

**PROCEEDINGS - DAY TWENTY-ONE**

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**Day 21 Wednesday, 16th February 2000 (10.30 a.m.)**

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

**MR JUSTICE GRAY:** Mr Irving?

**MR IRVING:** May it please the court. My Lord, this morning I shall deal with the Reichskristallnacht, the Night of Broken Glass, and then, as a useful exercise, I will put before the witness a bundle of documents, which is the chain of documents referred to. We will go through that and invite his opinion on that as an expert on the various documents.

**MR JUSTICE GRAY:** Certainly.

**MR IRVING:** My Lord, we left the operation yesterday, we left the battlefield, so to speak, I had advanced about 250 pages into the minefield. There were a number of smoke screens which had been laid by the witness and others and by the documents, and I am now going to proceed through the smoke screen into Reichskristallnacht. But, first of all, I wanted to ask the witness briefly about page 210 of your expert report, which is a matter which will be covered by the documents later on, where you criticised the fact that ----

**A:** I am sorry, I have not brought this with me. I thought we were going to start with Kristallnacht. Can I have a copy?

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**Q:** I will just read it out, it is just one sentence.

**A:** No, I will have a copy, please.

**Q:** Let me put it to you. You say that my position on Hitler on all these issues is highly favourable to Hitler.

**A:** Yes.

**Q:** You criticise me for adopting positions on Adolf Hitler and his decisions that are sometimes favourable.

**A:** Could you point me to where I do that, please?

**Q:** On page 210 you say: "Irving's position on all these issues" -- this is paragraph 4.1.10 -- "is highly favourable to Hitler".

**A:** I am commenting in this section on the allegation by Professor Lipstadt that you are, I think, "an admirer of Hitler". I cannot exactly remember the precise words.

**MR JUSTICE GRAY:** That is one of them, yes.

**MR IRVING:** Which is why I am asking you to expand on this one sentence where you say that Irving adopts a position on all these issues, which we have been into before, which is highly favourable on Hitler, and I was asking you whether it is wrong for an historian at any time to say things that are favourable to Hitler.

**A:** If that goes against the evidence, yes.

**Q:** Does it not put me in precisely the same position as an historian like AJP Taylor, who, as you pointed out, is not a Professor, not an academic, but a very well-known perhaps even notorious writer before his death, and who

was also very well-known for adopting positions where he came under criticism for having adopted positions which were also favourable to Hitler on certain points?

**A:** Well, of course, AJP Taylor was an academic. He was a Fellow and tutor in modern history at Magdalen College, Oxford for many years. Indeed, he was a Professor towards the end of his life in another university. He was heavily criticized. There was a long debate about that. He was not shown, to my knowledge, to have deliberately manipulated or falsified historical evidence in order to arrive at what was alleged to be. And what he denied to be. His position.

**Q:** But he did adopt positions that were on occasions favourable to Hitler, did he not?

**A:** If you can cite them to me?

**Q:** Here is a copy of AJP Taylor's very well-known book, 'Origins of the Second World War'. Can you turn to page 7, for example? He says there, for example, does he not: "Historians often dislike what happened or wished it had happened differently. There is nothing they can do about it. They have to state the truth as they see it without worrying whether this shocks or confirms existing prejudices." Is that a fair statement of the position of an historian?

**A:** Yes.

**Q:** He should write what he finds, what happened and why?

**A:** Yes.

**Q:** Even if he is going to be accused of saying things that are favourable to Hitler or Stalin, or Churchill, or Roosevelt, he just should write what he finds. The fact that he writes something favourable to a great personality of history is not ipso facto perverse?

**A:** No. It depends how you arrive at that position, of course.

**Q:** Then there is another position I am accused of in my books, is there not, that by my books or by my writings I give comfort to people on the extreme right. Is that one of the allegations against me?

**A:** You would have to point that out. I do not think I comment on that in this section.

**Q:** On pages 8 to 9, does he also write: "I have no sympathy with those in this country who complain that my book had been welcomed, mistakenly or not, by former supporters of Hitler. This seems to me a disgraceful argument to be used against a work of history. The historian must not hesitate, even if his books lend aid or comfort to the Queen's enemies or even the common enemies of mankind".

**A:** Well, you did leave out a little about there. Let me read that last sentence again: "An historian must not hesitate, even if his books lend aid and comfort to the Queen's enemies though mine did not, or even to the common enemies of mankind". You did not indicate there to the

court that you were leaving out those four words, "though mine did not".

**Q:** Then he continues: "It is not my fault that according to the record the Austrian crisis (that is 1938) was launched by Schuschnigg, not by Hitler, nor my fault that the British government, according to the record, and not Hitler took the lead in dismembering Czechoslovakia", and so on. In other words, he is just writing what he finds, even though it comes out in favour of Hitler?

**A:** He is writing what he has argued that he found, and of course there is a great deal of argument about this. But I do not think that he would have accepted, and it is very difficult, that he is

favouring Hitler. "Destroying these legends is not a vindication of Hitler", he says.

**Q:** Then he also refers to specific episodes like the Reichstag fire and other controversial episodes in history where he claims the right to take a different line from that commonly or politically correctly adopted by historians up to that point. He says, if he does so, this is not necessarily to be taken as a vindication of Hitler, he is just doing his job as an historian.

**A:** That is right.

**Q:** In other words, I am not unique in my standpoint; there are other historians who accept, who on occasion find words of admiration for Adolf Hitler's military capacities, is that right?

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**A:** I really do not know. The point is, Mr Irving ----

**Q:** Professor Evans, you are holding yourself out to this court as an expert on the historiography of the Third Reich, and now you are saying you do not know if any historians----

**A:** I imagine there are. I am not a military historian, but I would accept that there are historians who have had words of praise for some of Hitler's military interventions, most certainly, yes, but it is not really what is at issue here in this case.

**MR JUSTICE GRAY:** I think that is right, Mr Irving, is it not? We are really not concerned with Hitler as a military figure. I think I am right in saying that all the criticism of you relates to your writings about his, for want of a better word, political persona, not his military persona.

**MR IRVING:** My Lord, I respectfully disagree. I think the allegation is that I have written a book that is an admiring work, a panogyric.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** And this encompasses the whole Hitler, not just the bits that the Defendants may wish to seize upon.

**MR JUSTICE GRAY:** I think it is right that they say you have written a book which admires Hitler, but the criticism, as I understand it, is of the way in which you write about his political activities, not his military activities.

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Mr Rampton, is that right as a very general summary, just so that we know where we stand?

**MR RAMPTON:** It may or may not be thought a good thing to write a book which has elements, perhaps significant elements, which are favourable to Hitler, but that has nothing to do with this action. What is said here is that this book is in large part an apology for Hitler, in particular those aspects of Hitler's thinking and actions which reflect upon what happened to Jews in Europe during Hitler's reign, if I can call it that. Allied to that, and indeed inseparable from it, is the criticism which is perhaps even more important, that this picture of Hitler which Mr Irving paints in his book is arrived at by bending and distorting the evidence.

**MR IRVING:** These are two separate issues. At present we are dealing solely with the issue with whether it is legitimate for a historian to write a book which is in part admiring of Adolf's Hitler capabilities in whichever field, and this was the burden of my opening remarks to the court. I thought as a general matter I would deal with that first.

**MR JUSTICE GRAY:** I do not think anyone is suggesting that the historian is not entitled to express admiration, if the facts and the evidence justify it. I think that is a historian's duty. I do not think anyone would doubt that.

**MR IRVING:** But your Lordship is familiar with the fact that,

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as soon as one utters the slightest positive word about "that man", as he used to be called in Tommy Handley's day, one then comes under the full guns of one's enemies, who say, there he is saying that he did the right thing in the battle of France, or there he is saying that he did the right thing over Czechoslovakia. There are different opinions. Some historians take this point of view, some historians take that point of view, and AJP Taylor is just one example I wanted to present because he is so well known. No-one has suggested that he did so for any perverse reasons, or at any rate they no longer do so, and whether the reasons were perverse, or whether I distorted or manipulated is the second part of the argument with which we are now occupying the court. We will now turn to the Reichskristallnacht, please. I am going to ask you a few general questions, first, Professor, if I may.

**A:** Sorry, I am just trying to keep my desk a bit clear.

**Q:** Housekeeping, yes. Your researchers who were doing the research for you, and possibly even you yourself, made use of or looked into my files and the research that I had done when I wrote my various books from the 1970s onwards. Is that correct?

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

**Q:** You looked in my files, in my collection, the Irving collection, in the Institute of History in Munich, is that right?

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**A:** Yes.

**Q:** Did you look in the equivalent collections which are in the Federal archives in Koblenz?

**A:** I believe we did, yes.

**Q:** Did you also look not just at the collections of documents which were in Munich but also at the collections of correspondence that I had donated to the Institute of History in Munich between myself and, for example, Adolf Hitler's private staff?

**A:** I think we did, yes. We looked at as much as we could find in the time available.

**Q:** The time available was 18 months, is that right?

**A:** To write the whole report, yes, of which this is only one chapter.

**Q:** You had a large number of people, or relatively large number of people, working on your staff?

**A:** Two.

**Q:** It was probably several man years.

**A:** Two. I had two people, Mr Irving.

**Q:** Again, it was several man years in the compilation of these particular aspects?

**A:** Well, not really, no, because everybody of course had other things to do at the same time. None of us was working full time on this.

**Q:** Yes. Do you think that any documents in my collection would have eluded your attention, or your researchers'

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attention?

**A:** I hope not, but it is always possible.

**Q:** It is always possible. So, although it is possible that some of my documents on which I base my book may have eluded your attention, you quite boldly used these very repugnant words

about my writing, about having distorted, manipulated and had no possible evidence, and this kind of thing?

**A:** If you can show me that there are important documents in your collections which run against what I have said, then obviously I will accept it. I said I hoped that important documents did not elude our attention, and I have based what I say here and what I write here on the most thorough possible research in the time available.

**Q:** On balance, you disapprove of my method of relying to any great degree on the statements made either to me or to postwar investigators and historians and interrogators by the members of Adolf Hitler's private staff, is that correct?

**A:** We have been over this ground, Mr Irving.

**Q:** Well, let us go through it again.

**A:** This is later testimony, sometimes given many years after the event, and therefore has to be treated with caution on those grounds alone. Other things being equal, as it were, one gives somewhat greater weight to contemporary evidence such as the Goebbels diaries. And, in addition

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of course, we have already discussed this, members of Hitler's entourage had good reason not to tell the whole truth.

**Q:** You say that you attach great importance to Goebbels' diaries. Would you look at footnote 2 on page 233 of your report, please? You list there a number of these books that are on your shelves in your book lined cave where you do your writing, if I can put like that. Do any those books show any sign of having used the Goebbels diaries?

**A:** I do not think that is a very fair question, Mr Irving. The point here is simply that I am introducing the section on the Reichskristallnacht. I say in sentence to which that is a footnote: "The episode is well-known to historians. There have been many important and scholarly studies based on a painstaking examination of the original archival documentation. These include two accounts by staff members of the Institut fur Zeitgeschichte in Munich and other detailed studies", and so on. This is simply an indication to the court of the fact that this is a well-known episode about which historians are writing.

**Q:** Do you accept that every single item you refer to on that page, including all the books and all the well-known studies, and the work of historians at the institute, all emerged before I brought back the Goebbels diaries from Moscow relating to precisely this episode? Therefore they are, to that degree, superseded, they are old hat?

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**A:** I would not describe them as old hat, Mr Irving, and in any case the point I am making there is that this has been the subject of many studies over many years. This is not something that has suddenly emerged into our knowledge with the Goebbels diaries.

**Q:** Now, you have relied in your footnote 1 on Hermann Graml (who I know personally). He wrote that book in 1956, did he not?

**A:** Indeed, yes, that is right.

**Q:** Are you aware of the fact that I submitted my entire chapter on this Reichskristallnacht to Hermann Graml for his, not clearance, but for his edification and for him to comment on at the time I wrote the book?

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

**Q:** But would you have expected to find that in the correspondence put before you in the discovery process?

**A:** I did not, no. If it is there, it is there. You can show it to me.

**Q:** Again the second source in footnote 1 is 1957 which is, what, 33 years old?

**A:** Indeed. I am trying to establish here, Mr Irving, the fact that this is a well-known episode in history which has been studied over many years by many historians. I am not saying that all these books are absolutely right or that they are the last word or that they are up-to-date. I am saying they are works by scholars which in their day,

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if you like, were advances of knowledge.

**Q:** And these scholars have nothing to learn from us revisionists then?

**A:** It depends what you mean by "revisionists".

**Q:** If somebody brought back from Moscow the Goebbels' diaries, would that not be a contribution to the historical debate?

**A:** That is something different. You do not have to be a revisionist to bring back the Goebbels diaries from Moscow.

**MR JUSTICE GRAY:** Mr Irving, I expect you will come shortly, will you not, to what it is in Goebbels diaries that you say casts important light on the events of Reichskristallnacht?

**MR IRVING:** I am laying the groundwork for the cross-examination, my Lord. I am establishing what this expert's credentials are for this particular matter. Professor Evans, you have worked for five years in Germany?

**A:** On and off over a period of about 30 years, yes, if you totted up all the times I had been there, I have not done it, but it would come to, I do not know, five, six years. It is difficult to say.

**Q:** But do you think that your knowledge of German is sufficient to understand all the vernacular and all the slang phrases and all the nuances?

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**A:** Mostly, yes. I would not say it was absolutely perfect. It is impossible for any foreigner to enter totally 100 per cent into the inside of a language.

**Q:** Would you say that I having worked in Germany for 39 years on and off would have possibly a better knowledge of German than yourself?

**A:** It is possible and I do not dispute the fact you have a very good knowledge indeed of German, Mr Irving.

**Q:** Is it right that the sources that you have relied upon by way of preference are largely war criminals who were properly convicted at Nuremberg and elsewhere for their activities, whereas not one of Adolf Hitler's personal private staff was ever convicted as a war criminal?

**A:** No, I do not think that is true.

**Q:** Which part is not true, that not one of Adolf Hitler's staff ----

**A:** No, no. The fact that I have relied on these sources and in any case that -- I mean, relied, for example, on the Goebbels' diaries.

**Q:** Was Karl Wolff a war criminal?

**A:** He was sentenced in 1964.

**Q:** Was Max Jutner a war criminal?

**A:** Now, I am not sure, but in any case the point here ----

**Q:** I am just commenting on the odd feature that you rely on Nazi war criminals and ----

**A:** You will have to point out to me, Mr Irving, where I rely

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on the testimony of Max Jutner, and so on.

**MR JUSTICE GRAY:** I think, if I may say so, that is an entirely fair observation. I quite understand the criticism. You are saying he has relied on convicted criminals for ----

**MR IRVING:** In preference to people who have not got a criminal record.

**MR JUSTICE GRAY:** --- his contentions. But let us get to the nitty-gritty of it. I think that is what the witness is saying and I think it is a fair point, if I may say so, Mr Irving. Where does he rely on Wolff?

**MR IRVING:** It is a comment on the quality of sources, my Lord, and the quality of sources is very important, particularly in a matter like this.

**MR JUSTICE GRAY:** I quite agree, but this point only has any impact if you show me where he relies on Wolff or whoever ----

**MR IRVING:** It is where I rely on rather than where he relies on, my Lord, which we are now going to come to. Would you look at the little bundle of documents which was handed to you this morning which begins with the word "Deckblatt", "Sammlung Irving Deckblatt", do you find that?

**A:** Yes.

**Q:** If you would just briefly scan it you, would you agree that this appears to be the covering sheet of a file of documents relating to one Wilhelm Bruckner?

**A:** That is right.

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**Q:** Do you know who Wilhelm Bruckner was?

**A:** He was the head of Hitler's, a sort of personal or adjutantur in the 1930s.

**Q:** He was dismissed in ----

**A:** '40.

**Q:** --- humiliating circumstances in December 1940, is that correct?

**A:** Yes. He was also a senior officer of the SA, the brown shirts, and he was an old Nazi -- he seems to have been already active before 1923.

**Q:** Yes. So that he was Hitler's chief person adjutant at the material time, namely the Reichskristallnacht?

**A:** That is right.

**Q:** In November 1938?

**A:** Yes.

**Q:** From this covering sheet, it is evidence that I collected a number of papers and manuscripts and affidavits and letters from him?

**A:** That is right.

**Q:** In fact, this collection was obtained by me from his son, Manfred, in March 1971 and, as was my way, I denoted all these documents to the Institute of History in Munich?

**A:** Yes.

**Q:** Did you find this file of documents?

**A:** Now, what we found was a summary of a statement by, I mean, you are referring here to page 252 of my report,

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is that correct?

**Q:** I am asking you just about this one document in front of you at present about the Irving collection?

**A:** Well, yes, but Bruckner is dealt with on page 252 of my report, and I think we should really look at that to get the context.

**Q:** No, I am asking you to answer my questions first please which is ----

**A:** I am trying to point out the context here.

**Q:** --- have you bothered to find the Bruckner papers on which I relied in writing this passage?

**A:** Well, now, we tried to chase up a reference of yours which was very difficult to find in the Institute for Contemporary History, and the only thing that we could find, because you did not point very carefully to it, was a summary statement of what Bruckner said.

**Q:** So the answer to my question is, no, you did not find the file of Wilhelm Bruchner papers of which this was the covering sheet?

**A:** This "Deckblatt" here.

**Q:** Yes, but this covering sheet was actually brought to your attention, was it not? It was part of my discovery along with 500 other such covering sheets?

**A:** It is just a covering sheet, Mr Irving.

**Q:** Yes, but in the discovery there were 500 such covering sheets, there were 500 collections of documents that

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I gave to the Institute of History, and this was one of them, and it was copied by the instructing solicitors so you were aware that this file on Wilhelm Bruckner existed in the Institute and yet you did not find it or use it?

**A:** Well, what does it say? Let us have a look at the description under No. 1: "Brief description" - - I am translating here [German- documents not provided]. "Documents from the"...

**Q:** "Wilhelm Bruchner papers"?

**A:** "Papers of Wilhelm Bruchner, herein [German] ----

**Q:** In other words ----

**A:** "Declaration on oath 3749 on [German] SA on Adolf Hitler. Notice notes on the [German] Putsch 1934. General religious considerations and" ----

**Q:** "Clemency" ----

**A:** --- "clemency" ----

**Q:** --- "application"?

**A:** --- "Application for clemency or pardon". So there is no indication here that there is anything in here that has anything to do with the Reichskristallnacht. That is why it does not appear.

**Q:** So his manuscript on Adolf Hitler would not contain that matter than?

**A:** It is not a manuscript from Adolf Hitler.

**Q:** It is a manuscript on Adolf Hitler.

**A:** It is an essay on Adolf Hitler.

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**Q:** Yes. If I reference that in my source notes of several books, then you would have normally gone to some trouble to find that particular file, as you obviously had privileged access to my

papers which I no longer have, of course, but you had access to these papers?

**A:** Not privileged, no. Could you point out to me where you cite this document, please?

**Q:** It is referenced in several parts in the Goebbels' biography, is it not?

**A:** Could you point out where you reference it, please?

**Q:** We are back to delaying tactics again, are we?

**A:** No, I want to see where you reference it.

**MR JUSTICE GRAY:** It is not a delaying tactic. I think it is a fair point, Mr Irving. I mean, if you want to spend a lot of time on this particular document, which I am not finding very helpful, then I think that is a fair observation for the witness to make.

**MR IRVING:** Can I draw your attention to page 252 of your expert report on line 5, which is line 3 of paragraph 3?

**A:** Yes.

**Q:** "The evidence offered by Irving for the encounter between Eberstein and Hitler" which you will agree is quite a crucial encounter, is it not?

**A:** In your account, yes.

**Q:** "The evidence offered by Irving for this is the testimony of Wilhelm Bruchner". My Lord, do you now understand why

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I am zeroing in on this particular collection of documents which the witness has made no attempt to find?

**MR JUSTICE GRAY:** No, I have not the faintest idea, no. I really have not.

**MR IRVING:** My Lord, your Lordship is familiar with the meeting between Hitler and the Police Chief of Munich in the middle of the night on the night in question?

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

**MR IRVING:** And one source for that meeting was the papers of Wilhelm Bruchner which is the papers which I donated ----

**MR JUSTICE GRAY:** You cite that, do you, in Goebbels?

**MR IRVING:** Which are the papers which I donated, well, the reference in Goebbels is page 277.

**MR JUSTICE GRAY:** Yes. I am just looking at the footnotes at 277.

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

**Q:** Footnote 45 is what you are referring to, is it?

**A:** --- of what we are talking about here?

**MR JUSTICE GRAY:** 630.

**MR RAMPTON:** It says: "Testimony of Wilhelm Bruchner (IfZ, Irving collection)".

**MR IRVING:** That should be plain enough, should it not.

**A:** No.

**Q:** Is the IfZ the Institute of History in Munich?

**A:** Yes.

**Q:** But is the Irving collection a well-known body of

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documents there under the designation Ed200 or Ed100?

**A:** Sorry, let me please just check this. Page 277 at footnote 45.

**MR RAMPTON:** Page 613.

**A:** 613.

**MR IRVING:** This is going to take a long time if we have to go into this.

**MR JUSTICE GRAY:** Well, we started it back to front, if I may say so, Mr Irving. If we are going to go on this like this, I think I will make this observation to you. There is a criticism made of your account, particularly in relation to Hitler's knowledge of the pogrom that broke out during the course of whenever it was, 10th November, I think. It would be helpful to me if you went to the passage in Goebbels which is the subject of the criticism, then went to what you say is the source for what you write. As it is, we plunged into an extremely obscure document called the Deckblatt without any indication of where you were going; the result was I was not following your cross-examination.

**MR IRVING:** I apologise, my Lord ----

**MR JUSTICE GRAY:** Do you see my point?

**MR IRVING:** --- if I am not making myself plain. The reason for this particular reason line of cross-examination is I am trying to establish the repugnant allegations made about me for having made statements in my books with no

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kind of foundation is the result of these expert witnesses not having looked in the file which I actual reference in the book.

**MR JUSTICE GRAY:** Yes, but I do not think you are quite understanding what I am saying.

**A:** It would have been helpful I think if in your cross-examination you had gone to page 277 and shown me the passage that you are seeking to justify, namely sending for the police chief, Eberstein, and Eberstein finding Hitler livid with rage, and phoning Goebbels, saying what is going on, and then you can of course take me to what Bruckner says about it, what Eberstein says about it, and we can see where we go from there. Is that not the right way of doing it?

**MR IRVING:** In this case unfortunately not, because your Lordship will have caught the words that I used when I said that the expert witnesses have access to these papers of mine but I do not. I am disbarred from visiting my own archives, my own collection. I am drawing to their attention----

**MR JUSTICE GRAY:** You can give evidence. All right, you are not able to produce in disclosure Bruckner's account of these events, but you can put to Professor Evans what you say Bruckner's account reveals, can you not?

**MR IRVING:** That is the version sustained in my book, which is probably footnoted and referenced back to this document

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which I had at the time I wrote the original manuscripts of Adolf Hitler and Hitler's War, which I no longer have. It is quite plain that the Defence solicitors in this action were aware of the Bruckner collection in Munich and yet they did not use it. They are quite happy to allege that I have had no foundation for this statement of mine, and there are other documents to which I am going draw your Lordship's attention.

**MR JUSTICE GRAY:** This is all back to front. It is not a question of whether the Defendants' advisers have been diligent about it. It is a question of you showing, by your cross-examination of Professor Evans, that he is wrong to criticise you for what you write at page 277, because you have good reliable testimony to support it. That is what you should be putting in cross-examination. I am sorry to sound as if I am lecturing you, but it is very important that you conduct the cross-examination in a way that conveys to me ----

**MR IRVING:** I am doing the very best I can given the limited circumstances that the Defence

have access to my documents which I do not have.

**MR JUSTICE GRAY:** Are you suggesting that they are physically in court, these memoirs of Bruckner?

**MR RAMPTON:** No. Can I help?

**MR JUSTICE GRAY:** Yes. Otherwise I am completely lost.

**MR RAMPTON:** I think the position is this. Mr Irving is rather

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rushing his fences this morning. I understand what he is saying, I think. The position is this, that they are in the Munich archive.

**MR JUSTICE GRAY:** I follow that.

**MR RAMPTON:** He cannot go there. My people went there and could not find it. Professor Evans does not know that, I do not think, because he did not go himself. One of the researchers went.

**A:** I am sorry, I do know that.

**MR RAMPTON:** He does know that? I must not give his evidence then. I am sorry, it is there already.

**MR JUSTICE GRAY:** But none of that invalidates what I was suggesting. I am not suggesting it, I think it must be done that way. Otherwise this is meaningless for me.

**MR IRVING:** We have two more documents which will answer your Lordship's question straightaway.

**A:** Let me say the footnote reference to testimony of Wilhelm Bruckner I have said Irving collection. It is really not very helpful in trying to locate a document. When you look at Samlung Irving Deckblatt, it does not contain anything that is entitled testimony of Wilhelm Bruckner. It just contains the things that I read out. It does not indicate that there is anything in here giving his testimony about the events of the Reichskristallnacht.

**MR IRVING:** Two follow up questions, however. The fact is that you did not look, or you did not find it, for the Bruckner

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file, is that correct?

**A:** Those are two different things, Mr Irving.

**Q:** You did not find the Bruckner file, is that correct?

**A:** We looked very very hard.

**Q:** Yes or no? Did you find the Bruckner file?

**A:** You mean this Samlung Irving with the Deckblatt and so on document? We could not locate the testimony which you refer to, no.

**Q:** Should you not therefore have said in your report, it is quite possible that this document contained in this file would have borne out Mr Irving's version but we cannot state, not having seen it?

**A:** Well I will read the you the sentences: "Irving only provide an incomplete reference for Bruckner's testimony, which could not be located in the Institute for Contemporary History in Munich". That is very carefully phrased. That not mean to say it is not there. It is just to say that we could not locate it there. It goes on to say: "The only document which could be located was a summary of a statement of Bruckner, written by a German historian. According to this summary, Bruckner claimed that Hitler 'is said to have raged' when he is informed of the burning Munich synagogue". So that does appear to be the source which you are relying on. If you can show me it

is a different source you are relying on, I would be happy to see that.

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**Q:** Is that document that you just referred to a part of the Irving collection?

**A:** It is.

**Q:** It is part of their ZS collection?

**A:** It is in the Siegler -- it is footnoted in footnote 39.

**Q:** Let us move on to another personality now?

**A:** I do not think it is.

**MR JUSTICE GRAY:** I am going to pursue this, if I may. I am sorry to interrupt again but I think this is quite important. Professor Evans, you are in the difficulty you did not personally search the archive.

**A:** Exactly yes.

**Q:** Can you help and say if this is any problem about doing so? Who was it who went to Munich?

**A:** It was my assistant Mr Vassman.

**Q:** Tell me more about him. Is he in your department?

**A:** He is a junior research fellow in Downing College, Cambridge.

**Q:** Never having had to consult an archive in my entire life, I do not know how difficult it is to do a search. I have to form some sort of view about how easy the testimony of Bruckner should have been to find. I have no idea.

**A:** Yes. This is getting very convoluted, my Lord. Archives have file numbers, core numbers, so everything has a number and here we cite in footnote 39, that is the core number that I have said is in the Institute of

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Contemporary History in Munich, Zs-243/I. Basically it is a kind of interview. They did a series of interviews in the Institute after the war. Footnote 38 gives a numbered film, which is an interview or interrogation really, of Wilhelm Bruckner in 1947, statement by Schaub, so they all have those core numbers. It is normal practice by historians to put the core numbers in their footnotes, not just to have some vague reference to testimony, which makes it very difficult to locate what one is trying to find.

Then archives have descriptions, both in what are called location aids or search aids, which are usually typed up and only available in the archive, and those have numbers of the files and rough descriptions of what is in them. So you can see in this document here Samlung Irving Deckblatt, that is start a rough description, brief description, of what is in the file. These are all done by archivists. You can go on. It says who is the author and then who is allowed and who is not, whose permission has to be given to see the files.

**MR JUSTICE GRAY:** If you had been your researcher and you had seen the kurz Bezeichnung, which, if any, of those would you have gone to if you were looking for Bruckner's account of these events?

**A:** It does not say the testimony of Wilhelm Bruckner, which is the tile the Mr Irving gives. There is nothing in

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there indicating that there is anything about the 1938 Reichskristallnacht.

**Q:** So you say the answer is really none of them suggests that it would have any bearing?

**A:** No. In the limited time available, it might be interesting to see his views on religion, or his essay on Adolf Hitler, but there is nothing there to indicate that he has a testimony about 1938. But there is an indication in there of his testimony about other specific events, the Hanfstaengel the Rowan Putsch 1934. Given the fact that those specific references are in there, one would expect there to be a specific reference in there to his testimony about 1938.

**MR JUSTICE GRAY:** One more question and then I will keep quiet. Who compiles the kurz Bezeichnung?

**A:** It is usually archivists, my Lord.

**Q:** It would not have been Mr Irving?

**MR IRVING:** No, my Lord. In fact, this particular cover sheet was compiled by me. I gave 500 collection of documents to this institute and for each one there was this sheet in the front of each file. The Bruckner file is about quarter of an inch thick. It would have taken possibly five minutes to flip through and find the appropriate passage.

**MR JUSTICE GRAY:** We may need to hear from the person who actually searched the archive. Yes.

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**MR IRVING:** The point I am making, my Lord, is that I am accused of not having had proper sources for the events of that night. The sources were there, they were referenced in my Goebbels biography in a manner in which any competent researcher would have found the file in a matter of minutes.

**A:** I cannot agree with that, Mr Irving.

**Q:** Can you tell the court now -- I am moving on to another personality -- who Julius Schaub was?

**A:** Yes. He was sort of Hitler's ----

**Q:** Factotum?

**A:** Yes, side kick. It is difficult to find a precise way of describing him. He was a very close aid of Hitler's for very many years.

**Q:** An amanuensis, one of the old guard, with him in the 1923 Putsch?

**A:** Yes. He joined the party very early on in 1921 or 22, personal adjutant from the mid 20s on, and again he was given a senior office in the SS and possessed various decorations and so on.

**Q:** Look at page 257 of your report, please, where we are dealing with the Schaub as a source, the source which Irving gives for Schaub's claims is: Schaub's unpublished memoirs in the author's collection in the Institute of History in Munich, file ED.100/202. ED.100 is the Irving collection, is that right?

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**A:** I think that is true, yes.

**Q:** Oblique stroke 202. They have now changed the reference, you say, to 203. Can I draw your attention to page 26 of the little bundle I gave you?

**A:** Indeed, yes.

**Q:** This I think will put your Lordship's mind at rest. This is the reason I am going through these documents. Is that a translation of a passage from these Julius Schaub papers?

**A:** I find myself in some difficulty here. I do not know, is the answer.

**MR JUSTICE GRAY:** You made this translation, Mr Irving, did you?

**MR IRVING:** I made it last night, my Lord, yes.

**MR JUSTICE GRAY:** You have access then to Julius Schaub's papers? I thought they were in the archive in Munich.

**MR IRVING:** I am pretty certain that this comes from -- yes, it comes from the discovery. There was one page in the discovery from these papers I think. Off of the top of my head I have to say that, but this is a genuine translation.

**A:** You have not supplied the original.

**Q:** It is in H 5?

**MR RAMPTON:** I do not know what particular document Mr Irving is talking about or which it is that he has translated. There is a piece about Goebbels apparently headed Schaub

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Nachlass, whatever that means, at page 4 of tab 5 of the file L2, the Reichskristallnacht.

**MR IRVING:** Yes, my Lord, that is where it comes from.

**MR RAMPTON:** Which is the reference given by Professor Evans at page 257.

**MR IRVING:** It was quite late when I did this translation last night.

**MR JUSTICE GRAY:** I am sure. I am not forgetting that side of things.

**A:** Yes, I have it.

**MR RAMPTON:** Page 4 of tab 5 my Lord. It is headed IfZ ED 100/203.

**A:** Yes.

**MR IRVING:** If I had provided just the German to your Lordship, you would have rightly reprimanded me.

**MR JUSTICE GRAY:** The witness asked to see the German, which is fair enough. I am very happy with the translation.

**MR IRVING:** If the witness wishes to challenge the translation, then of course he may. "Without doubt Goebbels had the biggest influence on AH"?

**A:** Can you direct me to where exactly it is?

**MR RAMPTON:** Page 5, last paragraph.

**MR IRVING:** I have translated only the passage dealing with the events of that night. "Without doubt Goebbels had the biggest influence on AH, far more so than Bormann, he invented the concept Fuhrer for AH and he hammered the

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Fuhrer principle into the people. Goebbels always discussed his propaganda with Hitler, even during the war". The part I am relying on is a sentence or two later: "It is a certainty that Goebbels ordained the Reichskristallnacht Sunday".

**A:** You skipped a bit. All right, yes.

**Q:** "It is a certainty that Goebbels ordained the Reichskristallnacht Sunday with the SA command". Of course it was not a Sunday, was it? It was another day of the week. Then comes no doubt Schaub's own particular hobby horse. He says, "The SS was innocent of this, apart from a few lesser officers. When AH learned on that Sunday of the anti-Semitic outrages, he was furious with Goebbels. He made a frightful scene with Goebbels and told him that this kind of propaganda was just damaging".

**A:** Yes.

**Q:** Now, this is a source that you would disqualify for some reason, or downgrade?

**A:** Yes.

**Q:** Would you disqualify it because of its content, because it does not agree with your own views, or because of something about Schaub, or something about the document?

**A:** It is a number of different things. I think he is just making this up, basically.

**Q:** You think he is just making it up?

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**A:** Indeed, yes. There is an enormous amount of other evidence, contemporary evidence, and not much later evidence such as this, that most of what he says here is not true, and that I go into in great length in my report.

**Q:** First of all, you do accept that this document is genuine, that this is a collection of papers given to me by the son of Schaub Mr Roland Schaub, containing an odd collection of manuscripts and notes, articles, carbon copies and the like?

**A:** Indeed. I describe it on footnote 54 of my page 257.

**Q:** You have actually had a look at the heap of papers, have you?

**A:** Yes. It is cited in the report on page 257.

**Q:** Yes, but the point I am looking at is of course that here we have a man who was on Adolf Hitler's private staff, his chief adjutant, and factotum, who says he was an eyewitness, or he reports to us that, when Hitler learned of the outrages, he was furious with Goebbels, he made a frightful scene. Should I have disregarded that evidence completely?

**A:** No. You weigh it up against other evidence and against Schaub's possible motives in writing this, and the fact that, as you say repeatedly, eyewitness testimony after the war is less reliable than contemporary testimony. This is another example of your double standards, Mr Irving.

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**Q:** Double standards?

**A:** Yes. You are determined to give credence to this report but you dismiss all reports of victims of the Holocaust as being fabrications due to mass hysteria, as we heard yesterday.

**Q:** Which of us has the double standard? The person who pretends that this report and the contents that it contains should be in some way played down for no reason other than you do not like it? You cannot give a real reason why. You cannot say Schaub was a congenital liar?

**A:** You have already said that he was wrong to say that it was on a Sunday, Mr Irving.

**Q:** He got the wrong day of the week but this is a mistake any of us can make. No doubt it stuck in his mind.

**A:** Not if he is an utterly reliable eyewitness who has total recall of what went on. That alone I think should alert one to the fact that his memory is not particularly good. Then you yourself went on to discredit, or cast doubt over his statement that the SS was completely without any guilt. No doubt that is connected with the fact that Schaub himself was a senior officer in the SS. This is an extremely self serving document. One has to regard it with the deepest suspicion and compare it with other documents, preferably contemporary ones dealing with the same events.

**Q:** Do we have any contemporary records of what went on in

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Adolf Hitler's private residence, any contemporary records whatsoever of what went on in his private residence?

**A:** Not directly, no.

**Q:** So we are really then on our uppers, are we not?

**A:** We are comparing a lot of post war reminiscences and we have to be very careful in treading through this particular minefield of documents.

**Q:** So ideally we want to have more than just one source that says the same thing?

**A:** Whole range of sources, indeed.

**Q:** How many would you accept? Two sources?

**A:** I am not going to put a number on it, Mr Irving.

**Q:** But, if we have another source that says the same thing, then we are getting convergences of evidence beginning to kick in, are we?

**A:** Well, it is a problem with the evidence of Hitler's entourage, that they of course had a major incentive after the war for trying to exculpate them for involvement in a number of crimes such as the Reichskristallnacht. They also seem to have been a fairly close knit group who had the opportunity to discuss their line, as it were, amongst themselves, so I think one has to be very cautious.

**Q:** Any common sense historian would adopt that line, that is correct. But, if we ignore for a moment the main trend of these statements, and I am going to introduce another one to you in a moment, and we look for the little bits of

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verisimilitude which tend to support the main trend, for example he was livid with rage and he shouted at Goebbels, those kinds of things which appear to figure in several of the statements or certainly more than one, then the convergence of evidence then becomes more convincing. Would you agree?

**A:** No, not necessarily. This might have been a story they cooked up.

**Q:** Can we now turn to a third witness?

**A:** The sentence you are relying on here claiming such a tremendous piece of evidence is-- I will quote it: "As AH on this Sunday" -- we know it was not a Sunday.

**Q:** Do you attach much important to the fact he got the day of the week wrong?

**MR JUSTICE GRAY:** I do not.

**A:** Yes. It is pretty easy to remember. "As AH heard on that Sunday about the anti-Semitic excesses, he was angry with Goebbels". It does not seem to me to be very circumstantial.

**MR IRVING:** He was furious with Goebbels. You are changing the words.

**A:** It is angry, very angry, furious, yes.

**Q:** He made a frightful scene, did he not?

**A:** Yes.

**Q:** Told him that this kind of propaganda was just damaging.

**A:** Yes. Mr Irving, I do not know how much detail I ought to

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go into here, but there is an enormous amount of evidence which is laid out in my report and which was gone over in your cross-examination ----

**MR IRVING:** But not of the events in your----

**MR JUSTICE GRAY:** Do not keep talking over the witness.

**A:** -- about Hitler's responsibilities for these events.

**MR IRVING:** We are not talking about that at this point.

**A:** You know that, and accepted that what Goebbels said in his speech to the party assembly at

between about 10 o'clock at night on 9th November that (I quote) on Goebbels' briefing the Fuhrer has decided that such demonstrations should not be quelled. That is contemporary evidence, Mr Irving.

**Q:** I really have to halt you here because this is a totally different matter.

**MR JUSTICE GRAY:** Please do not interrupt, Mr Irving.

**A:** That is contemporary evidence that Hitler had decided that these excesses should continue, they should continue to burn synagogues and destroy the dwellings and shops of the Jews. It seems reasonable to suppose that, if Hitler had been angry and had not approved of this, if Goebbels was making this up, then the consequences for Goebbels would have been extremely serious. I cannot imagine that Goebbels would have said that to a mass assembly of senior party officials if that was not true. Indeed, you have accepted that what Goebbels said in his speech was what

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Hitler told him at the dinner. You have also accepted that, when Heinrich Muller telexed the police, ordering them again not to interfere in the excesses, the burnings and the destruction, and to arrest 20,000 Jews at 11.55 p.m., that is an order that came from Himmler to Muller, from Himmler who had had it from Hitler, i.e. that Hitler's order was the source of this Muller telegram.

**MR IRVING:** Can we now halt your flow of verbiage and get back to the point I am asking about?

**A:** We have a whole series of contemporary----

**MR JUSTICE GRAY:** I am finding this extremely helpful and please will you stop interrupting.

**MR IRVING:** This is not the point I am asking about. I am asking about the events in Hitler's home.

**A:** We have a whole series of contemporary documents going on to the telex from Heydrich, to the German police again saying they are not to interfere unless German property is threatened or foreigners are threatened at 1.20 a.m., again which Mr Irving has admitted under cross-examination was a result of Hitler and Himmler having discussed this issue. So right through the night -- and this goes on. There is a whole string of further documents, a telegram from Eberstein, a telegram from Hess at 2.56, which indicate all the way through that Hitler was fully apprised of the situation, right from the very beginning, that he approved of Goebbels' idea and ordered that these

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excesses should be carried out.

These are contemporary documents and therefore they undermine wholly the credibility of postwar ex post facto self-serving justifications by members of Hitler's entourage who were heavily involved in these events, that Hitler somehow did not know about it, and got very angry when he heard about it.

**MR IRVING:** Are you saying ----

**A:** We know from Goebbels' diary, as I quote on pages 257 to 8, that Schaub himself was involved. Schaub is completely worked up, says Goebbels, his old shock troop past is waking up. So Schaub himself was heavily involved. Obviously, all these things are things that Schaub does not really want to admit after the war.

**MR JUSTICE GRAY:** That was a very long answer but what are you really saying -- and this is condensing it absurdly -- is that, when you are approaching the testimony of the Adjutants, you

have to weigh what they say happened against the whole background and consider the likelihoods?

**A:** Yes. It is not a question of dismissing them totally.

**Q:** No. I said "weigh against".

**A:** But you have to weigh them up, yes, and particularly the circumstances in which these statements were made after the war.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** My Lord, with respect this witness has laid a

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terrible choking suffocating smoke screen across the courtroom and across the points that I was trying to arrive at.

**MR JUSTICE GRAY:** Mr Irving, let me explain why I think it is helpful. You say, and I quite understand, and I think there are three of them, Schaub, Eberstein and Bruckner, as supporting evidence for Hitler's angry reaction in the middle of the night. Now, they may be right, they may be wrong. What Professor Evans was doing, and it was a long answer, was summarizing all the considerations that should weigh with an objective historian in deciding whether to attach credence to what the individual witnesses say. Now, what is wrong with that?

**MR IRVING:** With respect, I should have been permitted to conduct the cross-examination my way, which would have been to go over those documents, having dealt with this central issue, and then looked at those documents which were prior to that.

**MR JUSTICE GRAY:** Well, I am afraid I see nothing wrong with that answer and I tried to explain why I found it helpful.

**MR IRVING:** Well, we have had all of that. The whole of that little speech -- little is not the right word -- we have had several times in this courtroom. What I am introducing here is material going to the issue, which is whether I had no basis for writing what I did.

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Unfortunately, the witness, by his smoke screen, has interrupted my cross-examination.

**MR JUSTICE GRAY:** No. What the witness was saying was yes, you have records of what these Adjutants told you, but you were in dereliction of your duty as a historian in forgetting to weigh that evidence against the background, the context.

**MR IRVING:** Should he not have waited until he heard the third witness and then started off with his little speech?

**MR JUSTICE GRAY:** Go on with your third witness.

**MR IRVING:** Yes. Would you now turn finally, preferably without five-minute speeches, to the translation of the tape recorded interview of Colonel Nicholas von Below?

**A:** Could you point me to the original German, please?

**Q:** The original German is here. Am I right in saying -- I am trying to save time now -- that Colonel Nicholas von Below was Hitler's air force adjutant from 1937 until the last day of his life?

**A:** Yes.

**Q:** He was an air force professional officer?

**A:** The last day of whose life, Hitler's life, you mean?

**Q:** I beg your pardon?

**A:** Last day of Hitler's life?

**Q:** Yes. He was a professional German air force officer, he was not a Nazi Party member, is that

correct?

**A:** I think that is right, yes.

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**Q:** On this occasion, on this night, he was in Hitler's home?

**A:** Yes.

**Q:** In Munich?

**A:** Yes.

**Q:** Is he a source whose recollections have been rightly impugned on any other occasion, to your knowledge, of any other historical event?

**A:** My memory fails me here, Mr Irving. They are a source of variable quality but it is a valuable source.

**Q:** Professor, you have held yourself out to this court as an expert witness on the Third Reich.

You have spent 18 month in investigating these sources in particular, and I am just asking you if you have any impression about colonel von Below?

**A:** I think Colonel von Below gave a number of different testimonies, parts of which are valuable and parts of which are not so valuable, is that enough?

**Q:** Is right that in general you are inclined to criticise my interview technique and suggest that I may have asked leading questions, or in some way browbeaten my Nazi sources?

**A:** Where do I use the word "browbeating".

**Q:** You know what I am getting at, that in fact I used improper techniques?

**A:** I know what you mean by attempts to browbeat, Mr Irving, but I do not say that you do that with people cited in

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this report.

**Q:** Browbeating is part of the job of somebody in cross-examination, is it not, obtaining information from a reluctant witness, shall say? Is there any sign here ----

**A:** I thought you were complaining I was not reluctant, I gave too much information, Mr Irving.

**Q:** Is there any indication from this transcript? Would you agree it is a verbatim transcript?

**A:** Yes.

**Q:** From a tape recording?

**A:** Yes, it appears to be such.

**Q:** Is there any indication that I am asking leading questions?

**MR JUSTICE GRAY:** The first one is a leading question, but let us move on.

**MR IRVING:** My Lord, my interview technique is part of the criticism against me, that I have distorted history.

**MR JUSTICE GRAY:** Yes, but you asked whether there were any leading questions and the first question is a leading question, Mr Irving. Let us get to his answer.

**A:** "You were with Hitler at his home when the news of the Reichskristallnacht arrived there in Munich and he was rather surprised by that, can you depict that who else was there, suggest to the witness that he was surprised". What you should have asked was, "you were with Hitler in his home on the eve of Reichskristallnacht, can you say

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what happened", something neutral like that?

**MR IRVING:** Is it not likely----

**A:** You are suggesting things here.

**Q:** Is this an extract from an interview or is it the whole interview?

**A:** It is an extract. It starts with one question as well.

**Q:** Is it likely that there had been some discussion of this before this extract begins therefore?

**A:** You will have to show me documentation of that previous discussion if I am to answer that question, Mr Irving.

**Q:** Would you look at the second question from the end, please? Irving asked, "back to the Reichskristallnacht", is that a leading question, "back to the Reichskristallnacht"?

**A:** Sorry, I cannot find it.

**Q:** On the first page.

**A:** First page, yes.

**Q:** At the bottom of the page, Irving asks, "back to the Reichskristallnacht"?

**A:** Yes.

**Q:** Is that a leading question?

**A:** No.

**Q:** And the answer comes, "the first thing that came to us was a phone call from the Four Seasons Hotel". Do you wish to follow this in the German original and correct me if I am wrong in the translation?

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**A:** Yes.

**Q:** "Those of us who were on duty with Hitler always lived at that time in the Four Seasons Hotel and on this day we were billeted in rooms that were quite high up. The staff phoned to us".

Where was he then at this time?

**A:** In Hitler's residence.

**Q:** "The staff phoned us to say we ought to come right over and pack our bags as in a neighbouring building the synagogue was on fire and the sparks were flying right over the building". Does this sound like he is recalling the actual conversation?

**A:** Yes, sounds like that.

**Q:** It is verisimilitude, is it not?

**A:** Sounds like that.

**Q:** "It was just a matter of security. Brandt", he is the doctor, "always lived in that hotel too. He said, 'Ought we to drive over or not? Somebody' and this is the adjutants speaking to each other, is it not?

**A:** Yes.

**Q:** "Somebody said then, 'Well, one of us ought at least to go and take a look'. Whether anybody did drive over, I don't know. Then further reports came. I don't know on the basis of what facts, whether it was Schaub asking or the fire brigade or the Gaul headquarters. Shortly after that it became known that the synagogue had not cut fire by itself, but had been set on fire and that there was a

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demonstration going on. Thereupon that was immediately passed on by Schaub to Hitler. Thereupon the Police President of Munich, von Aberstein, was immediately sent for. Herr von

Aberstein then appeared soon after at the Fuhrer's residence. He was an SS Obergruppenfuhrer. He was now interrogated by Hitler. Then there was a conversation between Hitler and Goebbels by" -- has he been led with any of this by me, to your knowledge?

**A:** Yes, by the opening question. "You were with Hitler in his home when the news of the Reichskristallnacht arrived there in Munich and he was rather surprised by that. Can you depict that?" and that is what he is doing here.

**Q:** Have I mentioned in my opening question Aberstein or telephone conversation with Goebbels?

**A:** "Can you depict that, who else was there?" That is your question.

**Q:** Then the we carry on now from the bottom of the page when I asked, "What was Hitler' reaction to the first news report?" Is that a leading question?

**A:** Well...

**Q:** And then does he answer?

**A:** Well, it depends. I mean, it makes the assumption, of course, that these were the first news reports. But if it refers just to reports of the synagogue burning in Munich, then it is not a leading question.

**Q:** "Then Below admittedly recalling the events 30 years

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later", because it is, it is 1968 this interview with von Below, is it not?

**A:** That is right.

**Q:** He records Hitler's reaction as being, "What is going on? Please find out. I have to know what the game is."

**A:** I cannot find this in the German, I am sorry, for the moment.

**Q:** "It was my impression that we all and even Hitler"?

**MR JUSTICE GRAY:** Pause a second, would you mind, mr Irving?

**A:** Yes.

**MR IRVING:** "It was my impression"?

**A:** Yes, "What is going on?" Yes.

**Q:** "Please find out. I have to know what the game is". Is that a fair translation, admittedly it is ---  
-

**A:** Yes -- no, it is fine.

**Q:** --- obviously not a verbatim recollection, but that was his impression.

**A:** That is fine.

**Q:** "It was my impression that we all and even Hitler himself were totally in the dark". I assume that is what he means by "musspot". "Nobody knew anything about anything. I can only say", and then he continues with his own impression: "Form my many years with Hitler and on his staff, if that had been organized by Hitler and with Hitler's knowledge, a charade on that scale would have been impossible. I would not put it past Goebbels,

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absolutely not". And then what does he say? "Then Hitler became angry and raised his voice quite loudly to Aberstein and said: 'I demand that order is restored at once'." Is this now another source saying the same thing that Schaub said?

**A:** It seems to be, yes.

**MR JUSTICE GRAY:** Would you like to read the next sentence?

**MR IRVING:** "That was, however, limited just to Munich. I overheard that because the

conversation took place as I was on the way out". In other words, von Below was returning to his own quarters -- [German] as they say in German. Then he quite frankly admits what happened with regard to the "directive to Goebbels or to Himmler for the rest of the Reichs territory, that, I do not know". Then comes a bit of hearsay: "I spoke once more with Aberstein about this business in Nuremberg prison in 1948 and I asked him: 'Did you know anything about it before you came to Hitler's?' He described it to me just as I had it in my own recollection". Is that significant? Do we derive from that that it came as a surprise to Aberstein too?

**A:** It is unclear what time he is talking about here, and I find that difficult to accept.

**Q:** Is it significant, in other words?

**A:** I mean, this is 30 years after the event, Mr Irving. He has had an enormous amount of time to concoct a story

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which will exculpate himself from involvement in these events which is in his clear interests to do.

**Q:** How could von Below had been implicated in any way himself?

**A:** Because he was with Hitler.

**Q:** But how would that in any way have made him into an accomplice?

**A:** Because Hitler ordered this pogrom.

**Q:** Why would he have invented this conversation with Aberstein in Nuremberg prison where Aberstein confirms 10 years after the event, "It was surprise to me too"? Was there any reason? Does it not look like a piece of verisimilitude again then? A random scrap of something that stuck in his memory over the years that he then repeats to me 20 years later on as something that always ----

**A:** It is extraordinary, is it not, Mr Irving? All these old, all these police officers and SS men have been with Hitler during the appalling violence against the Jews in 1938, many years afterwards when it has become clear that society and the world disapprove very strongly of these events, all tell each other, "Well, I did not know anything about it. I had not heard about it"?

**Q:** Can we just look finally on the von Below and if we just on the final page, at the end of the first paragraph on that page, there is just one little passage that I am

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doing to draw your attention to: "For a long time Hitler did not really place much trust in him", that is Goebbels, "but then after a while he began to on matters of importance, because Goebbels had the knack of putting things forward, putting forward his things in a very logical and penetrating manner, Hitler was in some way a sucker for this whole kind of act. There is no doubt about that."

**A:** Yes.

**Q:** Is that an unusual picture of Hitler, that he could be taken in by members of his staff, do you think, or taken advantage of from your expertise as an ----

**A:** Yes.

**Q:** --- historian on the Third Reich?

**A:** Yes, it is somewhat unusual, yes.

**Q:** Have you heard it before by other authors, that Hitler was not such a strong man after all, that he was taken advantage of?

**A:** I do not think "taken advantage of" is a phrase that other authors would use. I mean, there is sort of glimmering of -- I mean, this is not to be dismissed entirely, as it were. It is clear, I think,

it is general agreement, that the Reichskristallnacht was initially Goebbels' idea.

**Q:** And, overall, looking at the von Below interview, now that they are in front of you completely transcribed and translated, in general, is it a proper interview or has it

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been deliberately skewed in some way by the man asking the questions?

**A:** Well, as has been remarked several times now, the initial question there is very much a leading question.

**Q:** Or picking up on something previously said during that evening?

**A:** You would have to show me that before I could accept that. In any case, it is a leading question.

**Q:** So I do not want to go over that because we have been over that.

**MR JUSTICE GRAY:** Subject to that, it is an account which bears out what Mr Irving writes in Goebbels?

**A:** No, I am not -- not entirely, no, my Lord.

**MR IRVING:** Can I ask you to have a look at the Aberstein telegram of the previous evening?

**MR JUSTICE GRAY:** Pause a moment. It is really the top of page 277, I suppose?

**A:** Of Goebbels?

**Q:** Of Goebbels. I mean, I will read it to you. It is two lines. "According to Luftwaffe adjutant Nicolaus von Below, Hitler phoned Goebbels, 'What's going on?' he snapped, and, 'Find out'".

**A:** Yes, now, in his memoirs von Below says something rather different, that he conducted his phone conversation with Goebbels on his own from his living room, so that contradicts what he says in the interview. In other

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words, if he conducted the phone conversation on his own from his living room, he could not have heard what Hitler was saying to Goebbels on the phone. That is at page 258, paragraph 6, of my report.

**MR IRVING:** Will you accept that I have the original typescript of von Below's memoirs that he wrote in 1947 and I was relying on that and not on a later published work. When were the memoirs published? In 1980?

**A:** In 1980 in Mainz, yes.

**Q:** So how could I have possibly made use of that in 'The Warpath' which was published in 1977?

**A:** Well, I would say that von Below said, for what it is worth, I quote him on paragraph 9 of page 260, that he objected to your claim that he had provided you with unpublished contemporary manuscripts and letters and checked through pages of your manuscripts. He remembered "some visits by Irving during which I answered his questions. But I must decidedly reject his more far-reaching claims as not corresponding to the truth".

**Q:** So what is von Below saying there, that he did not provide me with any manuscripts?

**A:** I assume that is what he is saying, yes.

**Q:** He provided me with no letters, wartime letters?

**A:** If one is to believe him, that is what he is saying.

**Q:** If one is to believe the printed word and that he did not revise the manuscript then it was written by me, is that

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correct?

**A:** That is what he says, I think, yes.

**Q:** Now, Professor, you or your researchers have had access to my files in the Institute of History, have you not?

**A:** Yes.

**Q:** Have you seen in the correspondence file between myself and Colonel von Below the covering letters with which I sent the chapters to him and which I thanked him for having returned the chapters to me, chapters which included in the files are all his marginal comments on precisely this chapter?

**A:** Provide me with copies and I will look at this again.

**Q:** Your researchers have worked in the archives, is that right, on the Irving collection?

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

**Q:** And you have had my personal files of correspondence with people like von Below containing all these matters and you prefer to believe what a book published in 1980 says rather than the evidence of your eyes, namely the chapters amended in his handwriting?

**A:** Provide me with copies of those chapters and I will comment on that. I have not seen them, no.

**MR JUSTICE GRAY:** You have not?

**MR IRVING:** You have not seen them?

**A:** No.

**Q:** Did you or your researchers bother to look in these files

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of correspondence between myself and Adolf Hitler's private staff?

**A:** Can you name the files, give me core numbers of the files?

**Q:** Will you answer my question? Did you or your researchers bother to look at my files of correspondence?

**A:** Well, I have already said that we did not see them, I mean, accepting for the moment your claim that there are such files.

**Q:** But you are quite happy to repeat ----

**MR JUSTICE GRAY:** If they are in the discovery ----

**A:** If they are in the discovery, we can see them.

**MR JUSTICE GRAY:** I do not know how difficult it is to dig them out. I know there has been a massive amount of discovery.

**MR IRVING:** My Lord, they are no longer in my discovery, of course, because I have given the originals to the Institute.

**MR JUSTICE GRAY:** I thought you were saying you had disclosed them in this action, your correspondence with von Below?

**MR IRVING:** No, my Lord, I did not. With respect, I did not say that. I said that these researchers have had access in the Institute at Munich to all my private files in which I have correspondence with Hitler's personal staff which I donated to the Institute because of its historical significance. It contains voluminous correspondence with Colonel von Below, including the chapters which he

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corrected in his own handwriting in the margin with his very characteristic handwriting. Why this passage appears in his book is a mystery to me.

A final question on this matter of the documents: Professor, have you seen in my discovery now one page of extracts typed by me on my large faced typewriter from von Below's original typescript manuscript memoirs in my discovery?

**A:** Point it to me and I will ----

**Q:** On this particular episode?

**A:** Provide it to me and I will say whether I have seen it or not.

**Q:** Well, I sometimes wonder what the purpose of discovery is, if all these documents are made available in numbered folders to the defending solicitors and the evidence is there, and yet they still write paragraphs like this.

**A:** Sorry, like what?

**Q:** It is insulting, is it not?

**A:** Like what?

**Q:** The allegation that I lied, is that not insulting, the allegation that I lied about having had access to von Below's private papers and manuscripts?

**A:** That is his allegation.

**Q:** Yes, but you have repeated it. Is it not insulting for you to put that in there, although the evidence in the discovery is that I did not lie?

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**A:** If the man -- well, first of all, I do say, draw attention to the fact, that von Below is not always a very reliable witness, so I think anything I say about von Below, it is clear that it is with that caution. But if he does say in his published memoirs that he takes strong exception to your claims that you have -- that he checked through many pages of your manuscript, then I think one is duty bound to record that fact. The only way we can actually verify this not desperately important point is, of course, by looking at all the correspondence.

**Q:** You say it is not desperately important?

**A:** It is a rather peripheral issue, in my judgment.

**Q:** If a journalist or an expert said, "Professor Evans has claimed to have had access to the private papers of Colonel Smith" and Colonel Smith says, "This is a lie", is that a peripheral point? Would you consider that to be a peripheral point?

**A:** That is something slightly different. He also -- that is a slightly different point.

**Q:** But do you say that Colonel von Below turns out to be unreliable on many points. You remember that I asked you earlier this morning, "Have you any impression about von Below's reliability? Has he ever been demonstrably wrong on anything he has written about?"

**A:** It is variable, yes. It is variable. He is unreliable on some issues. One has to make a judgment about what he is

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saying.

**Q:** That was not what you said in answer to my question, was it? You said you did not know of any instances where he had been wrong?

**A:** I honestly cannot remember. I would have to see the transcript.

**Q:** You would have to see the transcript.

**MR JUSTICE GRAY:** Mr Irving, probably now is the right moment to ask you this. Where are you suggesting, or where is anyone suggesting, we should put this clip of documents because it is very convenient you have prepared it in the way you have.

**MS ROGERS:** If I can help? L2 is the Kristallnacht file. There should be an empty tab 9. If it is empty, I suggest it goes there.

**MR IRVING:** Do you, therefore, accept, Professor, that I had three sources of what you would describe as being of variable quality, all converging on an episode in Hitler's private quarters on the Night of Broken Glass in which Hitler, apparently, vented his anger upon receiving news of what was happening in Munich, at least?

**A:** Yes, and I think they are all lying.

**Q:** You think that all three are separately lying?

**A:** Well, Mr Irving, it is not beyond the bounds of possibility. You have already suggested in the course of this trial that many thousands of Holocaust survivors are

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all collectively lying, so it is not beyond the bounds of possibility that three people are lying, is it?

**Q:** But the problem we have with the eyewitnesses in other matters before the court is that their accounts diverge, whereas the significant detail about these three is that in minor points the little bits of verisimilitude are the same?

**A:** Like the fact that it took place on a Sunday, for example?

**Q:** I am now going to take you through some points in your report relating to the Kristallnacht, page 237, line 2?

**A:** 237?

**Q:** You say that the real number of deaths, including suicides, was certainly much higher than 91.

**A:** Right, yes.

**Q:** And, of course, I put the figure at about 91 or 100, do I not, in my book?

**A:** That is right.

**Q:** That is what you are criticising? Do you have any evidence for saying that the real number of deaths was certainly much higher?

**A:** Yes, now there were, certainly I think over 200 in Vienna alone. That is the figure, of course, that is given by the Nazi Party tribunal, but it is clear that there were deaths, suicides, in the camps when the 20,000 were arrested.

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**Q:** Where does that figure come from?

**MR JUSTICE GRAY:** What, 91 or 200?

**MR IRVING:** The larger figure.

**A:** The 91 are the murders which are listed in the Party report.

**Q:** Yes. In a Party report; of course, there were several such reports, were there not?

**A:** That is the Party tribunal which investigated these events.

**Q:** So the figure of 200 in Vienna alone, where does that kind of figure come from?

**A:** That comes from a contemporary report in Vienna. I am trying to find where my records are of this. I think I answered this in one of my answers to your written questions.

**Q:** Very well. Let us proceed then.

**A:** I refer you to that, my Lord.

**Q:** It is rather holding up the court on that matter. I do not attach much importance to that, my Lord, so we will move on.

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

**MR IRVING:** At the beginning of paragraph 8, please? "These events were the only major nationwide pogrom undertaken in public against the Jewish population during the 'Third Reich'", is that the popular perception nowadays?

**A:** Would you like to point me to others?

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**Q:** Do you accept that there were other major pogroms against the Jews in Germany?

**A:** Could you name some?

**Q:** Are these well-known to historians, do you think?

**A:** Could you tell me when they happened?

**Q:** Can I turn your attention to page 252 of my Goebbels biography?

**A:** Yes.

**Q:** Does the middle paragraph, the second paragraph, of that page describe a pogrom in Berlin organized by the Nazis in June 1938 of which there has so far by no description by historians like yourself? All the usual Nazi methods, harassment, rounding up "1,122 criminal, 445", I quote, "anti-social", and 77 foreign Jews found ... imprisoned, 1,029 were thrown into concentration camps ... 250 Jewish-owned automobiles seized pending safety tests", I mean, real harassment going on there?

**MR JUSTICE GRAY:** What is the relevance of this, Mr Irving?

**MR IRVING:** He has said here in his paragraph 8 that this was "the only nationwide pogrom undertaken in public against the Jewish population during the 'Third Reich'". It is an attack on his credibility as an expert witness. He appears unfamiliar with the facts that in June 1938 Goebbels organized without any consent from Hitler a pogrom against the Jews which is a kind of a trial run on a major scale in Berlin, and I found the details of this

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in records in Princetown University Library. There is the original report by Heldorf, the Police Chief of Berlin.

**MR JUSTICE GRAY:** I hear what you say, Mr Irving, but what I am concerned with is whether the criticisms of your account of Kristallnacht are well-founded or whether they are not, and the fact you have discovered another, as you put it, major pogrom in Berlin in June 1938 does not appear to help me very much on that.

**MR IRVING:** Well, it is a question of state of mind and mind set and expertise of myself versus this witness, my Lord.

**THE WITNESS:** May I just then, in response to that, say that, of course, I am aware of the fact that there was a great deal of harassment and violence towards Jews in the Third Reich, throughout the Third Reich, from the very beginning, in particular, the beginning of April 1933, and during the so-called Nazi seizure of power during those months there were many arrests and a great deal of violence against individual Jews. There was a considerable amount in 1935 which was the background to the Nuremberg laws, and there were a considerable number of events, of violent actions, against arrests of, harassment, maltreatment of Jews, right the way through, including 1938.

The point I am trying to make here is that, "These events were the only major nationwide pogrom undertaken in public against the Jewish population during

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the "Third Reich". Let me draw your attention to two words there, the first is "pogrom" which I understand to be acts of mass violence and destruction and, secondly, "nationwide".

What you are describing here in the central paragraph of page 252 of Goebbels are arrests accompanied, no doubt, by harassment and, secondly, it is only in Berlin. So I feel that I am justified in making that statement.

**MR IRVING:** Can we turn to page 258, please, of your report? You are accusing me here of suppressing evidence again, are you not? Line 3, you have given a quotation from the Goebbels diary, page 56: "Shock-troop Hitler gets Goring immediately to clear things out", and so on, "the events during the night". Then you state: "This contemporary document - not mentioned by Irving" ----

**A:** May I just pre-empt you here, in my letter with amendments, 10th January 2000, I recognize on checking through it all again that you do cite the century on page 276 of Goebbels, so I was wrong there.

**Q:** So you were wrong there to suggest that I had suppressed evidence?

**A:** Absolutely, yes, yes.

**Q:** I quoted it in full, in fact?

**A:** That is another matter, but you do mention it.

**Q:** I quoted it in full?

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**A:** You will have to direct me to the place.

**Q:** Page 276 of the Goebbels biography, and you have accused me of not mentioning this contemporary document?

**A:** No, I have withdrawn that accusation, Mr Irving. I withdrew it on 10th January. So you had over a month to read that.

**Q:** Yes, but I am just drawing your attention to the fact that once again you have made an accusation ----

**A:** The court is already aware of that. I drew my own attention -- I drew your attention to the fact, Mr Irving.

**Q:** You made an accusation against me which turns out to be completely unfounded?

**A:** I withdrew that remark. Page what of Goebbels?

**Q:** 276.

**A:** Is that right, page 276?

**Q:** Lower down that page, I am now back on your report again, paragraph 7.

**A:** Wait a minute, I am just checking the shock-troop Hitler.

**MR JUSTICE GRAY:** I cannot find it.

**A:** I cannot find it either.

**MR JUSTICE GRAY:** Whereabouts on 276, Mr Irving?

**MR IRVING:** Let us work backwards from: "His old ... (reading to the words) ... past comes flooding back". That is the final sentence of that paragraph.

**MR JUSTICE GRAY:** Which paragraph?

**A:** The indented quote in the middle of page 276, my Lord,

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which follows on: "We go with Schaub to the Artists' Club, to await further bulletins" or "reports" in my version. "In Berlin five synagogues are ablaze, then 15. Now the people's anger is

aroused. That night", so on and so forth, "Schaub was on top form". I suppose that is ----

**MR JUSTICE GRAY:** Yes I see?

**A:** "Schaub is completely worked up. His old shock-troop is coming past".

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

**MR IRVING:** Paragraph 7 on your page of your report 258, you take exception to my relying on von Below. You say: "It appears clear in this instance that rather than rely on the published book", I relied on the interview von Below in 1968?

**A:** Yes.

**Q:** How many interviews did I conduct with colonel von Below?

**MR JUSTICE GRAY:** Do you mean there were more than one?

**MR IRVING:** There were about 10, my Lord, yes.

**A:** This was the interview in 1968, interviews, if you like, this is a particular interview, one particular interview in 1968.

**Q:** All of the von Below interviews were available to your researchers in the archives, were they not?

**A:** We are arguing about the word "the" here, Mr Irving.

**Q:** No, we are arguing about "interviewer" in the singular.

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**A:** I do not think that sentence implies that there were not more, and it is not an important matter. I am happy to concede that you conducted various interviews. If you like, I will withdraw the word "the" and put "and".

**MR JUSTICE GRAY:** I am sorry, the substance of the criticism is that you go to your interview with him rather than to his own published book. That may or may not be a valid criticism, but worrying about whether there was more than one interview seems to me to be missing the wood for the trees.

**MR IRVING:** Over the page, my Lord, on page 259, line 2, I allegedly, von Below allegedly told me something which implies that, in fact, there is no proof for it. The word "allegedly" implies there is no proof for it. That coupled with paragraph 9 where I am accused of having lied about obtaining the papers of von Below and using his unpublished manuscript?

**A:** Well, he accused you of that.

**Q:** On page 261, paragraph 11, we come to the famous quotation where from the Goebbels diary -- from the court report "Thousands of Jews would have to believe in it in the coming days"?

**A:** Sorry, page what?

**Q:** At the end of paragraph 11 of page 261.

**A:** 261, right. Yes. I have opted for a literal translation there because I did not want to be accused of

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exaggerating. I mean, I tried to convey there is a sense of menace in that, of course, perhaps had better believe it in the coming days.

**MR JUSTICE GRAY:** What is the point on that, Mr Irving?

**MR IRVING:** It is a German slang for "will die".

**A:** No, I cannot agree with that.

**Q:** "Are going for a burton"?

**A:** No, it is not German slang for "will die". If you look it up in the dictionary as I have done. It

is "will suffer the consequences" is one possible meaning.

**MR JUSTICE GRAY:** "Glauben" means "believe", it does not mean "die".

**MR IRVING:** It does indeed, but it is German slang. A Burton is a beer, but "going for a burton" has a specific meaning, my Lord. Goebbels writes his diary in slang, Goebbels speaks slang. "Daran glauben müssen" is a German slang, as, in fact, the Frankfurt Allgemeiner has pointed out, that I was perfectly correct in this particular matter.

**A:** There is a threat -- there is threat included in that, but it does not threaten death. If you look it up in a dictionary, Mr Irving, you will find it does not mean "will" die.

**MR RAMPTON:** My Lord, can I intervene to correct one completely false point that Mr Irving - I know it is a small point, but it does offend my sense of fairness. He just ploughs

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on. The reference to what von Below said, or is alleged to have said, is on page 613 at note 44. The reference which Mr Irving gives for what von Below is reported to have said to him is "Author's interview of colonel Nicolaus von Below, May 18th 1968". So the other nine interviews can go hang. That is what Professor Irving is referring to.

**MR IRVING:** And I draw attention to the fact that all that is before you are the three pages and it was, obviously, an interview lasting many hours.

**A:** You put the pages before us, Mr Irving.

**Q:** I have to ask a question about that then. Is it right you have only had three pages of the original German transcript in discovery?

**A:** Is that the case? You will have to check what is in discovery. I cannot recall it, I am afraid.

**Q:** Well, is it likely that the transcript of an interview lasting two or three hours would be longer than three pages if it is a verbatim transcript?

**A:** Yes.

**Q:** Is it likely that the original transcript therefore is in the archives in Munich and that only those three pages remained in my possession?

**A:** I really do not know; there is no reason why the whole lot should not have remained in your possession. I do not know what arrangements you made about making copies of the

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material before you sent it to Munich.

**Q:** There is a lot that you really do not know then, is there not? This is the problem; you are an expert witness on this case, you had access to my papers and the archives and yet your answer again and again is that you do not know what is there, you did not see this, you did not find that.

**A:** I am not quite sure what point you are trying to make now, Mr Irving, in this specific sense. As you know, we had three people who also had other things to do, 18 months to go through 30 years of your work, and we did the best we could do in the time available. I am satisfied it was thoroughly done.

**MR JUSTICE GRAY:** Mr Irving, I am sorry to go back but you must realise that I need to understand what the issue is. You went to paragraph 11 of Professor Evans' report, page 261, and you had your argument with him about having to believe it.

**MR IRVING:** The issue is purely which of us has the better knowledge of German, my Lord; it is only that.

**MR JUSTICE GRAY:** That is, no doubt, a fascinating topic, but it is not one I am actually dealing with. The criticism is of what you wrote about Kristallnacht in Goebbels's biography.

**MR IRVING:** Yes, which presupposes the knowledge of German.

**MR JUSTICE GRAY:** Could you be kind enough to direct me to the

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passage, where you quote, if you do quote, Goebbels saying what he said.

**MR IRVING:** We have already had it better, in fact, in one of his other expert reports. I think it has been quoted from Longerich's report. We dealt with the matter of that ----

**MR JUSTICE GRAY:** That is as may be, but would you be kind enough to point me to where it is in your book one finds the reference to this quote, so that I can make sense of your criticism of the translation?

**MR IRVING:** It is not in my book at all, my Lord, that passage. I rely on it purely as evidence of the fact that this witness does not have command of the German language that he should have, to be an expert on a difficult matter like what the Goebbels diaries mean, for example.

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

**MR IRVING:** Page 265, paragraph 8, the indented paragraph: You have not indicated in that paragraph that there is an omission, is that correct?

**A:** Can you point me to it then, please?

**Q:** In footnote 66, you can see where the omission is in fourth line?

**A:** Yes.

**Q:** There is an omission of about 20 or 30 words that have been taken out, is that right?

**A:** It is indicated in the footnote; no, that's a typo. There should be been three dots there, but the footnote gives it

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quite clearly.

**Q:** The words that have been left out are not reproduced in either version, are they?

**MR JUSTICE GRAY:** What is the point, Mr Irving? Let us get to the point. Obviously your case is that something important has been omitted which affects what is there. What is it that you say has been omitted?

**MR IRVING:** There are two points that I am saying. Firstly, we cannot always be certain that the quotation given to us by this witness indicates when there have been omissions.

**A:** Sorry, Mr Irving, it does indicate.

**MR JUSTICE GRAY:** That is futile. I am not even going to trouble Professor Evans. That is an absolutely futile point. It is clear from the footnote. What are you saying is omitted that makes any difference?

**MR IRVING:** The words left out are: "As far as I recall from these first reports, it already emerged that these actions had been set in motion by the party or by subordinate formations of a party whereupon, in my presence, Hitler gave Himmler the order that the SS must keep out of these events".

**MR JUSTICE GRAY:** Speaking for myself, that has no bearing at all on the point that is being made here which is that, according to Wolff, Himmler and Hitler were both surprised. Mr Irving, I am sorry to keep interrupting, but this cross-examination does not appear to me to be

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grasping the nettle of the criticisms against you. You are finding tiny little points on which you hope, and sometimes succeed, in tripping up Professor Evans, but you are not grappling with what the criticisms are of your account of Kristallnacht. That is what you have to do, if you are

going to advance your case in relation to this part of the criticism of you.

**MR IRVING:** There are so many criticisms made by this witness of me that all I can really hope to do on any cross-examination is pick on central points, which I have done, like the events in Hitler's residence that night, and suggest that this witness is wrong in saying I had no sources for what I wrote.

**MR JUSTICE GRAY:** You have not even touched on the inception of the events of this night, which is a key part of -- Mr Rampton will correct me if I am wrong or Professor Evans will -- of their case on Kristallnacht that Hitler was in on it from the word go.

**MR IRVING:** We dealt with that at very great length under cross-examination of myself, my Lord, and my belief was that I would be testing your Lordship's patience if I went all over that ground again.

**MR JUSTICE GRAY:** On the contrary, this part of Professor Evans is absolutely central. Professor Evans, I think, makes that point and you are taking tiny little points like whether a sentence has been left out of an account he

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gives as part of his testimony. That just does not really affect the issues that I have to decide at all.

**MR RAMPTON:** I would have to say this, my Lord. It is as well perhaps I say it now. Unless Mr Irving challenges Professor Evans on this and other topics, upon the foundation of his criticisms of Mr Irving's writings, which is not in every case but in most cases and in all important respects the way in which Mr Irving has treated contemporary documents, then I am afraid I will take it that Mr Irving has accepted the criticisms.

**MR JUSTICE GRAY:** We will come back to that. That would, in the ordinary case, be a completely unarguable proposition for Mr Rampton. Maybe we will have to come back to it later on, but you hear what Mr Rampton says. I do think you have to actually tackle the fundamental points that are made in Professor Evans's report, and there is no point in, if I may put it this way, pussy footing around the borders of the issue because that is not going to help me, is it, really?

**MR IRVING:** I was coming at it from the rear.

**MR JUSTICE GRAY:** All right, I accept that.

**MR IRVING:** I was trying to establish that this witness has an agenda of his own; that he is not reliable; that he distorts and manipulates evidence against me; that he is quite happy to ignore evidence which was before him for what I wrote; and that, on balance therefore, probably my

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version of events is more accurate than his.

Let me therefore just take one more point. Would you go to page 266, please, where again you are accusing me of falsification? Halfway down, four lines from the bottom of that paragraph, you say: "Irving, for his part, cites Goebbels diary entry, only first to cast doubt on its validity as a source, then to falsify it by reporting on the basis of this reference, not that Hitler ordered the Jews arrested, but he failed to prevent them being taken to concentration camps".

**A:** Yes.

**MR JUSTICE GRAY:** Can you just pause, so that I understand what we are on at the moment?

**MR IRVING:** Has your Lordship found it?

**MR JUSTICE GRAY:** I have found the paragraph but you plunged into the middle of it, so I am just trying to remind myself what he is talking about.

**MR IRVING:** Again, I am accused of falsification. Is this relevant or not, my Lord?

**MR JUSTICE GRAY:** I think it may be; it is not perhaps the most important point. Can you, Professor Evans, explain because I am not quite taking on board what you are saying in your paragraph 11?

**A:** I am trying to find the reference to the Goebbels ----.

**MR IRVING:** Perhaps I can help you. If you go straight to Goebbels's biography, page 276, you will find where

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I quoted exactly that passage.

**MR JUSTICE GRAY:** Whereabouts on the page?

**MR IRVING:** I am sorry, it is at the end of the second paragraph, the sentence beginning: "The 'Führer', claimed Goebbels in the diary, 'has directed that 20 or 30,000 Jews are to be arrested immediately. That will do it. Let them now see our patience is exhausted'". How can you reconcile that quotation from the book with your allegation that I falsified it, by reporting that not Hitler ordered the Jews arrested, but that he failed to prevent them being taken to concentration camps?

**A:** I am trying to find the reference to where you say he failed to take them.

**Q:** I have given you the actual quotation from the book where I stated that Hitler ordered them arrested.

**A:** Unfortunately, I do not have a reference there.

**Q:** 20,000 or 30,000 were, in fact, arrested that night, were they not?

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

**Q:** They were locked away for a few days and then released, is that correct?

**A:** Weeks, a few weeks, Mr Irving.

**MR RAMPTON:** Yes, the reference is the end of the first big paragraph on page 277, I believe. The first sentence begins: "But 20,000 were already -- -- ", but I am not sure.

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**A:** I cannot find this. Yes, but 20,000 Jews were already being loaded on to trucks and transported to concentration camps at Dachau, Buchenwald, Oranienburg. Hitler made no attempt to halt this inhumanity. He ordered it, Mr Irving, and, in fact, as you indeed quote Goebbels -- but however you say in the passage that you are quoting on page 276: "'The Führer', claimed Goebbels in the diary, 'has directed that 20 or 30,000 Jews are to be arrested immediately'".

**MR IRVING:** So, I state precisely what you say that I concealed?

**A:** You are saying it is claimed, you are not saying that it is an accurate report. You go on, on page 277, to say that Hitler's involvement was limited to making no attempt to stop it.

**Q:** Where do I say Hitler's involvement was limited to making no attempt to stop it, when I made it quite clear on page 276 that he ordered their arrest?

**A:** No, you do not, Mr Irving.

**Q:** "The Führer has directed 20 or 30,000 Jews are to be arrested immediately". How else can you interpret that?

**A:** "'The Führer', claimed Goebbels in the diary, 'has directed that 20 or 30,000 Jews are to be arrested immediately'".

**Q:** Goebbels is our source for it, is he not?

**A:** He is one source. The other source is the telegram of

Muller ordering the arrests.

**Q:** Do you make any reference ----

**A:** That is a telex.

**Q:** Do you make any reference in your report to this early quotation on page 276 of my book?

**A:** Yes.

**MR JUSTICE GRAY:** Yes, the third line. What is the evidence for saying that Hitler ordered them to be taken to the concentration camps as opposed to having them arrested?

**A:** There are two pieces of evidence -- well, three. One is the fact that they were taken to concentration camps; the second one is the Muller telegram which ordered the arrests; and the third one is the Goebbels diary.

**MR JUSTICE GRAY:** Hang on. Goebbels's diary does not say anything about having all of them taken to concentration camps, does it?

**A:** No, just arrested.

**MR JUSTICE GRAY:** So, the evidence for that, saying he ordered them to be taken to concentration camps, consists of ----

**A:** Well, my Lord, I think one has to work it out. They could only really have been taken to state prisons, because you needed a regular legal trial to put people in state prisons. So this has to be an action that takes place outside the regular legal framework, a penal system. You cannot keep them in police cells. If you have that number of people, the only place you can put them in is

concentration camps and, of course, that indeed is what happened. The Muller telex is quoted on pages 265 to 266.

**MR IRVING:** Does the final sentence (on page 277) of that paragraph, "Hitler made no attempt to halt this inhumanity. He stood by, and thus deserved the odium that now fell on all Germany", not refer to the whole episode?

**A:** Let me just read: "20,000 Jews were already loaded onto and transported to the concentration camps at Dachau, Buchenwald and Oranienburg. Hitler had made no attempt to halt this inhumanity. He stood by." He did not stand by, Mr Irving, he ordered the whole thing. He ordered the arrests and he ordered the burning of the synagogues, and he ordered the destruction of Jewish shops and dwellings.

**Q:** And?

**A:** He ordered the arrests, and he did not merely stand by.

**Q:** Have I left any doubt in the minds of the readers that, in fact, he went further and that he ordered a massive fine on the Jewish community and various punitive measures?

**A:** You accept that after the event.

**Q:** I accept this. Is this another concession by me or have I stated this in accordance with what the documents tell us?

**A:** You point me to where you state this, please. You certainly said that, in court, Hitler ordered the economic measures against the Jews.

**Q:** Is another source which I rely on, Professor Evans, the

diary of the SA commander Viktor Lutze?

**A:** Yes.

**Q:** I rely on it quite extensively, because his men were involved that night, were they not?

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

**Q:** Were you able to check my references?

**A:** Let me have a look. No, I am afraid we ----.

**Q:** Do you know where the diary is now?

**A:** It is in the Friedrich Ebe Stiftung, I think.

**Q:** Is it in the archives of the Friedrich Ebe Stiftung which is equivalent of the archives of the Labour Party in Germany?

**A:** Yes, the report of the Social Democrat Party archive.

**Q:** Did I have complete access to that diary when I wrote that book?

**A:** I assume so, since you cited that we were denied access.

**Q:** I had access to the source and you were denied access to it?

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

**Q:** Is it possible therefore that there are things in the diary of Viktor Lutze of which you were unaware?

**MR JUSTICE GRAY:** Such as?

**A:** Yes, give me some examples. Show me.

**MR IRVING:** The fact that he was personally opposed to the pogrom and ordered that it should not occur, and that the SA people should not participate in it.

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**A:** Could you show me the passages in the diary where he says that, please.

**Q:** I am referring to paragraph 1 on page 246.

**MR JUSTICE GRAY:** 246 of what?

**MR IRVING:** Of his expert report, my Lord.

**A:** Yes.

**Q:** Sorry, I have forgotten what the question was now.

**Q:** In broad general terms, is it likely that, having had access to the diary of Viktor Lutze, and your not having had access to it, therefore I know more about what is in the diary than you do?

**A:** Well, that is true but, of course, it has to be regarded with extreme suspicion. What you claim is that Lutze had misgivings, that indeed he ordered the SA not to stay out, and that only three of the 28 SA groups received orders to stage demonstrations.

**MR JUSTICE GRAY:** But the source for that -- I am sorry to interrupt again -- is not Lutze but Juttner.

**MR IRVING:** My Lord, if you look at note 34 on page 251, we do have indication that I had the diary of Lutze, that I was using it and relying on it.

**MR JUSTICE GRAY:** No, but we are really looking at footnote 31. It is perfectly true you do there refer to the diary entry of Lutze, but that does not say what you put in your text. What you put in your text comes from gruppenFuehrer Max Juttner.

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**MR IRVING:** As well, yes.

**MR JUSTICE GRAY:** Not as well.

**MR IRVING:** Obviously one relies on many different sources when one is writing that but, in view of the fact that I had the Lutze diary which has not been available like many other

documents to the Defence, this is the picture I am trying to build up. I have had a lot of documents that have not been available to the expert witnesses in this case.

**MR JUSTICE GRAY:** I am bound to say I find that a bit bizarre. If you have first hand evidence from Lutze as to what he said, why would you cite somebody else as support for what you say in your text Lutze said?

**MR IRVING:** Well, when you look at note 34, where we have the German text of one fragment of what the Lutze diary contains, the problem is once again that all my records have been donated to the German government archives in Bonn in June 1993, after this passage was written, and I no longer have the Lutze diary. I have filing cards, but that is all I have left.

**A:** What we had access to of course were your notes, as this footnote says, on the Lutze diary.

**MR IRVING:** But in view of the fact that you write on page 251 quite robustly at the end of paragraph 1, once more Irving's account relies on a tissue of inventions, manipulations, suppressions and omissions, and I have been

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telling you for the last two hours there are numbers of documents to which you paid no attention or to which you have had no access, this is probably an over robust verdict. Would you agree?

**A:** Well, this is your account that Hitler did "everything he could to prevent things nasty happening" to the Jews in the pogrom of 8, 9, particularly 9 and 10 of November 1938. That is your account and it does indeed rely on a tissue of inventions, manipulations, suppressions and omissions.

**Q:** You describe even now the interview with von Below, the Schaub papers, the Bruckner papers, whatever they were, as being just this tissue of inventions?

**A:** Yes. I think you accept their lies as being truth because that supports your line.

**Q:** You think that I accept their lies as being true?

**A:** Yes.

**Q:** Because it supports my line?

**A:** Indeed.

**Q:** You have no evidence for that at all, apart from the fact that there are a number of documents which can be interpreted in a different way. Would you consider the Eberstein telegram, the one signed by Eberstein during the night -- do you remember the one?

**A:** Yes.

**Q:** It is a triggering, an igniting telegram, is it not?

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**A:** No. I do not think it is an igniting telegram. The igniting event of course was Goebbels' speech at 10 o'clock to the senior party people, the SA leaders.

**Q:** Perhaps we should have a look at that telegram. Can we identify the two page telegram, the one with the typescript signature of von Eberstein?

**MR JUSTICE GRAY:** It is probably in L2, is it not?

**MR RAMPTON:** That is L2, tab 1, page 7.

**A:** I do not think I have this.

**MR IRVING:** My Lord, you will see I am now working backwards from Hitler's fury or from round about that time. It is a two-page telegram, is it not, typescript?

**A:** Yes.

**Q:** And, if you look at the second page, it has two signatures on it. One is the typescript signature

of von Eberstein?

**A:** Yes.

**Q:** Who was the police chief of Munich and Bavaria?

**A:** Yes, that is right.

**Q:** And it is counter signed in handwriting by a Kanzellaiungestelter, which is some kind of Chancellery official?

**A:** Clerk, yes.

**Q:** Eberstein has not signed it himself, has he?

**A:** No. It seems to be a copy. It is a copy indeed. Abschrift.

**Q:** Are you familiar with the German Civil Service method of

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occasionally sending out telegrams over the signature of the boss?

**A:** Yes.

**Q:** Which does not necessarily mean that the boss is actually there when it is being sent out? It is just his authority that it is being sent out on?

**A:** Of course, done with his authority.

**Q:** So the fact that this is a telegram signed at 2.10 a.m. in typescript by Eberstein does not necessarily mean that Eberstein is physically at the police headquarters at that moment? He might be somewhere completely different?

**A:** That is a possibility, yes.

**Q:** Yes. So that it is entirely within the bounds of possibility that at this moment Eberstein, unaware that this was going on, was at Hitler's residence, having strips torn off him by his boss, by Hitler, while somebody else had said, you had better send this message out over Eberstein's signature because there has to be this going on tonight. It is an igniting telegram, is it not, of a sort? He is saying about the police standing back and the synagogues are going to be burning and this kind of thing, is it not?

**A:** It is very similar to previous telegrams, the Muller and the Heydrich telegrams. I do not really think it is very likely that Eberstein was unaware of the fact that this rather important telegram was being sent out under his

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name. I find that very difficult to believe. They had have telephones of course in Germany at this time.

**Q:** If at this moment Eberstein was in Hitler's residence, it would still be possible for this telegram to be is sent out by police headquarters, over his typed name authenticated by this staff member, would it not?

**A:** The telephone, you say?

**Q:** This is the way that the German bureaucracy works sometimes. The order would go out over the name of the boss, but it would be signed by some responsible official on his part, on his behalf?

**A:** Yes. I think, though, he would have known about it, of course. The boss would have been apprised of it. He simply would not have been in a physical position to sign it.

**Q:** So, if we have 2 or 3 people on Hitler's staff who say that Eberstein was here with them at that time, then it is not necessarily contradicted by the existence of this telegram with Eberstein's typed signature on it?

**A:** It is possible there might have been a telephone conversation, as I said. We do not have any

evidence of that.

**Q:** Are you familiar with the message that went out very shortly afterwards over the signature of Opdenhof of Rudolf Hess's staff?

**A:** That is at 2.56 a.m.?

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**Q:** Yes.

**A:** Yes.

**MR RAMPTON:** That is page 9 of tab 1.

**MR IRVING:** One of those messages has an igniting function, if I can put it like that, and the other message has an extinguishing function?

**A:** I do not accept either of those claims.

**Q:** If the second message timed at 2.56 on the notepaper of the Deputy Fuhrer orders that actions are to stop, then this has an extinguishing function?

**MR RAMPTON:** I think it might be proper to get Professor Evans to translate this short little message as he stands in the witness box, rather than receiving what to my mind is a completely pie-eyed version.

**MR IRVING:** I think it would be very nice if I was allowed to conduct my cross-examination in the manner I wish.

**A:** Could we see this document.

**MR JUSTICE GRAY:** I remember this fairly well but it would be helpful if we just read it through together.

**MR IRVING:** It is noticeable that every time I am about to make a killer point---

**A:** Page 9 is ----

**MR RAMPTON:** That is my function, Mr Irving, I am afraid.

**A:** This is a very brief telegram.

**MR IRVING:** I promise that I will interrupt your killer points.

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**A:** May I have give a translation, my Lord?

**MR JUSTICE GRAY:** Yes, if the conversation in the background ceases.

**A:** This is a telegram at 2.56 a.m. on 10th November 1938 from the Brown House in Munich to all Gau leaderships.

**MR IRVING:** Can you translate the heading too then please?

**A:** Telegram via the propaganda writer, whatever that is.

**MR IRVING:** It is on the headed notepaper of the deputy of the Fuhrer, is it not?

**A:** Not in the copy I have here, no.

**Q:** In that case you had better have one of these copies then which is the genuine telegram.

**A:** Thank you. That is very helpful.

**Q:** And not the version produced by the Defence.

**A:** Right. National socialist German Workers Party. It is very difficult to read this. Is that deputy of the Fuhrer staff? I am guessing. Munich 33, 10th November.

**MR IRVING:** The office of the Deputy of the Fuhrer.

**A:** Right. It is whited out here on my copy, I am afraid.

**MR JUSTICE GRAY:** There is no----

**A:** To all Gau leaderships for immediate ----

**MR IRVING:** To be put into immediate effect?

**A:** Yes, immediate effect, ordinance No. 174/38, repeat of the ----

**MR IRVING:** Repetition of the telegram of November 10th.

**A:** November 10th 1938, on the emphatic command of the all

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highest position.

**MR IRVING:** Acts of arson?

**A:** Acts, well, arson on Jewish shops or ----

**Q:** Businesses?

**A:** Shops or similar.

**Q:** Shop would be Larden, would it not?

**A:** No, Gescheft. I think you yourself translated Gescheft as shop in the witness box, Mr Irving.

**MR RAMPTON:** That is how Mr Irving translated it when I first asked him to do it.

**MR IRVING:** Businesses is more precise.

**A:** No, shops, Mr Irving.

**MR JUSTICE GRAY:** I am not sure that it makes a huge amount of difference, actually?

**A:** It does, my Lord, I am afraid, but still.

**Q:** I am not sure it does.

**A:** Not in this particular context.

**Q:** That is what I was talking about.

**A:** Arson and Jewish shops or the like must not ----

**MR IRVING:** Business.

**A:** -- happen.

**Q:** Establishment.

**A:** Sorry. May I translate it, Mr Irving, please? Arson or the laying of fire in Jewish shops or the like may not or must not take place under any circumstances and in no case, and so on. That is the essence of it.

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**Q:** Pretty emphatic, is it not?

**A:** Yes. What it is saying is that nobody is to set light to Jewish shops or ----

**Q:** Businesses.

**A:** -- or similar kinds of premises. It is not saying that nobody is to arrest the Jews. It is not saying that nobody should smash the shops up. It is not saying that nobody should smash up the apartments and houses of Jews.

**Q:** Professor, I have not asked you what it does not say.

**A:** It does not say that nobody should commit arson against many hundreds of synagogues which were burnt down.

**Q:** Professor, I have not asked you what it does not say.

**A:** What it does not say, Mr Irving, is extremely important. This is a very limited telegram which says that Jewish shops and similar kinds of premises are not to be set alight. The reason for that is very similar, it is the same kind of telegram that ----

**Q:** Where does it say similar businesses?

**A:** May I finish my answer, Mr Irving, please? It is the same kind of telegram that went out from

Heydrich at 1.20 or from Muller at 11.55. That is to say, it is saying that laying fire to Jewish shops at similar apartments, whatever it might be, is not to be allowed because of course it endangers the surrounding premises, which are owned by Germans ----

**Q:** Where does it say that?

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**MR JUSTICE GRAY:** Would you please not interrupt?

**A:** And, of course, some of these shops may well have been owned by Germans. That is all it is saying. It is very limited. It does not say, "Bring the whole thing to an end". That is a completely illegitimate interpretation of this document.

**MR IRVING:** Where does it say, "because of the danger to surrounding premises"?

**A:** Well, I am going back there to ----

**Q:** No, I am looking at this telegram. Let us just look at one document at a time, please?

**A:** It does not say that, but that is my interpretation of the reason.

**Q:** Can we look at what it does say and not what it does not say?

**A:** Indeed, yes.

**Q:** Because that, surely, is where the evidence is?

**A:** Yes.

**Q:** It goes to all the Gauleiters, is that right?

**A:** That is right.

**Q:** What, about 48 of the senior Nazi Party officials though the entire country?

**A:** Yes.

**Q:** And it is telling them there are to be no acts of arson against Jewish Geschafte, whatever that is. I translate that as "businesses".

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**A:** Shops.

**Q:** And "der Gleichen", what does that mean?

**A:** "And similar".

**Q:** What does the "similar" mean? Similar to businesses or similar to acts?

**A:** Similar to business, of course, Mr Irving.

**Q:** On what basis do you say that? Your knowledge of German?

**A:** Because it is Geschafte oder der Gleichen. Had it been "arson", it would have been "[German] Oder der Gleichen". It is quite clear. It is a shameless manipulation of this text to suggest that it says that "arson and similar acts".

**Q:** Is this based on your ----

**A:** Quite clearly not.

**Q:** --- superior knowledge of the German language?

**A:** It is based on my knowledge of the German language which is a good knowledge of the German language, Mr Irving. I am not claiming my knowledge is superior to yours. You also have a very good knowledge of the German language. That is why I say this is a shameless manipulation of the text. It is not due to mere ignores.

**Q:** It would be useful if you could keep your answers a little bit shorter and more to the point.

**A:** I know you do not like what I am saying, Mr Irving, but I shall say what I want to unless I am told not to by his Lordship.

**Q:** Otherwise Mr Rampton will complain about the expense again. That is why I am trying to keep these answers brief. If it says "Brandlegungen an Judenschen Geschäften oder der Gleichen", and you say that if the word "der Gleichen" was going to refer to the "Brandlegungen", then it would have to go immediately after "Brandlegungen".

**A:** Yes.

**Q:** "Brandlegungen oder der Gleichen an Judenschen Geschäften".

**A:** Yes.

**Q:** But then that would make nonsense, would it not?

**A:** No.

**MR JUSTICE GRAY:** Why?

**A:** Why?

**MR IRVING:** Because all you could do with the businesses as an object would be to set them on fire or to demolish them or whatever, whereas my contention is that the "der Gleichen" refers to acts of arson and the "der Gleichen" refers to other actions being carried out during that night which can amount to all sorts of different things.

**MR JUSTICE GRAY:** Like?

**MR IRVING:** Well, whatever was going on that night, my Lord. We know already in great detail what was going on that night, the arrests, the murders, the outrageous, the harassment, the violence, and that ----

**MR JUSTICE GRAY:** So your case is -- I am interested because I

have not heard this before ----

**MR IRVING:** --- the "der Gleichen" can refer equally ----

**MR JUSTICE GRAY:** That this meant that all criminal, violent activities should stop, although it refers to arson? Your case, Mr Irving?

**MR IRVING:** I was hoping that we had Mr Rampton's undivided attention.

**MR RAMPTON:** I am just having confirmation from a German speaker behind me of your Lordship's interpretation.

**MR IRVING:** Are you wishing to give evidence, Mr Rampton, because, if so, perhaps we ought to wait until we have a German in the witness box who we can cross-examine properly on this matter. No doubt we will when the time comes.

**MR JUSTICE GRAY:** But I asked you a question.

**MR IRVING:** My contention is (and I am putting this to this witness) that it is equally possible that "der Gleichen" refers either to the businesses or to the "Brandlegungen", if I can put it like that?

**A:** That is absolutely ridiculous. It is a completely illegitimate misinterpretation and manipulation of this text.

**Q:** Very well. We have your answers. In your considered view, that is an impossible interpretation?

**A:** That is right. I have already said it would have been "Brandlegungen oder der Gleichen an Judenschen

Geschäften" because it says "Brandlegungen an Judenschen Geschäften oder der Gleichen". "Der Gleichen" refers to Judenschen Geschäften".

**Q:** You are ploughing once again the depths of your considerable knowledge of the German language, "alle hochste Stelle", to whom does that refer?

**A:** That must refer to Hitler.

**Q:** That must refer to Adolf Hitler. There is no question about that then.

**A:** It would seem that ----

**Q:** It is not a janitorial level order then, this one?

**A:** No, no.

**Q:** This comes from the very top man.

**A:** No. Hitler is saying here, "Go ahead with burning down synagogues. Go ahead with wrecking Jewish shops and smashing up the interiors. Go ahead with arresting 20,000 people. Go ahead with smashing up Jewish apartments, destroying the furniture, chucking it out of the window, throwing some of the inhabitants out of the window. Go ahead with all of that, but don't commit arson on Jewish shops or similar premises".

**Q:** You read all of that out of these three lines, do you?

**A:** Yes. I think what is omitted from here is more significant in a way than what is in here.

**MR JUSTICE GRAY:** I am looking at a document you do not have, Professor -- well, you have it but you are not looking at

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it -- and it has got "Brandlegungen an Judenschen Geschäften" underlined. Is that in the version you are looking at? Is it underlined?

**A:** Mr Irving's version is not underlined.

**Q:** So somebody has done that later is the point?

**MR IRVING:** Effectively, yes, my Lord. I should amplify that the version which is here is originally a negative copy which is in the files of the Berlin Document Centre and there is no question as to its authenticity.

**MR JUSTICE GRAY:** No, I accept that.

**MR IRVING:** Professor, have you ever seen this document reproduced or printed or quoted at any time before I published it in my work in 1977? Has any German historian or non-German historian deigned to use this document?

**A:** Not to my knowledge.

**Q:** Is there any reason why an orders from the very highest level, in other words, from Adolf Hitler to all the Gauleiters concerning the Reichskristallnacht should have been suppressed in this manner if it was so innocent, as you suggest, if it just fits in with the general pattern?

**A:** I do not know that it was suppressed, Mr Irving. I cannot say.

**Q:** Well, there appeared to be at least two different copies of it in existence, the one which the Defence provided and

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my different version, so I found it easily enough. So is there any reason you can suggest why historians have been embarrassed about it and have preferred not to use it?

**A:** I do not think it is true that historians have been embarrassed about it. There is nothing to be embarrassed about here at all. It fits in perfectly well into the other documents we have from that same disastrous and ghastly evening.

**Q:** A document showing Adolf Hitler intervening at 2.56 through his deputy, through the office

of his deputy, ordering a halt to whatever, or a stop, a veto on however narrow a front you wish to portray it, did not deserve any kind of comment by the entire assembled body of historians around the world?

**A:** Mr Irving, you have already said that the telex of Heydrich at 1.20 was the result of discussions between Hitler and Himmler, the Muller telex earlier in the evening was also on Hitler's orders, and all of these things say roughly the same thing. We can look at the other telexes, if you like. They all, taken together, represent the attempt by Hitler to make sure that German property was not damaged, and that foreign -- it is not in this one, but it is in the other ones -- that foreign Jews were not to be harmed because of the diplomatic consequences. None of these documents, certainly not this one, puts it in any way -- attempting to put the

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whole action to an end.

**Q:** So why have other historians not quoted it?

**A:** This is part of a stream of documents. There is nothing surprising or new or novel or shocking about this one.

**Q:** Why have other historians not quoted a brief telegram which is on the authority of the very highest level in a matter of such importance?

**A:** You will have to ask them.

**Q:** Well, I am asking you as ----

**A:** I do not think it surprises ----

**Q:** --- the expert on historiography. You have written books on the way people write history.

**MR JUSTICE GRAY:** Professor Evans, can I just ask you this question? If, indeed, the telex or the message, whatever it is, had said, "Stop everything", would you then agree that it would be surprising that historians have ignored it, as Mr Irving suggests?

**A:** I do not think that historians would have deliberately suppressed it, had it said that. I mean, I can only assume that ----

**Q:** That is not quite an answer to my question.

**A:** I know.

**Q:** What I am really saying is that if, indeed, Hitler had decided at 2.56 in the morning that everything must stop ----

**A:** Yes.

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**Q:** --- would that be something that you would expect somebody giving an account, an historian giving an account, of Kristallnacht would include in his account or her account?

**A:** Yes, most certainly because it would change our entire picture of the whole series of events, and you would then have to explain, of course, why lower police officials sent out orders for the actions to start later in the morning, why the Reichskristallnacht events only really began in the morning well after this of the 10th November in Vienna, for example, and this would cast very interesting light on why Hitler's orders were not followed if that was the case.

I mean, I should also say I am here simply accepting Mr Irving's suggestion that other historians have not quoted this, although he himself says he does not read other historians, so...

**Q:** Yes, well, assuming that.

**A:** It may well be that if I had time to check up in detail through the literature of other historians, I might find that they had quoted this before 1977.

**MR IRVING:** But we assume that you have read all the literature on the Reiskristallnacht because you are an expert witness on this.

**A:** Well, I would have to -- this is one small document, and I would have to go back and check it all. I do not have a photographic memory.

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**Q:** It is small in as much as it contains only three lines, but it does rely on the authority of the very top level in the Third Reich in the middle of the night on the Night of Broken Glass ----

**A:** Yes, but so ----

**Q:** --- and yet nobody else quoted it except me?

**A:** Well, how can you say that if you do not read other historians' work, Mr Irving?

**Q:** Well, I am asking you as the expert on historiography.

**A:** And you are just telling me, and I am telling you that you have no right to say that. You do not read what other historians have written on the subject. You have no idea.

**Q:** Well, I believe that we would have had an echo by now. I have been waving this document in the air for the last 25 years, saying, "Look what I found. Why have you not quoted it?" I remembered a mass meeting at the University of Bonn saying precisely this, and advising the students to ask their professors afterwards why they were hearing it from me for the first time. So, surely, somebody would have said, "Mr Irving, you are not first"?

**A:** Yes, I am not sure I believe you, Mr Irving, I am afraid.

**Q:** You are not sure you believe me?

**A:** No. I would have to go up and check the literature to see whether this document was quoted and it would not surprise me if it was.

**Q:** Will you accept the proposition that if my interpretation

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of the document is correct, that Adolf Hitler was hereby acting on the information that he had received during the previous hour as described by the Adjutants, the three of whom I have related earlier this morning, he was determined to stop this nonsense and he telephoned Rudolf Hess and said, "Send an immediate message to the Gauleiters", that if this signal meant that, this would be an embarrassment to the historical profession?

**A:** Too many ifs there, Mr Irving. I do not accept a single part of your premises, I am afraid.

**Q:** But that, in a way, answers my question, does it not, because it is an embarrassing document for the historians to have a look at?

**A:** It is not an embarrassing document at all. It does not really say very much.

**Q:** So it does not say all the things you said earlier, about "Go out and burn the synagogues and arrest the 20,000", you said that you could read all that into it.

**A:** All it says, Mr Irving, is that there should be no arson in Jewish shops or similar premises under any circumstances. That is all it says. This is in the middle of the evening where all over the country synagogues are being burned down. Everybody knows that synagogues are being burned down. I do not see any mention of synagogues here, and I do not think you can describe them as being like shops, although I am not very familiar

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with synagogues.

**MR JUSTICE GRAY:** Mr Irving, my feeling is that we could probably move on. I think we have really explored this issue.

**MR IRVING:** Except, my Lord, that he said this was the middle of the evening and, of course, that is not. It is the middle of the night. It is 2.56 a.m. which fits ----

**A:** Sorry, night, yes.

**Q:** --- in precisely with the timetable that I have adumbrated from the very start of my writings on the Reichskristallnacht. That is why i attach such importance to it.

**A:** That is a completely phoney timetable, Mr Irving, based on the manipulation and falsification of the material that you have got before you and the acceptance of lies told by people involved after the war simply because they support your belief or your attempts to show that Hitler did not order all these goings on and was not cognizant of them and tried to stop them when he found out about them. It is a tissue of your lies on your part, Mr Irving, based on the shameless manipulation of documents like this whose meaning is absolutely obvious to anybody with even the most elementary knowledge of German.

**Q:** Well, you accept that I do not have just an elementary knowledge of German, do you not?

**A:** Quite.

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**Q:** Yes, but you still feel entitled to trot out all those adjectives again, the tissue of lies, the manipulations, the distortions and so on, because that is the only kind of language you can use to confront a document like this, is that right?

**A:** I am not confronting a document like this. It is the use you make of it that I am commenting on which I find quite extraordinary.

**Q:** Which do you find more extraordinary, the fact that no other historian has quoted that document or the fact that I do quote it?

**MR JUSTICE GRAY:** Mr Irving, do you remember a few moments ago I said that I thought we ----

**MR IRVING:** You said we should move on, my Lord, yes, right. (To the witness): What is the evidence that we do have for the fact that Adolf Hitler initiated the pogrom therefore?

**A:** The Goebbels speech to the Party at the 10th -- at 10 p.m.

**Q:** What transcript do we have of that speech, if any?

**A:** It is in his -- well, that is -- there are two, I think two relevant documents there, in particular, one is, of course, Goebbels own diary, and the other is the Party tribunal investigation.

**Q:** The Party tribunal, of course, only refers to the fact that Goebbels triggered the events ----

**A:** Well ----

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**Q:** --- according to the ----

**A:** All right. Can we have a look at the Party tribunal report then, please? It is very brief.

**MR RAMPTON:** Tab 2, my Lord.

**A:** Tab 2 of this?

**MR RAMPTON:** Yes?

**A:** I seem to have a loose leafed folder here.

**MR RAMPTON:** Tab 2 of L2.

**A:** Right. In the first very opening paragraph it says, if I may translate: "On the evening of 9th

November 1938, Reichs Propaganda Minister Party Comrade, Dr Goebbels, informed the Party leaders gathered for a comradesly evening in the Old Town Hall in Munich that there had been anti-Jewish demonstrations in the Gals, Hessner, Nanteburg, Anhaut, and thereby Jewish shops had been smashed up and synagogues had been set on fire.

The Fuhrer had" -- this is reported speech of what Goebbels was saying -- "the Fuhrer had decided on his report that such demonstrations, these kinds of demonstrations, should neither be prepared by the Party", I mean "should neither in future", as it were, "be prepared by the Party nor organized by it in so far as they emerged or arose spontaneously, but they were not to be opposed".

**MR IRVING:** Now was Adolf Hitler present when Goebbels made these remarks, allegedly?

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**A:** No, the Party court accepted that this was the case, of course, that these remarks were accurate.

**Q:** Accepted that what was the case?

**A:** That Hitler never intervened to say, as surely he would have done, that he had not given this permission. Goebbels had dinner with Hitler on the evening of the 9th November, immediately before the speech, and what he said in his speech was, essentially, what Hitler told him at the dinner, as you agreed under cross-examination.

**Q:** Would you answer my question? Was Hitler present when Goebbels made these alleged remarks to the Gauleiters?

**MR JUSTICE GRAY:** He has answered that question.

**MR IRVING:** In other words, he was not present?

**MR JUSTICE GRAY:** He said no.

**MR IRVING:** Yes. The only evidence we have, therefore, for there having been such a conversation between Hitler and Goebbels is Goebbels' reported speech, as reported four months later by the Supreme Party court, in other words, it is a third party source?

**A:** I think it is in his, well, this is an investigation of the events of that evening by a Party court --

--

**Q:** Does the report ----

**A:** --- under the chairmanship of a man who -- Buch, I think his name was.

**Q:** Walter Buch?

**A:** Walter Buch who was rather hostile to Goebbels.

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**Q:** I was about to come to that point. What was the relationship between the Chairman of the Party court and Dr Goebbels about whom he is writing?

**A:** It is not very good.

**Q:** Not very good at all, were they? In fact, if you read the Goebbels diaries, there was most outspoken hostility between them. They loathed each other. Is that correct?

**A:** Yes.

**Q:** Is it correct towards the end of the same report it justifies the actions of a number of the criminals involved in the outrages on the basis that they believed that they were acting in accordance with the Fuhrer's wishes?

**A:** That is right. Let us have a look at that passage, can we?

**Q:** Does that not imply that ----

**A:** Can we have a look at that passage, please?

**Q:** --- in fact they believed wrongly?

**A:** Where is it?

**MR JUSTICE GRAY:** I think I would like to see the passage, if that is what you are saying, Mr Irving?

**MR IRVING:** I am stating this from memory, my Lord. I do not have it in front of me, but I am familiar with the document.

**A:** Can someone provide Mr Irving with the document, please?

**MR JUSTICE GRAY:** Is it part of the same report?

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**MR IRVING:** It is.

**MR JUSTICE GRAY:** So it is a question of finding it.

**MR RAMPTON:** He needs L2, my Lord.

**MR IRVING:** I am pretty certain that the tenor of the report was that these outrages and crimes had been ----

**A:** It is the final sentence in the report. Do you want me to wait until you have it?

**MR JUSTICE GRAY:** Yes, I think you had better because the suggestion is that when it says that they believed they were acting on a Hitler order, it is really implying that they knew they were not. Is that the suggestion?

**MR IRVING:** Well, my suggestion is that the document casts doubt on whether there was actually such an order.

**MR JUSTICE GRAY:** I see.

**MR IRVING:** After a time when you have been studying these documents over the years, they become part of your microchip and I am quite familiar with the document and ----

**MR JUSTICE GRAY:** Well, let us fresh your microchip. I cannot find it actually.

**MR IRVING:** [German - document not provided].

**A:** Would you like to translate that?

**MR JUSTICE GRAY:** Whereabouts are you? I had better find it.

**A:** Page 188, it is the tab 2.

**MR JUSTICE GRAY:** 188?

**A:** Or -- no, 10 in the pencilled circle mark. Page 10.

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Sorry. It is the typed 188. Yes, well, do you want me to translate that? This is after a long catalogue of crimes of theft, looting and rape and so on, and it says that, "The individual perpetrators had put into action, not merely the supposed will of the leadership, but the to be sure vague, vaguely expressed but correctly recognized will of the leadership". So the Party court is saying that these people pleased they were acting after the command of the leadership and they were right to believe so.

**MR IRVING:** Without wishing to cast any judgment on the language used by lawyers, this is a very legalistic document and it is the sentence before the one that has been read out says, in effect, "These people, if this did not happen, then from the fact, as also from the remarks they made, we can draw the conclusion that the eventual result was desired or at least as considered to be a likelihood and desirable, and that this was taken into account, and from that fact, therefore,

the people who had acted in that way had reason to believe that they might have been acting in accordance with the Fuhrer's will". It is a terribly legalistic kind of ----

**A:** Mr Irving, this is a document that says that these people were right to recognize that the leadership willed these crimes, and the consequence of this, and we have already been through this and your cross-examination, if I may

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continue, was that those, the culprits were, that Hitler, that Hitler's permission or command was sought to let all of these people off any kind of prosecution in the regular courts with the exception of two who had raped Jewish women and, therefore, were considered to have committed a race defilement.

**Q:** Yes, here comes the smoke screen again. It is the sentence before that counts though, is it not, because the sentence you have quoted begins with the words "in that case" or "then", "dann"?

**A:** I am sorry. I have lost you now or you have lost me.

**Q:** And that refers to the previous sentence which is, in fact, the saying that they may have got it wrong, they may have got it right, but the fact remains they believed that they were acting in accordance with the Fuhrer's will, perceived or otherwise, and so on. It is terribly tangled, but the sentence beginning with "then" relies on the previous sentence, in that case or that being so?

**A:** Yes, but it says "richtig erkannten Willenfuhrer" -- "the correctly recognized will of the leadership". That is a completely unambiguous sentence.

**Q:** I am going to have to sit down and write a translation of that final paragraph for your Lordship, I think.

**A:** The court is saying that -- the court is saying that the will of the leadership was vaguely expressed, but correctly recognized by these people and, therefore,

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because they not only thought that they were acting on its behalf but actually were and, therefore, the final sentence is "dafur kann er nicht bestrafft werden" -- "he cannot be punished for that".

**Q:** Will you please read the sentence before the sentence beginning with the word "dann", then, in that case because ----

**A:** OK. Well, this goes back now.

**Q:** --- "dann" refers to "in that case" and obviously we need to know in what case, "dann". The sentence before. It is very complicated, but I rely on that one too, of course.

**A:** Well, a couple of sentences before says that -- I am going further and further back into this document -- it is talking about the murders. It is really about the murders of the 91.

**Q:** Forget the murders. Let us please get on to----

**A:** No, this is what the document is about. I am not going to forget them, Mr Irving. Let us remember here we are talking about murder and whether or not the murderers listed here should be handed over to the regular courts. It says that, "In the course of the night of 9th to 10th November, most of these killings could have been stopped, prevented, by an additional command". So what they are saying there, in other words, is that if the leadership, Hitler, had not wanted these people to be killed, he would have sent out a telegram saying so, but he did not. So,

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"Wenn dies nicht geschafft", that says "when" or, in other words, "because this did not happen", i.e. there was no telegram saying stop the killings, prevent the killings ----

**Q:** "If this did not happen"?

**A:** Yes, "if this did not happen, so the" ----

**Q:** "The conclusion has to be drawn from this fact"?

**A:** "The conclusion must be drawn from this fact".

**Q:** "And from the statement of such"?

**A:** "And from the statement that the eventual" ----

**Q:** "Outcome"?

**A:** --- "success was wished or desired or at the very least was" -----

**Q:** "Considered to be likely or" ----

**A:** Yes.

**Q:** --- "desirable"?

**A:** "was presented", really, "presented", I guess, "as at least as possible and desired or taken into consideration as being possible and desired". And then it goes on. It is a convoluted sentence, but the meaning is quite clear. It is saying because there was not any command from the Party leadership that Jews should not be killed, then it was OK that they were and, therefore, these people who killed them should not be punished.

**Q:** Let me cut through the Gordian knot -----

**MR JUSTICE GRAY:** May I just ask one question because I am

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slightly puzzled. The very last sentence is in the singular.

**A:** Ah, yes. I think they are referring to Falshenk(?) which is on the previous page, who had killed a Polish Jew.

**Q:** I see.

**MR IRVING:** Can I now ask one question ----

**MR JUSTICE GRAY:** May I just finish? I mean, do you read the fact that he cannot be punished as connected with the previous reference to what the Fuhrer wanted or the Fuhren wanted.

**MR IRVING:** I think Fuhrer and Fuhren is the same.

**A:** Yes, I mean, it is a kind of, well -- sorry, I have to slightly revise my previous opinion. I have just looked at it. It says [German], so the heir(?), the singular, you are quite right in recognizing.

**MR JUSTICE GRAY:** He is a representative villain?

**A:** It is then the individual perpetrator is what they are referring to when they say he cannot be punished.

**Q:** So it is a sort of collective singular, yes?

**MR IRVING:** But the reference is to the perception of a Fuhrer order, rather than to the actual Fuhrer order. I am sure your Lordship will appreciate that the argument is if he thought he was acting on a Fuhrer order, then we should let him off the hook?

**A:** No, my Lord, that is not the case.

**MR JUSTICE GRAY:** If it said that, I would agree with you, but

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it goes on say, not only did they think they were acting on a Hitler order -- this is my perception of it at the moment -- but that they were right in thinking they were acting on a Hitler order.

**MR IRVING:** I think we will have a proper translation of that final paragraph. We really need that. I will now ask one question which should cut through the Gordian ----

**A:** Well, let me just make the point, my Lord. I think you entirely right there. [German] is "the

correctly recognized will of the leadership". It is completely -- it is absolutely unambiguous.

**MR IRVING:** Yes, but the first word, of course, in this case "dann" means "in that case", does it not, if the above is true?

**A:** Well, it is drawing a conclusion from the fact that there was no order from the leadership preventing the murders.

**Q:** So now I will ask the question which will cut through the Gordian knot. The question is if there had been a Fuhrer order to the knowledge of the Supreme Part court, would they not here have said so in this document?

**A:** Preventing the murders? Yes.

**Q:** No, if there had not been a Fuhrer order on the basis of which all these murders were committed or these outrages were committed, would this Party court document not have made that completely clear?

**A:** It does. There was not a Party, a Fuhrer order and it

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does say that.

**Q:** It says that there was not a Fuhrer order. Have I understood you? You are frowning.

**A:** Yes, I think that is right -- I am just looking at the text again. We have been through this. Yes, it describes [German- documents not provided] So, you know, even so, I do want to translate it all over again, Mr Irving. This is really repeating what we have said already. It says: "There was no order preventing -- there was no order issued preventing these killings" and, therefore, one has to conclude from that that the leadership wanted them, even if that is only kind of a vague wish. That is that it says.

**Q:** Can I phrase the question slightly more to the point, therefore? It is my fault. If there had been in existence to the knowledge of the Supreme Party court a Fuhrer order at any time the previous evening directing that the outrages should take place, whatever the nature of those outrages was, would the Party court not have mentioned it in this judgment as being a mitigating factor?

**MR JUSTICE GRAY:** That they were to take place or that they were not?

**MR IRVING:** They were to take place. If there had been, in other words, a triggering order by Hitler which is ----

**MR JUSTICE GRAY:** But I do not think anyone has ever suggested

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there was a Hitler order that these outrages occurred.

**MR IRVING:** Or a clear expression of the Fuhrer's will.

**MR JUSTICE GRAY:** Nor does this document suggest that there was. It talks about the will of the leadership, and that is, as I understand it, the way it is put. He did not give an order for Kristallnacht to occur.

**MR IRVING:** I think this will be useful, my Lord -- this is one of the documents which I provided as a translation to your Lordship in toto, an official translation.

**MR JUSTICE GRAY:** That would be very helpful because it is heavy weather going through German for me.

**MR IRVING:** It is worse, my Lord. It is lawyers' German, and the fact that most of the concentration camp criminals were lawyers is a fact I have mentioned before. My Lord, would this be a suitable place to pause?

**MR JUSTICE GRAY:** I think it probably is.

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

**MR JUSTICE GRAY:** Yes, Mr Irving.

**MR RAMPTON:** Can I mention something it has to do with the timing of evidence in this case. According to an indication given by Mr Irving earlier this week, I think either Monday or maybe yesterday but I think Monday, we expected that Professor Evans would be free to leave sometime tomorrow.

**MR JUSTICE GRAY:** Yes.

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**MR RAMPTON:** We were told a day and a half I think. It is quite apparent that that is not now going to be the case, or probably is not going to be the case. That involves the following possible consequences. One that we have to sit on Friday, and two, and this is more serious, that beyond Monday lunch time Professor Evans' academic life is going to be a wreck if he has stay on here. It has the further knock on consequence that I have other professional witnesses, Dr Longerich and Professor Funke who are also scheduled for particular dates to fit in with their academic obligations. I cannot really say any more than that but I am very concerned at the slow pace.

**MR JUSTICE GRAY:** I slightly blame myself. I should have possibly taken a firmer line beyond giving repeated hints in the first two days of cross-examination, which I do still regard as having been rather, not beside the point, that is putting it too high. But rather peripheral. Shall I ask Mr Irving what his plan is?

**MR RAMPTON:** If your Lordship would.

**MR JUSTICE GRAY:** Then we can think ahead and work out what the timetable will be.

**MR IRVING:** Mr Rampton has very cleverly pre-empted what I was about to say myself by way of submission. It is true that a few days ago I anticipated two and a half days would cover this, and I attach no blame to your Lordship, if I can put it like that, that this witness has sometimes

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become so prolix in his answers. I have repeatedly tried to curtail the witness's answers, which have sometimes rambled on and on.

**MR JUSTICE GRAY:** Do not let us seek to apportion blame. What is the prognosis?

**MR IRVING:** The prognosis is that I was going to ask your Lordship, particularly in view of what I would call it, a threat uttered by Mr Rampton that he would take certain other matters that are contained in the report as being agreed or accepted by me unless I did challenge them. In that case I really have to have the time to deal with them seriatim unless your Lordship rules otherwise.

**MR JUSTICE GRAY:** I will tell you this straight, as it were. I have found extremely enlightening the cross-examination that has taken place over the latter part of yesterday afternoon and this morning. So I am not going to give you any encouragement to skip things. Professor Evans is a pretty key witness.

**MR IRVING:** May I make a proposal then, my Lord?

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** Clearly, this is going to take more than another half a day this afternoon and another half day tomorrow to deal with the remaining matters. I am very cognisant of the fact that Professor Evans has his own academic commitments that he has to return to, but I do not know

whether the procedure will permit him to return for the

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cross-examination to be continued.

**MR JUSTICE GRAY:** I think the answer is that, if he has to, he has to. I would prefer that your cross-examination is carried on and completed in one go, as it were.

**MR IRVING:** I have to say straight away that I would not be physically capable of sitting on Friday, for two reasons. Quite physically the burden on me is becoming very serious.

**MR JUSTICE GRAY:** If you say that, I do not even need to ask you to say any more because I accept that. Indeed, I think everybody else finds it essential to have a day to catch up.

**MR IRVING:** It is useless less if I do not come properly prepared.

**MR JUSTICE GRAY:** Shall we deal with it this way? Do you think you will be finished with your cross-examination by close of play tomorrow?

**MR IRVING:** Of this witness?

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** The simple answer is no, not at the present rate.

**MR JUSTICE GRAY:** Well, I would prefer it that we did take Friday as a non-court day and that we did, if Professor Evans can bear it, continue him and conclude him hopefully on Monday of next week unless that is going to throw Dr Longerich into confusion.

**MR RAMPTON:** In fact both Dr Longerich and Professor Funke are

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here. I do not have instructions from them at the moment about what their availability is for next week. I was hoping we might actually finish the evidence next week or early the week after. It does not look now as if we shall.

**MR JUSTICE GRAY:** I was hoping it too.

**MR RAMPTON:** I was hoping so, but it does not look like it now because I have three quarters of a day's cross-examination of Mr Irving left, to be fitted in at some stage. I do not mind when. I will have to see if Professor Funke, for example, can come back at the beginning of the week after next if required, and I just do not know the answer to that at the moment.

What I would invite your Lordship to do is two things: Invite Mr Irving and indeed, if necessary, rule that he must confine himself to the questions which really matter. That is to say, for example, in relation to Reichskristallnacht, the original documents and the accusations which Professor Evans makes about Mr Irving's interpretation or use of those original documents. I would also invite your Lordship to ask Professor Evans just how problematical next week is, so far as he is concerned.

**MR JUSTICE GRAY:** The first of those suggestions is difficult, because we are now dealing with the meat of Professor Evans' report. There are various ways of

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cross-examining. Sometimes it is not a bad idea to pick a little hole and use it to undermine the witness. I do not think myself that that is the best way of cross-examining this witness on this sort of material, but that is in the end for Mr Irving.

**MR RAMPTON:** I will be blunt, if I may. I do think that the first three quarters, 75 per cent, of this cross-examination has been a complete waste of time, if I may respectfully say so. I deeply mind about that.

**MR JUSTICE GRAY:** I am going to say this, because I think it is fair to say it in defence of Mr Irving. The first 150 pages of that report are there.

**MR RAMPTON:** Sure.

**MR JUSTICE GRAY:** It is not Mr Irving's fault that they are there, and I would have wished that they were not there.

**MR RAMPTON:** Yes, all right.

**MR JUSTICE GRAY:** I will say no more but I will now ask Professor Evans, what about Monday? Are your students all going to fail their exams?

**A:** Monday morning is all right, my Lord, but some of my students have an exam next week. I have five lectures to give. I have presumed an enormous amount on the goodwill of my colleagues for rescheduling lectures and classes. As you appreciate, Cambridge has rather a short term and we already halfway through it effectively. I put all my teaching into the last part of term.

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**MR JUSTICE GRAY:** So what about Monday afternoon? That is what we are really talking about.

**A:** Monday afternoon I would find very difficult. I have commitments in the late afternoon.

**MR JUSTICE GRAY:** From your point of view, there is everything to be said for getting shot of this altogether?

**A:** My preference would be to sit on Friday but I quite understand the reasons why we cannot.

**MR JUSTICE GRAY:** It is a strain being a witness day after day but it is also a very considerable strain cross-examining day after day, probably worse.

**A:** Of course. I really would find it extremely difficult to appear here on Tuesday or indeed any day after next Tuesday for the following three weeks.

**MR JUSTICE GRAY:** What I am going to suggest is, if you can possibly do so, would you mind trying to free Monday afternoon and we will try, even if we have to sit a bit late, to finish you altogether. I hope that is not unrealistic but it does mean we have to keep a foot on the accelerator.

**MR IRVING:** It does provide me with one extra day.

**MR RAMPTON:** I can then tell your Lordship that, so far as Dr Longerich is concerned, the only day next week which is impossible is Thursday. So we could use that as the day off.

**MR JUSTICE GRAY:** I think he should be over and done with by

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then.

**MR RAMPTON:** I agree. I do not think he should take more than a day myself, but there it is. It is not in my hands.

**MR JUSTICE GRAY:** What I will not require of Mr Irving is that he goes over the same points with Mr Longerich as he has been through with Professor Evans.

**MR RAMPTON:** No. The second half of Longerich is almost entirely swept aside by Professor Browning.

**MR JUSTICE GRAY:** I am not saying you should not, but I am saying you do not need to.

**MR IRVING:** Yes. We shall be using Dr Longerich's "Germanness", if I can put it like that, the way that we could not with Professor Browning.

**MR JUSTICE GRAY:** Sure.

**MR RAMPTON:** After that, I will see where Professor Funke can be fitted in either later next week or the beginning of the week after.

**MR JUSTICE GRAY:** One problem about sitting too long is that the transcriber who, if I may take the opportunity of saying so, has done an extremely good job, really cannot last, I suspect, for more than two and a half hours. Shall we press on.

**MR IRVING:** I will try and phrase my questions on the remaining days in a way that they can only be answered with short answers.

**MR JUSTICE GRAY:** Do not feel you have to gallop but could you

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could bear in mind that the big picture matters.

**MR IRVING:** Professor Evans, on page 276 you refer to yet another of my witness with whom you find disfavour, Mr Hederich.

**A:** Yes.

**Q:** You call his testimony highly unreliable on the basis that no other witness claimed that Hitler made a speech before Goebbels. I am referring to paragraph 5 on page 276.

**A:** Yes.

**Q:** Can I draw your attention to the actual text of what he says in the footnote?

**A:** Yes.

**Q:** "Was vorher Hitler selbst gesagt hatte..."

**A:** Yes.

**Q:** Is that any reference to Hitler making a speech?

**A:** It appears to be.

**Q:** Is it not just Hitler having said something? Is that the only reason why you discount this witness's testimony?

**A:** No, it is not. You will have to tell me what you use it for.

**Q:** Turn it page 277, at the beginning of paragraph 6 you say: "So Hederich falsely claimed that Goebbels's speech contradicted a previous speech made by Hitler".

**A:** Yes.

**Q:** When all that we are certain of is that Hederich just said that Goebbels' speech appear to fly in the face of

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something that Hitler had said previously.

**A:** It is not something he said. It is what the translation ----

**Q:** "Was vorher Hitler selbst gesagt hatte..."?

**A:** Yes. As I say in my translation, he had held a speech and I had the impression that it did not harmonise with what Hitler himself had said before.

**Q:** So there is no reference to a Hitler speech is there? Is it not equally possible that Hitler arrived at this function of the old guard, the old gang, and had mingled a bit, gossiped with people like Hederich, possibly even the death of this diplomat had arisen and, when they heard the speech by Goebbels later, this man Hederich said, "that is funny, it does not sound like what Hitler said to me"?

**A:** That is all speculation.

**Q:** But you agree that there is no reference to a speech?

**A:** He does not say Hitler's speech, no. He says Dr Goebbels held an address and I had the impression that it did not harmonize with what Hitler himself had said before. It seems to me to

be a reference to a previous speech.

**Q:** That is the only reason why you say Hederich is a suspect source because he refers to a speech which did not take place?

**A:** No, it is not.

**Q:** Can you give any other reason?

**A:** It is really the use that you make of it. This is an

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interrogation of Hederich, who is an old Nazi. He is a sort of censor.

**Q:** Are we going to rule out everybody who is an old Nazi as a possible source?

**A:** I think one has to regard postwar interrogations of these people. This is an interrogation.

**Q:** Was Rudolf Hess an old Nazi?

**A:** This is an interrogation in Nuremberg on 16th April 1947, and you yourself have cast serious doubts upon interrogations conducted at Nuremberg, but, presumably because this one you regard as being favourable to your point of view, you do not raise those doubts there.

**Q:** The fact is that all---

**A:** This is another piece of postwar testimony.

**Q:** The tissue of lies and distortion and manipulation, all the rest of it. We know the speech.

**MR JUSTICE GRAY:** I have the point on Hederich.

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

**MR RAMPTON:** Before we go on to the next question, one reason why we do not proceed as quickly as one might like, I suspect, is that Mr Irving never lets Professor Evans finish an answer without interrupting.

**MR JUSTICE GRAY:** Let us move on. That has happened occasionally, I agree. Let us move on.

**MR RAMPTON:** It happened just now.

**MR IRVING:** Without interrupting, can I have an answer, please,

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to the following question? We are now in paragraph 8 on page 278.

**A:** Yes.

**Q:** You dispute the allegation in my book, or the statement in my book, that Goebbels spent much of the night making telephone calls to try and undo the damage.

**A:** Yes.

**Q:** Do I have no evidence for saying that?

**A:** No reliable evidence.

**MR JUSTICE GRAY:** Put the evidence to him, Mr Irving, and then we will see what it amounts to.

**MR IRVING:** Is the evidence given by Hitler's other adjutant' Fritz Wiedemann in writing in his own manuscript on board a ship in February 1939 as he sails to a new life in the United States not evidence?

**A:** Well, I cite this, do I not, on page 278?

**Q:** You discount it. You say, OK, Mr Irving had evidence but again this is another piece I am going to discount because ----

**A:** I am afraid, I am sorry to interrupt you ----

**MR JUSTICE GRAY:** I have read it. It is hearsay.

**A:** Yes, it is hearsay, it is reporting gossip. The fact that he is who he is is neither here nor there.

It says it is reliably reported that Goebbels as well repeatedly telephoned from Munich during the night's worst outrages. It is hearsay. That is why I do not give much credence to

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it.

**Q:** If Hitler's adjutant Fritz Wiedemann -- who had been in fact his adjutant in World War I too had he not?

**A:** Yes.

**Q:** Fritz Wiedemann writes that it is reliably reported, and he writes this in his own handwriting and I am the first historian to have found it and deciphered it and used it, that Goebbels spent much of the night making these phone calls to stop the worst of the atrocities, and there is no value at all to be attached to that, is that right?

**A:** It is merely hearsay.

**MR JUSTICE GRAY:** Professor Evans, does the fact of him making telephone calls trying to stop the rot, as it were, fit in with the general picture of the events of that night?

**A:** No.

**MR IRVING:** Is that why you discount it?

**A:** That is another reason.

**Q:** So anything that does not fit in with your picture you discount?

**A:** It is not my picture. It is the picture that emerges from the documents.

**MR JUSTICE GRAY:** I think we have dealt with that.

**MR RAMPTON:** Can I go back two steps please? I am sorry about this. My interruptions do not help the speed of proceedings either, I know. I am perhaps not as quick on the ball as I should be, but I notice now that what this

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Hederich business arises from is it arises directly from the text of Mr Irving's book Goebbels at page 274. I see now why Professor Evans used the form of words that he did about a speech by Hitler. Right at the bottom of the page before the indented quotation Mr Irving writes this: "Several people who heard Goebbels' firebrand speech were uncomfortable. Karl Hederich, one of his department heads, felt that it conflicted with the tenor of Hitler's speech".

**MR JUSTICE GRAY:** Yes. I think I have the point. That is based on nothing more than -- and I say this rather rudely to Mr Irving -- the reference to what Hederich had understood Hitler to have said.

**MR RAMPTON:** The whole cross-examination was based upon the premise that it was Professor Evans who illegitimately turned that passage in the German into a speech by Hitler. It was not he at all.

**MR JUSTICE GRAY:** I did realize it was really the other way round.

**MR RAMPTON:** I am sorry, I had not. I was a bit slow.

**MR IRVING:** You do accept, Professor Evans, do you not, that there is some evidence, no matter the fact that you discount it and I accept it, to the fact that there were phone calls made by Goebbels during the night?

**A:** Could you point me towards it, please?

**MR IRVING:** That is Wiedemann.

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**A:** That is hearsay.

**Q:** Hearsay is acceptable in civil cases. Do you accept also that there were phone calls from Hitler made to Goebbels on the evidence of the eyewitnesses like von Below, the Adjutants, that Hitler telephoned Goebbels to express his disfavour?

**A:** Could you point me towards the piece of evidence you are referring to, please?

**Q:** This is not evidence. This is the von Below interview which was put to you this morning, the transcript.

**A:** Right. No, I do not because the von Below memoirs say that he was not in the room when Hitler made a phone call.

**Q:** Are you saying that none of those three sources states that he was furious with Goebbels, he made a frightful scene with Goebbels?

**A:** No, I am not. I am saying the sources were unreliable. We have been over this, Mr Irving.

**Q:** You will see the point of this in a minute. Then there was a conference between Hitler and Goebbels by phone about the situation. That is what von Below says. Is that not right? He saw this?

**A:** Where is this?

**Q:** This is on page 4 of the bundle.

**MR JUSTICE GRAY:** Assume it is there. I would have thought it was pretty obvious they would have spoken on the telephone.

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**A:** Yes.

**MR IRVING:** There is a reason for this, my Lord. We now come to the question of why Goebbels felt it necessary to draft an order which he issued later on in the following morning, or you say the afternoon, do you not?

**A:** You are referring to the next day, as it were, now?

**Q:** That is right. We are now after midnight.

**A:** Well after. We are now into the daylight hours, as it were, or perhaps that is dawn.

**Q:** No, we are after midnight.

**A:** Exactly what time are we talking about, Mr Irving?

**MR JUSTICE GRAY:** Where is the document?

**A:** Yes.

**MR IRVING:** First of all, I am saying, do you accept that there is one statement at least, namely by von Below, that Hitler telephoned Goebbels about the situation during the night hours? This on page 4 of the interview.

**MR JUSTICE GRAY:** Assume that.

**A:** Yes.

**MR IRVING:** Yes. If therefore, and I now ask you to look at the little bundle of documents which has the anordnung in, if you still have it.

**MR JUSTICE GRAY:** L2, tab 1, page 10.

**MR IRVING:** If therefore on the following day, 10th November, at some time Goebbels issues this order ----

**A:** This is 10th November.

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**Q:** It is the one immediately following the anodnung?

**A:** Yes.

**Q:** This is the actual order issued by Goebbels, is it issued to all the Kreisleiters and all Kreispropagandaleiters, which are the district propaganda officials?

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

**Q:** Does the document say, I refer to my announcement today concerning ending the anti-Jewish demonstrations, and so on?

**A:** May I just go on, concerning the anti-Jewish demonstrations and actions which have already also been published in the press and by radio.

**Q:** Yes.

**A:** And preceding that is the press notice which, according to the footnote here, was issued at 4 o'clock in the afternoon.

**Q:** We are going to deal with that time in a minute.

**A:** Yes.

**Q:** Can you accept therefore that it is likely that a telephone conversation from Hitler to Goebbels was concerning the drafting of such a stop order, or stop orders, with the maximum possible dispatch?

**A:** A telephone conversation, according to Goebbels' diary, on the morning of the 10th, before they met to finalise the order in the Osterea restaurant.

**Q:** On page 282 of your report we now look at how that order

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came around.

**A:** Yes.

**Q:** You say that, when Hitler and Goebbels talked, it is reported in the diary entry and no decision had yet been taken.

**A:** Yes.

**Q:** You say that, following this first conversation with Hitler, on the morning of 10th November, Goebbels drafted an order to bring the pogrom to a halt?

**A:** Yes.

**Q:** You quote his diary entry written on the following day referring to the morning of the 10th, "I prepared an order that put an end to the actions, I report to the Fuhrer at the Osterea".

**A:** Yes.

**Q:** Is it not extremely likely on the balance of probabilities that he prepared the order on the basis of his conversations with Hitler, whether in person or by telephone, and he then took the draft order round at Hitler's request to him at that restaurant?

**A:** That is how I read it, yes.

**Q:** So Hitler had ordered everything to stop?

**A:** That is right.

**MR JUSTICE GRAY:** On the morning of the 10th?

**MR IRVING:** On the morning of the 10th, yes, my Lord. Why did they take this decision to stop everything then? Had

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things got out of hand? Had the forest fire suddenly developed on to a scale that they began to fear they could not halt it?

**A:** Let us just get quite clear when the order went out. **MR JUSTICE IRVING:** 4.00 pm.

**A:** It went out, in my view, in the afternoon of the 10th. I think they decided that the action was complete. That is to say that the synagogues had been burnt down, the shops had been destroyed and wrecked, people were in the course of being arrested, and it was time to call it to an end.

**MR IRVING:** My Lord, can I ask you where you get 4 pm from? I know it is there.

**MR JUSTICE GRAY:** At the foot of page 10 of this file it says 10th November and then gives a reference for it.

**MR IRVING:** I am looking for it in the expert report.

**MR JUSTICE GRAY:** Does it matter where it is?

**MR IRVING:** Well, yes, because there is a footnote.

**MR JUSTICE GRAY:** It is page 10, L2, tab 1.

**A:** Yes.

**MR IRVING:** Because I have said that that order was issued at 10 a.m. that morning, my Lord, and I wanted to check the actual source.

**MR JUSTICE GRAY:** Where do you get the 10 a.m. from?

**MR IRVING:** That is why I wanted to check the actual source for it in the book, which is a radio monitoring report,

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I believe.

**A:** Ah, but this order goes out after the radio broadcast.

**Q:** Can you tell me what page?

**MR RAMPTON:** Yes. It is the bottom of 286, my Lord, top of 287, and the source is given. I think it is a deduction because he uses the word "probably", does Professor Evans.

**MR JUSTICE GRAY:** It looks to me that, if you go back to the document I was inviting attention to, would S 117 an meldung 114 be a reference to the timing?

**A:** Yes, page 107, and note 144.

**MR IRVING:** Is it not correct, as is evident from my book on page 277, that at 10 a.m. he broadcast a live appeal for order over the Deuchlandsender, which is the national broadcasting system?

**MR JUSTICE GRAY:** Before he met Hitler at the Osterea.

**MR IRVING:** My Lord, yes, 10 a.m.

**A:** Note 53.

**MR IRVING:** This is another of your unreliable sources?

**A:** Ingrid Weckert.

**Q:** Is it only Ingrid Weckert or is it tape recordings or recordings or disks?

**A:** You seem to have derived the information from Ingrid Weckert not to have seen the recordings in the Frankfurt radio archives yourself.

**Q:** Yes. In other words, I am referencing the recordings of the broadcast made at 10 a.m. which she has found and she

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has referred to, is that correct?

**A:** First of all, I would have to see the document to accept your account of what is in it or rather -  
---

**Q:** Do you always ask to see documents?

**A:** Yes, of course I do, Mr Irving, because I do not trust your account of what is in documents.

Still less do I trust the account ----

**Q:** Do you know your own name without being shown a document?

**A:** Still less do I trust the account that is given by Ingrid Weckert, whom I explain in my report as a notorious anti-Semite.

**Q:** Anti-Semite?

**A:** In Germany, not a serious historian, who ----

**Q:** Invented these recordings, has she? Is this what you are suggesting?

**A:** I am not saying she has invented the recordings. I am saying that I cannot trust her account of what is in them. In order to be able to assess the point that you are putting to me, I would need to see an accurate transcript of these recordings. You would ask no less if you were in the witness box yourself, Mr Irving.

**Q:** If we are concerned only with the time the broadcast was made.

**MR JUSTICE GRAY:** We are not concerned only with the time. I am sorry, I am now interrupting you. We are concerned with the content because your point, as I understand it, is

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that in effect this order was in place from 10 a.m. because it was broadcast. That is all very well if indeed the broadcast did say effectively what the order says. That is what the witness is wanting to be reassured about.

**MR IRVING:** My Lord, the content is referenced on page 277. The broadcast, while it spoke of the "justifiable and comprehensible public indignation of the murder, it strictly forbade all further actions against the Jews and it was repeated at hourly intervals and printed in next day's party newspapers", which is how we know the text.

**MR JUSTICE GRAY:** 277 of what?

**MR IRVING:** My Goebbels biography, I am sorry, my Lord.

**A:** It would help if I could see the text.

**Q:** Of the newspaper repetition of the broadcast?

**A:** No, does that ----

**MR RAMPTON:** May I suggest item 23 on page 10? I do not know if this is right or not. This is sheer guesswork on my part. "Rundgruff" which I think is a broadcast.

**MR JUSTICE GRAY:** Yes, that might be right, yes.

**MR IRVING:** Can I, in preference to the recommendation by Mr Rampton, ask you to look again at that document in my bundle?

**MR JUSTICE GRAY:** Well, I am going to ask the witness whether he thinks that 23A Mr Rampton just pointed out is, in fact, the broadcast. The only problem is it goes out in the afternoon.

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**A:** Yes, at 4 o'clock.

**Q:** Oh, that is a reference to that.

**MR IRVING:** Can we now look at document?

**A:** If it will assist, it is the news, the official German news agency. It does not actually say that it is a broadcast.

**MR IRVING:** Can I now ask you to look at the document ----

**MR JUSTICE GRAY:** Can we go just quickly through it? Can you give us the gist of it in a sentence?

**A:** Yes. Dr Goebbels, let it be known that the justifiable anger of the German people over the murder of vom Rath has been expressed in a previous -- in last night. In many places in the Reich there were acts of revenge against Jewish buildings and shops, but there is now the whole, the whole population is now strictly ordered not to attempt any further demonstrations and actions. The final answer to the assassination in Paris will be a legal one".

**MR JUSTICE GRAY:** Looking at page 277 of Mr Irving's book ----

**MR IRVING:** It appears to be the same.

**MR JUSTICE GRAY:** --- it is plainly a reference to the same broadcast, well, the same communication, but it is differently timed which makes me ask you what exactly are we looking at? Document 23?

**A:** Yes.

**Q:** Is that authoritative or not?

**A:** It is an authoritative official circular, "Rundgruff" is a

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kind of circular call, really, of the official German news agency in Berlin, at 4 o'clock on 10th November -- well, the title, to be precise, says: "On the afternoon of 10th November". Then the footnote in this edition of the document says it is at 4 o'clock.

**MR JUSTICE GRAY:** Yes, I am sorry, Mr Irving, but that may have clarified that point.

**MR IRVING:** Well, it would have clarified it even better if the witness had looked at the document at which you were looking at previously, the 10th November, in the little bundle I gave you. If you look at the big block of text at the bottom, the message from Dr Goebbels?

**A:** Wait a minute now. Sorry, I have too many bundles. Which collection is this?

**Q:** The one after the Anordnung again?

**A:** Is that this one?

**Q:** Yes.

**A:** With the green ----

**Q:** Yes.

**A:** Page?

**Q:** It is in chronological order. 10th November 1938. That is the one there. A big block of text?

**A:** Yes.

**Q:** Beginning at the bottom ----

**A:** "Strengvertraulich", yes?

**Q:** [German - documents not provided] "I draw attention to my

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announcement made today concerning the ending of the anti-Jewish demonstrations and actions"

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

**Q:** --- which have already been announced via press and radio", is that correct?

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

**Q:** That establishes that this came after the press and radio announcements?

**A:** Yes.

**Q:** So you are prepared to accept, are you, that there had been an earlier radio broadcast?

**A:** Yes.

**Q:** By Dr Goebbels?

**A:** Quite obviously, yes.

**Q:** And the fact that the information on that and the disks are referenced by the neo-Nazi extreme right winger anti-Semite, Ingrid Weckert, is neither here nor there. So you accept, therefore, you are wrong probably to challenge my time of 10 a.m.?

**A:** No, not at all. Where does it say on this document or any document that we have seen that it was at 10 a.m.? What is your evidence, Mr Irving, for the fact that this went out ----

**Q:** If this source is right about everything else ----

**A:** May I just say what I want to say, please? What is your evidence, Mr Irving, for saying that this went out at 10

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a.m.? All you have is a reference to Ingrid Weckert.

**Q:** Which is a source you are not prepared to accept, although she is right on everything else?

**A:** I beg your pardon? I do not think she is at all.

**Q:** As far as this particular matter is concerned?

**A:** Your reference to that is the broadcast as recounted by Ingrid Weckert at 10 a.m. and I am saying that I have not seen yet any evidence to suggest it was at 10 a.m.

**MR JUSTICE GRAY:** Can I just ask you this? The Rundgruff that goes out at, apparently, 4 o'clock makes an announcement in the name of Dr Goebbels?

**A:** Yes.

**Q:** Can you comment, as a matter of likelihood, as to whether if that goes out at 4 o'clock in the afternoon, and bearing in mind what is going on throughout Germany, it would have, in fact, followed an announcement made six hours earlier? That is not very well put, that question. Do you understand what I am getting at?

**A:** Yes, I do. It seems somewhat unlikely. It is a long gap.

**Q:** Because, in effect, they would be sitting on their hands for six hours?

**A:** Yes.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** Is it right that the passage I just drew your attention to makes reference to the announcements that have already been made through press and radio?

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**A:** Yes, yes, we have said that.

**Q:** And it does not say "just recently made through press and radio"?

**A:** "Already" it says.

**Q:** Is there any reason why they would have sat on their hands all day until 4 p.m.

**A:** I cannot think of one.

**Q:** Yes, but you accept that the meeting between Dr Goebbels and Hitler was some time in the morning?

**A:** No. It seems that they communicate -- that they had two communications, one of which, it seems, was probably by telephone at some time in the morning, and that is, according to the Goebbels diaries, where he says, you know, "What to do now, that is the question", and it clearly ----

**Q:** So you now concede that they did telephone.

**A:** Yes, I do not think I have ever said that they did not, not in the middle of the night, but in the morning. Here we are. Goebbels diary says: "Let the beatings continue or stop them. That is now the question." And then he has a ----

**Q:** What is the German for "Let the beatings continue" since we are there? "Weiter Schlagen lossen"?

**A:** I would have to see the text, I am afraid. I can look it up, if you like?

**MR JUSTICE GRAY:** I do not think it is really necessary.

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**MR IRVING:** No, it is unimportant. No. Just a question on the translation again.

**A:** "Hauen", I think, is it "Weiter Hauen"? That is from memory though.

**Q:** So on the balance of probabilities ----

**A:** And then -- can I just say my ----

**Q:** --- if we now string together the sequence of events ----

**A:** Sorry, I have not been able to answer your ----

**MR JUSTICE GRAY:** Mr Irving, you are talking over Professor Evans time and again.

**MR IRVING:** My Lord, I began speaking before he interrupted.

**A:** I am trying to answer your question, Mr Irving. Now, my view of the sequence of events is that on the morning of 10th November there is a conversation, looks like a phone conversation, between Hitler and Goebbels, where they discuss what to do and ----

**MR IRVING:** Why do you think it was in the morning?

**MR JUSTICE GRAY:** Will you stop interrupting, Mr Irving, please. Just let the witness complete an answer.

**A:** And they then decide, then Goebbels drafts the order. They meet in the Osteria restaurant, probably for lunch, and then after that the order is drafted and it is sent out in the afternoon. That is my reading of the sequence of events.

**MR IRVING:** The timing is immaterial, is it not?

**A:** No. The time is not really immaterial. I mean, we know

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that the pogrom did not start until about 8 o'clock in the morning in Vienna, for example ----

**Q:** What we can say with certainty ----

**A:** --- that orders were going out from Dalueges at 20 past 6 to get the pogrom going so that it was still in full swing in the early hours of the morning.

**MR JUSTICE GRAY:** Well, I think I have the -- I am not interrupting; I am just simply telling you that I think I have the point on the timing of the events of 10th.

**MR IRVING:** The timing is not very important, I appreciate, my Lord, but now let me go on to -  
---

**MR JUSTICE GRAY:** Well, we have spent quite a long time on it.

**MR IRVING:** --- the motivation, that, in other words, at some time between midnight and the Osteria meeting, a phone call had occurred between Hitler and Goebbels, is that right?

**A:** No, I do not accept it is as broad a time frame as that. This is the ----

**Q:** I think his Lordship has said that the time is unimportant.

**A:** --- what we are talking -- may I finish my answer, Mr Irving? What this is, this is the final order putting the stop to the pogrom and saying that, "Now there will be legal measures to kind of back it up". It is saying to everybody, "Stop", and this really is the order from Hitler and Goebbels, agreed between them, saying, "Don't

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not do anything more of any sort. The whole thing has got to stop".

Now, since orders were going out from Hess, for example, at 2.56 which made it quite clear at that time that the action should, the pogrom should continue, as we have already seen this morning, it is very unlikely that this order to stop it all was issued before 2.56. In addition, there are further orders that go out after 2.56.

**MR IRVING:** From where?

**A:** From Daluege, for one, and that there is plenty of evidence that this -- many contemporary reports which indicate that the pogrom was continuing through the daylight hours of the morning of 10th. So I think the time frame for this order is some time in the afternoon of the 10th, and it looks like, because it refers to a previous broadcast which seems to have been made at 4 o'clock, that it is round about 4 o'clock or shortly after that. Certainly, the evidence seems to be that then although there were, sporadic actions did continue after that, that the main action then came to a stop.

**MR JUSTICE GRAY:** Right. Shall we move on to the next aspect?

**MR IRVING:** This is why you attach importance and not accepting the 10 a.m. timing, is that correct?

**MR JUSTICE GRAY:** No, we are moving on now, Mr Irving.

**MR IRVING:** Well, my Lord, you interrupted the questions I was about to put to him and invited him to continue speaking.

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**MR JUSTICE GRAY:** Well, if it is about the next topic, fine, but if it is not, I really think we have had enough on the sequence of events.

**MR IRVING:** So Hitler invited Goebbels to come to him bringing a prepared order stopping everything?

**A:** I have already said that it looks as if they decided there should be a prepared order in a phone conversation some time in the morning of 10th, that they met in the Osteria restaurant, Goebbels had a drafted order which they then agreed would be sent out.

I have to say, Mr Irving, one of the reasons why this is taking so long is that you are constantly asking the same questions again and again and again, and I have to give the same answers again and again.

**MR JUSTICE GRAY:** And I am asking you to move on. Please, Mr Irving, move on.

**MR IRVING:** I do not really wish to be lectured by the witness on how I conduct my cross-examination.

**MR JUSTICE GRAY:** Well, take the lecture from me and please, please, move on.

**MR IRVING:** So what dispute do you have with -- and this is serious -- the way that I described this particular matter then?

**MR JUSTICE GRAY:** I know exactly what the dispute and the criticism is and I know what your answer to it is, Mr Irving, and I am now going to rule that you move to the

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next topic.

**MR IRVING:** Will you look at page 280? You accuse me of not quoting a passage from the diary of Ulrich von Hassell?

**A:** Sorry. Can I just clear my desk a bit?

**MR JUSTICE GRAY:** It is the "My dear Popitz, do you want me to punish the Fuhrer"?

**A:** Yes, exactly.

**MR IRVING:** You state that in a conversation -- I will read the whole passage. I am sorry, I want you to look at page 283. It is again the Hassell diary. This is the last change. Page 293 of the expert report, my Lord. It is the Hassell diary that you are referring to in paragraph 2, is it not?

**A:** Yes.

**Q:** It is again concerning the involvement of Hitler and Hassell -- this again is hearsay -- Hassell is reporting what he is being told by his friend, the Bruckmanns, is that right?

**A:** Yes.

**Q:** About a visit from Rudolf Hess on December 23rd?

**A:** Yes.

**Q:** Hess "had left them in no doubt that he had completely disapproved of the action against the Jews". He is referring to the Night of Broken Glass, is he?

**A:** Yes.

**Q:** "He had also reported his views in an energetic matter

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(sic) to the 'Führer'" ----

**A:** "Manner".

**Q:** --- "and begged him to drop the matter" ----

**A:** ... "energetic manner to the 'Führer'".

**Q:** ... "manner to the 'Führer' and begged him to drop the matter, but unfortunately completely in vain"?

**A:** Yes.

**Q:** What do you think he means by "dropping the matter"?

**A:** Well, I put this passage here because of the sentence you left out, Mr Irving, the final sentence: "Hess pointed to against as the actual originator", and what you say in your book is that "Hess confirmed that in his view Goebbels alone was to blame" ----

**Q:** Yes, but ----

**A:** --- which is a blatant misrepresentation of that sentence.

**Q:** Now will you answer my question?

**A:** That is why it is there.

**Q:** It will speed things up if you answer my question. Paragraph 2, you say: "Irving omits all mention of the crucial sentence which reports Hess as saying his attempt to get Hitler to stop the pogrom had been futile". Is that what Hess actually said, what the diary said, "Stop the pogrom" or to "drop the matter"?

**A:** Let us read it again: "He had left them in no doubt that he completely disapproved of the action against the Jews; he had also reported his energetic matter to the 'Führer'

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and begged him to drop the matter, but unfortunately completely in vain."

**Q:** [German], is that right?

**A:** Yes, "the thing".

**Q:** The original German?

**A:** Yes, "the thing".

**Q:** What do you think he meant by, dis aher, the matter, the thing, the affair?

**A:** The action against the Jews.

**Q:** Is it not possible that by this time, the end of December, he is referring to all the persecution

measures that had been ordained by the Nazis, the billion Reichs mark fine and all the rest of it -- all these petty measures of persecution that had been adopted by the Nazis which were adding insult to injury, if I can put it like that?

**A:** I do not think so, no. It follows on naturally from the notion, what he says about the action against the Jews, which you have agreed was the pogrom of 9th/10th November, and you still have to explain why you do not quote this sentence.

**Q:** That is it not quite obvious that Hess had gone to Hitler and upon learning that Hitler and Goring had decided to impose this swinging fine on the Jewish community and all the other measures, he had put Goring in charge of the evacuation or emigration programme, and all these other things that had been set in programme by then ----

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**MR JUSTICE GRAY:** That is bizarre, Mr Irving.

**MR IRVING:** I beg your pardon?

**MR JUSTICE GRAY:** That is bizarre, is it not?

**MR IRVING:** It is not in the least bizarre, my Lord.

**MR JUSTICE GRAY:** If you look at what goes before and what goes after, plainly, surely, you must accept they are talking about the event of Kristallnacht.

**MR IRVING:** No, my Lord, because you have to have a knowledge of the Nazi Party hierarchy to know that Rudolf Hess's signature was under Adolf Hitler's signature on all the anti-Jewish measures that had then followed. Rudolf Hess had found himself counter signing all these orders, including the billion Reichs mark fine and all the punitive measures against the Jewish community, and he had obviously gone to Hitler and said, "For heaven's sake, why don't we drop it? We are just adding insult to injury". That is what this conversation is about, and it is perverse to translate "sacher" as "pogrom", is it not, which is what you have done?

**A:** That is complete, complete -- well, two things. I do not translate it as "pogrom". I say "begged him to drop the matter". "Matter" is a reasonable translation for "sacher", I think, so I do not translate it as that.

**Q:** I am sorry, in paragraph 2 you say: "Irving omits all mention of the crucial sentence which reports Hess as saying his attempt to get Hitler to stop the pogrom had

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been futile" ----

**A:** Yes, there has been a translation, Mr Irving. That is what I am saying there. I am not translating there. It is quite clear that the action against the Jews, as you said yourself, referred to the events, the pogrom, the destruction and murders of the night of 9th to the 10th.

**Q:** And you do not see there is any possible alternative interpretation in view of the fact that, as you and I know, you being an expert on the Third Reich, Rudolf Hess, as Deputy Fuhrer, counter signed all the orders issued against the Jews over the next few days and he obviously found it repugnant to do so?

**A:** I do not see any evidence that he did.

**MR JUSTICE GRAY:** Mr Irving, my recommendation is that you move on because we can all read what is there.

**MR RAMPTON:** We can also all read what is on page 281 of the Goebbels book which is all about Goebbels' blame for the pogrom.

**MR JUSTICE GRAY:** Yes, and he is hardly the originator of the criminal proceedings -- the

Party court proceedings against the perpetrators.

**MR IRVING:** The translation of "sacher" as "pogrom" which is what this witness has done ----

**MR JUSTICE GRAY:** Mr Irving, you have asked that question. The witness has quite rightly told you it is not a translation. He is giving the sense of it. It is not the

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same thing. Please move on, will you?

**MR IRVING:** Page 297. Let us see what kind of spin you can put on this. Line 3 and a half, if I can put like that, at page 297, in other words, the fourth line?

**A:** Yes.

**Q:** It is an entry in the Goebbels diary, is it not?

**A:** Yes.

**Q:** 133, the entry for November 17th. It is in a book by Dr Reuth?

**A:** Sorry, 133? Yes, that edition, yes.

**Q:** Do you know where Dr Reuth got that entry from?

**A:** He got it from you, Mr Irving.

**Q:** Yes, I donated it to him.

**A:** Yes, I know that.

**Q:** You will notice that the quotation is Goebbels diary. Hitler is described as being "in a good mood. Sharply against the Jews. Approves my and our policy totally"?

**A:** Yes.

**Q:** Have you seen the original German of that text?

**A:** I do quote it there. Do show it to me, Mr Irving. Can you refer it to me?

**MR JUSTICE GRAY:** Do we need to go beyond the footnote?

**MR IRVING:** No, my Lord, "Billigt ganz meine und unsere Politik", is that correct?

**A:** That is quoted in -- I cite that in my footnote. I try to give the original German for all my translations so that

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you can check it, Mr Irving, and raise objections if you want to.

**Q:** I go one stage better than you. I use the original handwritten text because sometimes you can draw conclusions from the way the handwriting is done. If I tell that you the word "meine" is obviously inserted by accident and that he then, as an after thought, had to include "and our", "und unsere", because he could not very well cross out "meine" because that would be a bit of a give away, would it not?

**A:** Well, there are several things ----

**Q:** I made that comment in my Goebbels biography.

**A:** I do not want to give a long answer, but, first of all, I would have to see a copy of the manuscript to be able accept that it is as you say. Secondly, it does not make any difference to the statement that Hitler completely approves of Goebbels' policy.

**Q:** But is it not a bit of a give away that Goebbels starts off writing, "He approves my policy" and then he realises he has given the game away, so he then adds "and our" because he knows that he is going to say in the diary that it is Hitler's policy, because he cannot cross out "meine". It is quite obvious if you look at the handwriting, the way it has been done. Did I not make that point in my Goebbels biography which you read?

**A:** At the risk of repeating myself, I cannot accept that

until I see the entry and, in any case, it does not seem to me to make a great deal of difference to the statement that Hitler completely totally approved of Goebbels' policy or their policy, what is the huge difference there, that he was sharply against the Jews, [German], in a good mood.

**Q:** Are you familiar with the fact that Dr Goebbels frequently in his diaries stated that Hitler had reached decisions when, in fact, Goebbels had reached the decision for him and he then wrote in his diary afterwards that he had the complete approval of Hitler for this, because these diaries were going to be published?

**A:** Give me an example, Mr Irving.

**Q:** Page 136 of my biography of Dr Goebbels.

**A:** 136?

**Q:** From your knowledge of the period of 1932, was Adolf Hitler keen to stand in the Vice Presidential election?

**A:** Well, this is a different matter altogether, Mr Irving.

**Q:** We are still talking about the Goebbels diaries, are we not?

**A:** Yes.

**Q:** And it is the example you asked for.

**A:** Where are we?

**Q:** Page 100 ----

**A:** Yes, I have 132.

**Q:** 136?

**A:** 136. Paragraph 1? I mean the first big paragraph of two?

**Q:** Yes, it is the first full paragraph.

**A:** Yes.

**Q:** "Hindenburg announced on February 15 that he intended to stand again. Taking Hitler's decision for granted, Goebbels began designing election posters. Hitler was still undecided. Hitler then was announced as candidate by Goebbels at a huge mass meeting without having been consulted, found himself railroaded. Writing in his diaries Kaiserhof two years later Goebbels claimed that Hitler had phoned him after the meeting to express his delight that the announcement had gone down so well"?

**A:** Right.

**Q:** Is this not a typical example of Goebbels window dressing?

**A:** Well, I am trying to find the footnote here. Right, well, I think it is two points, the first point I want to make, obviously. Kaiserhof, by that you mean the published version called "Von Kaiserhof [German]" of Goebbels diary, Goebbels published a substantial chunk of his diaries as a book in the 1930s, particularly concerned with the years in which the Nazis came to power. That, of course, is a very heavily edited and amended version of his private diaries. So that really does not tell us anything about the status of his private diaries in 1938. No doubt, had Goebbels actually published his private diaries in 1938 during his own lifetime, he would have monkeyed about with

them, just as he did those. So I do not think that tells us very much.

**Q:** Have you every compared Kaiserhof ----

**A:** You also quote in footnote 35: "According to Vossische Zeitung, February 23rd, Goebbels said", and that is a kind of "The Times" of Germany, it is a very respectable quality paper, "said he was 'authorized' to tell them of Hitler's decision to stand". And the source for the idea that Goebbels is to be blamed for the fait accompli is cited here as the so-called "Opposition within the NSDAP". That seemed to me a really very thin tissue of evidence on which to base ----

**Q:** Have you ever compared ----

**A:** --- this rather far reaching conclusion that Goebbels was constantly ascribing to Hitler decisions he had taken himself without Hitler actually knowing about them.

**Q:** Have you ever compared the Kaiserhof edition, in other words, the published edition with the original handwritten edition as published now recently?

**A:** I have, yes.

**Q:** Have you evidence for saying that they were monkeyed around with?

**A:** Yes, yes, yes.

**Q:** Apart from changing "Hitler" to "Fuehrer" and various obvious cosmetic changes? Can you give one example?

**A:** Large amounts were left out, of course, lots about

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Hitler's -- Goebbels' private life were left out.

**Q:** Is that monkeying around?

**A:** Of course it is, yes.

**Q:** Would you now go, please, to page 284 ----

**A:** Oh, back again.

**Q:** --- where we come to a more obvious example of what I am getting at? The first line of page 284 of your expert report: "Other evidence supports the diary", you begin this paragraph. "On the afternoon of 10th November, after he had reported to Hitler, Goebbels informed the Nazi Party chief of Munich-Upper Bavaria that the pogrom was to be terminated and added" -- so this is a message, right?

**A:** Yes.

**Q:** Of the Adjutant to the Gauleiter recording this?

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

**Q:** And he adds: "'The Fuehrer sanctions the measures taken so far and declares that he does not disapprove of them'"?

**A:** Yes.

**Q:** Now what do you infer from the way that has been put in that message?

**A:** Double negative?

**Q:** Apart from the grammatical observation?

**A:** It is pretty clear to me.

**Q:** Do you infer that there is a belief in certain quarters that Goebbels is alibiing in here, that he is saying that he acted on Hitler's behalf? Why would this have been

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recorded, do you think, in this form?

**A:** Because Hitler's views were important in the Third Reich, it seems to me.

**Q:** So Goebbels has informed the Nazi Party chief of Munich, who would normally have no reason to believe otherwise, and said, "Oh, by the way, everything we did last night is OK. It is in

line with what the Fuhrer wanted", and this is not an unusual message, in your view?

**A:** Yes, I mean, it seems a reasonable thing to say, "The Fuhrer sanctions the measures taken so far".

**Q:** You do not read into this exactly the same as he is putting in his diaries ----

**A:** It puts them, it puts the recipients in the clear as to what they had done which they must have been, obviously, very worried about since there was a great deal of talk about involving the State prosecution and so on, as we have seen from the Party tribunal report. There must have been a great deal of concern about it amongst those who carried them out. After all, these were beatings up, murders, massive destruction of property, arson, looting, all these sorts of things. So it seems to me important that the people who had done this were reassured in the eyes of the Nazi leadership that Hitler sanctioned the measures.

**Q:** This is a document that you accept at face value without the slightest textual criticism or content criticism at

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all? You do not ask yourself why that odd sentence is in it?

**A:** I have just given my criticism, as it were.

**Q:** In other words, your criticism is no criticism. You accept it at face value?

**A:** Well, criticism in the sense of critique or source criticism when you ask why a document has been issued.

**Q:** You do not say to yourself: "This is exactly the same kind of thing as Goebbels writes in his diaries, saying "What we did was entirely with the Fuhrer's consent"" and you say to yourself, "Why does he write that in his diary then?"

**MR JUSTICE GRAY:** Mr Irving, you have put that question several times. I know the question, I understand your point.

**A:** The answer is because it is true.

**MR IRVING:** Well, page 289, paragraph 3. We are now on the meeting on November 12th 1938 in the Reich Air Ministry building under the chairmanship of Hermann Goring as head of the four year plan. This was the meeting at which the punitive measures were discussed and agreed between the various ministers. Dr Goebbels is present, is he not?

**A:** Yes.

**Q:** Yes. You say that Goebbels in his diary writes, "I am co-operating splendidly with Goring". Does that strike you as being an accurate reflection of the relationship between the two on that day and at that time?

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**A:** Yes, because the measures which Goring sanctioned were those which Goebbels put forward and which, indeed, had been suggested by Hitler in their meeting at the Osteria restaurant according to Goebbels' earlier diary.

**MR JUSTICE GRAY:** Do you mean a whitewash?

**A:** No, these are the -- sorry, my Lord.

**Q:** I am not quite sure what we are talking about.

**A:** What we are talking about here are the economic measures which on 12th November this conference was held to impose all the economic measures, a huge fine preventing the Jews from getting any insurance payments for the damage caused, and then a whole series of further measures about which I quote on page 290 about banning them from being in various public

places, trains and all the rest of it. That is what we are talking about. There is a legal wrapping up.

This is exactly what Goebbels says, as we see when he says in the kind of closing, the message to "Shut it all down, stop the actions, we are now going to take the legal road", and this is the legal road that he is talking about.

**MR IRVING:** Now we get back to the Goebbels diary where Goebbels describes this meeting in the most glowing terms of cordial relationship between him and Goring, would that be a fair description?

**A:** He says, "I am cooperating splendidly with Goring. He's

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going to crack down on them too. The radical line has won".

**Q:** Is that a fair and accurate reflection of what is contained in the verbatim transcript of that meeting?

**A:** It is a -- it is a very accurate summary of what transpired at the meeting, that is to say, that Goebbels' -- that Goring was persuaded, if he needed persuading, that there should be a crack down in the legal and economic sense on the Jews, as suggested by Hitler in the Osteria restaurant put forward by Goebbels.

**Q:** Are you familiar with the fact that Goring was livid with Goebbels for this pogrom that he had started because of the costs that it had inflicted on the German economy which he was now going to have to make good and the damage to the broken glass that they were going to have spend foreign currency on, and the insurance costs that the German insurance companies were going to have to meet? Are you familiar with those passages in that meeting?

**A:** Of course I am. I quote them in the next paragraph, Mr Irving.

**Q:** Are you familiar with the fact that Goering sneered and said, what we need here is a little bit of public enlightenment? What was that a reference to?

**A:** Mr Irving, I am not saying----

**Q:** Can you answer the question, please? What was that a reference to?

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**A:** No, I am not saying ----

**Q:** Can you answer the question, please?

**A:** I am not saying ----

**Q:** Can you answer the question, please? What is "public enlightenment" a reference to?

**A:** I am not saying, Mr Irving, that there were no minor disagreements between the two. I refer to these in paragraph 4 on page 289 to 90. I am not claiming that Goring and Goebbels were bosom pals. The relationships between the leading people in that gang of ruffians were, as one would expect, not particularly polite or loving or courteous. Nevertheless, the fact is that his statement, "I am cooperating splendidly with Goring. He is going to crack down on them too. The radical line has won", is absolutely correct. That is what happened. Goring says, as I quote, "I would have preferred it if you had beaten 200 Jews to death and had not destroyed such valuable property". Nice of Hermann to say that. "Once the property was damaged, however", I go on, "Goring ensured that the meeting took maximum financial advantage of the events for the Nazi state". I quote a long example for this disgusting collection of people.

**Q:** If you were going to quote a long example, would it not have been better to quote an example of the outrage that Goring expressed at Goebbels for having inflicted this economic disaster on

Germany at this time in their

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fortunes ----

**A:** You quote them to me. I refer to it. I make it quite clear that Goring says that he had rather that the property had not been destroyed.

**MR JUSTICE GRAY:** If we are really going to spend time on this, Mr Irving, I think you ought to put what outrage it was that Goring expressed.

**MR IRVING:** My Lord, this witness has claimed -- am I right, witness, have you read the whole transcript of this meeting, such as it exists?

**A:** Yes, this is the Nuremberg document.

**Q:** Is it right that the transcript is not complete, that it is like every ten pages missing?

**A:** You will have to show me that, I am afraid.

**Q:** It is a well-known fact about this transcript, is it not?

**A:** I will not accept your----

**MR JUSTICE GRAY:** Mr Irving, did you hear what I said? It was that, if you are suggesting that Goring expressed outrage, it would be -- I do not ask you to go to the document, just say what it was you say he said.

**MR IRVING:** Your Lordship will remember that I three times asked the witness to answer a question, which is what is the reference to public enlightenment?

**A:** Yes. That is a reference to Goebbels.

**MR JUSTICE GRAY:** Mr Irving, are you paying any attention to the question I just asked you? What was it that Goring

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said that you say was an expression of outrage on his part?

**MR IRVING:** I will be a bit more full in that question then.

**MR JUSTICE GRAY:** It is not full. It is a question of being specific. If we are going to spend time on this. I think this is a tiny point myself.

**MR IRVING:** It is, except the fact that he says that I have commented that this diary entry was written with less than total honesty. It was a diary entry suggesting glowing relations between these two Nazi gangsters.

**MR JUSTICE GRAY:** I have got the point, Mr Irving.

**MR IRVING:** It is quite obvious from the transcript, which this expert witness has read, that exactly the opposite is true that in fact they were at each other's throats throughout the meeting.

**MR JUSTICE GRAY:** Which is why I asked you, and this is the fourth time I have asked you, to put to the witness in general terms what it was that Goring said which you said amounts to outrage on his part.

**MR IRVING:** Is it right that Goring expressed outrage at the fact that the Reichskristallnacht, for which he held Goebbels responsible, had inflicted colossal economic damage on the German economy by virtue of the insurance damages, the damage to the plate glass windows that had to be purchased now with hard currency from Belgium, the damage to the German international prestige and so on, and

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he made no secret of his dismay and he sneered at Goebbels, what we need here is some public

enlightenment, which is a reference to Goebbels' full title as Reichsminister of propaganda and public enlightenment, is that correct?

**A:** It is perfectly correct, Mr Irving. Let me point out who had to pay for all this damage as a result of this meeting. It was the victims themselves who had to pay.

**Q:** That not the point of the question.

**A:** It was the Jews who had to pay.

**Q:** The point of the question is that you said that---

**A:** That is exactly the proposal that was worked out by Goebbels and Hitler at the Ostrea restaurant, and whatever quibbling and cavilling and nasty remarks, sneers that Goring made against Goebbels, that is the outcome of the meeting. That to me is "splendid co-operation". I cite on page 290 a lengthy extract of the kind of disputes that they had. It is quite clear that they were not particularly fond of each other.

**Q:** It is true, is it not, that you also suppressed the extracts which show anything but cordial relations between the two in that meeting?

**A:** Not at all.

**MR JUSTICE GRAY:** You have asked that question very many times. I really think this is such a tiny point.

**MR IRVING:** I have closed my file, my Lord, because we are now

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going to move on to the chain of evidence, which is a useful way of spending the remaining hour of this afternoon, I think.

**MR JUSTICE GRAY:** What are we going to move on to?

**MR IRVING:** The chain of documents, the chain of evidence. It is complete, apart from the Schlegelberger document, which is bundle D. Witness, just so you know what the purpose of the remaining cross-examination is about, as you are aware and his Lordship is aware, I have maintained that there is a chain of documents of high integrity which indicate Adolf Hitler intervening, on a greater or smaller scale, on behalf of the Jews rather than against them.

**A:** "The best friend the Jews ever had in the Third Reich" is your phrase, I think.

**MR JUSTICE GRAY:** Where shall I put this, just so that I know where its home is going to be? Miss Rogers always answers this question.

**MS ROGERS:** The J files. There should be a J2. I am afraid I do not know which tab we are up to.

**MR JUSTICE GRAY:** Probably 10, I think.

**MR IRVING:** Now, Professor Evans, if you wish to challenge the provenance of any of these documents, please do not hesitate to say so and indicate if you think it is not a genuine document, or that it has in some way been tampered with or distorted or manipulated. Is the first document dated August 20th 1935? I am going to go through these as

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rapidly as I can, my Lord.

**A:** Yes.

**Q:** If you just run your eye over it very rapidly, does this indicate that Hitler has ordered that individual actions against Jews are on no account to take place and will be severely punished?

**A:** That is right, yes. Individual actions or isolated actions against Jews.

**Q:** Committed by members of the Nazi party?

**A:** Or other organizations and so on, or anybody provokes them or whatever is going to be

treated very severely, that is right. This is August 1935, that is right.

**Q:** This is actually issued by the Reichsminister of the Interior.

**A:** This is a very interesting example of how Hitler did indeed sometimes step in to try and regain control over anti-Semitic actions when he thought that they were occurring in a way that was piecemeal and not actually steered from the centre. Of course, this is part of the lead up to the infamous Nuremberg laws a few weeks later, which then, in a very characteristic way of the way the Third Reich operated, introduced a legal means, an ordered means of disadvantaging and persecuting the Jews in place of these individual and rather violent actions. It is an exact parallel, well, not exact but a certain parallel there with the relationship between the pogrom of the 9th

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and 10th November and with the legal measures introduced on the 12th.

**Q:** Can we continue by looking at the document and say, does it continue by saying that anybody who does take part in individual actions against Jews or instigates them will have to be in the future treated as a provocator, a rebel and an enemy of the state?

**A:** That is right.

**Q:** "I please request you from now on ruthlessly to take action against any such operations or means to keep law and order and security and so on"?

**A:** Yes. It is a well known document.

**Q:** It is a well known document, is it?

**A:** Yes.

**Q:** So I do not really need to waste the court's time with it?

**A:** No, absolutely.

**MR JUSTICE GRAY:** Do not assume that I have ever seen it before?

**A:** You made your point, Mr Irving.

**Q:** I have made my point?

**A:** Yes. I accept that this is a document. You need not go on about it.

**Q:** Can we turn to 5th February 1936: On account of the murder of the Swiss party chief or representative Wilhelm Gustlov, what happened to Gustlov? He was assassinated, was he not, by a deranged assassin? Is that correct?

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

**Q:** There were dangers of anti-Semitic outbursts in Germany, and has Hitler ordered in this document there to be no kind of excesses?

**A:** That is right, yes. 1936 was a year in which the Nazis were particularly concerned about their international reputation because of the Olympic games coming up Berlin, and the winter Olympics as well.

**Q:** You mention the Olympic Games of course. Are you aware of the fact that Hitler specifically ordered that Jews and blacks were to be allowed to take part and they were not to be subjected to any kind of indignities?

**A:** Yes. I am not aware of Jewish athletes running for the Germans.

**Q:** But it was not just the Germans taking part, were they?

**A:** No, that is right. As I said, he was concerned about the international reputation of Germany.

**MR JUSTICE GRAY:** Do you mean black people from African countries.

**MR IRVING:** I beg your pardon.

**MR RAMPTON:** No, they would be people like Jesse Owens.

**A:** Jesse Owens, my Lord, the black American runner, Hitler's demonstrably leftie.

**MR JUSTICE GRAY:** The point you are making is that Hitler did not just make it an all white Olympics?

**MR IRVING:** He ordered they were not to be subjected to any

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kind of indignities or any of the things that one might have expected, and there is such a document in the file. The last paragraph of that document is possibly worth looking at. Does it say, "It remains reserved to the Fuhrer now as ever, to decide what policy is going to be adopted from case to case"?

**A:** Exactly the point, yes. No individual party comrade may pursue a policy on his own initiative. That is exactly the point. That is what this is all about.

**Q:** The next document is 28th July 1937.

**A:** Yes.

**Q:** That Hitler as Fuhrer Reichschancellor has from time to time himself bent the rules a bit to allow people whose blood was not pure Aryan to remain within the party and remain in full office. As I say, these documents are sometimes of great magnitude and sometimes of minor importance, but they are documents and they all tend in the same direction. Is that roughly the burden of that?

**A:** Yes. It is all about Hitler's ability to sort of rule who is Aryan or not, really, or to make exceptions from the Aryan paragraphs of the party in the case of individual party members.

**Q:** Yes.

**A:** Whatever exactly that means.

**Q:** Are you familiar with the case of Field Marshal Milsch?

**A:** Yes.

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**Q:** Was he half Jewish?

**A:** I think that is right.

**Q:** His father was Anton Milsch, who was a Jewish apothecary and he rose to the rank of Field Marshal.

**A:** Yes. The Nazis never really decided exactly what to do with half Jews, or so-called Jews of mixed blood. It was a constant problem for them, as you might expect in such an absurd racist ideology, where you draw the line. It is impossible to draw lines.

**Q:** If you now turn the page, we now come to a page which does not really belong in this file but it is there. This is in fact the page of extracts copied from the original unpublished memoirs of von Below, is that right?

**A:** Yes.

**Q:** On which I based my own description, as opposed to the 1980 book. These are the 1947 handwritten memoirs of von Below.

**A:** Well, I will accept that.

**Q:** Yes. There is the reference there. I could not find it previously and there it is.

**A:** Yes.

**MR JUSTICE GRAY:** Did you type this up yourself, Mr Irving?

**MR IRVING:** Back in 1964, yes, my Lord.

**A:** You typed this up yourself?

**MR IRVING:** I sat in his home in Dusseldorf and typed it up, yes.

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**A:** At least you have three dots there. I find this a very dubious document.

**Q:** You find it a dubious document?

**A:** Yes. I do not necessarily -- we have already been through von Below, Mr Irving.

**Q:** If you are going to say you find it a dubious document, you ought to say why.

**MR JUSTICE GRAY:** That is a fair point.

**MR IRVING:** I beg your pardon?

**MR JUSTICE GRAY:** The point you have just made is a fair point.

**A:** It is not the original document.

**Q:** You said it is a dubious document. Why?

**A:** Because it is not the original. It is Mr Irving's notes on it, I think, or Mr Irving's account of it, with gaps. That is the first thing. Secondly, of course, I do not believe von Below. He had very good reason to lie. We have been through that before.

**MR IRVING:** There is quite a lot of people today whom you do not believe, are there not?

**A:** Not nearly as many people as you do not believe, Mr Irving. You said that you do not believe any of the survivors of the Holocaust, they are all suffering from mass delusion.

**Q:** We do not believe the survivors of the Holocaust who made quite obvious mistakes, but there are tens of thousands of others whom we have not heard a word from.

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**A:** I have not seen you give credence to one single Holocaust survivor in all your writings, Mr Irving. All you do is pour scorn on them.

**Q:** Can we proceed now to the transcript of the reception of Chvalkovsky?

**A:** Page number?

**Q:** We are skipping the two that we have already looked at. This is January 21st 1939.

**A:** They are not numbered pages. Yes.

**Q:** This is a printed document, a record taken by Walter Haevel, who was a Foreign Ministry official. Is it right that Hitler begins by saying, "in January 1939 the Juden Viorden Biunst Vernichtert". What does he mean by that?

**A:** I have to read. This is in reported speech, is it not?

**Q:** Yes.

**A:** It is the subjunctive.

**Q:** Yes.

**A:** He is saying the Jews ----

**Q:** Would be ----

**A:** I guess, are, I am trying to find what he would have said in the original.

**MR JUSTICE GRAY:** I am sorry, I am slightly lost.

**MR IRVING:** It is the very first sentence.

**MR JUSTICE GRAY:** Chvalkovsky, who is he?

**MR IRVING:** Czech foreign minister, my Lord.

**A:** Yes. At that time there was still a Czecho and a Slovakio

with a hyphen between them. Correct me if I am wrong. I think he saying the Jews are being destroyed, literally are being annihilated, in Germany effectively with us. "On 9th November 1918, the Jews had not done the 9th November 1918 for nothing, this day would be avenged but in Czechoslovakia the Jews were still poisoning the people today". That is the first sentence there.

**Q:** I am sure his Lordship appreciates why, just look at that very first sentence.

**A:** Do you want to go on, vernichtert?

**Q:** I do not really want to look at the rest of the document.

**MR JUSTICE GRAY:** Let us stick with the questioning at the moment. What is the question?

**MR IRVING:** The first sentence is, Juden viorden biunst vernichtert, that is the Fuhrer speaking in the subjunctive, the Jews are being or were being destroyed, our Jews are being destroyed. He uses the word vernichtert?

**A:** Annihilated.

**Q:** What does he mean by that?

**A:** I think he probably -- what date is this? 21st January 1939. I think there he means economically.

**Q:** Economically?

**A:** Yes.

**Q:** So the word vernichtert does not necessarily mean murdered or exterminated then? It can mean something else?

**A:** No. You have to look at the context and the time. At this time in the 1930s I do not think it means that necessarily.

**MR JUSTICE GRAY:** How does this go to show that Hitler was pro-semitic, if I can use that term?

**MR IRVING:** My Lord, going through these 2,000 documents last night I came across these and I thought it proper to put them into this bundle and bring them to your Lordship's attention in this manner.

**A:** But he does say in the next sentence, which is really why I quoted him, Mr Irving, by way of explanation that Hitler blamed the Jews in his sort of paranoid ideology for the defeat of Germany and the revolution of 9th November 1918, and as he says here that this day would be avenged. So in the future he is saying it would be avenged. So it is not exactly a pro-semitic document, is it?

**MR IRVING:** Now we turn the page perhaps.

**A:** I am just wondering if ----

**Q:** If you turn the page to page 2 of that document, the first paragraph, is it right to say that from this time onwards for two or three years Adolf Hitler was talking about a geographical solution, he wanted to deport them, out of sight out of mind?

**A:** Yes, we have been through this ending up with the Madagascar solution, this is what he says here.

**Q:** The first paragraph of this says, and I translate: "The

Fuhrer points to the possibility that the States who are interested in this should find or take some spot in the world and put the Jews there, and that these Anglo-Saxon humanitarian weeping people states should then say: Here they are, either they are going to hunger or put your final words into practice"?

**A:** No, not quite, Mr Irving. I think that is wrong. [German spoken].

**Q:** "You have to say to them", that is correct?

**A:** So, it is to say to them, yes. So, States which are interested in getting rid of their Jews should pick out any tiny spot in the world, flecks, a spot of dust really, a tiny island, and saying: Here you are, either starve to death or put your many speeches in these Anglo-Saxon ----

**Q:** So in his nasty Nazi way he is still talking about the geographical solution; there is no talk about liquidation here, is there?

**MR JUSTICE GRAY:** Not in 1939.

**A:** "Starve to death" does not seem to me a particularly nice thing to say.

**MR IRVING:** Is this five or six days before Adolf Hitler made his famous speech in the Reichstag, on January 30th 1939, nine days?

**A:** His prophecy, yes.

**Q:** His famous prophecy saying that if they start a new world war ----

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**A:** That is right.

**Q:** --- it will end with their destruction, vernichtung?

**A:** He already makes another prophecy we see in the first as sentence of this extract: "On 9th November 1918 the Jews had not done that in vein. This day would be avenged".

**Q:** Yes, but it is correct that Hitler uses the same kind of terminology in that famous speech to which he then later refers so often, is that correct?

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

**Q:** Can you turn the page now. We are now in August 1940, because not very much happens, does it? The emigration continues until the end of 1939, is that right?

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

**Q:** About how many Jews actually emigrate from Germany?

**A:** About half the Jewish population.

**Q:** Are you including Austria, two thirds altogether, about 200,000 out of 300,000?

**A:** Yes, it is about 200 to 250,000 is it not?

**Q:** Did most of the emigration begin after the night of broken glass?

**A:** No. A lot did. It began in 1933 and it kind of went in waves. But there was certainly a major emigration after November 1938, because the situation had quite clearly changed so much for the worse.

**Q:** These two notes now are dated August 3rd 1940. They are from my card index, but they refer to a meeting that he

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had with Hitler, Otto Abetz. Who was Otto Abetz?

**A:** You have to tell me I am afraid.

**Q:** Otto Abetz was the German ambassador in France in Paris, would you accept that?

**A:** Sure, yes.

**Q:** That he visited Hitler and on August 3rd 1940 he had a meeting with Hitler, and the first

document does it show Otto Abetz swearing an affidavit saying that he had talked with the Fuhrer about the Jewish problem, and then follows the quotation: "He said to me that he wanted to solve the Jewish question generally for Europe, and in fact by a clause in the peace agreement, the peace treaty"?

**A:** Yes.

**Q:** "In which he made a condition of the vanquished countries, the defeated countries, that they agreed to transport their Jewish citizens outside Europe", is that right?

**A:** Yes, exactly.

**Q:** So again it is a geographical solution he is talking about?

**A:** Quite right, yes.

**MR JUSTICE GRAY:** You can take this quite rapidly because you are pushing at an open door.

**MR RAMPTON:** I do not understand where this is going. Nobody on this side of the court has suggested anything else up to 1941, and not even then until late 1941 do we get into murder on systematic scale.

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**MR JUSTICE GRAY:** That is exactly why I said you can take this quite quickly.

**MR IRVING:** We are taking it at enormous speed, my Lord.

**A:** Let us keep going then.

**Q:** In that case we will skip the second file. We are now in 15th November 1941.

**A:** Right.

**Q:** This is apparently a retype by the Nuremberg authorities of a presumably rather damaged or illegible original, a letter addressed to the Minister for the Occupied Eastern Territories by somebody in the Baltic States, the Reichskommissar, the Office of the Reichskommissar for the Ostland, stating: "I have forbidden the Jewish executions in Liebau because it was quite unbearable or irresponsible for them to be carried out in the manner that they were being carried out".

**A:** Irresponsible, yes.

**Q:** Irresponsible. "I asked to be informed whether your question of October 31st is to be interpreted as a directive" ----

**A:** "Your enquiry". "Your enquiry".

**Q:** "Your enquiry of October 31st is to be interpreted as a directive that all the Jews in the Baltic are to be liquidated. Is this to be done without regard to their age and race and to our economic interest or to economic interests? For example, the Wehrmacht's expert skilled

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workers in the arms factories"?

**A:** Yes.

**Q:** Does this indicate -- then the final paragraph: "Neither from the directives on the Jewish problem in the brown file nor other decrees allow me to assume that there is such a directive"?

**A:** Yes.

**Q:** Does this indicate that at the very highest level in the Baltic there was no indication by October 31st or November 15th 1941, rather, of any kind that they were floundering, they did not know what on earth was going on and what they should be doing and what they should not be doing?

**A:** It is not very clear who this is from or to. Can you just remind.

**Q:** It is from the Reichskommissar.

**A:** The Reichsminister, that is right.

**Q:** To the Reichsminister for the Occupied Eastern Territories who was Rosenberg, was it not?

**A:** That is right. Who is the Reichskommissar?

**Q:** The Reichskommissar for the Ostland was, I believe, Lohse. If this a genuine document, and it appears to be a Nuremberg document, then from this rather fragmentary document we can conclude that on November 15th 1941 at least there was no kind of directive from above as to what was to happen with the Jews being sent out there, and the man who is the asking the questions is saying: "What are

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we supposed to be doing?"

**A:** That is not quite so. He is says he has not been able to find one in his brown file.

**Q:** Yes, which appears to have some kind of great importance.

**A:** You also left out a sentence [German spoken].

**Q:** It says that it is quite a laudable task cleansing the Eastern Ostland of Jews, but if we are going to do it we have to do it in a way that it does not damage our economic interests?

**A:** That is right, yes. There is a great deal or a considerable amount of argument about the economic responsibility.

**Q:** The fact that I rely on is that apparently there is brown file which appears to contain directives from top level, and he has delved into that file and cannot find any kind instructions at all?

**A:** That is right, for all the total liquidation, as he says, of all Jews in the Osland in the Eastern territories, without any exceptions, and particularly without reference to economic interests, and there is a good deal of discussion, you find references in the Himmler appointments and telephone diaries, for example, to the discussions that went on about what should be done about Jews who were working, for example, in armaments industries, you see references here. So what he is really saying is: "Do we have to kill these people too? We must

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surely square this perfectly acceptable cleansing", as he puts it, "of the Osland, Juden, this cleansing of the eastland of Jews, that is all right, but it must be economically OK".

**Q:** His Lordship will appreciate the reason that I attach importance to this is the absence even at this date of any order, systematic order, shall we put it like that. He has looked for a directive, he has looked for a decree, there is nothing there, and so he is asking up the proper channels, saying: "What should we be doing?"

**A:** There is no legal decree, that is right. "Alas" is a legal decree.

**Q:** My Lord, I do not propose putting to this witness the documents on the November 30th 1941 phone call, because we have been over that in very great detail, Himmler to Heydrich, transport of Jews from Berlin not to be liquidated, and the intercepts which then followed.

**A:** It is not necessarily Himmler to Heydrich, is it, because we do not know from these who phoned whom?

**Q:** Well, a conversation between Himmler and Heydrich.

**A:** "Oustenbunke" of course is not necessarily from Hitler's bunker because there were quite a large number of bunkers in that Wolffschansser. Apart from those two points, I think we have been over that very thoroughly.

**MR IRVING:** I am seeking his Lordship's guidance on this.

**MR JUSTICE GRAY:** No, you do not need to go over that again.

**MR IRVING:** I will go straightforward, therefore, to July 1942.

**MR RAMPTON:** May I say this? Your Lordship might be helped, I do not know -- Professor Evans' evidence on this is perfectly clear, that both these file notes of Himmler have been deliberately misrepresented by Mr Irving. He gives his reasons for that in his report. I am a little concerned that Mr Irving should think, he avoids that confrontation simply by passing it by.

**MR IRVING:** That would be a different matter then which I would then come back to. I think this is properly the right way to do it, my Lord, that we will skip at this time as being part of the chain, but on the question of the relevance of these documents, these specific documents, we will take in our stride when we deal with the pages in the report.

**MR JUSTICE GRAY:** Eventually, sorry, Mr Rampton, go on.

**MR RAMPTON:** It was not so much the relevance of the particular documents. It is, first of all, their transcription.

**MR IRVING:** These are different issues, of course, are they not?

**MR RAMPTON:** Yes, and also once they have been properly transcribed their true interpretation or what I might say their fair objective interpretation. I think those are probably two questions which are too important to be bypassed.

**MR IRVING:** We can deal with it here perhaps.

**MR JUSTICE GRAY:** What I am expecting at some stage, and

I think there are about ten of them or at any rate the way I see it there are about ten of them, criticisms made by Professor Evans of your historiography. They are fairly sort of clear cut separate topics. Mr Irving, I am not absolutely certain but I think Mr Rampton is right that keine liquidierung is one of them.

**MR IRVING:** Yes, we have been over it exhaustively.

**MR JUSTICE GRAY:** Yes, but I am not sure you have cross-examined Professor Evans about it.

**MR IRVING:** Yes, if it will advance the matter.

**MR JUSTICE GRAY:** You can certainly cross-examine shortly, and I am encouraging you to do that, but I do not think skip it altogether.

**MR IRVING:** My Lord, my questions are very short. It is the other half of the cross-examination that takes the time.

**MR JUSTICE GRAY:** What I am saying is you do not need to ask a lot of short questions on any of these topics, but I must hear you put your case.

**MR IRVING:** Very well.

**MR JUSTICE GRAY:** I do not say you have to do it now because you may want to carry on with the exercise you are embarked on at the moment, but you cannot just skip the specific topics on which you are criticised by Professor Evans.

**MR IRVING:** I will deal with it now. Professor Evans, will you look at the telephone conversation of November 30th 1941?

**A:** Yes.

**Q:** Do you have two versions of it there, the typescript version followed by the facsimile?

**A:** Yes.

**Q:** The typescript version is my own very amateurish attempt about 15 years ago. What we need is on the facsimile. We can agree, can we not, that this is record kept by Heinrich Himmler in handwriting of his telephone conversations, can we?

**A:** Yes.

**Q:** That it is headed with the word "Wolffschansser"?

**A:** Yes.

**Q:** Was that the name of Hitler's headquarters?

**A:** Yes.

**Q:** Is the following line "from the train"?

**A:** Yes.

**Q:** And then in a similar kind of layout three or four lines further down "from the bunker"?

**A:** Yes.

**Q:** Underneath that we have the words 1330 SS Oberguppenfuhrer Heydrich in Prague or Prague?

**A:** Can I have a copy of the Himmler Dienstager book edition, would that be possible please? That is it. Right. Yes?

**Q:** Does this show that at 1330 he had a telephone conversation with Heydrich?

**A:** Yes.

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**Q:** Does the diary which you have now just been handed, the appointment book, indicate that for about an hour or two that morning he worked?

**A:** Yes, it would seem -- yes, that is right.

**Q:** "Gute arbeit"?

**A:** Yes.

**Q:** From 12 until 13 ----

**A:** That is right.

**Q:** -- He saw an SS officer and then he worked?

**A:** Yes.

**Q:** During that work do you think it is possible that he would have telephoned people or received telephone calls or actually met people?

**A:** I would not have thought so. I would have thought "gearbeit" just simply means sat down and did papers, because when he telephones people it appears in his telephone log, and usually when he meets people that appears in his appointments diary. So I would take "gearbeit" as meaning he just sat down at his desk and signed forms or wrote stuff or whatever, read.

**Q:** Do you think that when he arrived by train in Hitler's headquarters he would not receive, he would not inform Hitler that he had arrived in some way?

**A:** I would imagine, no, because he had a lunch appointment with Hitler at 2.30, so Hitler must have known he was coming.

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**Q:** Is there an indication of what was discussed between Himmler and Heydrich at 1.30 p.m.?

**A:** Yes, it is on the right-hand column, is it not?

**Q:** Is the first line translated: "Arrest Dr Jakelius"?

**A:** Yes.

**Q:** In the second line: "Alleged or apparent son Molotov"?

**A:** Yes.

**Q:** The third line: "Jew transport from Berlin"?

**A:** Yes.

**Q:** Full stop. Is that a full stop there?

**A:** Yes, in the edition it is. Here it is too, yes.

**Q:** Is the next line: "No liquidation"?

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

**Q:** What interpretation do you put on the last two lines, Jew transports from Berlin and no liquidation?

**A:** That it was agreed between Heydrich and Himmler on the phone that the transport of Jews which had left on 27th November from Berlin to Riga should not be killed.

**Q:** Had there been previous conversations between those two parties about such matters?

**A:** Not that I am aware of ----

**Q:** Can you turn back from that book to ----

**A:** But it may be wrong.

**Q:** --- to 17th November. It is on page 265.

**A:** Yes.

**Q:** Is there a telephone conversation at about the same time

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between the same two people which contains the two lines "getting rid of the Jews"?

**A:** Yes.

**Q:** The previous line: Conditions in the generalgouvernement?

**A:** Yes.

**Q:** So they did talk about this kind of thing more than once?

**A:** Oh, yes. I thought you meant an order not to liquidate.

**Q:** On the following day, on December 1st, before we go back to 30th, is there a telephone conversation again between them?

**A:** I am sorry it is not clear that "Beseitigung der Juden" means ----

**Q:** Getting rid of?

**A:** --- means killing, does it?

**Q:** Well, getting rid of is ----

**A:** Well, getting rid of, yes.

**Q:** --- a neutral way of putting it.

**A:** Yes.

**Q:** On December 1st 1941 is there a telephone conversation between Himmler and Heydrich on page 280 at 1.15 p.m. of which the second topic is: "Executions in Riga"?

**A:** Yes.

**Q:** Do we know that the train load of Jews from Berlin was actually full of Jews who were executed in Riga?

**A:** Yes.

**Q:** Who do you think ordered there should be no liquidation of

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the Jews on that particular train, if that is the inference we can draw?

**A:** I would imagine it is Himmler, because he was entitled to give orders to Heydrich and not the other way round.

**Q:** Yes. Why would he have ordered the train load of Jews from Berlin not to be liquidated?

**A:** Because at this time there had been no general decision to kill Jews who had been transported from Berlin, and because this is at a time when the killing of the local Jews who had been herded into the ghetto in Riga was being managed, was being carried out. They were being shot in their totality in fact over these few days at the end of November, beginning of December, and this transport of Jews from Berlin landed in the middle of this and was shot as well.

**Q:** Was this a matter of life and death, this telephone call?

**A:** For the Jews, certainly.

**Q:** Yes.

**A:** But I think, to answer your question, if I may, the reason is because this would be very alarming to those Jews who were still in Berlin and still in Germany. Rumour would get back. It was a very public kind of going on and this was not desired at the present moment. Indeed subsequent to this for some months transports of Jews from Berlin to the East why not shot.

**Q:** This is pure speculation on your part about the need not

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to cause alarm among the remaining Jews in Berlin, is that right?

**A:** No, it is not pure speculation. It refers to another document which it is the Bruns' document which you know, which has been discussed.

**Q:** Does that refer to alarm in Berlin?

**A:** That says, if I recall rightly, that, here we are, this is Bruns saying that someone showed him a piece of paper that sanctioned the shootings; they just had to be carried out less conspicuously in the future.

**Q:** Is that not because they do not want to cause alarm in the local city, on the East, in Minsk or in Riga or wherever? Would not be the reason for that?

**A:** No, because these are Jews from Berlin. They carried on shooting the Jews in Riga.

**Q:** Why did he make this telephone call from the bunker in Hitler's headquarters? Why did he not make it from the train? Is there any significance in that fact? He made the previous two telephone calls from the train, and yet this was a phone call, would you agree, as a matter of life and death he makes from Hitler's bunker?

**A:** Well, as I say, we do not know whether it was Himmler who called Heydrich or the other way round. That is one of the problems with the phone log, it does not say who phoned whom. So it may well have been that Heydrich phoned up Himmler to let him know what was going on and a

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decision was made as a result of that. It is also possible that the SS man he had seen previously, Gunter Dalequin, from 12.00 to 1.00, who was reporting about the travelling he had done on the East in the SS Political Division and the Totenkopf Division who are concentration camp guards, that he might have informed Himmler.

**Q:** Have you any evidence that Gunter Dalequin in fact was reporting back from the Baltic countries? Were those divisions based in the Baltic or were they in fact on the Eastern Front?

**A:** It is difficult to say or difficult to say who could have told him. One of the problems with this log, as you know, is that it is very brief and rather cryptic. So one has to use conjectures here a little bit.

**Q:** The information ----

**A:** But that is certainly possible if one imagines why that happened. It seems to be the case that previous transports of Jews from Berlin had been shot and that this one that alarm was being raised in Himmler's and Heydrich's minds about this.

**Q:** In Himmler's and Heydrich's minds?

**A:** Yes.

**Q:** But it is totally irrelevant the fact that this conversation did not take place because Himmler got to Hitler's bunker?

**A:** It does not say Hitler's bunker. It says "aus dem Bunker"

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and there are I think 29 bunkers on that site, ten in a circle. I actually have a plan here of the bunkers which illustrates that example.

**Q:** Can you tell us what date that plan is?

**A:** This is from 1944, the second one. The first one is from the whole covering the period 1941 to 1944.

**Q:** Are you aware of the fact that the bomb that exploded under Hitler's table on July 20th was at first taken to be the work of the local building men building lots more bunkers at the Fuhrer's headquarters?

**A:** Yes, that is the case.

**Q:** So the Fuhrer's headquarters had original existed in the middle of 1941 from the Barbarossa, was of a much more modest scale, is that right?

**A:** Sorry. Well, obviously it grew over the years, but you are not presenting evidence to say that this is from the Fuhrer bunker. Indeed, as he says later on, he has a midday meal with the Fuhrer, and then from 4 o'clock to 8 o'clock, gearbeit, it worked, and it seems likely to me that he would work at his own desk or at the desk of his adjutant Wolff in his bunker. I mean even in 1941 I do not think there is just one bunker there.

**Q:** So you take refuge in the fact that this may not have been Hitler's bunker at the Wolf's lair that Himmler was phoning from?

**A:** I am saying you do not have any evidence to show that it

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was in Hitler's bunker.

**Q:** Right, and it would be perverse to assume that it was, is that what you are saying?

**A:** I think it is going well beyond the evidence, yes.

**Q:** What about on the balance of probabilities?

**A:** Balance of probabilities, not.

**Q:** If he has come here to ----

**A:** If he is working, gearbeit.

**Q:** If he has come here to see Hitler and these important phone calls take place from bunker at Hitler's headquarters?

**A:** But you yourself have said that Hitler's bunker was rather small, so it is difficult to think that Himmler had a kind of permanent desk there to work at. Surely he went into his own quarters or his those of his adjutant with Hitler to do this work.

**Q:** On December 1st there is another telephone conversation which we just looked at about the executions in Riga, is that right?

**A:** Yes.

**Q:** Is that reference to these executions, in your opinion? Had there been any other executions on December 1st apart from these 5,000?

**A:** I think that is the last one, is it not? I am trying to find this.

**Q:** December 1st, it is on page 280, line 8 approximately.

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**A:** Execution in Riga, yes. This probably refers to the one the day before.

**Q:** Are you familiar with the background of that second telephone call or conversation?

**A:** Do put it to me, Mr Irving.

**Q:** Can you turn, therefore, to the next items, turn the page until you come to an item headed on the top right "PRO file".

**A:** HW16/32?

**Q:** That is right.

**A:** Yes.

**Q:** This is a translation, and you can look either at the original German three pages later and it is item 24, of an intercept by the British decoders of a coded message from Himmler's staff to the chief murderer in Riga, SS Oberguppenfuhrer Jackelm?

**A:** Yes.

**Q:** Does it say: "The Reichsfuhrer SS Himmler summons you to him for a conference on December 4th"?

**A:** Yes.

**Q:** "Please state when you will arrive here and by what means you will be travelling on account of being fetched"?

**A:** Yes.

**Q:** Is the immediately following telegram from Himmler himself to the same man?

**A:** Yes.

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**Q:** Does this one say: "The Jews being outplaced to the Ostland are to be dealt with only in accordance with the guidelines laid down by myself and or by the Reichssicherheitsbeamter on my orders. I would punish arbitrarily and disobedient acts"?

**A:** Yes.

**Q:** Do you think this is a reference to the arbitrary and disobedient execution of these Berlin Jews?

**A:** Yes. It wants to make sure that that does not happen again, which indeed it does not for some months.

**Q:** Do we see then a few days later on December 4th, we have to turn back a few page I am afraid, the actual visit by Jackelm? It is headed on the top right-hand corner in handwriting page 350.

**A:** Yes.

**Q:** Right down at the bottom of that page we find Jackelm, he is actually twice on that page. Halfway up the page his name is there but it is crossed out, somebody else has taken his slot?

**A:** Yes.

**Q:** Then at 2130 SS Oberguppenfuhrer Jackelm ----

**A:** That is right.

**Q:** --- has this no doubt rather uncomfortable meeting with the chief of the SS?

**A:** Yes.

**Q:** What do you suspect happened there? Can you look at the

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right? Does is say Judenfrager?

**A:** Yes, that is right. I expect he was told off.

**Q:** He was told off. Is that not an extraordinary episode, in your opinion?

**A:** Well, no, I do not think we disagree about it, Mr Irving. A train load of Berlin -- Jews are being deported from Berlin to the East, and it does not seem to have been the intention at this time to have to kill them. A few train loads were killed, and Himmler stepped in and stopped it.

**Q:** And for several months there were no more killings, is that right?

**MR JUSTICE GRAY:** Of German Jews?

**A:** Of German Jews transported to the East.

**MR IRVING:** Yes, I am sorry.

**A:** Four days after this of course on 8th December all the rest of the Jews in the Riga ghetto were killed by Jackelm, on Jackelm's order. So presumably when he discussed this with Himmler on the 4th, Judenfrager, he must also have discussed that too. Himmler must have said "Go ahead, kill all the rest of the Jews in the Riga ghetto".

**Q:** Do you attach any importance at all to the fact that Himmler had this epiphany, if I can put it like, while in Hitler's bunker or at least at Hitler's headquarters?

**A:** Well, as I say, I do not think there is any evidence that he was in Hitler's bunker.

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**Q:** But he was definitely in Hitler's headquarters, was he not?

**A:** He was Hitler's headquarters. The interview with Jackelm was conducted in Himmler's own place.

**Q:** We have seen from that rather fragmentary typed message of November 15th 1941, the Nuremberg document, that there was nothing in the brown file; he found no directives which would indicate what to do with the Jews who were there or who were arriving, and he asked for a directive. So it appears there was system ----

**A:** Can I just date that again? That is on the 15th.

**Q:** November 15th.

**A:** November 15th, that is right, yes.

**Q:** He says that he has looked in the brown file and he cannot find anything: "Please tell me what we are supposed to be doing with the Jews?"

**A:** That is rather different.

**Q:** In what way is it different, in your view?

**A:** The Himmler, Jackelm, Heydrich series of exchanges just deals with transports of Jews from Berlin.

**Q:** But does this not ----

**A:** This deals with a slightly different matter of the economic advisability or otherwise of killing all the Jews in the Ostland.

**Q:** But do you agree that this message, the November 15th message you are looking at, says that there are no

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directives whatsoever on what to do with the Jews which would cover killing them, in effect?

**A:** He cannot find any in the brown file, no.

**Q:** So this is quite an important episode, is it not, November 1941, December 1941, as far as the Baltic States are concerned, which highlights the fact that there were no directives from above at that time. The killings had begun, evidently on the initiative of the local people, on a huge scale. When Hitler's headquarters learned about it or when Himmler at Hitler's headquarters learned about it, he issued immediate orders stopping it and reprimanding the one who was doing it?

**A:** No, because you are drawing a false link between these two documents. The order issued by Himmler and the rapping of Jackelm over the knuckles is concerned simply with the killing of transports of Jews from Berlin. As I have said, four days after his meeting with Jackelm in which he told him off for this, Jackelm, presumably with Himmler's full approval, killed all the rest of the Jews in the Riga ghetto. The killing of Jews in Eastern Europe, who were, as it were, already there, continued on a large scale. It was uninterrupted.

**Q:** From this you can agree with us, can you not, that there was a distinction made in the Nazis' minds between the value of German Jews or European Jews and the native Russian Jews? It was open season on the Russian Jews,

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whereas at this time there was still no order, and in fact no permission for the German European Jews to be killed?

**A:** At this point that does seem to be the case, yes.

**MR IRVING:** My Lord, do you wish to ask any questions on those particular documents?

**MR JUSTICE GRAY:** No. You do not any longer suggest I think, Mr Irving, that this is an instruction which applied to anything other than that particular transport, do you?

**MR IRVING:** It very clearly laid down the ground rules, that transports like this of European or German Jews were not to be liquidated.

**MR JUSTICE GRAY:** I had thought you accepted earlier on that you had misread the singular as being plural.

**MR IRVING:** Clearly, if the liquidation of this transport of Jews was not to happen but did happen and the one who did it got hauled over the coals, then that message held for any subsequent transports, and they did not need to keep on repeating the orders, the same as your Lordship does not have to keep telling me to be brief.

**MR JUSTICE GRAY:** Do you agree with that?

**A:** Yes, the actual document says quite clearly that this particular transport of Jews from Berlin should not be killed, and that is all it said. It does not permit of the interpretation saying that no Jews at all are to be killed or that no Jews being transported at any time have to be killed.

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**Q:** Do you take the view that it applies to all transports of German Jews?

**A:** Not that particular one, but it seems to me that one can read out the from consequence that transports of Jews from Berlin were not ----

**MR IRVING:** Or from the Reich?

**A:** --- killed, from the Reich were not killed subsequently, that this was the policy for the following few months. That does not of course ----

**MR JUSTICE GRAY:** But those were the guidelines laid down by Himmler?

**A:** Yes.

**MR IRVING:** In the absence of the guidelines lines in the brown file or in any other colour filed, this kind of emergency took place by code message?

**A:** It would seem to be the case.

**MR JUSTICE GRAY:** Mr Irving, I sense you are about to move on to another topic. I have a fear I am going to have to say -- how long are you going to take on your next topic?

**MR IRVING:** I will be one more document.

**MR JUSTICE GRAY:** Yes, fine, but I have rise early as I think I mentioned.

**MR IRVING:** As you mentioned, my Lord, but I am anxious to make progress.

**MR JUSTICE GRAY:** Yes, so I am.

**MR IRVING:** 6th July 1942. This is one paragraph.

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**A:** Sorry, where is this?

**MR JUSTICE GRAY:** This is in your clip, is it?

**A:** Yes, I have it.

**MR IRVING:** The Reichforschungsrat was the government level, scientific co-ordination agency, is correct, the Reichs research agency or council?

**A:** Yes.

**Q:** Will you take it that this is the constituent assembly or the founding meeting of that particular body in July 1942 over which Hermann Goring is presiding?

**A:** That is what it purports to be, yes.

**Q:** And that the source at the foot at the page is Milch documents which are bound volumes of transcripts of these meetings which were originally in the British Air Ministry archives?

**A:** Yes.

**Q:** I am just going to draw your attention to the indented paragraph. They are talking about the persecution of Jewish scientists and the damage this is doing to the German war effort. Goring says, and I am going to translate this: "I put this to the Fuhrer himself now"?

**A:** Yes.

**Q:** "We have kept one more Jew in Vienna for two years and another one in the field of photography because they were, they had certain things that we needed and which we could, which would absolutely advance our cause at this time. It

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would be madness to say here 'he's got to go'. He might have been a great researcher, a fantastic brain, but he had a Jewish wife and so he cannot be at the technical university", and so on?

**A:** Yes.

**Q:** "The Fuhrer has in this case in the field of art right down to operetta level made exceptions in order to keep things as they are"?

**A:** Yes.

**Q:** "So, all the more is he likely to or will he agree to exceptions there and give permission where we are dealing with really big research projects or researchers"?

**A:** Yes, great researchers.

**Q:** My question is quite simply, does this show one more example of Adolf Hitler intervening on whatever scale to prevent ugly things happening to Jews of a particular value, if I can put it like

that?

**A:** Yes, it is a very small scale. He mentions I think we have got one Jew, we kept one Jew in Vienna and another in photography because they have things that we want. So it is on a very small scale. I do not think anybody has ever disputed that there were individual exceptions.

**Q:** This invites one further question which will make sense of this clip at this point. Have you seen documents of this quality, in other words, direct, non-hearsay documents, in the other sense, Adolf Hitler saying: "Kill this

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researcher, get rid of him, he is a Jew. I don't want him around the place. Liquidate that train load of Jews", in other words, the exact opposite of these documents?

**A:** Oh, I see, Hitler, as it were, commanding in writing the killing of individual Jews.

**Q:** No, just documents of this quality with specific, explicit, unchallenged authenticity, documents of integrity, but just saying exactly the same kind of thing but with a minus sign instead of a plus sign, if I can put it like that?

**A:** Not in such a precise way referring to individuals, but of course there is a large quantity of evidence from the table talk of Goebbels' diaries and other places which attests to Hitler's murderous intentions and policies and views towards the Jews, his murderous anti-Semitism.

**Q:** You will have noticed that I have left the table talk out of this particular clip because they can be taken one way or the other depending on frequently and how you translate them. So I thought we would just pick on specific documents and verbatim transcripts and intercept signals.

My Lord, I have come to the end of today's matter.

**MR JUSTICE GRAY:** Yes, thank you very much. 10.30 tomorrow.

**(The witness stood down).**

**(The court adjourned until the following day)**

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