, one surely implies that it is fictional, it is not telling the truth. I do think that is a significant use of words.

Secondly, in my report on page 156 I quote an interview in 1993: "Interviewer: Are you aware that the Dutch Centre for War Documentation has made a full report about this?" that is to say the allegations of falsification and so on in the diaries. "Irving: Doesn't surprise me. Interviewer: And they say it's - they have made public all the diaries, and they examined the handwriting, and all there is to know about it. Irving: Doesn't surprise me. A lot of money is at stake. The Anne Frank Foundation is a very wealthy political organization in Amsterdam. Interview: We're talking about the Dutch State War Documentation Centre here. We're not talking about the Anne Frank Foundation. We're talking about a public institution. Irving: But I'm talking about the financial interests which are at stake here."

I think, Mr Irving, the clear implication of that is that the full report of the Dutch Centre for War Documentation is a falsification and is not reliable in any sense.

The third point I want to make ----

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MR IRVING: Why have you not ----

MR JUSTICE GRAY: No, there are three points.

A: And If I can make my third point, is that again in 1993, his Lordship has already quoted part of this interview that you gave, saying that you would not read it, you read certain passages and so on. "We have samples of Anne Frank's real handwriting in postcards which she wrote to friends in 1940 and 1939. They were recently auctioned in an auction house in the United States about two years ago. That handwriting is totally different from the handwriting in the diaries. They are as different as chalk and cheese and the extraordinary finding is that some of the pages of the diaries have been written in ball point pen which is a pen that didn't exist in Anne Frank's lifetime". 1993, Mr Irving.

MR IRVING: Yes, and, quite clearly, the parts that are written in ball point ink in the diaries cannot have been written by the girl who wrote the postcards, am I right?

A: You are saying some of the pages -- that simply is not the case.

Q: But some of the pages were written in ball point pen, is that correct?

A: No. As I understand it, there were stylistic emendations. There are not whole pages written in

ball point ----

Q: Do you have any evidence for the words "stylistic

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emendations"?

A: --- pen. Well, this is -- yes, the report of the Dutch Centre for War Documentation which is summarized in their introduction to their Critical Edition which you dismiss as being the product of financial manipulation by the Anne Frank Foundation, whereas a few minutes ago, Mr Irving, you just said that you had accepted that report ----

MR IRVING: I do totally.

A: --- in 1989 when it came out ----

Q: And I did and I always have done.

A: --- and here you are in 1993 saying that you do not accept it. I cannot accept what you are saying there.

MR JUSTICE GRAY: Mr Irving, I think we have now had enough evidence on the Anne Frank diaries. I think we will move on to the next topic.

MR IRVING: My Lord, he made now points.

MR JUSTICE GRAY: Mr Irving, I have got to introduce some control. We have spent this morning so far dealing with pages, I think you started at 128, is that right, and we have now got to 156.

MR IRVING: If this expert report was not so flawed ----

MR JUSTICE GRAY: So we have spent nearly two hours dealing with very subsidiary points. We still have not got on to the guts of this report.

MR IRVING: If this expert report was not so flawed and bias, then I would not have been bogged down in the marshes,

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shall we say, before we came to the real materials.

MR JUSTICE GRAY: I have made my ruling. You are going to have the opportunity to answer questions in cross-examination. We are moving on to the this next topic, and I am afraid I am going to have to be much more firm with you than I have been up until now.

MR IRVING: If the witness could possibly answer more briefly, then we would not spent so much time on these matters.

MR JUSTICE GRAY: No, that is not fair.

MR IRVING: I advance with the utmost trepidation, my Lord, because I have no idea where ----

MR JUSTICE GRAY: Well, advance and then see whether the trepidation was justified.

MR IRVING: One never knows whether the mines are dummies or not. Page 158, the end of paragraph 34, you complain that I state that the witness Hoss made statements which contain egregious anachronisms, inconsistencies and other generally implausible passages. Do you not accept that that is so then?

A: Let me -- where are we? Yes. Let me read the paragraph. We are talking about the memoirs of Rudolf Hoss, the Kommandant of Auschwitz, and the interrogations of Rudolf Hoss which were made in Polish captivity. In your book on Nuremberg you allege, I say, that Hoss was "manhandled" by those who arrested him and kept without sleep until he confessed. You term this "torture". You say: "Hoss's

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confessions contain many deliberate errors to make it clear they were untrue. His memory is patchy about days and places, and about the events of four or five years earlier. There were many inconsistencies in his account. He signed a confession in English although he had no reading knowledge of English. He frequently changed his testimony about numbers. Hoss wrote his memoirs in Polish captivity 'as a means of postponing his fate'. His statements, Irving charges, contained 'egregious anachronisms, inconsistencies and other generally implausible passages'.

Q: Will you now answer the question?

A: So I am trying to summarize your views there.

Q: Do you dispute the fact that his statements contain these inaccuracies and implausible statements?

A: I do not think there is -- well, first of all, I do not think there is any evidence that there are deliberate errors to make it clear that what he said was untrue.

Secondly, I think one has to distinguish between the interrogations and the memoirs. Hoss says in his memoirs that he was manhandled and very badly treated.

Q: Where did he write the memoirs?

A: He writes his memoirs in Polish captivity, and the confessions, well, the first of his confessions which, admissions, statements, which resulted from interrogations was, therefore, discounted. What I am referring to here

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are the memoirs.

Q: I only have two questions to ask. Would a confession or a statement obtained by these means ever be accepted by a British court of law?

A: I have already said, this is only one statement, the first statement. The memoirs that he wrote were certainly not obtained under duress. They were written in captivity under the imminent prospect of death and, to my mind, that makes them more likely to be honest.

Q: Would you answer the question? Would it be acceptable in a British court of law, this kind of statement?

A: I am trying to explain the context. The statement which he made under duress, the first of his statements, was not used.

Q: If he was such a reliable witness and so convincing, why was he not called by the prosecution at Nuremberg when he was actually in the building in a cell?

MR JUSTICE GRAY: That is a question to which this witness cannot possibly know the answer.

MR IRVING: On page 160 at line 4 of paragraph 36: "Irving casts doubt on almost all testimony at the Nuremberg War" -- is that an exaggeration, that I doubt almost all the testimony produced at Nuremberg?

A: That is not what I say.

Q: Well, you say that I say it does not fit my arguments; I say it was obtained by torture and threats?

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A: No, no, I do not, Mr Irving. I say: "Irving casts doubt on almost all testimony at the Nuremberg War Crimes Trials or during the prior interrogations if it does not fit his arguments, alleging it was obtained by torture and threats". Those are my precise words.

Q: In other words, that I deliberately manipulate, I accept the evidence that I like and all the other

evidence I disregard on this rather threadbare pretext of tortures and threats?

A: In your book on Nuremberg you refer constantly to -- and again, my Lord, this is in my written response No. 10 on page 6 of my reply to the second set of written questions by Mr Irving, where you talk about "the unsavoury methods of the OSS, intimidatory American tactics appear to have been routine, harassment of the prisoners, a paralysing regime of psychoterror enforced on the defendants", and so on. That seems to me to be general attempts to discredit the testimony at the Nuremberg War Crimes trials.

Q: Having you investigated the methods used by the Allies and the interrogators at Nuremberg? Are you able to state with confidence to this court that I am wrong?

A: You do not present, you present to me -- you present in your book some isolated incidents of maltreatment of prisoners of Streichier(?), I think, and, of course, in the initial interrogation of Hoss, but you do not present evidence in your book that this was general. I do not

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really see evidence there to justify those statements which you make in a general sense.

Q: So you have complete confidence yourself, therefore, in the methods used by the allies to obtain ----

MR JUSTICE GRAY: No. This witness has said many times you have to look at all the circumstances and evaluate the particular witness and his evidence.

MR IRVING: If you look at your footnote on that page, the second footnote: "Irving in an interview in New Zealand, recording a conversation with SS Colonel Gohler" which I claimed to have had at the end of the war when I would have been a child?

A: Yes, I look up the transcript. You said: "I remember right at the end of the war I asked one of Himmler's staff", and so on and so forth, but it is not a very important point.

Q: So why did you put it in then?

MR JUSTICE GRAY: Let us move on we all. Agree it is not a very important point.

MR IRVING: But you are implying there that I have lied again, are you not, in that footnote?

A: No, I am not, no. It is an amusing little mistake that you made.

Q: You agree that it is a misreading, therefore, of a transcript?

MR JUSTICE GRAY: Don't let us spend time on it, Mr Irving.

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A: No, I do not agree it is a misreading. I think it is just a misformulation of yours, Mr Irving. It is not very important at all.

Q: These verbatim transcripts can easily be misread?

A: No, I think I read it correctly. I am just saying it is a slip of your tongue, that is all.

Q: Or a slip of the punctuation of the person doing the ----

MR JUSTICE GRAY: Mr Irving, will you please move on?

MR IRVING: You are still critical, of course, of my methods of obtaining information from Hitler's private staff. Would you see, please, pages 83 to 5 of the little bundle? This is the complete passage from that interview you have just quoted, the one where I was allegedly conducting interviews as a six year old. Why did you not pay more attention to the surrounding three pages of that interview instead of this rather amusing little footnote you put in? Do I not describe in those three pages (and this is the question) how I have persuaded Hitler's private staff to reveal to me ugly secrets of their memories of their times with Hitler, if I can put it like that, and is that not more significant?

A: Well, that is not the context here of what I am talking about here at all, Mr Irving.

Q: Have you referred to these three pages anywhere in your expert report?

A: These are?

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Q: The reference to what Hitler's private secretary told me about the Night of the Long Knives, for example? The reference to what Johannes Gohler told me about Hitler's order to Himmler to liquidate the inmates of Buchenwald?

A: The Night of the Long Knives is not a -- I think I do mention the Night of the Long Knives briefly, but it is not really a central point in my report.

MR JUSTICE GRAY: I think you made this point on Thursday to this witness.

MR IRVING: We did, my Lord, but I am just drawing attention to the fact that he uses the transcripts very selectively to imply that I am lying about the date I conducted an interview, but there are three pages ----

A: I am sorry, Mr Irving, I did not.

Q: Will you please not interrupt?

A: I did not imply that you were lying. I am quite happy to accept it is a slip of the tongue.

Q: But he ignores the three pages ----

A: It is not an important point.

Q: --- which show me quite clearly using interviews in the manner that they should be conducted.

MR JUSTICE GRAY: Mr Irving, you made a perfectly sensible point on Thursday, namely that you often do refer, so you say, to the unfavourable things that the Adjutants and their relations told you about Hitler. You have made that point. I have absorbed it and I have digested it. There

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is no point in going back over it all over again.

MR IRVING: My remark goes purely to the selective nature of this expert witness's report and reporting on the basis of the evidence before him.

MR JUSTICE GRAY: Would you like to move on now?

MR IRVING: Page 162, when we are now dealing with Hans Aumeier, you allege that: "It did not fit into my preconceived notion" - this is three lines from the end - "it did not fit into my preconceived notion that there were no gassings" ----

A: Yes.

Q: Is it not, in fact, the case that Hans Aumeier's reports are not eagerly seized upon by the Holocaust historians because he, too, presents information which does not fit in with the standard version, like the gassings times?

A: I think that, in fact, the Aumeier documents, which you discovered in the Public Record Office after their release in 1992, were not seen by anybody else. So I do not think there is any suppression there by other people.

Q: Yes, but is it not the fact that the Aumeier documents do not fit in with preconceived notions in the way you suggest?

MR JUSTICE GRAY: We went through all this with Professor van Pelt, did we not?

MR IRVING: On page 163, now, paragraph 41, you ask: "Who could possibly have gone to all the immense trouble

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necessary to fabricate such a vast quantity of documentary material"? What documentary materials were you describing there, just so we can be sure of what you are talking about?

A: Well, a number of different things, the memoirs, for example, of Holocaust survivors which exist in substantial number.

Q: You are not talking about wartime documents then?

A: I do not say wartime documents. In addition, in the course of this trial, you have repeatedly alleged that wartime documents have been fabricated without really saying who would have done it or why, or what opportunity they might have had to do so.

Q: His Lordship knows this is not true. I cast suspicion only on one document.

MR JUSTICE GRAY: I am afraid I do not accept that, Mr Irving.

MR IRVING: On the June 24, 1943 document, my Lord.

MR JUSTICE GRAY: No, you cast suspicion on a number of other documents.

MR IRVING: I am impugning the integrity of only one document then. Let me put it like that. I raise my eyebrows at certain others, but accept them just for the purposes of argument. In other words, you are not there talking about a vast quantity of wartime documents then. You are talking about a vast quantity of postwar ----

A: I am talking there in a general sense about the evidence

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of all the crimes, for example the existence of gas chambers.

Q: But this is important.

A: It refers right back to the previous three sections of this particular chapter in my report.

Q: I am trying to narrow down here -- this is quite important. If his Lordship is led to believe by a careless statement of the witnesses that there is a vast body of wartime documents, this would be unfair, would it not, because you are not referring to wartime documents? You are referring to postwar documents?

A: I am referring to all kinds of documents.

Q: You are not referring to wartime documents?

A: I am referring to documents including wartime documents, the totality of the written evidence for the Holocaust which you deny.

Q: Are you saying there is a vast quantity of wartime documents?

A: What I am saying is that there is a vast quantity of documents and material for all aspects of the Holocaust.

MR JUSTICE GRAY: I expect you would accept, Professor Evans, just to move on, the number of overtly incriminating documents, wartime documents, as regards gas chambers is actually pretty few and far between?

A: Gas chambers, other things such as the systematic nature of the extermination, I am referring to the whole package

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of evidence.

MR IRVING: But I am trying to divide that package.

A: Wartime, postwar, shootings, gassings, systematic nature and so on.

Q: Professor Evans, you accept that we cannot do things that way in this court. We have to divide things up into parcels and look at the Eastern Front, look at the systematic nature, and look at the gas chambers, and look at the documentary basis for each. As his Lordship has said, you do accept that the documentary basis for the gassings, the gas chambers and for the systematic

nature of that is thin compared with the documentation of the Eastern Front shootings?

A: Yes, but what I am describing here is really -- I am moving on to the totality of all the different kinds of evidence. For example, I have dealt previously ----

Q: I am anxious you do not move on from the questions I am actually asking.

A: Have dealt previously in the report in an earlier section with your allegation that Holocaust survivors have made it all up, for example.

Q: Can we have a clear answer ----

A: Stabbed their tattoos on their arms themselves and so on.

Q: -- so that we can move on. The documentation relating to the gas chambers and the systematic nature of gas chamber killings is sparse compared with the documentation of the

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killings on the Eastern Front, is that right?

A: Yes. I think that is correct, that I am referring here to the totality.

Q: Paragraph 44 on the facing page. You object to my suggestion that there was a well-financed campaign.

A: I say it is a typical Holocaust denier's argument.

Q: Yes. If it is a true statement, is that an unjustified statement therefore?

A: Let me quote the sentence. In the preface, this is a comment on a quote----

Q: Do not start reading all this out.

A: I am sorry, Mr Irving, but I do want to get quite straight what I am actually saying. I do not want the court to rely simply on your gloss on it.

Q: It is the question I am asking which you have to answer, I am afraid.

A: Yes, I am going to answer it.

Q: Do you agree that it is a well-financed campaign?

A: I am trying to -- can I just say what I say in the report, because that will make it much simpler to answer. In the preface to the English edition of the Leuchter report you wrote: "Nobody likes to be swindled, still less where considerable sums of money are involved". You go on to say: "Millions of honest, intelligent people have been duped by the well financed and brilliantly successful post war publicity campaign which followed on from the original

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ingenuous plan of the British Psychological Warfare Executive (PWE) in 1942 to spread to the world the propaganda story that the Germans were using 'gas chambers' to kill millions of Jews other 'undesirables'." I go on to say then that this is the typical Holocaust denier's argument that the "myth" of the Holocaust has been kept going by a "well-financed" campaign in order to legitimize the paying of German reparations to the State of Israel. Quite clearly, I do not accept that everyone who has written about the gas chambers in Auschwitz and elsewhere, and the Holocaust, the extermination of the Jews, has been financed in order to legitimize the paying of German reparations to the State of Israel. I think that is an appalling slur on the large numbers of decent and serious scholars who have devoted a large amount of their lives to doing this. I think it is a disgraceful remark.

Q: I must insist that you answer my questions briefly because I ask the questions and then I am the one who gets into trouble when you answer at such length.

A: Yes, Mr Irving, but your question did not make it clear what I was saying in my report. I felt it necessary to say what I was saying.

Q: Have you heard of the phrase "instrumentalization of the Holocaust"?

A: I have certainly heard of that, yes.

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Q: Can you answer in two or three lines what you understand by the phrase "instrumentalization of the Holocaust"?

A: It is an accusation sometimes levelled at people who make a reference to the Holocaust and are accused of doing so for ulterior motives.

Q: Is this the allegation that somebody like Norman Finkelstein makes?

MR JUSTICE GRAY: I do not really think that matters.

MR IRVING: Page 168, paragraph 50, line 3, those three dots, you agree, stand for 58 words, five commas, two full stops and a colon, is that right?

A: I think we have already been through this. I do not think that is right, actually.

MR JUSTICE GRAY: We are not going to count the full stops. Come on, Mr Irving. You have made your point about selective quotation.

MR IRVING: Page 51: This goes to the anti-Semitism element, I suppose, does it not?

A: Paragraph 51.

Q: Yes. I have made a speech in 1992 and you take exception to my description of the Board of Deputies, and the words that I use. Is any criticism of an organization like that permissible, do you think?

A: I do think it is rather over the top to describe the Board of Deputies of British Jews as cockroaches.

Q: If you are familiar with the methods that they have used

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to try to destroy a professional historian's career and family, would that professional historian be entitled to use pretty colourful language to describe these people who are secretly trying to destroy him?

A: That is a very hypothetical question. I think what you are saying there is that the Board of Deputies of British Jews have been engaged in a secret campaign to try and destroy your livelihood.

Q: That is what I said. If the intention is to destroy an author and his family and his career and livelihood by underhand methods or by whatever methods, is he not entitled to defend himself and use occasional lurid language?

A: I would have to first of all see evidence to persuade me that such a secret dastardly campaign had been carried out. I do not want to answer a hypothetical question of that nature. I do think that professional historians should be reasonably measured in their language. I do not think that is an appropriate word to use.

Q: If the court is shown a document showing that at this precise time that body was contemplating putting pressure on that author's publisher to stop publishing his books and thereby destroy his career and livelihood, and they were doing it behind armour plated doors in their headquarters ----

MR JUSTICE GRAY: Show the witness the document and then we can

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see.

MR IRVING: May I do so, my Lord?

MR JUSTICE GRAY: Yes, of course.

MR IRVING: Would you go to bundle E?

A: I am not sure I have this.

MR JUSTICE GRAY: Bundle E. No, you may well not have.

MR IRVING: I am looking for the document. Page 82 in the bundle called Global.

A: This is a meeting on 12th December 1991, Education and Academic Committee?

Q: The Education and Academic Committee of the Holocaust Educational Trust. Can you read item No. 6 please?

A: "David Irving. Concern was voiced over the publication of the second edition of Hitler's War. There was debate over how to approach Macmillan publishers over Goebbels Diary. It was agreed await news from Jeremy Coleman before deciding what course of action to take".

Q: I am not going to go into the remaining documents in that bundle, Professor Evans, but, if I put it to you that this is evidence and that other documents will be submitted to court later on, the pressure that was put on my publishers by this body, which is part of the Board of Deputies, which was meeting at their headquarters, am I not entitled to use that kind of language to describe these people?

A: Well, to be quite honest, no. This is a meeting of five people, Mr Coleman, Professor Gould, Professor Polonski,

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Mr Nyman and Dr John Fox. It is not a meeting of the Board of Deputies of British Jews. Where it takes place I think is pretty immaterial. It says that there is a debate, but they agreed that they are not going to do anything. So I do not think that is justification for calling the Board of Deputies of British Jews cockroaches.

MR RAMPTON: What is more, there is another thing needs to be pointed out. That document, which is the first time I have seen, is dated 12th December 1991. It is predated therefore by some months by what Mr Irving said, which apparently was said on 5th October 1991.

MR IRVING: Are you ----

A: It post dates it?

MR RAMPTON: Yes. The document post dates the Irving statement about cockroaches.

A: You said predates.

MR RAMPTON: I am sorry.

MR IRVING: I do not want to hold up the court at this point, but will you accept that that bundle you are holding called Global is about three inches thick, and contains many hundreds of documents?

MR JUSTICE GRAY: That is not a terribly illuminating question.

MR IRVING: My Lord I do not really want to read through all the other documents.

A: It is not a very contentious statement.

MR JUSTICE GRAY: No, I am not asking you to. Anyway, I think

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we will move on. You have put that document.

MR IRVING: Precisely. Witness, will you accept that, on the balance of probabilities, there are other documents of that nature in that bundle?

MR JUSTICE GRAY: If I may say so, Mr Irving, we must do better than that.

MR IRVING: Mr Rampton has suggested that this was it, and so what.

MR JUSTICE GRAY: What it comes to is, if there was in existence a document prior to what

you said about the British Board of Deputies being cockroaches, which you say justifies you having said that, then put it to the witness. If you have not got such a document, move on, please.

MR IRVING: I shall put it to the court in due course, my Lord, the whole bundle, as your Lordship is familiar. If an author is aware that such a campaign is being conducted against him by a body of whatever class or colour or race or religion, is he entitled to use lurid language in private?

MR JUSTICE GRAY: You have asked that question many times before and that is a comment. You have not established the factual premise for it, so can you move to the next topic, which means going beyond page 168.

MR IRVING: My Lord, you say I have not established a factual premise. To do that I would have to go back to the bundle

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and I do not want to do that at this point.

MR JUSTICE GRAY: In that case you cannot ask the question.

MR IRVING: The final five lines of that same paragraph: "In April 1998 Mr Irving spoke of American Jews 'moving into the same positions of predominance and influence'", and so on, that they held in the Weimar Republic. This is a quotation, is it not, from my diary in April 1998?

A: From your website. Published on your website.

Q: It is a quotation from my diary in 1998?

A: Published on your website. In other words, it is free to anybody to access, which is what we did.

Q: Have you had access to all my private diaries?

A: I did not need access to your private diaries to get hold of this quotation.

Q: Will you answer the question?

A: May I read the whole quotation first to establish what we are talking about?

Q: Just answer that question. Have you had access to my diaries?

A: I am sorry, I want to read the whole quotation to get clear what we are going to see, then I will answer your question.

Q: Will you answer the question first?

A: In April 1998 he spoke of American Jews'moving into the same positions of predominance and influence..."

Q: My Lord, will you instruct the witness to answer questions

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put to him?

MR JUSTICE GRAY: I am despairing. Would you let the witness -- and then you can ask the question. Read it out please.

A: "In April 1998 he spoke of American Jews 'moving into the same positions of predominance and influence (media, banking, business, entertainment, and the more lucrative professions like law, medical and dentistry) that they held in Weimar Germany, which gave rise to the hatreds and the resulting pogroms; and that this being so, twenty or thirty more years might see in the USA the same dire consequences as happened in Nazi Germany". Extract from Irving's personal diary April 13, 14th 1998, on Irving's Focal Point website. The answer to your question is yes, I have had access to your personal diaries.

MR IRVING: Do you have any reason to suspect this is not a genuine diary, what is on my website?

A: I think it is as genuine as the Anne Frank diary, yes.

Q: I will repeat the question. Do you have any reason to believe that this is not a genuine diary extract?

MR JUSTICE GRAY: The answer is no.

A: The answer is no. I answered it.

MR IRVING: Will you go to page 88 of the bundle which is F? My Lord, the purpose of this is purely to point out, not words left out but surrounding material left out.

MR JUSTICE GRAY: Yes, context.

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MR IRVING: Is this the diary as reproduced on my website?

A: It looks like it, yes. I have downloaded on 15th February 2000.

Q: So it is a description of a lecture that I delivered to students at the University of Washington State in Pulman in 1998?

A: Yes, seems to be.

Q: The questions are the best part as usual, a German girl student a quiet well spoken 20 year old, the Federal Republic's equivalent of a Rhodes scholar. I carry on now to the next paragraph. The paragraph begins: Several coloured students are there mostly training to become teachers.

MR JUSTICE GRAY: This has nothing to do with the context of what Professor Evans quoted. It is completely irrelevant.

MR IRVING: They are bright and friendly.

MR JUSTICE GRAY: I have read it all. The context? This adds nothing and subtracts nothing. What is the point, Mr Irving? Why are we looking at this?

MR IRVING: I am putting this in connection with the allegation of racism.

MR JUSTICE GRAY: What, about several coloured students being present?

MR IRVING: "Several coloured students were there, mostly training to become teachers. They are bright and friendly".

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MR JUSTICE GRAY: I see. I thought we were looking at this for context of what Professor Evans quoted.

MR IRVING: I used the eye witness testimony of General Walter Bruns, which your Lordship is familiar with. I read out the whole of that document to these students, which goes to the Holocaust denial issue. This is a typical speech by me to university students who are a bright and friendly lot, and we have had just this one passage taken out of context when a Jewish Professor from the floor asked questions and I put to him my take on the present situation in the United States.

A: Well, I do think that that is completely irrelevant. If you want a little bit more, the context is: "One questioner addresses the issue that I had raised in discussing the Daniel Goldhagen thesis, that if I were a Jew I would want to see an answer to the vital question why the Jews are so hated within only a few years of their arrival in each host country. He points out that the Jews have now been in the United States in strength for 50 years yet they are not hated. I reply that, on the contrary, my own perception is that they are moving into the same positions", and so on and so forth. That is the context.

MR IRVING: That is the context, my Lord, and I think that that substantially softens what might

be taken to be the sting of that passage left, as it is, in that rather bald and

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exposed position in the paragraph as quoted in the expert report. I am being asked by a Jewish Professor for my take on the present situation and I am telling him in this semi-academic atmosphere the worries that I would have if I were Jewish.

A: Well, to my mind, it does not actually soften it at all. There is no indication here that it is a Jewish Professor, incidentally. What he says is, he quotes you, saying that, if you were a Jew, you would want to see an answer to the vital question why are the Jews so hated within only a few years of their arrival in each host country. I think I have done you a favour by leaving that out.

Q: On page 170, this is a sentence beginning with the word "fundamentally". Here you have allowed yourself to say, "Fundamentally, however, as Irving conceded", there is that word again "conceded", "he was in basic agreement with Goebbels in his belief that 'they had it coming to them'". Who do you mean by "they"?

A: The Jews.

Q: The Jews. So you are saying once again that I am applauding the Holocaust effectively?

A: I do not think I use the word "applaud". There again, let me just read the surrounding context which you are so keen on reading out in your own statements, so I hope I am allowed to do the same with mine.

MR JUSTICE GRAY: Yes.

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A: In 1996 you recount the view of the publisher who eventually refused to publish the American edition of your book on Goebbels and you said: Maybe ... the chairman of St Martin's Press was right when he said: 'This book suggests they (the Jews) had it coming to them'. But if he is right, let me say in advance in my self-defence, it is not David Irving who says that, it is David Irving reporting Dr Goebbels who says that. Maybe I did not make it plain enough, or maybe I did not put enough distance between myself and Dr Goebbels or maybe I did not put in all the counter-arguments I should have done to be politically correct". "Fundamentally, however, as Irving conceded", I go on, "he was in basic agreement with Goebbels in his belief that 'they had it coming to them'." "For, Irving told an audience in Tampa, Florida, on 6th October 1995:", and then I have a very lengthy quote which I think has already been referred to in the trial, so I will not read it out.

MR JUSTICE GRAY: Yes, it has. The short answer is that the Jews did have it coming to them, but there is a longer answer. I think that is a fair summary.

MR IRVING: My Lord, what he has left out from this quotation of course -- we have not actually looked at it in detail.

MR JUSTICE GRAY: We have looked at the Tampa, Florida one in detail.

MR IRVING: The reference is to this violent demonstration that

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began in one of my speeches in Freeport in Louisiana? Have we had that? The fact that the local community came along and violently disrupted a lecture that I was speaking at, and that that is what has been left out of the middle of this speech, in the middle of this anecdote? I am sure that we have not had that, my Lord.

MR JUSTICE GRAY: I am sorry, I have lost you temporarily. You are talking about Louisiana but this is Florida.

A: There is an ellipse in the indented quotation.

MR IRVING: There are four ellipses on that page, each of which was serious material and should not have been left out because it explains the remarks that follow.

MR JUSTICE GRAY: Shall we deal with that as a matter of submission? We have been through this speech in considerable detail already. I have it reasonably well in mind and I do not think it is going to be sensible to spend ten minutes filling in the ellipses.

A: I have looked at this speech again, my Lord, and the only passage that I considered should be reinstated is listed in my letter of 10th January 2000 with amendments to the report. So there is a short passage there. But otherwise I come back to the fact that this is a very long quotation already, and I think it gives a correct impression of your views.

MR IRVING: In that case, let us spend the remaining few minutes before the adjournment examining precisely what

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you consider my views to be, unless his Lordship disagrees.

MR JUSTICE GRAY: No.

MR IRVING: "Irving conceded that he was in basic agreement with Goebbels in his belief that the Jews had it coming to them". That is, of course, a repugnant statement and you are prepared now to defend that, are you, Professor?

A: Yes.

Q: So you are saying that Irving said that the Jews deserved the Holocaust?

A: That is right. That is to say, of course, on your interpretation of the Holocaust.

Q: They deserved the gas chambers, the barbed wire, the millions of deaths, that they had it coming to them, and that this my own personal view? This is your view as an expert witness in this case?

A: Well, I would not say the gas chambers, since you denied that in 1996 when you made this statement, but for the rest.

Q: Ignoring the cheap laughs.

A: I am sorry, I have to make that point.

Q: This is a repugnant allegation for you to make and you should not be playing to the gallery with cheap laughs.

MR JUSTICE GRAY: I do not think Professor Evans is playing to the gallery. I really do not.

MR IRVING: If he says I do not mean the gas chambers because

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of course----

MR JUSTICE GRAY: He is making the serious point that, when you, as he argues, say that the Jews had it coming to them, you cannot have been meaning that they had the gas chambers coming to them, because at that stage you were saying that there were not any gas chambers. That is the point. It is a serious point.

MR IRVING: My Lord, this is characteristic of this witness's methods, that, when he come up against an awkward question, he attempts to push this particular express train on to a siding, and I am not going down the gas chamber siding, I am not going down that particular road. I am going to nail this witness down on his submission to this court that I applaud the Holocaust, which is what that sentence boils down to.

MR JUSTICE GRAY: No. That is not quite what he is saying. What he is saying is that you had whatever you meant by the Holocaust, that the Jews had whatever you meant by the Holocaust coming to them. That is what he is saying you said.

MR IRVING: With respect my Lord, is that not precisely what I just said?

MR JUSTICE GRAY: Carry on with your questions and we will see where you get.

MR IRVING: "Irving said that he agreed with Goebbels that they had it coming to them".

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A: Yes.

Q: Do you not see the distinction between an author writing in a book saying Goebbels said that the Jews had it coming to them and he believed they had it coming to them, and the author himself believing the Jews had it coming to them?

A: I just quoted a lengthy passage where you try and wriggle out of the suggestion made by the chairman of St Martin's Press that the book suggests that the Jews had it coming to them. The man who was going to publish your book and had read it took that message from the book and you say that maybe you did not make it plain enough, did not put enough distance between yourself and Goebbels. I then go on to quote your speech in Tampa, Florida on 6th October 1995, where you say precisely the same thing.

MR RAMPTON: Perhaps one could turn over the page for completeness because this theme is completed in paragraph 56, and I do resist a lack of context.

A: In 1991 you said "they (and you mean the Jews) dragged us into two world wars and now, for equally mysterious reasons, they are trying to drag us into the Balkans".

MR IRVING: Can we narrow down----

A: There is another lengthy quote there, why does it always happen to the Jews, you ask.

Q: Can we therefore narrow down what your allegation against the author of this book is? Are you alleging that he

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applauded what happened to the Jews?

A: What I am saying here is ----

Q: It should be easy to answer. Does he applaud it or does he not, in your view?

A: Let us read the text of my report, Mr Irving.

Q: Can you just answer a simple question?

A: "Fundamentally, however, as Irving conceded, he was in basic agreement with Goebbels in his belief that 'they had it coming to them'".

Q: Will you now answer my question?

A: That is what I am saying.

Q: Will you answer my question?

A: The word "applause" and "applauded" does not occur there.

Q: Just so that everybody in this courtroom can be plain what you are suggesting, are you suggesting that I, David Irving, applauded what happened to the Jews or not?

A: I am saying that you are saying that they deserved what they got.

MR JUSTICE GRAY: That answer has been given now three or four times, Mr Irving.

MR IRVING: There is a certain amount of wriggling going on here.

MR JUSTICE GRAY: If you say you never said anything of the kind, put that to the witness.

MR IRVING: If what?

MR JUSTICE GRAY: If you say you never said that the Jews had

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it coming to them, or they deserved what happened to them, put that to the witness.

MR IRVING: I am trying to get the witness to state specifically whether he sees a distinction between Dr Goebbels saying in his diaries, as quoted by me in my book, that the Jews had it coming to them on the one hand, and David Irving applauded what happened, the Holocaust, on the other.

MR JUSTICE GRAY: That is a false antithesis because applauding does not come into it. No-one is suggesting you applauded it.

MR IRVING: Thank you very much. If the witness would say the same ----

MR JUSTICE GRAY: Will you listen, please. What is being suggested is that you have on occasions said that the Jews brought it on themselves. Now, if you say that is not true, put it to the witness, and he will probably go to paragraph 56 of his report in his answer.

MR IRVING: Can we take this in two stages? Witness, you have heard his Lordship say nobody says that David Irving applauded the Holocaust. Does that include you?

A: I have already pointed out several times I do not say in these paragraphs that you applaud the Holocaust however you conceive of it.

Q: What you do say is that I state in my Goebbels biography that Goebbels believed that the Jews had it coming to

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them. That is the first question. Goebbels believed they had it coming to them?

A: Yes.

Q: And that in the following page to which Mr Rampton has drawn attention I go on then to examine that piece by piece and say to what degree was Goebbels right. Is that effectively right?

A: No.

Q: For example -- I do not want to go over old ground -- the Baltic States and so on?

A: Let us leave the Baltic States out of it. What you say is that "maybe the chairman of St Martin's Press was right when he said this book suggests they (the Jews) had it coming to them, maybe I did not make it plain enough and maybe I did not put enough distance between myself and Dr Goebbels, or maybe I did not put in all the arguments, counter arguments, I should have done to be politically correct". One notes that sneering phrase at the end there.

Then you go on in paragraph 55 to recount what you said in a meeting. "I said", quoting you, "to a leader of the Jewish community in Freeport Louisiana, you are disliked, you people. You have been disliked for three thousand years. You have been disliked so much that you have been hounded from country to country, from pogrom to purge, from purge back to pogrom, and yet you never asked

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yourselves what is it that the rest of humanity does not like about the Jewish people, to such an extent" ----

MR IRVING: Witness, we have had all this so many times My Lord, if he is going to read these parts, he must read the other parts as well.

A: "that they repeatedly put us through the grinder?" -- I know you do not want this read out, Mr Irving, but I am going to read it out.

MR IRVING: I want all of it read out and not just your selection.

MR JUSTICE GRAY: Mr Irving, will you be quiet. The witness is trying to answer your question.

MR IRVING: He is not. He is just wasting time.

A: "And he went berserk", you go on, this Jewish man. "He said: 'Are you trying to say that we are responsible for Auschwitz? Ourselves?' And I said, 'Well, the short answer is yes'".

MR IRVING: "The short answer is yes". And?

A: "The short answer I have to say is yes. If you had behaved differently over the intervening 3,000 years" ----

Q: But you have left out bits, have you not, the whole way through that? You left out four passages from that?

MR JUSTICE GRAY: Mr Irving, we have been through all this before. We are going to resume at five past two and I hope you will move on.

MR IRVING: With respect, my Lord, he should not have been

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allowed to read out the truncated version again.

MR JUSTICE GRAY: Five past two.

**(The Luncheon Adjournment)
(2.05 p.m.)**

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

MR JUSTICE GRAY: Yes, Mr Irving?

MR IRVING: My Lord, I anticipate that in the rest of this afternoon we will get through as far as the Reichskristallnacht and well into it, in fact.

MR JUSTICE GRAY: Good.

MR IRVING: That is certainly my aim. In other words, we will definitely manage that.

MR JUSTICE GRAY: Good. **MR IRVING** (To the witness): Professor Evans, on page 171 you quoted this passage. I am not going back to that passage. I have one problem with that quotation you gave us in paragraph 56 -- you provided no source for it?

A: Yes, that is oversight on my part. The source is given on page 7 of my answers to your written questions, your questions of 2nd January. That is video tape 225, interview in Key West, Florida, 1996, just 33 minutes into the interview.

Q: Tape 225?

MR JUSTICE GRAY: Have we got that?

MR RAMPTON: I am sorry, which one is it? I am lost.

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MR JUSTICE GRAY: Tape 225, Key West 1996. Do you want us to look at it, Mr Irving, for context or not?

MR IRVING: I will not delay the court. Obviously, I wanted to see what the context was of that and see if there had been any omissions. Professor, when you make omissions from a document, do you always indicate it by ellipses?

A: Yes, of course. You will find one there, in fact.

Q: Yes, it would be very sloppy not to indicate the omission, would it not?

A: It would be a mistake, yes.

Q: And if I were to do that, of course, you would rightly criticise me?

A: That would depend on the circumstances. It could either be just an oversight, a misprint, or it could be deliberate falsification, depending on the circumstances.

Q: I am anxious to try to shorten your answers. I know that the Welsh are famous for their loquacity, and I hope that this will not be taken by Mr Rampton as yet another example of my racist predilections when I say that, but your answers sometimes do tend to run overboard and his Lordship has given me little assistance in this matter.

MR JUSTICE GRAY: No, well, I think that is the sort of thing you have to leave to me, Mr Irving.

MR IRVING: I am an unskilled cross-examiner, as your Lordship is aware, and if you feel that the witness is overrunning his time, I would be grateful if your Lordship would be

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bring it to the witness's attention.

MR JUSTICE GRAY: Of course I will. That is one of my jobs and it has not happened yet though.

MR IRVING: I say that because we are now going to come to Madagascar briefly at paragraph 57 on page 172. Can briefly say, in your view, whether the Madagascar plan was not a feasible option when the Nazis talked of the Madagascar plan, whether it was a pipe dream or it was a realistic project.

MR RAMPTON: Sorry, can I just interrupt? Before we move to Madagascar, my Lord, the reference is, in fact, in K4, tab 8. It is an interview called Cover Story on 4th March 1997, in fact -- that is the date of the programme. It is an Australian television company, and the relevant passage is at page 7 of that transcript.

MR JUSTICE GRAY: Thank you very much.

MR IRVING: Was Madagascar ----

MR JUSTICE GRAY: I am sorry, can you pause again? I have a slight problem with my screen.

MR RAMPTON: K4, tab 8, page 7.

MR IRVING: In that case, before we come to Madagascar, in view of the fact it was an Australian company I was talking to, can I ask you one question? Witness, what is the time difference between Florida and Australia, approximately? Is it about 12 hours?

A: I have no idea actually. I imagine, probably, yes.

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Q: So if an Australian radio station is conducting a live interview in the day time, in fact, you are being telephoned in the middle of the night?

A: If it is a live interview.

MR RAMPTON: No, I am afraid again we have gone way off course somewhere around the end of the world. This is an Australian film crew travelling with Mr Irving in America and doing the interview when they are there.

MR IRVING: Right. In other words, this is another of the edited broadcasts which I shall have to pay attention to.

MR JUSTICE GRAY: Mr Irving, if you want to make a point that the context affects what you said about the Jews bringing it on themselves, then, by all means, go to the full transcript. You have been told where it is. But if you do not make that kind of point, then I think we really ought

to get on to Madagascar.

MR IRVING: There would be a better time to do it, my Lord, in view of the fact that your Lordship is anxious to make progress. If I were to look at that transcript now, I would have to be provided with a bundle, look it up, sit down and read it and we would lose at least 10 minutes.

MR JUSTICE GRAY: So Madagascar?

MR IRVING: Madagascar. (To the witness): Was Madagascar a feasible operation, in your view?

A: On the basis of the continued British effective command over the seas, it became clear well into the war that it

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was not. I mean, obviously, it requires the ability to travel across -- this is the plan, the solution, the plan to deport the Jews to Madagascar clearly requires command over the seas.

Q: But if the war had come to an end and an agreement had been reached with Vichy France or whichever French government was in power?

A: This is getting into extremely hypothetical realms because that makes assumptions about how the war might have come to an end and then about international agreements, and so on.

Q: I think the question I am really asking is did the Germans regard it as a feasible operation or was it just baloney?

MR JUSTICE GRAY: At what date? I think that is the relevant part of the question.

MR IRVING: At all relevant dates when Madagascar was discussed, in other words, from 1938 in, I think, June when it was first mentioned by Adolf Hitler to Goebbels right the way through to July 24, 1942 when it vanishes from the map of history?

A: I think they certainly took it seriously. There is quite a large amount of discussion about it in 1940 through 1941. I think it became increasingly clear in the course of 1941 that the conditions were not right. Of course, the invasion of the Soviet Union changed the picture somewhat and I think by the middle of 1942 it certainly

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was not taken seriously and references to it, I think, can be regarded as camouflage.

Q: Were these discussions that you are talking about at Hitler's level as well?

A: Including at Hitler's level, yes.

Q: Including at Hitler's level. At least for sometime, in your view, the discussions were not baloney, they were meant seriously?

A: It certainly looks like that from the documents, so whether it was realistic is another matter, but they certainly took it seriously.

Q: Is it not difficult to reconcile that notion with a Nazi ideological desire to exterminate all the Jews they could get their hands on?

A: Well, as we know, the Nazi desire to exterminate all the Jews they could get their hands on only became, at least it grew in the course of war. I think while -- there are really two answers to that. One is that the systematic extermination of the Jews did not begin until well on into the autumn of 1941, and about the time in which the Madagascar plan began to, as it were, take second rank and then began to fade away.

Secondly, of course, I do think that one has to remember that the Madagascar plan, such as it was, I do not think it was ever seriously worked out in detail, was one which deported the Jews across the seas in, one

presumes, extremely poor conditions, and just dumped them on a large, somewhat inhospitable tropical island in conditions that were entirely unsuited to sustaining a large society of millions of Europeans.

Q: Would those conditions have been worse than in a slave labour camp like Auschwitz or better?

A: I do not accept that the conditions in the slave -- sorry, I do not accept that Auschwitz was simply a slave labour camp. That is the first thing I would say. The second is that it is very conjectural, but they may well have been comparable certainly in terms of disease, malnourishment. It is sort of a parallel in a way to the ghettoization, I think.

Q: Do you accept that the population of Madagascar has grown from around 2 million in 1938 to 13 million now?

A: I do not see what the relevance that is to -- of that is to Nazi plans in 1940 and '41.

Q: The final question on this field. What you are saying, in other words, is that Nazi ideology towards exterminating the Jews changed sometime in 1941 from getting them out of sight, effectively, to exterminating them? Is that what you are saying, there was a change in their ideology?

A: There is a sort of continuum. I think that Nazi anti-Semitism always had its murderous elements, as became clear immediately on the invasion of Poland or, indeed, in the Reichskristallnacht and so on. But the systematic

extermination of European Jews was a policy that only gradually became formulated in the course of 1941 and the early months of 1942.

Q: Would you turn now to page 173? We will just look very briefly at your four central tenets of Holocaust denial. You think that to be Holocaust denier, you have got to be somebody who says that the number of Jews killed by the Nazis was far less than 6 million? Is that one criterion?

A: That is, yes.

Q: I am not quite clear about the criteria. Does one have to be a member of each of these four groups or any one of them?

MR JUSTICE GRAY: I think we have had this before and the answer is, no, you do not have to be a subscriber to all four views. You can, as it were, adopt one or two of them and you can hold them in a full-blooded way or less so.

MR IRVING: So any one would qualify you to be the title.

MR JUSTICE GRAY: Professor Evans, you have dealt with this before in your evidence?

A: I have dealt with this before -- it is on the transcript, my Lord.

MR JUSTICE GRAY: It is on the transcript.

MR IRVING: Yes, but if his Lordship is right, then his Lordship is, effectively, saying that anybody who says the figure is not 6 million but 5 million or 4 million is a Holocaust denier.

MR JUSTICE GRAY: I am not saying anything. I am saying what Professor Evans said yesterday.

A: If I may say, sir, what I argued was that you really need all four.

MR IRVING: All four?

A: It is a package, but that, of course, it is a kind of fluid, and I said earlier on that there are some people who will deny one, deny the other, partially deny one proposition, partially affirm another. It is not something that ----

Q: It sounds to me as though the package is adjusted according to whom you are trying to sling it around the neck of?

A: No, that is not the case.

Q: Well, you are just saying that one has to be a member of all four except in some circumstances when it can be less which seems to be ----

A: Sorry, no. What I am saying is that it is a matter of degree and so on, but I would describe Holocaust -- I would have no doubt that someone who subscribed to all four propositions was a Holocaust denier in the sense that is generally understood.

Q: Yes.

A: And, indeed, appears in Professor Lipstadt's book.

Q: So we rapidly wrap up that passage, the second criterion is that the person says that gas chambers were not used?

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A: Yes.

Q: If somebody says they were used in some places but not in other places, does he qualify or ----

A: Well, no, not if he or she is accurate. I mean, clearly, gas chambers were used in some ----

Q: If somebody says that they were used in a small scale but not on a large scale?

A: I am trying to give you an extremely brief summary of a rather lengthy section of where I go into these in a great deal more detail.

Q: This is what is at the root of the case, you appreciate that?

A: Of course I do. That is why I have written this section.

Q: Well, it is quite a brief section and I am trying to establish ----

A: No, I mean the whole section on Holocaust denial, not this very brief conclusion.

Q: But if somebody denies that the gas chambers were used on a mass factories of death basis, but they were used on a smaller scale, wherever, would he be a Holocaust denier?

A: Well I have explained earlier on that this very, that what I mean is that gas chambers were not used for the systematic extermination of large numbers of Jews, that is what...

Q: The third criterion is that there was no systematic killing of Europe's Jews, in other words ----

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A: Yes, that is right, that it was not systematic, yes.

Q: I think we all understand what we mean by that.

A: Yes.

Q: If it was haphazard, if somebody accepts it is haphazard but denies it was a government action, State action?

A: Yes.

Q: Then he qualifies, he is a Holocaust denier. Then the fourth one is the propaganda story, the fact ----

A: Yes.

Q: --- that the Allies invented this story as a propaganda?

A: That is right.

Q: Yes. But as you are having difficulty even now in determining to the satisfaction of myself, certainly, and a large number of people in this court, perhaps, exactly what is meant by these four criteria, it is a bit of a vague concept, is it not, but it is like an elephant, you know what it is, you cannot necessarily describe it, is that right?

A: I am not having difficulties, Mr Irving.

Q: Well, I am having difficulty getting a clear definition from you on any one of these four.

MR JUSTICE GRAY: Mr Irving, I have been told what the definition is. It is for me to decide whether it is a satisfactory definition, but I am in absolutely no doubt what the definition is. It could not be more clearly set out.

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MR IRVING: You accept that one has to be a member of all four or just one of them?

MR JUSTICE GRAY: Well, I think I said a few minutes ago when reciting what Professor Evans has said, no, he does not think you have to subscribe to all four view points.

MR IRVING: But am I right in believing that it is your Lordship who decides rather than the witness's definition?

MR JUSTICE GRAY: Of course it is.

MR IRVING: Yes. Can we now proceed to "Connections with Holocaust deniers" which is section 3.5, page 174? The burden of the charge you are trying to make here, am I right, is guilt by association? "Tell me who your friends are and I will tell you who you are", I think is a Spanish expression, is that correct?

A: No, it is not, no.

Q: You list here a number of names of people who you identify as Holocaust deniers and you say because these people have been seen in the same room as me, effectively, this makes me one too. Is that putting it too simply?

A: Yes.

Q: Right. Can we leap straight ahead to page 183 because this, I think, justifies me in doing the leap? Beginning at paragraph 15, we are talking about the institute of Historical Review, is that right?

A: Yes.

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Q: And you do not consider this is a bona fide Institute at all, do you?

A: No.

Q: It is just comprised of people who have no qualifications and have the wrong views or views you disapprove of?

A: No, I do not say that.

Q: Yes. But what you do make plain at the beginning of this paragraph 15, and I quote: "Irving has denied that he is affiliated to the Institute in any formal capacity, and this is strictly speaking true"?

A: Yes. I go on to say: "He is a member neither of its Board nor of the Editorial Advisory Board of its Journal". I think it is only fair of me to point that out.

Q: Well, do you accept that this is true?

A: Yes.

Q: That I have no affiliation whatsoever with that body.

A: No formal affiliation.

Q: Well, what other kind of affiliation can there be?

A: An informal affiliation.

Q: What do you mean by informal affiliation? That they send unsolicited materials to me? Is that an informal affiliation?

A: No. I go on to describe that in the rest of the paragraph.

Q: "He has been a frequent visitor", line 3 on page 184, is

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that correct?

A: Yes, you have been a frequent visitor.

Q: "... frequent visitor to the annual conferences organized by the Institute of Historical Review"?

A: That is right, yes. You spoke.

Q: Can you estimate how many times in the last 17 years I have visited these conferences to justify the word "frequent"?

A: Why have you chosen 17 as a number?

Q: Because it is 17 years.

A: Since what?

Q: Between -- over the period you are talking about.

A: Oh, I see. Well, it is -- you are ----

Q: How many is frequent? 20, 30, 50?

A: Your contacts of -- your speech of speeches ----

MR JUSTICE GRAY: They are annual, so it could not be more than 17, could it?

MR IRVING: My Lord, I can cut to the bottom line, as we say, and say the answer is five.

Would you say that the correct number of occasions on which I have attended their annual conference in whatever capacity is five?

A: Well, speaking. I say here: "To date you have spoken to audiences at the Institute five times. You spoke at the ninth, tenth, eleventh and twelfth conferences in succession". So at that time, therefore, that is in the 1990s, I think, am I right, you are ----

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MR IRVING: It is a span of 17 years.

A: No, at that time, that is to say, in the immediate run up to Professor Lipstadt' book, you were there on an annual, virtually an annual basis. There were also many articles about you in the Journal that the Institute prints and many articles by you.

Q: I am picking on this word "frequent" visitor to the annual conferences and it turns out to be five times in 17 years?

A: You spoke at the ninth, tenth, eleventh and twelfth conferences in succession and at one other conference.

Q: That sounds like five to me.

A: Well, that is four and one other conference, and at that time you were a frequent visitor. I do not say you are a frequent -- I do not say, "He is a frequent visitor at the annual conferences", I am saying you have been and I then go on to say precisely which conferences you spoke at.

Q: Five times in 17 years does not -- but I do not want to keep on hammering this point in otherwise I shall earn a rebuke.

A: Four times in four years, Mr Irving, that is frequent.

Q: Five times in 17 years is not a frequent visitor, by any reckoning, is it?

A: Four times in four years is a very frequent visitor, Mr Irving.

Q: What makes you think that the ninth, tenth, eleventh and

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twelfth conferences were on an annual basis?

A: Ah, you may be -- you may have me there. Were they not?

Q: No. But you are assuming that they are?

A: Yes, I thought they were, I must say.

Q: So the word "frequent", in other words, is wrong?

A: Are you telling me they are not then? Would you like to tell me the dates of those conferences?

Q: They are either every two or three years.

A: So in that case, 17 years, there would be eight, seven or, let me see, eight or nine conferences, so that five visits is actually rather frequent; it is the majority of them, is it not?

Q: Do you agree that five times in 17 years does not qualify for the word "frequent visitor"?

MR JUSTICE GRAY: I think the point he is making is that if they are every two or three years, you have been to every single one. I mean, that is the result of what you ----

MR IRVING: I must have learned English at a different school. The word "frequent" to me does not imply five times in 17 years, my Lord.

A: But, Mr Irving, if you are saying that the conferences took place every two or three years, then in 17 years there can only have been six or seven, or at most eight conferences, and you admitted, you said that you were at five of those, that is almost every one; and that certainly justifies saying that you are a frequent

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visitor. In fact, if that is the case that the conferences were not, as I had thought, annual, then I would have said an "almost 100 per cent attender", not "frequent visitor".

Q: Not a frequent visitor?

A: Almost 100 per cent attender if they were at greater intervals than one year each. As it is, I say, "He has been a frequent visitor to the annual conferences". Then I say, I give when these conferences were, the ninth, tenth, eleventh and twelfth conferences in succession. That is frequent to me, that period. I am unclear now as to whether you think the conferences were annual or not.

Q: The conferences were held (and I can tell you this) I am sure on the basis of once every two years?

A: Right.

Q: And sometimes less frequently.

A: In that case, in the last 17 years we are talking about majority of the conferences and I think that justifies saying that you were a frequent visitor at them.

Q: Five times is not a frequent visitor and I am sorry to have to keep on ----

A: Five times is a frequent visitor when there have only ----

MR JUSTICE GRAY: This is becoming utterly futile ----

A: --- been eight conferences.

MR IRVING: Let us move on. We are now moving on. You quite rightly say there have been articles about me in the

Journal. Are you suggesting that I have in any way engineered these articles about me in the Journal of the Institute?

A: In the fourth and sixth issues of Volume 13. That shows, I think, that the Journal thought highly of you.

Q: I now start six lines from the bottom: "The first issue of volume 13 included one article by Irving and two others about him. The next issue had another article by Irving, and he also printed two more articles in the first volume of" -- have you any evidence that I have on any occasion whatsoever written an article for the Journal?

A: Well, we have been through this before, Mr Irving, last Thursday.

Q: Yes, and what was the answer?

A: The answer was that these are edited versions of the speeches you gave at your frequent visits to the Institute's conferences, and that I presume that these versions appeared as articles in the Journal with your approval and permission since, presumably, they are copyright, its copyrights assigned to you.

Q: Do you accept that ----

A: Are you suggesting that they appeared without your knowledge and without your permission?

Q: This is not the question and you cannot ask me questions, Professor. Are you suggesting that there is no distinction between an article written by an author for a

journal and a paper written by that journal?

MR RAMPTON: I have to say, my Lord, I do find this very trying. Time is passing. I do worry about creatures like Reichskristallnacht and Schlegelberger and all those people down the line. We know from Mr Irving's own answers in cross-examination that the Journal reprints versions of his speeches which he has edited and approved in advance of publication.

MR JUSTICE GRAY: I remember.

MR RAMPTON: It is on the record.

MR JUSTICE GRAY: I am anxious not to interrupt too much, but Mr Rampton is plainly right.

MR RAMPTON: I know that, but I have a duty to the court and also to my clients.

MR JUSTICE GRAY: It is not a criticism of you. I think you have been very restrained, but it is very difficult, Mr Irving. I really cannot tell you often enough that I want to get on to the meat of Professor Evans' report.

MR IRVING: I have assured you how far we shall certainly get.

MR JUSTICE GRAY: We have had two full days' of cross-examination and we still have not got there. We have not even begun.

MR IRVING: My Lord, I am not responsible for the fact that the instructing solicitors did not instruct the witness to write his report in a way which would be useful to this court.

MR JUSTICE GRAY: Yes, well ----

MR IRVING: I can only cross-examine on the basis of the report which is before your Lordship and myself.

MR JUSTICE GRAY: When the Judge tells you time and again that he is not deriving any assistance from the cross-examination on these earlier passages in the report, surely, Mr Irving, it

makes sense to get on to what the court wants to hear about.

MR IRVING: But if your Lordship were to say to me, "Mr Irving, tear up pages 1 to 250 of the report", I would willingly have done so.

MR JUSTICE GRAY: Right, on to the next point.

MR IRVING: No one would have done so more willingly than I. I have had to devote a lot of very scarce resources to going through these in great deal on the basis that they are before your Lordship also and I cannot allow these ----

MR JUSTICE GRAY: Let me tell you this, Mr Irving, it is the last case I would want to do this, but what sometimes has to happen is that one says after a certain amount of cross-examination, "Right, this is going too slowly. You have X amount of time to complete the cross-examination". I would be very loath to do that in a case of this kind, but I can see that coming if we do not move to what really is at the heart of Professor Evans's expert report.

MR IRVING: My Lord, I said very clearly yesterday that I was going to ask for two and a half more days. I shall

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certainly keep to that timetable which I think allows possibly sufficient time for re-examination in the remaining half day.

MR JUSTICE GRAY: I am really interested to hear Professor Evans being cross-examined by you on these points that makes on the historiography.

MR IRVING: But he has also made these points on guilt by association, my Lord, and they stand unless I challenge them. He says that Judge Steglisch was once introduced to me at a hotel breakfast, this kind of thing.

Page 184, witness. We are still back on 184. You complain about the fact that the IHR sells my books or advertises my books.

A: No, I am not complaining at all. Who am I to complain about that?

Q: Well, you say that they advertise my books -- the second and third lines, the book is obtainable through the Institute.

A: Yes.

MR JUSTICE GRAY: Look. What he is saying in the whole of that paragraph is that you are closely associated with the IHR. If you want to put to him that you are no more than the occasional speaker at the odd conference, put that and then move on. If that is your case? I do not know what your case is.

MR IRVING: It certainly is. Professor Evans, are you familiar

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with any of the other speakers there? Would you agree that John Toland is an occasional speaker at the IHR conferences?

A: I think he has spoken once, to my recollection.

Q: Is John Toland a Pulitzer prize winning author on the American literary scene?

A: Plenty of people have won Pulitzer prizes. It does not mean to say that I think that their views are admirable simply because of that.

Q: Is he a Holocaust denier or right-wing extremist, to your knowledge?

A: That I do not know presently. I know him only as the author of a biography of Hitler.

Q: Are you familiar with the fact that the Canadian liberal journalist and author Jim Back has spoken at the IHR? James Back?

A: Yes.

Q: Yes or no?

A: Yes, I am.

Q: Are you familiar with the fact that the Japanese general Hidi Omiki has spoken at the IHR?

A: Let me just mention James Back because he is an author who has claimed that many, and I go into this on page 186 of my report.

Q: He is a Holocaust denier?

A: He is somebody who has written two books now, alleging

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that the Americans murdered six million Germans after the end of the Second World War, that they deliberately killed at least a million German prisoners of war at the end of the Second World War.

Q: Has that book been taken very seriously?

A: No. I do not regard him as a serious author and, of course, as I say, his paranoid style of writing based on the manipulation of statistics which historians have easily shown to be totally false, bears a striking resemblance to the pseudo history of the Holocaust deniers, which is no doubt why he has been welcome at their meetings and indeed why you quote his work in your book on Nuremberg.

Q: He is a Holocaust denier?

A: I do not know whether he is or not, but certainly I think his ludicrous ----

Q: Has he not expressed strong opinions against Holocaust denial, both in the Canadian press and elsewhere?

A: If you can show me documentary evidence of that, I will be prepared to accept it, but not otherwise.

Q: Are two other speakers at the IHR, the Japanese general Hidi Omiki, and the CIA senior official, Victor Marchetti, are they Holocaust deniers?

A: What I would need to do to, as it were, make a judgment on the full import of what you are saying there is to see what they actually said at the meetings of the Institute,

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provide documentation of what they said, and if what they said has nothing to do with Holocaust denial, then, either directly or indirectly, I will accept your point. But I do think that Mr Back's thesis of course, I directly ----

Q: You do not like them, this is plain, right? You do not like the thesis of Mr Jim Back?

A: It is not that I do not like them, Mr Irving, it is that they are completely phoney.

Q: Are you an expert on those matters?

A: Why do you think that he has alleged that the Americans killed 6 million Germans after the end of the Second World War.

Q: Have his books been published by the world's leading publishers, including St Martin's Press?

MR JUSTICE GRAY: Mr Irving, can we please move on? This is a man who says that the Americans killed 6 million Germans. One's eyebrows rise slightly, do they not?

MR IRVING: My Lord, I am not going to go down that particular cul-de-sac and, if I had done, your Lordship would have reprimanded me.

MR JUSTICE GRAY: You were suggesting that the man was a respectable historian. I do not know whether he is or he is not, but I really think we must get on, please.

MR IRVING: I am in a dilemma there because, if I had taken up that particular red herring, then I would have been

rightly reprimanded by your Lordship. I have just moved on. Is it right to say therefore that the IHR has a reputation for inviting revisionist speakers with unorthodox views to speak there?

A: In its own self understanding of revisionism, yes, revisionism in which Holocaust denial is the central element. That not to say of course that every speaker there gives a speech which is purely centrally or wholly concerned with Holocaust denial, but that is what they are about and that is why they invite people like Mr Back.

Q: So it is correct to say that sometimes Holocaust deniers speak there, but the fact that people speak there does not make them Holocaust deniers?

A: I think, if anyone accepts an invitation to the Institute of Historical Review, it is quite clear to everybody that it is a Holocaust denial Institute with no academic respectability or credentials whatsoever and that therefore, by appearing there, you are approving, at least in part, of what they do.

Q: So, if somebody comes and speaks at Caius College, they would be automatically accepting the tenets of all the other professors who have spoken there? Is that the kind of position ----

MR JUSTICE GRAY: Mr Irving, please.

MR IRVING: It is such an absurd kind of argument to make that I thought I would highlight its absurdity.

A: I do not know if that is a question, my Lord.

MR JUSTICE GRAY: I do not think it is.

MR IRVING: Page 191, paragraph 4, you state that I published on my website a very lengthy tract by somebody with the pseudonym of Samuel Crowell.

A: Yes.

Q: Very brief answer: Are you familiar with the difference between publishing something on a website and just putting a link on a website to somebody else's documents somewhere else in the world, in other words what is called an outlink or hyperlink?

A: Yes, I think I am.

Q: Would it be the same as being editor of a magazine under the footnote of the magazine saying, readers might be interested in this document by Mr Crowell which they will find in that library somewhere over there? Would that be a comparison?

A: There is a similarity, but of course the link is close in the case of the Internet because you do actually have to trail across to another library or go out to a bookshop to buy the book. You can just flick a switch and it is there.

Q: But to suggest, as you have, that Irving has published on his website this very lengthy tract is in other words inaccurate? I have posted a link to a document by another author somewhere else.

A: I understood that it was on the Auschwitz section of your website. My recollection is that that is where I read it. It is on the Auschwitz index, is it not.

Q: If you had clicked on it, would you have been surprised to find that you were no longer in my website but somewhere in California?

A: I have to say I did not realize that, if that is the case.

Q: If you are referring to the Auschwitz index, will you agree that that same page also has hyperlinks to organizations like Niscore and Holocaust History Project? Do you know those web sites?

A: You would have to provide me with a print out so that I could examine it.

Q: If I say to you that on those pages you will find a hyperlink to Niscore, do you know what Niscore is?

A: Yes, I know what Niscore is, Mr Irving .

Q: What is Niscore? Is it a body friendly to me?

A: No, it is not. I accepted this on Thursday, Mr Irving. On your website you do include a reference to, or the ability, you say, to make people alert to the fact that there is a Niscore website which gives a contrary view to your own. Indeed, you print the whole text of my own report. That is up on your website. The daily transcripts of this trial are on your website. But you also use your website to disseminate Holocaust denial material, such as that by Samuel Crowell.

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Q: Is not what I do precisely what a balanced and neutral observer should do? He should provide material on the one side, material on the other side, and easy instantaneous links by Internet to people with a totally contradictory point of view? Is that not what I do? The Holocaust History Project, Niscore, these are web sites with a viewpoint that are completely the opposite and yet I put an instant and easy link to them.

A: Yes, but what you are doing here is suggesting that these are two equal sides of some academic scholarly argument and therefore you, as it were, give yourself credence and respectability by doing that.

Q: Your final sentence on that page says, "In other words, Irving is using his website to publicize Holocaust denial material", but you do agree that I publicize the other side of the story too, do I not?

A: Yes, you do.

Q: You think there is only one side of the story that should be publicised? Is that your viewpoint?

A: I do not think that the Internet should be used to publicise phoney, fake and falsifying material.

Q: You would like to see it censored, would you? You would like to have automatic filters installed? Is that what you are saying?

A: I am not saying that at all. I am saying it is your responsibility for what you do.

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Q: In other words, to say that I only publicise Holocaust denial material, as you call it ----

A: I do not think I do that. I do not say that.

Q: You accept that on my website I also put documents giving the other point of view?

MR JUSTICE GRAY: I think he said that two or three times.

MR IRVING: Yes. Thank you very much. Can you now turn to page 193? I am now going to look briefly at the DVU, the Deutsche Volks-Union, the German People's Union. Can you estimate approximately how long that political organization has been active in Germany? About 20 years or 30 years?

A: My Lord, I am not the expert on this. I understand there is another expert report on this.

MR JUSTICE GRAY: Is that Professor Funke?

MR IRVING: Yes. That is why I am only going to question you briefly.

MR JUSTICE GRAY: He is coming. I think he is a better chap to ask about DVU.

MR IRVING: I am only going to question him very briefly, my Lord.

A: I am only concerned with it here in so far as it is connected with or purveys Holocaust denial.

MR JUSTICE GRAY: It does not seem to me the best point in the world anyway, so let us move on and leave that for Professor Funke.

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MR IRVING: Just the last line of that paragraph, my Lord, in case Professor Funke does not raise it. "Mr Irving had also been asked by the DVU 'to do lucrative research in the Berlin Document Centre". That is a quotation from my diary. Is that right, May 19th, 1984?

A: Yes.

Q: About 16 years ago. Are you familiar with the lucrative research that Dr Frey of DVU asked me to do in the Berlin Document Centre?

A: Remind me.

Q: Is it right that the Berlin Document Centre at that time was an American government organization which held the entire biographical records on all the top Nazis?

A: Yes.

Q: Millions and millions of them?

A: Yes. A lot, anyway.

Q: Is it evident from my diary and from the papers that have been put before you that the research that Dr. Frey and the DVU asked me to do was to weasel out the ex Nazis in the German government, get hold of their biographical records showing they were members of the Nazi party, and is this a despicable thing to have done, or in any way would you wish to criticise that kind of operation?

A: It depends for the purposes for which they want to do it. For all I know, they may want to do it to make contact with them and applaud them.

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Q: In the spirit of his Lordship's admonition, I shall move on. Just briefly though, you do accept that the German People's Union has at all times been a legal body and has never ever come up against the legal authorities in Germany?

A: I think this is more a matter for Professor Funke, really but I understand that it has been under constant observation by the Germans, or for a considerable time under observation by the German Office for the Protection of the Constitution at various land branches of that, as I say, an extreme right-wing organization.

Q: Page 195, we are now on a Mr Anthony Hancock. Again, I am not going to deal with him in any detail because I understand that I am going to be cross-examined on Mr Hancock so that is probably the right time to deal with that unless your Lordship feels I should fill in any of the detail. I am only concerned with the fact that you drag in not only Anthony Hancock, but his father, saying that he was a former member of Oswald Mosley's blackshirts. Should this be held against him?

A: Yes.

Q: I seem to remember that, when I was last in the High Court 30 years ago, the judge was Mr Justice Lawton, and he had also been a member of that organization before the war.

MR JUSTICE GRAY: My own view of this is, if may say so, Professor Evans, by all means criticise Mr Irving for his

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relationship with Anthony Hancock if he is a member of the National Front and so on, but I cannot for life of me see what relevance his father's membership of the blackshirts is.

A: I am happy to have that left out. It is of no great importance to my report.

Q: It is gratuitous and I personally do not think it has any significance at all, so I am entirely with you, Mr. Irving, if I may say so.

A: I understood that both of them published, Did 6 million really die, by Richard Harwood?

MR IRVING: What connection has that with me?

A: That is a Holocaust denial book and you have an association with Anthony Hancock.

Q: So a printer prints a Holocaust denial book and this is somehow linked immediately to me. Is this the way you have built up your evidence?

A: No. You have an association with Mr Hancock.

Q: And, because his father -- is that not what the Nazis called sippenhaft, if somebody in a family has done something wrong, you arrest the whole family?

A: Let me read the passage from my report: "Anthony Hancock junior Anthony Hancock hired the venue and distributed tickets for a 'revisionist' seminar in London on 4th July 1992 in which Irving spoke. Hancock's Historical Review Press printed Irving's newsletter Focal Point in the early

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1980s and Hancock was filmed at a Holocaust denial meeting in Munich at which Irving was a guest of honour, and there were various mentions in your diary of the older Hancock who is offering funds and facilities to publish the Churchill biography". I am simply trying to establish there that you have connections with these two Holocaust deniers.

Q: This word "Holocaust denier" has become quite frequently fixed in your vocabulary, has it not, 300 times in this report alone?

A: I was asked, Mr Irving, to comment on that.

MR JUSTICE GRAY: Do not rise to the bait.

A: I am sorry, we have been through that many times before, my Lord.

MR IRVING: Everybody who is sinister is suddenly called a Holocaust denier and it begins to grate after a time. Can you look at paragraph 11 now? This is the next gentleman.

A: I will not rise to that, Mr Irving, on his Lordship's instructions.

Q: Here we are: "Perhaps the most sinister of the Holocaust deniers with whom Irving has had extensive and long term contacts was General Otto Ernst Remer". Is that still your view?

MR JUSTICE GRAY: I think the way to cross-examine, if I may say, on this sort of allegation is, I do not know what the

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facts are, but, Professor Evans, do you realize that I have only met the man twice, or whatever? Asking him if it is still his view is not going to help. Just put what you say is wrong with the proposition that you have had long term contacts with him. That is really the quickest way of dealing with it.

MR IRVING: Will you turn to page 91 of bundle F, please. Is that a page from my diary dated July 22nd 1989?

A: Sorry, which page?

Q: 91 or thereabouts.

MR JUSTICE GRAY: Something may have gone wrong with the bundle.

MR IRVING: It has. Towards the end it has become a bit screwed up. It will be at the end somewhere.

A: No. I am sorry, I do not seem to have it.

Q: Bundle F?

MR JUSTICE GRAY: I think 91, oddly enough, seems to be missing.

A: Yes. I do not have it, my Lord.

MR IRVING: It will be one of the last two or three pages, a page headed July 22nd 1989.

MR JUSTICE GRAY: I do not have it. I think it should be after the Spectator letter, and it is not. Some people have it. I am sorry, I just do not have it.

MR IRVING: The content is almost immaterial. Have you found it, Professor?

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A: No, I have not, but I am familiar with it.

Q: It is a one page entry from my diary July 22nd 1989. Does it refer to my driving to a place called Vlotho, and meeting a general called Remer?

A: Yes. If it helps, this is dealt with in my written responses. It would hurry things up a bit.

Q: Now I come to the question which his Lordship wishes me to ask. Will you agree that this is the only one time or occasion on which I have ever met General Remer and had a conversation with him?

A: Yes. I will withdraw the "extensive and long term contacts". You had contacts with him in 1989 at that particular occasion that you mention. There Remer was present at Munich on 21st April 1990 when you were speaking. You were to have spoken to a meeting which was cancelled, a meeting alongside side Remer in 1991.

Q: I am sorry to halt your flood of rhetoric but can I read out to you your first sentence of paragraph 11, please?

A: You had plenty of close and repeated contacts with---

MR RAMPTON: I do believe that Mr Irving is occasionally guilty of discourtesy. My Lord. I would not interrupt a witness like that in that aggressive---

MR IRVING: I have to interrupt, Mr Rampton, because otherwise ----

MR RAMPTON: I am speaking to his Lordship, Mr Irving. Please remain quiet. I am making an objection to the way in

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which Mr Irving is attempting to harrass the witness.

MR JUSTICE GRAY: The objection is entirely well founded. Would you like to pick it up where you left off, Professor Evans, which was you were talking of a meeting in 1991.

A: Yes, and you had repeated contacts with Karl Philip, who was Remer's assistant in 1989 to 1991, page 1967. I mention the meeting in Munich again, and of course your Action Report website carried an obituary praising Remer as loyal to the old cause. So what I think I say I is that I withdraw "extensive and long term contacts" and I would say that you were in contact with General Remer in the period 1989 to 1991 1.

MR IRVING: Can I now read into the record therefore the sentence which you are withdrawing: "Perhaps the most sinister of the Holocaust deniers with whom Irving has had extensive and long term contacts was General Otto Ernst Remer", and it turns out I had a conversation with him only once. As your Lordship will see from the diary entry, it was an entirely proper conversation

where I interviewed him for the purpose of the Goebbels book and all the rest is waffle.

A: I have said I would withdraw "extensive and long term". I hope that satisfies you.

Q: On 197, five lines from the bottom, you say: "He (Irving in other words), was active" ----

A: No, sorry. That is a mistake. That is Remer.

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Q: So you are not suggesting that I was active in the HIAG?

A: No. That is a misunderstanding on your part, Mr Irving. It refers back to Remer early in the sentence.

Q: I continue: "He was active in the HIAG, an organisation for ex members of the SS with which Irving also had contacts".

A: Yes.

Q: Now what on earth is the source for that particular allegation?

A: The February 1979 issue of the HIAG house magazine Der Freiwillige, volunteer, carries an interview with you by someone called Joachim Cannicht, which I presume is a pseudonym, and one presumes therefore that contact with the magazine and thus with its parent organization were necessary in order to set up and carry out the interview unless you are telling me you did not give the interview or you were not aware of who was doing it.

Q: So a journalist does or does not have an interview with me, which he then passes on to a magazine which publishes it, which you say has contacts with the HIAG and out of that connection you say I had contacts with the HIAG. In other words, if I gave an interview to the Tablet, would I have contacts with the Pope? Is what you are suggesting?

A: I think that is very different. This is the house magazine of the Waffen SS Veterans Association, Mr Irving.

Q: It is exactly the same, is it not?

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A: It is not exactly the same.

Q: If a journalist comes and speaks to me and asks me for an interview, and I give him an interview, and he then passes that interview on to a magazine which is called Der Freiwillige, which I have never heard of from start to finish, and you say that that is the house magazine of HIAG, which may or may not be true, and you say this is evidence of me having contacts (in the plural) with HIAG?

A: Yes. I assume that someone must have set up the interview and that then you must have had the interview. Is this in the court's record, because I have a photocopy of this here. This is another one of my written answers. I am not quite sure why we are going through all these written answers to your written questions, I do not accept that you were not aware of who was doing the interview or where it was going to be published.

Q: But you are suggesting that I have contacts with HIAG, which is a pretty serious and almost indeed a repugnant allegation to make. You are saying I do not have just the one contact through a journalist but I have contacts in the plural with them. You have already withdrawn the previous part of this sinister allegation about being a contact with a sinister denier, Mr Remer, and it turns out that this contact too just turns out to be an interview with a journalist?

A: I do not think it is just a journalist, Mr Irving,

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otherwise why would he have adopted what appears to be ----

MR IRVING: What you think is neither here nor there. It is not evidence.

MR JUSTICE GRAY: Please, Mr Irving, there is no point in asking questions if you constantly interrupt the answers. I expect you have forgotten what the question is; I have certainly forgotten.

A: Yes. This is not just any old journalist who then gives you an interview and then kind of hawks it around until he somehow, by some extraordinary chance, comes across the house magazine of the Waffen SS Veterans Association and manages to find a spot for it there. This is clearly somebody who is acting on behalf of this organization and its house magazine who comes and interviews you.

MR IRVING: Then you invite two further questions. Have you found in my private diaries, to which of course you had complete access for the purposes of this trial, any suggestion of any contact between myself and the HIAG or any of its officials whatsoever?

A: No, I have not. That does not mean to say of course that there were not any.

Q: Have you found in all my files of correspondence, to which of course you have also had complete access by way of discovery, any suggestion of contact between myself and the HIAG whatsoever?

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A: No, but it is the sort of thing you would like to keep quiet, is it not?

Q: The sort of thing I would like to keep quiet? Are you suggesting that I have destroyed ----?

A: You have just denied all knowledge of this magazine and this interview, and you describe it as "some journalist" who came to you without your knowing what the source was and where he was going to place the interview.

Q: By your reference to "the sort of thing I would like to keep quiet", are you alleging that I have destroyed materials instead of properly discovering them?

MR JUSTICE GRAY: I did not understand that to be the allegation.

A: No.

MR IRVING: Because it is a very serious allegation to make. In fact, it is a criminal charge.

A: I am not saying you destroyed materials, Mr Irving.

MR IRVING: Destroying evidence instead of producing it for discovery.

A: I have no evidence that you have destroyed any.

Q: You have no evidence whatsoever that I have destroyed material, rather than produce it for discovery?

MR JUSTICE GRAY: He did not say that.

MR RAMPTON: What he said was it does not appear in the diary and he is not surprised it does not, considering what a tainted piece of information it is.

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MR IRVING: That is not what he said. We were talking about the letters.

MR JUSTICE GRAY: As a matter of fact, it is, Mr Irving, but I am not going spend time reading back the transcript to you because I am very anxious that we move on.

MR IRVING: The witness has referred to the obituary of General Remer. Can I ask that his Lordship be shown the actual text of the obituary to General Remer which I published?

MR JUSTICE GRAY: If there is a reason for my doing so, yes.

MR IRVING: Because he says I published an obituary of him praising him. In fact, I made it

quite plain that he is a reprobate and an unreconstructed Nazi, and I think that words like that should be before the court.

MR JUSTICE GRAY: Well, I suppose, yes, if you want me to look at it.

MR IRVING: Unless your Lordship wishes to move on, in which case we can move on.

MR JUSTICE GRAY: No. If you say that is wrong, I had better look at it.

A: May I just read it then? It is quite short.

MR JUSTICE GRAY: Yes, do.

A: General Remer is dead. "Famed German Army General Otto Ernzt Remer, who was forced into exile by Bonn in 1994, died in Spain 1985 on October 4th. Born in Brandenburg on December 18, 1912 Remer played the key role in crushing the uprising against Adolf Hitler by disgruntled officers

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and disaffected aristocrats on July 20th 1924 . Originally sent by the plotters to arrest propaganda minister Dr Goebbels, he learned that Hitler had survived the bomb, recognised His Master's voice on the phone, and acted swiftly against the plotters. His troops put them to death by firing squad in Berlin a few hours later. Described by baffled newspaper men as an unreconstructed Nazi, Remer remained loyal to the old cause. In 1950 he founded the socialist Reichs party. In March 1952 he was jailed for three months for slandering the July 1944 plotters as traitors. The SRP was banned. He allowed his name to be used by German revisionists publishing the Remer despatch in 1994, sentenced to two years jail despite his medals for heroism, advancing years and illness. He was wheelchair bound and breathed with an oxygen pump. He took refuge in Spain. The Spanish government resisted repeated demands by German prosecutors for his extradition, saying that his "offences" did not exist as such under Spanish law. He is survived by his widow Marie Oberstein."

MR IRVING: So I draw attention to the fact that he founded this neo-Nazi party, the Reichs party, and I say that he was described as an unreconstructed Nazi, and you left that out in the references that you published in your report.

A: By baffled newspaper men.

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Q: Yes.

A: I think the tenor of that obituary is positive, that is my reading of it.

Q: Proceed now to paragraph 15, please, on page 198, the last sentence on that line. You say that the activities which led to the imprisonment of my friend Gunter Deckert included translating a lecture".

A: Yes, I have got this.

Q: Are you aware of the fact that Gunter Deckert served a seven year prison sentence for translating that lecture? Do you approve of that?

A: I am not sure what the question is meant to elucidate.

Q: Just answer the question. Are you aware that he served a seven year prison sentence?

MR JUSTICE GRAY: It is a fair enquiry. So what?

MR IRVING: It goes indirectly to the political situation in Germany where all the historians are encouraged to write history one way, and they are sent to prison for seven years if they breathe a word in the other direction or if they even translate a lecture, my Lord.

MR JUSTICE GRAY: I do not think that has anything to do with this case.

A: Deckert is not an academic historian. He is Federal Chairman of the National Democratic

Party, which is an extreme right-wing political organization in Germany in the early 1990s. He has a number of convictions for

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incitement to racial hatred, insulting the memory of the dead, slandering the Chairman of the Central Council of Jews in Germany, and other similar offences. The activities which led to his imprisonment, I say, included translating a lecture.

MR IRVING: Are you answering the question or just making a speech?

A: I am, because you have misrepresented what I said in my report yet again Mr Irving. The activities which led to his imprisonment included translating a lecture given in 1991 by Fred Leuchter, denying existence of gas chambers at Auschwitz. Then I quote you, "Dear Gunter", you write to him, "I am shocked about what the police state has done to you yet again". You describe him as a freedom fighter and so on, defender of this great cause, which presumably is the cause of Holocaust denial.

Q: You say, "presumably is Holocaust denial"?

A: What else?

Q: Is this just your interpolation?

A: What is this great cause that you write about or speak about?

Q: I am only going to ask you one question. Do you approve of people being imprisoned for translating?

MR JUSTICE GRAY: No, you do not need to answer that question.

MR IRVING: Exactly. I do not really want to ask questions about Deckert here. I think this is not the appropriate

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place to ask questions about Deckert.

MR JUSTICE GRAY: Then we can move on.

MR IRVING: I was rather shocked that he was allowed to continue just reading out the whole of that paragraph. In paragraph 16 you summarize. You say: "In general, therefore, Irving's close association with virtually all the most prominent Holocaust deniers in several different countries demonstrates once more that he is to be counted amongst their number". How many have you actually dealt with in this chapter? About five people?

A: Goodness. Do you really want me to count, Mr Irving?

Q: Of the order of five or ten? I am not counting their fathers, just the actual people.

A: I think the senior Hancock is a Holocaust denier. Eleven, I think.

Q: Eleven.

A: There are not very many of these people.

Q: There are not very many, exactly, and we have already discovered that I had no contact with Mr Ahmed Rami, who is paragraph 13.

MR JUSTICE GRAY: We have dealt with Mr Rami.

MR IRVING: I am just saying, my Lord. I am just knocking some off this 13.

MR JUSTICE GRAY: We not going to go back through all of them.

MR IRVING: We have discovered that General Remer in fact was only talked to once. This is the quality of the evidence

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I am up against. This grandiose closing sentence, "Irving's close association with virtually all the most prominent Holocaust deniers".

MR JUSTICE GRAY: This is cross-examination, Mr Irving, not a speech. So move on to your next question, if you would?

MR IRVING: Then on page 200, you conclude at 3.6.1.: "Not everyone who has studied Irving's writings and speeches in the 1990s has reached the conclusion that he has become a consistent and undeviating Holocaust denier". You then mention one or two cases, do you not, and immediately bang them on the head for it?

A: Well, I felt it fair to mention that. I did not want to suppress that fact.

Q: Do you accept what they say?

A: No, I do not.

Q: Halfway down that paragraph you say: "Moreover, in the course of his conversation with Rosenbaum", now he is a Jewish writer, is that correct?

A: That had not occurred to me actually. If you say he is Jewish, I do not usually think about whether people are Jewish or not when I read their writings.

Q: Answer my question. Is it likely that if he is a Jewish writer he is probably not going to be disposed to me in a very friendly way initially until he gets to know me, is that correct?

A: No, it seems to be -- I do not accept that, no.

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Q: "Moreover, in the course of his conversation with Mr Rosenbaum, Irving admitted", you say, "of some Holocaust deniers 'that there are certain organizations that propagate these theories which are cracked anti-Semites'". Does that show that I am a great admirer of these organizations?

A: Well, I do not know. You do not say, or Rosenbaum does not say, what organizations you are referring to, so it is impossible to guess.

Q: Well, you would not expect a Holocaust denier like David Irving roundly to dismiss other organizations of Holocaust deniers as "cracked anti-Semites"?

A: Do you do not mention what those organizations are. It would be more plausible, more plausible if you did.

Q: Well, what organizations do you think I was talking about there.

A: I really ----

MR JUSTICE GRAY: Why do you not put to the witness which organizations you...

MR IRVING: My Lord, that was going to be the follow up question when he answered, "No, I do not know which ones" and I was going to say could it possibly be -- would I have been talking about the Institute of Historical Review?

A: You do not mention them.

Q: Yes. Would I have been talking ----

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A: It is impossible to tell who you are talking about.

Q: Are you surprised to hear somebody ----

A: As I say here, you say this without actually saying who you meant by this or what kind of damage or harm you are referring to ----

Q: Does it surprise you to hear that ----

A: --- the damage done to you.

Q: --- I regard a number of these Holocaust deniers as "cracked anti-Semites"?

A: I have not read anything that you have written that refers specifically to any specific individual or organization as being "cracked anti-Semites", only these very, very general statements which really have very little value because they have no precision, no reference.

Q: They have no precision, but this is as represented by a neutral observer who has spoken to a lot of authors, and do you accept that -- are you surprised to read in a book that I have described Holocaust deniers as "cracked anti-Semites"?

A: I have -- some Holocaust deniers. What you say, "there are certain organizations that propagate these theories which are cracked anti-Semites" but it is impossible to say who you are referring to.

Q: Now, Rosenbaum's book was reviewed, thank goodness, by Norman Stone who pointed out that Rosenbaum is yet another of these ignorant, negligent reviewers whom have met

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before, is that is correct; that he had not done his homework and he did not know enough to write such a book properly? Is that the next paragraph's burden, 3.6.2?

A: Let me just have a look. He says that stone was critical of Rosenbaum. He said he could not follow subjects, he had misunderstood one of books he was writing about. That is certainly the case, yes. It is a critical review.

Q: Yes. So why did you mention the Rosenbaum book because you do accept that there are serious authors out there who accept that I am not a Holocaust denier and that I do have differentiated views and that I regard Holocaust deniers as "crack pots" and you could not get passed this?

A: Nobody says that you regard Holocaust deniers as crack pots. What you say is that there are certain organizations, unnamed, that propagate these theories which are cracked anti-Semites. You do not say that all Holocaust deniers are crack pots.

Q: Does it matter what the name of the organization is if I just refer to Holocaust ----

A: Yes, of course it does because this is so vague it is completely meaningless. It is just -- I mean, one could read this as just some kind of alibi. It has no reference at all. It is a meaningless statement unless you actually say who you are talking about.

Q: I could hardly be more specific.

MR JUSTICE GRAY: Put to him the organizations that you regard

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as consisting of cracked anti-Semites. Is the IHR one of them?

MR IRVING: I did, my Lord, and he waffled. We did not get a clear answer.

A: Well, let me say ----

MR JUSTICE GRAY: So your case is -- I want to be clear about this -- you do regard the IHR as an organization consisting of cracked anti-Semites, is that your case?

MR IRVING: I think that the correct thing to say there is that it consists of some elements which are cracked anti-Semites. I do not think I would wish to brand an entire organization. As far as I know, some of the officers of that organization, I would regard them as cracked anti-Semites. That is the point I wanted to make plain in my discussion with Mr Rosenbaum, but I would respectfully submit ----

MR RAMPTON: I would like to know who those people are. It has some bearing on what is to come.

MR IRVING: Your time will come in cross-examination, Mr Rampton, to ask that question, and

it would be helpful if you did not interrupt. I would say that ----

MR RAMPTON: Perhaps it would have more value, my Lord, if it came directly now, otherwise we may find a list composed later.

MR JUSTICE GRAY: Well, if I may say so, Mr Rampton, since Mr Irving has taken the point that he does not want to say

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at this stage in the course of his cross-examination of Professor Evans, I think he is entitled to say that.

MR RAMPTON: All right.

MR IRVING: And I would respectfully submit ----

A: However, Mr Irving, if you were, of course -- if you do think that the certain organizations that propagate these theories and certain organizations, not individuals, which are cracked anti-Semites and if the Institute of Historical Review is an organization which is cracked anti-Semites, then it is extraordinary that you should have spoken so regularly at their meetings in the course of the 1990s.

Q: Do you consider this view, as you just stated, expressed to Mr Rosenbaum, as a kind of alibi that I just use to people like him?

A: Well, in its vagueness, it sounds rather like that to me, but I am speculating there. I am simply quoting your statements here.

Q: Is this the only occasion when I have expressed such a view, to your knowledge, having had complete access to all my papers?

A: I think there is one other occasion, but I cannot recall exactly where it is.

Q: Can I suggest you look at page 90 of my bundle, please?

A: Ah, yes.

Q: A letter to "Dear Connie" -- does your Lordship have it?

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MR JUSTICE GRAY: Sorry, when you say your bundle, do you mean F?

MR IRVING: Bundle F, yes.

MR JUSTICE GRAY: 90, that is a letter.

MR IRVING: "Dear Connie"?"

A: Yes, I have this, yes.

MR JUSTICE GRAY: "Dear Miss Kadashka" I have got at page 90.

MR IRVING: No, it has to be "Dear Connie".

MR JUSTICE GRAY: Mine is 89, but it does not matter.

MR IRVING: Is this letter dated June 24th 1988?

A: It is, yes.

Q: Is this about two months after I read the Leuchter report, in other words, two months after the Zundel conference -- the Zundel trial?

A: The trial.

Q: Yes.

A: You will have to remind.

MR JUSTICE GRAY: I think that is right. Take it from me.

A: Is that right? OK.

MR IRVING: Can I read to you the final paragraph or the bits thereof? First of all, looking at the

address at the bottom, am I writing to my publishers, William Morrow & Company in New York

A: Yes.

Q: --- who published the Goring biography. "I have been invited to speak as a guest speaker at a right wing

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function in Los Angeles next February. They have offered a substantial fee and all my expenses and until now I have adopted a policy of never refusing an invitation if the organizers meet my terms, namely free speech and fat fee. On this occasion I intend to give the audience a piece of my mind about some of their more lunatic views". Does it say that?

A: It does indeed, yes.

Q: So, in other words, I do not just express views about crack pot anti-Semites and crack pot ideas or whatever as an alibi, but on the evidence of this letter (which I found in the early hours of this morning by chance) on quite a few occasions I have expressed robust views about people I associate with?

A: This, Mr Irving, is not evidence of what you actually said at this meeting, if you indeed went to it. It is simply a letter to a publisher, obviously. You do not say what their lunatic views are and there is no evidence here that you have gave them a piece of mind.

MR JUSTICE GRAY: Who was the right-wing organization holding a meeting in?

MR IRVING: That was the IHR, my Lord. That was precisely this body, the Institute of Historical Review, who at that time were under different management, if I can put it like that.

MR JUSTICE GRAY: So the lunatic views attached to the old

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management, not to the present regime, is that it?

MR IRVING: I shall be submitting to your Lordship at the proper occasion that as the years passed, I tried to persuade them to adopt a more serious profile, to invite respected historians as well as more unorthodox revisionist historians and try to straighten their act out, if I can put it like that. There is correspondence ----

MR JUSTICE GRAY: So you did have an association that enabled you to bring that sort of pressure to bear, did you?

MR IRVING: Oh, yes. They looked to me. They were constantly wooing me and I wrote them letters saying, "In my view, you should do this and you should do that", and I am sure they got similar advice from other people.

MR JUSTICE GRAY: Thank you very much.

MR IRVING: Thank you. So do you accept that on the basis of those two letters I had a robust attitude towards the Institute which indicated I was in no manner travelling in their tow or in their wake?

A: Sorry, what is the other letter?

Q: Well, on the basis of the Ron Rosenbaum ----

A: Ah, yes, the interview.

Q: --- matter and this letter.

A: I have to say that on the basis of having read your speeches or articles in the Institute and its Journal that you did come to them in the 80s for the first time that

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you went to speak at the Institute with what seems to me like a certain apprehension of the fact that your views would differ somewhat from theirs, but this disappears, in my view, entirely in the 1990s when you were a regular attendee at their conferences and a regular speaker.

Q: At their conferences I regularly rubbed their noses in what actually happened in the Holocaust and that I read out the Bruns' interrogation report in all its gory detail of the shootings on the Eastern Front, and that I was held up to criticism by some of their members for doing this?

A: You read out parts of the Bruns' report, excluding the reference to Hitler's order which we went through sometime ago in this trial. You have a very selective version of it. I think you did say at the beginning of this trial you had not actually read it out before.

I do not deny that there were some arguments in discussion (as there always is in discussions) after your speeches, but in the 1990s I think you were purveying the same views as they had on the whole. There were some minor differences between yourself, in particular, Professor Faurisson, but your speeches to the Institute of Historical Review did not meet with jeers and cat calls, as I recall.

Q: They did not meet with jeers and cat calls. Do you believe that a body like the Institute of Revisionist Historians, or whatever they call themselves, performs any

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useful function at all?

A: No.

Q: Do you accept that without the existence of such a body there would have been such major concessions in the Holocaust story that have occurred since the end of World War II?

A: No, to the question and no to the premise.

Q: Have there been major concessions in the story since the end of World War II?

A: You would have to tell me exactly what they were and demonstrate that they were based on the work of the Institute of Historical Review before I accepted that.

Q: Is it true that the Israeli authority at Yad Vashim now officially agree that the Nazis never manufactured soap from bodies?

A: I think that has long been the case. Indeed ----

Q: Can you put a date on it?

A: No, I cannot, no.

Q: Was it about 1989?

A: I would have to see documentation of that.

Q: Do you agree that the figure of Auschwitz has been brought down from 4 million to 1.5 million?

A: We have already been through that.

MR JUSTICE GRAY: We had this, I think, last Thursday.

MR IRVING: I am just trying to look at the concessions that have been made largely as a result of revisionist

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agitation, if I can put it like that?

A: I do not think, Mr Irving, that that was the result of the work of the Institute of Historical Review which was not founded at the time that that number was changed.

MR IRVING: Have you read the work of Michael Berenbaum -- I am sorry, of Aberhard Jackeln who states that it was not until 1977 that the whole of this Holocaust research industry began, that the historians started doing their job?

A: I think we have already been through that, I think, when you cross-examined Professor Browning, that certainly I would need to see a copy of that statement by Professor Jackeln, but if he does say that, then he is certainly not correct.

Q: You would not agree, therefore, that the revisionists, having created the Aunt Sally which the genuine historians needed, the scholars needed, you do not agree with the premise that the scholar would not have done the job as rigorously as they have had to?

A: No, not at all, no. I have to say, on the whole, I do not serious scholars pay any attention to the work of the Institute of Historical Review at all.

MR JUSTICE GRAY: Mr Irving, I wonder whether the time has not come to move on to what is important which is page 205, what you have written about Hitler.

MR IRVING: Well, I, in fact, leapt on to page 207, my Lord.

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MR JUSTICE GRAY: Good.

MR IRVING: Would you look at that quotation at the top of page 208?

A: 208? Yes.

Q: Yes. Have you left anything out of that quotation, do you think?

A: Not that I can see.

Q: It is about the euthanasia programme, is it not?

A: Yes.

Q: If I start reading about where it says: "About a quarter of a million hospital beds", I am going to read it from the book which is the actual source, which is the 1977 edition at page 20?

A: Could I have a copy, please? Page 20?

Q: Yes. "About a quarter of a million hospital beds were required" -- this is the actual text -- "for Germany's mental institutions for Germany's disproportionately large insane population, a result of centuries of lax and indiscriminate marriage laws: of some 7 or 800,000 people all told, about 10 per cent were permanently institutionalized. Others were in and out of hospitals. They occupied bed space and the attention of skilled medical personnel which Hitler now urgently needed for the treatment of the casualties of his coming campaigns". You missed passages out without indicating it, have you not?

A: Let me just have a look at this.

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Q: Three passages have vanished?

A: Well, let me try to sort this out. Certainly, those two passages, the passage you read and this passage, would seem to indicate that. Now, here I refer to, it is actually pages 227 to 8 of the 1991 edition that I am citing, as you can see from the bottom of the previous page. Could I have the 1991 edition, please? We have 227 to 8. No, it is the wrong one. 227 to 8.

MR JUSTICE GRAY: About a third of the way down.

A: Right, let me read this from page 227 of the 1991 edition: "About a quarter of a million hospital beds were required for Germany's disproportionate large insane population: of some 7 or 800,000 victims of insanity all told, about 10 per cent were permanently institutionalized. They occupied bed space and the attention of skilled medical personnel which Hitler now urgently needed for the treatment of the casualties of his coming campaigns".

So I have quoted absolutely correctly from the source that I give without any omissions at all.

Q: But you have not actually realized that, in fact, the original quotation was fuller and you

preferred the abbreviated version to base your ----

MR JUSTICE GRAY: Mr Irving, really! What sort of a point is that?

MR IRVING: Page 209.

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A: May I just say, Mr Irving, I think you are entirely right to condense that quotation because the reference to lax marriage laws in 1977 is entirely wrong. German marriage laws up to the middle of the 19th century, in most of south Germany, at least, were extremely strict. As you say yourself, you are condensing all the way along. There is no fault in that.

Q: Page 209, paragraph 4.1.8 please. This is the Night of the Long Knives?

A: Sorry, could you remind me?

Q: 4.1.8, 209?

A: 209? Yes.

Q: 209, you say in the final sentence of that paragraph 4.1.8: "Irving defended the Night of the Long Knives in June 1934". This is rather like saying I applauded the Holocaust, is it not?

A: No, I think it is somewhat different.

Q: I "defended the Night of the Long Knives"?

A: I go on in the next paragraph to outline your views. You say that "the SA was planning to" was underlined -- "overthrow Hitler's government". "In an act of rare magnanimity Hitler ordered state pensions provided for the next of kin of the people murdered in the Knight of the Long Knives. Even so he began to suffer nightmares and could not sleep" although, in fact, as I point out, Hitler personally marked crosses against the names of

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considerable numbers of people that he ordered to be murdered.

Q: I am going to come to that in a minute. The idea of defending the Night of the Long Knives suggests that I defended the murder of people when they were planning a revolution?

A: Well, the nub of it, of course, is were they planning a revolution or not.

Q: Well ----

A: And in any case, and also, of course, the murder, that was done wholly outside the judicial process.

Q: If I establish in a biography of Hitler that, in fact, these SA leaders were plotting something, this is not the same as defending their murder, do you agree with that?

A: I think it is -- I am prepared to jettison the word "defending" and say "excusing". We have been down this road before.

Q: "Excusing" is almost as bad as "defending". But can we now move to the next paragraph where you are saying that the charges were trumped up. Do you not accept that the brown shirt movement were, in fact, planning the overthrow of the Nazi government of Germany?

A: I think the evidence is very thin.

Q: Have you read various works on the subject, for example, by Heinz Werner?

A: I have read some.

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Q: So you have read some works, but just on the basis of having read some works, you are prepared to say that I am wrong and that these other authors are wrong?

A: Well, let me see what I say. You see: "Most authors have seen the Night of the Long Knives as a shocking violation of moral and legal norms" ----

Q: Yes.

A: ---- "in which Hitler not only brought retrospectively trumped-up charges against the SA leaders of plotting a coup, but also used the opportunity to bump off politicians, such as Kurt von Schleicher and Gustav von Kahr, who he felt knew too much about his past, or whom he simply strongly disliked, and against whom no conceivable political suspicions could be directed in 1934".

Q: On the basis of your limited knowledge of the Night of the Long Knives, what evidence do you have that Hitler ordered the murder of Schleicher which was an appalling act -- there is no question -- that Hitler was personally involved in that? Do you have any evidence?

A: I do not present it here, no. I would have to do some research on that.

Q: And what evidence do you have for saying that Hitler personally ----

A: Let me respond to that by saying can you present evidence that he did not? Maybe that is the way to go.

Q: Are you familiar with the excellent paper on the murder of

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General Schleicher that was published by the Institute of History about 35 years ago, giving the entire background of the case?

A: I thought you did not read work by other historians, Mr Irving.

Q: For some historians I make exceptions?

A: Ah, so you do read work by other historians?

Q: This was a documentation. You appreciate the difference between a documentation and a book? Two lines from the bottom you say: "Hitler personally marked crosses against the names of scores of people on the night in question". What evidence do you have for that?

A: That is what I understand from my reading. I agree, I cite in footnote 11 the sources which I have used for my extremely brief account of this.

Q: So this is one of those cases where the historian has sat in his book lined cave and taken four books off a shelf and written a fifth, effectively?

A: No.

Q: He has not really added to our knowledge?

A: I do not think -- oh, you mean me?

Q: Yes.

A: Well, if you can show that they are wrong or somebody can show that they are wrong, then I would be quite happy to accept that.

Q: If you can take it from me that Field Marshal Milch

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described to me personally, sitting at the Execution Council, together with Himmler and the other leading members of that gang, watching as Himmler read out a list of names and they personally approved and wrote little ticks against the names of those to be liquidated which were handed out through the door to the flunkers who ordered it carried out, that this was the way the Execution Council took place, and that Hitler was nowhere near, would you accept that version? It is contained in one of the books you have read, the rise and fall of the Luftwaffe?

A: No, Mr Irving. That is a recollection a long time after the event. It is not a contemporary document. You yourself would be the first to impugn the reliability of that source if that source if

it said something you did not like.

Q: Would you accept that Milsche kept diaries throughout that episode and also that Milsche would hardly relate something to me which under circumstances could be taken as counting against himself if he was a participant in or an eyewitness of this Execution Council?

A: Well, this is getting rather hypothetical. If you present to me documents that demonstrate that what I say here is wrong, I will be quite happy to accept it.

Q: That is not the way it works, Professor.

A: I thought it was the way it worked.

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Q: You are saying here in an expert report which you now concede is written on rather flimsy evidence that Hitler personally ----

A: I do not think I did that at all, Mr Irving.

Q: --- marked crosses against the names of scores of people?

MR JUSTICE GRAY: I think if you are wanting to say that there is documentary support for what you write, Mr Irving, and for what Professor Evans criticises, you really ought to be equipped to show Professor Evans what you rely on. For example, I mean, did you record what General Milsche was telling you about the absence of Hitler, and so on?

MR IRVING: I wrote a whole book about it, my Lord. I wrote his biography. He provided his private diaries to me and that has been in discovery and in evidence to the Defence throughout this case, and I really do not want to hold up the matter by producing evidence for that. I have only been delayed by the fact that the witness has admitted that his evidence for these assertions was based on -- his own concession -- very limited sources.

MR JUSTICE GRAY: Yes.

A: I do not think so I said that.

MR JUSTICE GRAY: I do not think he did, but the point is that it is not terribly satisfactory to have cross-examination by assertion, if you follow me.

MR IRVING: Yes.

MR JUSTICE GRAY: Sometimes I think it is going to be necessary

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to give chapter and verse for what you are asserting.

MR IRVING: Yes.

MR JUSTICE GRAY: And I know that makes life difficult for you.

MR IRVING: It is a flimsy assertion against an even flimsier submission by the witness, if I can put like that. The final sentence there, witness, Professor Evans, is you say, you have quoted where I say: "Hitler ordered state pensions provided for the next of kin of the people murdered in the Night of the Long Knives, as June 30th 1934 came to be known"?

A: Yes.

Q: Do you have any reason to challenge that statement?

A: No, I do not.

Q: You have held it up there for the delectation of his Lordship and others as those it is slightly incredible?

A: Well, I am giving your views on Hitler here. This is the context.

Q: Should I have cut that out then?

A: You describe Hitler as a dictator by consent, he had an act of rare magnanimity in ordering state pensions, he was a "friend of the arts, benefactor" -- I am quoting you here -- "benefactor of

the impoverished, defender of the innocent, persecutor of the delinquent" ----

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

A: --- this is what I am trying to establish here.

Q: But are you suggesting, therefore, that if Adolf Hitler in

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this rather odd act of generosity, I suppose, ordered bloated pensions provided to the widows of those he has just murdered that I should somehow suppress this because 20 years later Professor Evans is going to stand in a witness box and say, "This is evidence of Mr Irving's admiration for Hitler" that I should not have mentioned it, therefore.

A: It seems to me that it is evidence of your admiration for Hitler.

Q: And you would not, therefore, have mentioned this document; you would have pretended this document did not exist? Is that the way you would work?

A: I do not understand the question there.

Q: I cannot understand -- let me put it ----

A: Oh, I see what you mean.

Q: If you were writing a biography of Hitler, would you have left this document out?

A: Which document?

Q: The reference to the pensions.

A: Well, I would have to see the document before I could answer that question.

Q: If you were writing a biography of Hitler and you came across a document which said: "The Fuhrer has ordered pensions paid to the next of kin of those executed in the Night of the Long Knives", would you have left it out?

A: No, of course not.

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Q: Yes. So, in other words, you are criticising me for doing something that you too would have done, is that correct?

A: Well, that is to say, if the document bears, you know, sustains the interpretation you put on it.

Q: Now, moving on to the final sentence of that paragraph where you mockingly have quoted where have apparently said: "Hitler, according to Irving, was a 'friend of the arts, benefactor of the impoverished, defender of the innocent, persecutor of the delinquent'", is this not -- my memory may be wrong and his Lordship is already looking it up -- a slightly mocking entry at the beginning of a chapter where, having set that out, I then ----

A: Sorry, could I have the 1991 edition? The first section, the first file?

Q: Has your Lordship find it?

A: 109.

MR JUSTICE GRAY: Yes, I have.

MR IRVING: Yes. I do not have it in front me, but my recollection is that the way I used that was slightly mockingly offsetting it against what then follows.

A: I do not think that offsets it. This is the "popular dictator, friend of the arts, benefactor of the impoverished, defender of the innocent, persecutor of the delinquent. In an early Cabinet meeting in June 8th 1983 he had come out against the death penalty for economic sabotage, arguing, 'I am against the death sentence

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because it is irreversible. The death sentence should be reserved for only the gravest crimes, particularly those of a political nature", and so on. So it does not seem to be a kind of ironic or sarcastic setting off.

Q: Then is there what we call a topic sentence for what follows, that having set out the topic sentence, I then hang the meat on it, so speak?

A: I do not think -- I mean, it is there in black and white. "Friend of the arts, benefactor of the impoverished, defender of the innocent, persecutor of the delinquent".

Q: But do you agree that what follows then effectively hangs the meat on that particular topic sentence?

A: Well, it refers back both backwards and forwards. If you like, it is a linking sentence.

Q: Yes. Can you now go forward please to page 213?

MR JUSTICE GRAY: Are you leaving the Night of the Long Knives.

MR IRVING: I have left it entirely, my Lord, yes.

MR JUSTICE GRAY: Can I just ask one question? Professor Evans, it seems to me -- I may be wrong about this -- the sort of main point on the Night of the Long Knives is whether or not Hitler was in any way complicit or involved in the murder of 90 former associates of the Nazi Party?

A: Yes, that is correct, my Lord.

Q: Mr Irving has, as I understand it, put to you that Hitler had nothing to do with it, it was Heydrich?

A: I am not sure that is what he says.

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MR RAMPTON: I think the position is in the book Hitler is guilty of seven only ----

MR JUSTICE GRAY: I see.

MR RAMPTON: --- out of 82 or 90, whatever it is.

MR IRVING: Can I be more specific? He was guilty originally of seven. Eventually, over the next few days he was told it was 84 or 90 and in private he expressed annoyance to the people who brought the message saying, "It has got out of hand" and this is the evidence of the Adjutants Bruchner and Schaub, whose papers I quoted on various occasions, and, in fact, there is a letter written by Victor Lutze, who was the successor of Rume to Himmler four years later harking back to that period saying that the Fuhrer was very angry that so many people had been killed, including some of his closest friends. That is one sentence that sticks in his mind.

MR JUSTICE GRAY: So to that extent, I am grateful to you, Mr Rampton, he is disapproving what happened, and I just wanted to know, Professor Evans, whether in the light of your knowledge of what happened, whether that is an account you accept?

A: No.

Q: Can you elaborate slightly?

A: Sorry. I have been asked to keep my answers short.

Q: I know. It is very difficult to get it right.

A: No, Hitler was directly responsible for these murders and

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these crimes.

MR JUSTICE GRAY: Thank you. I am sorry, Mr Irving.

MR IRVING: In that case I will just have to re-examine briefly on that. You say he is directly

responsible. Do you have any evidence whatsoever for that statement on the basis of your admittedly flimsy reading on the matter?

A: Yes, certainly. I mean I quote this in footnote 11 of page 209.

Q: Other authors. Had any of them had access to the private diaries of Dr Joseph Goebbels covering the Night of the Long Knives which I had?

A: Yes, Kershaw's Hitler certainly and Fry's National Socialist Rule in Germany, both of those. The third book I mention there is not really about that, but about the legal proceedings after 1945 concerned with trying to bring the perpetrators to justice.

Q: Have you read Kershaw's Hitler in this respect?

A: Yes, I cite it there.

Q: Would it surprise to you notice that he has made no use whatsoever of the new Goebbels' diaries, and corresponded with him about this?

A: In the entire book?

Q: Yes.

A: I would have to check that up. I find that difficult to believe.

Q: Can we now ----

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A: It depends what you mean by the "new Goebbels' diaries".

Q: Well, the ones that I found in Moscow, the ones that I brought back from Moscow in 1992.

A: I do not think that is right, Mr Irving.

Q: Well, I shall leave my question as it was, that I corresponded with him about that and does it not surprise you to hear that he told me he had not made use of them?

A: It does because that is not my understanding. You would have to show me the letter before I could accept that.

Q: Yes, but we are going to make progress now, please, to page 213. We are now dealing with the assassination, with various things on which I appear to have exonerated Hitler. Beginning with the previous page: "Charles Sydnor found that I portrayed Hitler not as a monster but as a fair-minded statesman of considerable chivalry."

Would you have portrayed Hitler as a monster, Professor Evans? Do you think that Hitler should be portrayed as monster?

A: I think I am summarizing Sydnor there.

Q: Yes, but I am asking you. Do you think that Hitler should be portrayed as a monster? In other words, am I to be criticised for not portraying Hitler as a monster?

A: Well, let us take the full sentence there, not as a monster but as a fair-minded statesman of considerable chivalry, who never resorted", and so and so forth: "Who

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never resorted to the assassination of foreign opponents; who never intended to harm the British Empire and wanted peace with Britain after June 1940, and who attacked the Soviet Union in 1941 only as a preventative measure." This is Sydnor. This is in a section in which I am commenting and begins in the middle of page 210. I am recounting a number of authors who have considered that your position is extremely favourable to Hitler. I think here again I am trying to -- I am in a slight difficulty that I am quoting the views of other authors -- I am trying to establish that it is not merely a quirk of Professor Lipstadt that she says that you are an admirer of Hitler, because this is a view that has been adopted by a number of other writers. If you want me

to say whether Hitler was a monster or not ----

Q: That was the question.

A: --- if you want to put in those terms, yes, he was a monster.

Q: Yes, he was a monster.

A: It is undeniable.

Q: We now turn the page, the specific allegations are that I said that he never resorted to the assassination of foreign opponents. Is that correct? Is that a true statement?

A: This is what Sydnor says, how Sydnor says you portray Hitler. He is not ----

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Q: But you have quoted him.

A: Yes, I am quoting him.

Q: Can I ask you on the basis of your knowledge as an historian of that period ----

A: I am not quoting Sydnor as saying that all these things are entirely wrong.

MR JUSTICE GRAY: That is where we get into difficulties, is it not?

A: Yes.

MR JUSTICE GRAY: What we want to concentrate on, Mr Irving, I think is really where Professor Evans states his own views.

MR IRVING: Rather than the views of other people about views of other people.

MR JUSTICE GRAY: Rather than the views of other people.

MR IRVING: Yes.

MR JUSTICE GRAY: It is not your fault that you pick up these references to other historians because they are there to be picked up, but what is going to help me is when you tackle Professor Evans about his views about your portraying Hitler in a favourable light rather than more accurately.

MR IRVING: Yes. On the facing page -- I will try to move forward and your Lordship will appreciate that I am abandoning good points there. I am doing it willingly in the cause of making court progress.

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MR JUSTICE GRAY: Yes. I have tried to say that I understand why you are being distracted, as it were, by these references to other historians. That is not your fault.

MR IRVING: On the foot of page 214 you have, metaphorically speaking, raised your eyebrows at the fact that one of Hitler's doctors recorded in his diary the fact that Hitler had described his future biographer in terms that appeared to fit me, if I can put it like that?

A: Yes. An interesting ----

Q: Yes, a very simple question.

A: --- put.

Q: If that diary does exist then I am perfectly justified to quote that whole passage, am I not?

A: Yes, it is an interesting comment on your attitude of your mission.

Q: A comment on my attitude?

A: Yes, what you conceive was your mission.

Q: If you had got that diary first, you being admittedly not English but Welsh, I suppose you would still feel yourself qualified by Hitler as being an Englander?

A: I think that Germans, unfortunately, do include the Welsh amongst the English, yes.

Q: Yes, unfortunately. You would have quite happily have quoted that, would you now, if you

were writing a Hitler biography and you came into possession of that diary, you too would quote it, would you not?

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A: I would have been too embarrassed I think.

Q: Too embarrassed?

A: Yes. I certainly would not want to give the impression that all these things the Doctor says would apply to me.

Q: Well, some of them do not of course?

A: It is a very tempting quotation, but I think I would have added that after the end of it "this is not me". He records Hitler saying: "Perhaps an Englishman will come one day who wants to write an objective biography of me. It has to be an Englishman who knows the archives and masters the German language, and that is why you are getting the diaries, Mr Irving, the doctor said." I think I would have said: Well, I am not going to fit the bill. I am not, as a biography of Hitler, his ambassador in the afterlife.

Q: Does this explain to you why so often I manage to get hold of these unusual documents, and there was no kind of bribery or promising involved? These people just turned this material over to me?

A: Does what explain?

Q: This kind of episode that I ended up with the good fortune.

A: You have to give a little more detail.

Q: Let us move on.

A: I am not sure what you mean by that.

Q: The foot of page 216.

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A: The fact that you are English I do not think makes a great deal of difference.

Q: No, but the fact that I knew the archives and I have taken the trouble to learn the language as an Englishman?

A: Well, obviously it would be pointless if you did not know any German.

Q: At the foot of page 216 you state, again without any evidence, that there was massive intimidation of the electorate in the 1938 plebiscite?

A: Yes.

Q: Do you have any proof of that?

A: Yes, this is the context where you simply say that Hitler had risen from nobody, become the admired and respected leader of two great nations. Just five years after 1933 he got 49 million Germans to vote for him which was 99.8 per cent of electorate. In my response to your questions of 4th January 2000, your written questions, I have two whole pages accompanied by a considerable amount of documentation of the intimidation which took place in the plebiscite of 1938. I am not sure -- would it save the court's time if I could just refer to this without actually going through it?

MR JUSTICE GRAY: I think so to begin, and then if with Mr Irving wants to follow it up then he can.

MR IRVING: Perhaps I can just ask you in general: Was there any evidence that there was not a secret ballot?

A: Yes, there was. Yes.

Q: In what way do you have that evidence? Is it contemporary evidence?

A: Well, there are reports on the plebiscite, official reports from electoral authorities which I quote on page 2: "Members of the Election Committee marked all the ballot papers with numbers. During the ballot itself a voters' list was made up."

Q: This is well-known, is it not, but that is not intimidation, is it?

MR JUSTICE GRAY: Do not keep interrupting, Mr Irving. It destroys the whole object of the exercise.

A: The ballot papers were handed out in numerical order. Therefore, it was possible afterwards with the aid of this list to find out the persons who cast no votes. The Gendarmerie stationed in the Bavarian village of Elsass reported that the ballot papers of people regarded as unreliable had been marked. Reports from the XR leadership of the Social Democrats, so-called day reports, who have numerous instances, they have a whole section which I include here in the documents on the lack of secrecy in the voting.

MR IRVING: Is this evidence of intimidation?

A: No. It is evidence of lack of secrecy in the voting, which is what you asked the question about.

Q: Is there evidence of intimidation?

A: Yes, there is evidence of intimidation. Do you want me to go through it? I list it again here and provide documentation.

Q: The fact that ballot papers are marked, just as they are in England, and numbered, is not evidence of intimidation of any kind of hanky-panky, is it?

A: No. It is evidence of lack of secrecy of the ballots, as the source I quote says, it was possible with the aid of this list to find out the persons who cast no votes.

Q: Yes, but how would this lead to a 99.8 per cent vote?

A: Ah, because there was enormous -- because, of course, people suspected that, well, this is one element in a number of elements in these elections. People obviously, I think, quite clearly suspected that if they cast a "no vote", and rightly suspected if they cast a "no vote", it would be identified as theirs and they would suffer the consequences. In addition, there was a huge effort in which agents of the Nazi Party and various other organisations known as Schleppe or people who drag, really carriers or draggers of voters to the polls, went round on a number of occasions asking people to vote, sending them written warnings if they did not, going to visit them, and then later on, and I quote a number of examples, physically maltreating those who did not vote, taking them off to lunatic asylums, expelling the Catholic Bishop of Rottenburg from his diocese when he refused to take part

in the vote; dismissal of a street warden in Steischlinger for telling people his boss had said that people could vote whichever way they wanted, which the boss of course denied. There was someone who was identified as voting "no" in another community, according to a by day report, was identified dragged through the local pubs of the brown shirts and put a sign on her back saying "I am traitor" and spat at her. There were numerous arrests of known opponents of the

regime before the vote, 250 people who were thought to be opponents of the regime were arrested in Leipzig before the vote and then released just in time to go to polls. So that it is quite clear what the intimidatory effect of that was.

Q: Are those kinds of measures sufficient to get a 99.8 per cent turn out in favour of Adolph Hitler, do you think?

A: That is a different, that is a somewhat different question. What I say is that I think it is clear that there is no, I do not know of any democratic and free election in which anyone has got 99.8 per cent of the vote.

Q: Would you agree there was a mass ----

A: Had the election been free, what the vote would have been is another matter. It is a matter for conjecture. What I am saying, in other words, is that the difference between whatever the result would have been in a free election and the amazing 99.8 per cent is the result of

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intimidation, pressure, lack of secrecy of the ballot.

Q: Would you agree there was a massive propaganda effort to lead to this huge turn out?

A: There was indeed a massive propaganda effort, yes.

Q: And that there was in that respect as much carrot as intimidation by your account?

A: I do not think propaganda is carrot. It is propaganda.

Q: Would you agree that in fact the overwhelming majority of the German people were by that time, in April 1938, dazzled by Hitler, I suppose that is the correct word, his achievements, full employment?

A: No. Well ----

Q: National unification, the Czar land, all these great achievements, and that this is one reason why 99.8 per cent of people could easily be persuaded to sign "yes" to Adolf?

A: I think if you read the SD and by day reports carefully it is clear that fairly soon after 1933 there was quite widespread grumbling and discontent. That is a slightly different matter from what people thought about the union of Germany and Austria. I think, for what it is worth, that ---

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Q: There was a plebiscite, was there not?

A: May I finish, Mr Irving? That in the vote a plebiscite on the union of Germany and Austria in 1938, in a wholly free election, it is more than likely that there would have

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been a "yes". In other words, the majority of people in Germany and Austria were in favour of unions, but I do not think it is 99.8 per cent.

Q: Yes, but what you think of course is not evidence.

A: I do not think -- I mean can you name me any free, fully free, fair and secret election in which any side has 99.8 per cent of the vote?

MR JUSTICE GRAY: We are going rather ----

MR IRVING: We are going round in circles.

MR JUSTICE GRAY: --- long. That is the Anschluss vote. I did not realize that.

A: Yes.

MR IRVING: It was not an election, my Lord. It was a plebiscite.

A: There was a Reichstag election at the same time. What you say, Mr Irving, is that he got 49 million Germans to vote for him, which is 99.8 per cent of electorate.

MR JUSTICE GRAY: Can I just ----

MR IRVING: Can I ask you, are you familiar with the wording of the vote?

MR JUSTICE GRAY: Mr Irving, will you listen to me for a moment, because I think we probably have spent long enough on the 99.8 per cent. There is a danger I think, and this is designed to help you, that we are missing the wood for the trees. The whole of this section of the report, which I think myself is quite important, is on the theme or the

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thesis that you always write about Hitler in terms which portray him favourably. Various examples are given of that and various statements made by you which tend to confirm are recited by Professor Evans.

I personally would find it more helpful if you were, perhaps to begin with, to ask a few rather more general questions in which you would set out what your own case is about this. I do not know, but could you not ask Professor Evans whether it is not right that actually you are very balanced and objective in what you write about Hitler? I think you need to set the scene.

MR IRVING: My Lord, we know precisely what the answer will be if I ask that. He will say he dislikes me. He has never read the book. He would never have read the book if he had not received this commission from these instructing solicitors. So that would be, frankly, in my submission, a waste of the court's time.

MR JUSTICE GRAY: Then you would follow it up, would you not, and give some examples, and this is really what I am asking you for, of events, significant events, when you take a critical line about what Hitler said or did. That is what I am missing at the moment. We are just going down this slightly blind alley of the 99.8 per cent Reichstag vote, whereas one is missing your putting the case in rather broader terms. I am only putting it forward as a suggestion. You do not have to follow it,

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but it would help me if you were to do that.

MR IRVING: My method, my Lord, as you may think it totally wrong, has been to graze through this passage and come across these occasionally indigestible rocks where he picks on something where I know I am right and where your Lordship probably does not appreciate that I am right. By virtue of this cross-examination trying to establish it firmly in your Lordship's mind that out of us two experts, if I can put it like that, on balance, probably I am better right or righter than he is.

MR JUSTICE GRAY: If I may say so, if that is what you are planning to do for the next 550 pages of this report, I am not going to find that helpful. I am sure you are going to find, as you indeed have already found, a number of instances where Professor Evans has got it wrong. But I am not really helped by that. I need to look at it in much broader terms than that.

MR IRVING: We are just coming in fact to the Reichskristallnacht, and I did promise that we were going to make substantial inroads into that today.

MR JUSTICE GRAY: Yes, but I personally think the section on what is called "Admiration of Hitler" is quite important, and you do not really seem to have grasped the nettle of what is being said about you by Professor Evans. That is all I am inviting you to consider.

MR IRVING: I have looked at the Night of Long Knives.

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MR JUSTICE GRAY: True you did. I accept that.

MR IRVING: Which was one matter. I thought I read your Lordship's mind to be that I should not deal with every single episode.

MR JUSTICE GRAY: We are now getting into the meat of the report, and certainly not every single episode. There we are. I have said what I have said.

MR IRVING: Just one final matter on the plebiscite. Do you know the wording that was on the ballot? You say this was not a plebiscite for Hitler personally. Do you know the wording on the ballot form, on the ballot paper?

A: Well, do read it to me. Remind me.

Q: Does it say words to the effect of: I personally approve of Adolf Hitler as Chancellor of the greater German Reich and Austria combined and approve of the union of these two countries?

A: Yes, those are the terms in which it is put.

Q: It is in terms of personal approbation of Adolf Hitler then as a person?

A: Indeed the propaganda effort also emphasised that aspect of it, but of course it was not purely, simply a vote about Hitler. The key part of it was the union of or the creation of the greater German Reich of Germany and Austria.

MR IRVING: My Lord, your Lordship does not wish me to look at the Putsch of 1923 and the Hoffman episode again. We have

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been over that already with the other witnesses. We now come on to page 233 to the night of broken glass.

MR JUSTICE GRAY: I am sorry, Mr Irving, the last thing I want to do is to prolong this, but if you remember the heart of Professor Evans' report is that the chain of documents which you rely on as establishing that Hitler did not have any knowledge of, let alone authorization for, the Final Solution, can be at every link in the chain, as it were, attacked. My understanding of the structure of this report is that a step in the chain of reasoning, if I can put it that way, does indeed start with the 1924 trial and you were going to omit that altogether.

MR IRVING: My Lord, the chain of documents episode starts on page 220.

MR JUSTICE GRAY: Yes, quite.

MR IRVING: That is where his heading starts.

MR JUSTICE GRAY: The first link in the chain is the 1924 trial, is it not?

MR IRVING: It is the 1924 trial. If I had appreciated this witness's remarks and under cross-examination by Mr Rampton your Lordship will remember that we elicited the fact that I was relying on a different set of documents on the original microfilm version of the trial, I did not use the published text.

A: Can I just comment on that, my Lord? They are the same. The published text is the complete verbatim transcript.

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Q: Can you go back to page 230, please? You say that Hofmann's testimony of Hitler's trial has little credibility. Is this your view?

A: Yes.

Q: You base that view you on the fact that Hofmann was a Nazi party member?

A: Yes. As I say, a long-standing Nazi supporter and party official, tried to present Hitler in a favourable light as a law-abiding citizen.

Q: Yes, and you suggest that I ought to have known that fact?

A: Indeed I think you did know that fact, Mr Irving.

Q: On what document or evidence do you base your suggestion that I knew that fact?

A: On the evidence of Hofmann.

Q: On the evidence of Hofmann?

A: Yes.

Q: In other words, what he himself stated in this trial?

MR JUSTICE GRAY: And who was he was?

A: That is right, yes. Well, he says in the course of his evidence that he was -- first of all, the court says at the beginning of the transcript of his evidence that he had a close relationship with Hitler and was involved in the Putsch, and therefore should not be required to give evidence on oath. That is the first pointer. Then he goes on to say that he was, and I quote all of this in my report ----

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MR IRVING: Yes, but ----

A: --- that he was the head of the Nazi Political Intelligence Unit.

Q: The question is ----

A: That he was frequently with Hitler, and that he took part in the Putsch.

Q: The question is, what evidence do you have that that evidence was before me when I wrote my book on Hermann Goring?

A: Because you read the transcript, you read the transcript of the trial which is where the evidence is.

Q: What evidence do you have that I read those pages of the trial?

A: It is not a very long testimony and you recount what you must have done, I cannot believe you did anything else, was to start at the beginning of Hofmann's testimony and go on to the end.

MR JUSTICE GRAY: If your case is, Mr Irving, that you did not ever read Hofmann's testimony, then you should put that because that would be an explanation.

MR IRVING: I hope that I was making that point, my Lord.

MR JUSTICE GRAY: You were not. You were careful not to put it quite that way. You said: Have you got any evidence that I had Hofmann's testimony in front of me? If your case is that you never read it, I think you should put that.

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MR IRVING: If I can explain to your Lordship, my problem is that the entire Hermann Goring book was written on an old fashioned Xerox word processor. I am having those disks converted and I can then prove exactly what part of the testimony was before me, but they have still not been converted yet. It is just a technical problem. But I will now put the question to the witness in this way.

Was there any evidence before you that I had read the Hofmann testimony?

A: The evidence of your book, yes. You quote the testimony in the book.

Q: Was there any evidence before you that I had read that part of the testimony relating to his Nazi party membership and to his closeness to Hitler on which you are relying?

A: It is not a very lengthy testimony, Mr Irving. It takes about I suppose ten minutes to read it.

Q: Did you read this in a printed book or did you read it on the microfilm?

A: I just said that they are the same. I have read it in a volume, a multi-volume or a very large

collection of documentary presentation edited by people on the staff of the Institute for Contemporary History in Munich.

Q: Can I ask you, did this printed volume have an index with names in it?

A: I think so, yes.

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Q: Do my microfilms with 8,000 pages on film have an index with names on it?

A: No, but it is not difficult to ----

MR RAMPTON: My Lord, I am afraid I think again we are going out into outer space. In cross-examination on 31st January, page 61, Mr Irving said to me: "I knew nothing about Hofmann's background that was not before the court. I read the entire court transcript which was many thousands of pages which was adequate for writing a biography of Hermann Goring."

MR IRVING: Yes. Do you accept that if some ----

MR JUSTICE GRAY: That is why I think it is important.

MR IRVING: I will now clarify this matter.

MR JUSTICE GRAY: I think that bears out, if I may say so, the correctness of what I said to you. If your case was that you had never read the testimony, then you ought to have put it. But it now turns out that actually you have already conceded that you read the whole thing.

MR IRVING: Professor Evans, when somebody reads an 8,000 page transcript of a trial for the purposes of writing a biography of a very minor character in that trial, is he going, in your opinion, to pay attention to the background of every single witness who gives evidence at that trial?

A: Well, Mr Irving, you read the entire transcript. You read all of Hofmann's testimony, which is fairly brief. You use it in your ----

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Q: Would you estimate to the court how brief this testimony was in terms of typescript pages?

MR JUSTICE GRAY: So it takes ten minutes to read, I think?

A: Yes, something like that. I have actually read it.

MR RAMPTON: My Lord, again I intervene. I think sometimes I live in a parallel universe. I asked Mr Irving in cross-examination what that passage in the book was where he says that Goring goggled at the exchange between Hitler and the young lieutenant.

MR JUSTICE GRAY: Yes, I remember.

MR RAMPTON: Mr Irving said: "That was Hofmann, was it, that testified about that? Answer: Yes. Yes, the whole episode is based on Hofmann."

MR IRVING: The fact that the whole episode is based on Hofmann does not presuppose that one has read the whole of Hofmann with great detail as to his origins, his party membership number and all the other matters on which Professor Evans is relying.

A: Well, I have the typed pages here.

Q: The printed pages or the typescript pages?

A: Yes, the printed pages.

MR JUSTICE GRAY: I think we now know that they are the same.

A: The printed version is called [German] which is the verbatim account of the principal proceedings before the people's court at Munich 1, and Hofmann, in other words, it is a verbatim account, it is the same. Hofmann's

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testimony begins on this printed version, that is on seventh day, it begins on page 540, and goes on to page 545 I think, a little bit further. It is really not very long. In any case, Mr Irving, if you read the entire 8,000 pages you certainly must have read those handful of pages.

MR IRVING: Will you accept that when one reads 8,000 pages of a transcript of a treason trial one is not paying attention to the political background of the individual members?

A: No, certainly not. It is extremely important. You present yourself as a professional historian who has an extremely critical attitude towards written evidence, particularly in trial testimonies as it happens, and here you have the testimony of somebody in an important trial of Hitler in 1924, a fairly brief testimony, and this is somebody who is the head of a political intelligence section of the Nazi party who is with Hitler a great deal, who is quite clearly a Nazi party member, so closely associated with the Nazis and with the Putsch that the court actually mentions the fact; at the beginning and at the end the judge congratulates Hofmann for being so loyal to his Fuhrer. This right through the evidence, Hofmann makes no secret of it all in his evidence, and you suppress this entirely. You present the evidence of this police officer as an entirely neutral statement. You

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suppress, you deliberately suppress these facts which you must have known from having read this report.

Q: Must have known and ought to have known, is this sufficient evidence for you, Professor, when you write your books?

A: I cannot put myself inside your mind when you are reading this stuff and say whether or not you closed your eyes when it came to the passages where all these things are mentioned. Even if you did that, even if you fell asleep repeatedly during reading this five or six-page account, I cannot really believe, it still seems to me that it is more than irresponsible. You have suppressed this information. You have not presented it to the reader.

Q: Precisely what information have I suppressed, the fact that he was a Nazi party member, that he was on Hitler's staff, is that what you are saying?

A: Yes .

Q: Does this render him incapable of speaking under oath the truth?

A: Can you show to me the passage in your book where you mention these facts which is necessary for an assessment of the reliability of his evidence?

Q: Does it render him incapable of speaking truth under oath in a case like this?

A: As the court recognized, he did not speak the truth under oath. It dispensed him of having to take the oath because

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he was regarded as a biased witness.

Q: When you translate the passage, "Es ist ein schönes Zeichen von Ihnen, wenn Sie zu Gunsten Ihres Fuhrers aussagen", you translated that as: It is a nice testimony to you, that you are speaking out on behalf of your leader." What is the German for "testimony"?

A: I can put a nice sign of you, that is fine, it just does not sound quite right in English.

Q: What is the German for "testimony"? Is it "zoitnes"?

A: Something like that, yes.

Q: So you have mistranslated a word there?

A: No, I disagree. I am trying to find something that reads reasonably well in English. I think the meaning is the same. Can you just to point to me the page?

MR JUSTICE GRAY: Yes, I cannot find it.

MR IRVING: Page 230, paragraph 2, the last line.

A: Yes, if you want to do it literally it is a beautiful sign of you when or if you speak out in favour of your leader.

Q: That would be a bit wooden.

MR JUSTICE GRAY: It reflects well on you?

A: It reflects well on you. It is a nice testimony to you. I do not mean by using the word -- may I just fish, Mr Irving? I do not mean by using the word "testimony" it has anything to do with the testimony he has given.

MR IRVING: But it would be a bit wooden, would it not, that translation if you were to translate it with sign and all

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the rest of it?

A: Yes, it would. "It is a beautiful sign of yours". I am trying to steer a course here between -- we have spoken about this before.

MR JUSTICE GRAY: It is a free translation, but it is an entirely accurate one.

MR IRVING: You appreciate the point I am trying to make, your Lordship?

MR JUSTICE GRAY: I do, but I am afraid I am not very impressed by it.

MR IRVING: Not impressed by it? The fact that one is inclined to take liberties in a literary sense with a sentence in order to make it more legible.

MR JUSTICE GRAY: As long as you get the flavour of what is being said right.

MR IRVING: Is not the correct translation of that sentence "good for you, good for you that you are speaking out on before of your leader"?

A: No.

MR JUSTICE GRAY: Not quite.

A: If I may say so, the judge was obviously rather pompous and says it in this rather kind of convoluted pompous way, not in that colloquial manner.

MR IRVING: Is it not exactly the same as when his Lordship says things like, "You have done rather well, Mr Irving",, for example, as his Lordship did yesterday, we take it at

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face value and it is not something to be taken all that literally?

A: What he says is, "It is a beautiful sign of you when you or it is a nice testimony to you or good for you", if you want to put it colloquially, "it is not just good for you or you have done well; it is good for you that you are speaking out on behalf of your leader", that is what he is saying, your leader. It is quite clear the presiding judge regards ----

MR IRVING: But he is not actually saying ----

A: --- regards -- may I finish, Mr Irving? May I just finish?

Q: But you carry on and on and on?

MR JUSTICE GRAY: Mr Irving, come on. This is a witness who is trying to answer a point you have made and let he him finish, if he can remember where he had got to.

A: It is quite clear the judge knows from the start to finish that Hofmann, that Hitler is Hofmann's leader and he treats the evidence accordingly.

MR IRVING: Is it not just a throw away remark by his Lordship in this case to put this witness at his ease, and that is exactly what happens again and again and again in the courtroom, and you have put all this pompous significance on to it in order to try to undermine the value of this police

sergeant who is doing his job?

A: First of all, I agree of course that it is intended to

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make, it is a nice comment, the judge is trying to be nice to Hofmann. After all, Hofmann whose has not been treated very well. He has not been allowed to present evidence on oath. He has been told that he is too heavily involved in the whole thing, but he says, "it is your leader", and it is quite clear to anybody who reads this rather brief section of testimony that everybody is perfectly well aware that this man's evidence is tainted, because Hitler is his leader, not just because of that statement, but also because, as he says, he was with Hitler frequently, he was head of the political section of the Nazi party's Intelligence Unit, participated in the Putsch, accompanied Hitler for most of the evening of the Putsch.

Q: But cutting to the bottom line, is there any reason to believe that this witness made the whole story up? Is there any reason, any subjective or objective reason why we should accept that he made the whole story up?

A: Which story?

Q: The story about how he had been a witness of Hitler, ticking off this lieutenant and throwing him out of the party?

A: There is a serious reason to distrust that testimony.

Q: Purely on the basis of the fact he was a Nazi ----

A: I do not think it was taken very seriously by the court, and I think that a responsible author has to present this particular problem to the readership. If you want to make

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use of Hofmann's evidence you simply have to say that he is heavily involved in the Putsch, he is a Nazi party supporter and is regarded as such by the court.

Q: Your final criticism is that I do not give proper source notes for this, is that correct?

A: Yes. Where is this?

Q: Well, that I failed to provide a proper footnote reference. It is the bottom of page 230.

A: Yes.

Q: Is that a serious criticism or is just your irritation that you had to go and look in the index of your printed edition of this trial?

A: Well, it is more than that. I think that you have made it deliberately difficult for people to go and check it out.

Q: I have made it deliberately difficult?

A: Yes.

Q: In what way?

A: Do you want to have a look at the footnote reference which you provide or do not provide?

Q: Is it not correct that I give the reference as being microfilm version of the trial of the Bavarian people against Adolf Hitler and others?

A: Yes, that is 8,000 pages, as you said, Mr Irving. I do think that simply referring to an 8,000 page collection does make it difficult. You could, for example, easily have put the day on which it occurred and given a frame

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number, if there are frame numbers, or a real number, if there are real numbers. There are ways in

which you can be more precise.

Q: Will you take it from me that the American publisher William Morrow asked me to cut 2,000 lines out the proofs of this book. In other words, at proof stage, they said, Mr Irving, please cut 2,000 lines out of this book. Can you accept that?

A: I would have to see the documentary evidence of that.

Q: Very well. If that was the case, what are the first places that you would be tempted to make the cuts?

A: I agree of course in the footnotes.

Q: In the footnotes?

A: But in that case I think you still have to abbreviate footnotes. You have to provide footnote references which will enable other people to go and check up what you have written. You could have, you know, done this in such a way as to achieve that object.

Q: So, in summary, on the case of this policeman Hoffmann your allegations against me rest on the statement that I ought to have known, or ought to have noticed, there was a Nazi party member and I ought to----

MR RAMPTON: No, my Lord, he did not say "ought to", he said "must have", which is quite different.

A: Yes. He did know.

MR IRVING: Very well. In that case I have to ask again, on

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what evidence----

MR JUSTICE GRAY: We have been all over that, Mr Irving, really.

MR IRVING: Do you have any evidence that I did know?

MR JUSTICE GRAY: Mr Irving, Mr Rampton has just reminded you that you accepted that you had read the whole of the trial evidence, including Hoffmann.

MR IRVING: Has your Lordship any idea of how many words there are on 8,000 pages of transcript?

MR JUSTICE GRAY: You have just been through that point.

MR IRVING: Yes, but the fact that one reads 8,000 pages of transcript with no doubt many millions of words does not mean to say that one knows everything that is stated about every person in that transcript.

MR JUSTICE GRAY: Mr Irving, what I am going to suggest is that you read the transcript of the last 20 minutes again perhaps, if you have time between now and tomorrow, and I think you will understand why I think you will not do any good to your case by going all over it again.

MR IRVING: Well ----

A: The answer to your question, Mr Irving, is no, my case against you here does not rest solely on that.

MR IRVING: On Hoffmann?

A: On the fact that you suppressed your knowledge of the bias in his testimony. I also, as you know, say that you manipulate what he said.

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Q: What is your evidence for the fact that he was biased in his testimony?

MR JUSTICE GRAY: I think that question has been asked and answered sufficiently.

MR IRVING: Except that he stated it as a fact, and of course it is an opinion.

MR JUSTICE GRAY: In a sense it is perhaps neither. It is an inference from all the

circumstances.

MR IRVING: A possible bias, this is true. We now pass to Reichskristallnacht, page 233.

MR JUSTICE GRAY: Mr Irving, I accept that it is slightly my fault that we spent the last 20 plus minutes on the 1924 trial, but frankly I think it was vital that you did address that. But, having got to ten past 4, would it be sensible to start on Kristallnacht tomorrow morning?

MR IRVING: It would be sensible, my Lord. Perhaps I can wave a little flag and say I shall reserve the right to come back to Hoffmann on a later occasion with more material, as your Lordship obviously attaches more significance to it than I do.

MR JUSTICE GRAY: Only because is it one of the chain of documents.

MR IRVING: I intend dealing with the chain of documents in sequence on a different occasion, I think. It makes more sense.

MR JUSTICE GRAY: Can I say in advance that I am going to have

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to rise just a little bit early tomorrow, say about 4 o'clock rather than 4.15. 10.30 tomorrow.

**(The witness withdrew).
(The court adjourned until the following day)**

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