

**PROCEEDINGS - DAY TWENTY-TWO**

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**Day 22. (10.35 a.m.) Thursday, 17th February 2000.**

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

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

**MR IRVING:** May it please the court. My apologies for this late start.

**MR JUSTICE GRAY:** That is quite all right.

**MR IRVING:** My Lord, today we will certainly advance to the end of 1942 and I will certainly finish on Monday.

**MR JUSTICE GRAY:** Good.

**MR IRVING:** So that is the target that I have set. Professor Evans, good morning.

**A:** Good morning.

**Q:** Would you please go to page 306 of your report? If we could just before that go briefly to page 302 on paragraph 4? It is a minor point but we will take in our stride. You criticise on line 4 of paragraph 4 that "Irving all too often provides inaccurate references or no source references at all".

**A:** Yes.

**Q:** Now, on the facing page on the bottom you have quoted three documents from the Public Records Office, Foreign Office, archives?

**A:** Yes.

**Q:** Did you find those yourself or were they from my discovery

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or from my ----

**A:** These were found by one of my researchers in the Public Record Office.

**Q:** In the Public Record Office.

**A:** Where there are documents that I found in your discovery, I have said so.

**Q:** So they made no use of the identical documents in my discovery provided to your solicitors then or of the reference numbers that I gave in the footnotes of my books?

**A:** No, we went straight to the Public Record Office.

**Q:** How did they know which of these tens of thousands of files to look in if it was not from the source references I gave in the book?

**A:** That was, I presume, how we knew.

**Q:** We now advance to page 306. You, of course, have strong criticism ----

**A:** If I may just add to that, that I think these concern British Ambassadorial reports, that is right, and I note at the top of page 301 that you footnote those reports.

**Q:** Yes, thank you. In other words, I give sufficient references for you and your research to find documents like that?

**A:** In some instances, yes, in some instances you do not.

**Q:** Yes, well, we will come to those instances later on. I do not think it is enormously important, but one or two I am

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going to pick off like a sniper. You have general criticism of a lady called Ingrid Weckert. You consider that her work is anti-semitic and that she is a neo-Nazi, and these are reasons why one should not use her, is that right?

**A:** She is not a serious historian. Her work is anti-semitic propaganda.

**Q:** I do not want to labour the point, but we had a discussion several days ago, you may remember, in which I asked you do revisionists ever turn up anything useful? Do they ever do any useful research or would you totally ignore the body of evidence the revisionists provide?

**A:** I would ignore it unless ----

**Q:** Ignore it?

**A:** --- I mean, unless you count yourself as a revisionist.

**Q:** This was going to be my -- well anticipated. Do you consider me to be a revisionist whom you would ignore the work I do?

**A:** That is what you call yourself. I mean, I have said repeatedly that you have turned up in the course of your career a number of documents of varying value, but some are valuable.

**MR JUSTICE GRAY:** We are slightly missing the point on Ingrid Weckert, are we not? I think the point that Professor Evans makes (and you may want to deal with this) is that she is, as he describes her, not a serious historian but

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an anti-semitic propagandist and you cite her seven times in, is it Goebbels -- yes, Goebbels.

**MR IRVING:** My Lord everyone is anticipating very well what I am about to ask this morning.

**MR JUSTICE GRAY:** Except me.

**MR IRVING:** I was going to get on to this. At the beginning of paragraph 6 on page 306, you tend to talk a great deal about the book by Ingrid Weckert?

**A:** Yes.

**Q:** Now, why do you do this? Is there any evidence at all that I have had the book or I that I have used the book or that I have relied on the book?

**A:** Yes, there is.

**Q:** What is this book then?

**A:** There is a -- in a number of my footnotes ----

**Q:** Are you referring to footnote 162?

**A:** 154 and 160.

**Q:** Yes.

**A:** And ----

**Q:** Is that a book?

**A:** And 158 and 162, and I understand that these are articles which were put together then to make a book.

**Q:** You reference the actual book on footnote 159, is that right?

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

**Q:** Is there any evidence whatsoever that I have had that book

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or used that book or relied on that book in any degree?

**A:** Yes, because in footnote -- I mean, you are really splitting hairs here, Mr Irving ----

**Q:** No, I am talking about your paragraph No. 6.

**A:** If you will allow me to answer the question, please? It is only two minutes into this and you are already interrupting me, Mr Irving. As I have said, you have in your discovery, in the

documents you made available to the Defence, some articles by Ingrid Weckert with pencil margin lines, presumably by yourself. These articles went together to form a book, though that, I mean, the articles in the book are, essentially, the same thing.

**Q:** I think it would be useful if we, therefore, have a look at this article that I am supposed to have done with the alleged pencil lines on it. It is in bundle H1 (vi). Do you have that?

**A:** I do not have that here.

**MR JUSTICE GRAY:** Before you do, Mr Irving, can I be clear why we are doing this? Is it to show that she is not an anti-Semitic propagandist?

**MR IRVING:** No, my Lord, it is because I have repeatedly been accused in this report of relying on an inaccurate book and of drawing pencil marks in an article to indicate that I have relied on the article. First of all, we are dealing with the book. I have asked him to say, is there any evidence at all that I have even had the book in my

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possession and, of course, there is not. So everything he says about the book is totally irrelevant.

**A:** I am sorry, Mr Irving. I have already explained twice why it is not irrelevant.

**MR JUSTICE GRAY:** He says, Mr Irving -- he may be wrong, but what he says is that the articles you do quote or cite are really regurgitated in the book. Is that what you are saying, Professor Evans? I do not know whether it is right or wrong.

**MR IRVING:** Can I draw your attention ----

**A:** Yes, not simply regurgitated.

**MR IRVING:** Can I draw your Lordship's attention to footnote 160 which is one typical example where the witness says: "The testimony of Naumann, discussed later in this Report, is taken over by Irving from Weckert, but only mentioned in her book".

**A:** Not in the two articles by her which he has included in his discovery.

**Q:** Will you ----

**A:** But this is also, Mr Irving, I mean, in your account of the Reichskristallnacht, you have concealed where you get your material from. You cite simply "the author Ingrid Weckert" or "Ingrid Wecker" without giving a precise reference to where your material comes from. If one looks at some of the more extraordinary assertions you make in your account of the Reichskristallnacht, they occur in

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Ingrid Weckert's work and it is a fair inference that you have derived from her.

**Q:** But you have stated specifically ----

**A:** I am not saying that you take over all of her extraordinary ideas, but you take over some.

**Q:** To cut the matter short, can we accept, can we agree that you now accept that I have not used her book?

**A:** No, you cannot.

**MR JUSTICE GRAY:** He has just said the opposite.

**A:** I have already explained three times that the articles are substantially the same as the book.

**MR IRVING:** But you criticise me for what is in her book and I have asked you to agree that I have never had her book?

**A:** Let us have a look at some ----

**Q:** This should be a matter briefly disposed of.

**A:** --- let us have a look at some of the ideas. I mean, this is all extremely vague at the moment.

**Q:** First of all, can you point to the pencil lines on the article to which you refer?

**A:** Right, well, can you refer me to the page, please?

**Q:** It is page 646 of bundle H1 (vi).

**A:** 600 and?

**Q:** 46. That is where it begins I believe. H.

**MR RAMPTON:** It may be your Lordship will find it in L2.

**MR IRVING:** H1 (vi) is the copy that I have used.

**MR RAMPTON:** Yes. That may be, but what is it called?

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**A:** This is Kristallnacht 1938, the great anti-German spectacle, and this may be taken directly from the journal and not ----

**MR RAMPTON:** I do not know. Your Lordship will find it in L2 at tab 6.

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

**MR RAMPTON:** Without the pencil marks, I think.

**MR IRVING:** Without pencil marks?

**A:** Without pencil marks.

**Q:** What is the point of putting in a footnote 162, see the pencil lines, if we cannot see the pencil lines?

**A:** You deny that there are pencil lines, Mr Irving.

**Q:** I am asking you to show them to us.

**A:** Could I have the original copy, then, please?

**Q:** I have just given you the reference. It is H1(vi) 646.

**A:** No, the original.

**Q:** So we have now established that I did not use the book?

**A:** No, Mr Irving.

**MR JUSTICE GRAY:** We have not established that.

**MR IRVING:** I am not getting a clear answer from the witness, my Lord.

**MR JUSTICE GRAY:** I am not sure what it is I am looking at in L2. Is this extract from the book or one of the articles?

**A:** It is an article.

**MR IRVING:** It is not the reference I gave. The reference I gave was H1 (vi) 646, which is the way the documents

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were given to me?

**A:** It is the same.

**MR JUSTICE GRAY:** Mr Irving, I am bound to say I do not really find this terribly helpful. The nub of the criticism, I will say it again, is that you have used and cited as a source for events succeeding Kristallnacht a lady who is alleged by this witness to be worthless as a historian and an anti-Semite. You have various answers to that. Either you can say I think she is a serious historian and you can put to the witness why, or you can say that the material you cited has no signs of any anti-Semitism, but really burrowing through the documents to see whether there are pencil sidenotes on an article seems to me to be a waste of time.

**MR RAMPTON:** I have the original discovery copy and it has lots of pencil marks on it, or what appear to be copies of pencil marks, to be exact.

**MR IRVING:** Can I take you to the little bundle of documents? We will jump several stages in

this case, my Lord. Towards the end of the little bundle of documents probably on the second page ----

**A:** Sorry, you will have to tell me which little bundle, Mr Irving. I have plenty here.

**Q:** The one I gave you this morning.

**A:** Let me try and find it. Yes.

**Q:** About two pages from the end, is that a letter from me to

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somebody called Mrs Weckert dated June 3rd 1979?

**A:** It is.

**MR JUSTICE GRAY:** I am sorry. I wonder if I am looking at the wrong thing?

**MR IRVING:** It is two pages from the end of that little bundle, my Lord.

**MR JUSTICE GRAY:** I do not think it has found its way here. It does not appear in my clip, at any rate not two pages from the end?

**A:** This is the one with 693 in the top right hand corner.

**Q:** Does the 693 indicate that that letter was in my discovery?

**MR JUSTICE GRAY:** Yes. I am sure it does.

**MR IRVING:** Am I replying in that letter to a sehr ausführliche Darstellung which this lady has sent to me?

**A:** Yes.

**Q:** I am thanking her for a very ----

**A:** Extensive.

**Q:** Extensive description.

**A:** Yes.

**Q:** Will you accept that this was a description of the events of the Kristallnacht as she has researched it up to that point?

**A:** I accept that that is her tendentious account of the Reichskristallnacht.

**Q:** Very well. Will you look in the second paragraph and see

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that I make criticisms already of her account and suggest that I am not going to go along with everything that she writes? You cannot just dismiss the report of the SA Group -- do I write that?

**A:** You write that, yes.

**Q:** This will certainly interest you most of all? I also refer to the diary of von Hassell, the diary of Grosfort and other contemporary sources?

**A:** Yes, Mr Irving. As I have already said, I do not say that you take over all her ideas. You do not, for example, depict, as she does, the pogrom of the Reichskristallnacht as devised and put forward by Zionists in order to cast opprobrium on the Nazi regime and cause it to fall. Even you have some scruples, Mr Irving.

**Q:** Is possible that an amateur historian like Ingrid Weckert will succeed by her obsessive diligence in turning up items, or documents, or conversations with people that she conducted, that would be use to the general body of historical opinion?

**A:** I would not regard her as an amateur historian, Mr Irving.

**Q:** An amateur writer, an amateur chronicler?

**MR JUSTICE GRAY:** Answer the thrust of the question, Professor Evans.

**A:** There is always a possibility, yes, of course, that anyone can do that.

**MR IRVING:** Is this the kind of correspondence you would expect

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to see between one writer and another where one writer is saying, "I found this kind of thing", and the other writer writes back and says, "well, I think you got this right but you got that wrong, here are some documents that I have got" -- does this go on?

**A:** I have not said that you take over all her ideas, or that you agree with absolutely everything she says. The fact remains, Mr Irving, that in your accounts of the Reichskristallnacht some years later than 1979, and after she had published her work in the course of the 1980s, you do adopt a number of her ideas.

**Q:** Have you seen the lengthy Darstellung that she sent me? It was in the discovery.

**A:** We used her book and her ----

**Q:** You have used her book?

**A:** Wait a minute, and the articles with the pencil lines in the margin.

**Q:** You have used her articles, but have you seen the lengthy typescript letter she sent me with all the details of the research that she had done?

**A:** We have not used that in the report, Mr Irving. We have used her -- this is not a report about Frau Weckert and her works.

**Q:** But quite a lot of it is about her, is it not?

**A:** The report is about you, and your use of her work. There are one, two, three, four, five, about half a dozen pages

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here about your reliance on aspects of her work rather than on your own research.

**Q:** The inference you are giving in your report -- I am going to move on very shortly from this -- is that I have relied on her book. You go in great detail into her book. You say that her book has been black listed by the Germans. It has been put on the censorship list, has it?

**A:** It is illegal to sell or lend it to any person under the age of 18 because it is regarded by the authorities as an anti-semitic work which is liable to corrupt young minds, and also shows no evidence of even minimal attempts at truthfulness and objectivity. Let me say once again, Mr Irving, that what I demonstrate in my report is that you have taken some, although not all, of Ingrid Weckert's ideas from her writings, from her articles, which then were reprinted and put together as the book.

**Q:** But you have not made no reference at all to the fact that I had from her a lengthy special Darstellung which she wrote at my request and which has no reference to her book, which is the thing that has been banned and on which I pass critical comment?

**A:** Are you claiming that this is entirely different from the book and the articles, it says completely things and that that is what you use in your book, Mr Irving? I do not think so.

**Q:** In the corner of the world where you come from, Professor

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Evans, do you agree with the censoring of books, blacklisting of books?

**MR JUSTICE GRAY:** I do not think we need to get into that.

**A:** That is an entirely different matter.

**MR IRVING:** Why did you mention it then in this report?

**A:** Because the German authorities have investigated her work and decided after the investigation that it is anti-semitic, corrupting and shows no evidence of even minimal attempts at truthfulness or objectivity.

**Q:** As you said earlier, have we anything----

**A:** What they do as a result of that is a matter for them.

**Q:** Have we anything to learn from Germany in this last century about freedom of speech?

**MR JUSTICE GRAY:** I do not think that question helps, Mr Irving.

**A:** I take that as a rhetorical question, Mr Irving.

**Q:** Yes. Leave me to deal with the question.

**MR IRVING:** In paragraph 10 on page 308 you object to the fact that I have corrected a wrong date to a correct date. What on earth is wrong with that?

**A:** Sorry, where is this?

**Q:** In paragraph 10 on page 308. You say he unilaterally alters the date of arrival of Goebbels back in Berlin. I have corrected a wrong date to a correct date. What is wrong with that?

**A:** Let me just read back here. I am afraid this might

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require ----

**MR JUSTICE GRAY:** Professor Evans, if this is a point that you do not really place much reliance on, I think I would say so.

**MR IRVING:** Again it is an allegation that I have relied on the book, and the wrong date in the book. In fact, of course, I have relied on the correct date from other sources.

**MR JUSTICE GRAY:** It does appear to me, Mr Irving, that whether you actually relied on the book is, in a sense, a bit of a side issue. Even if you have not, the criticism that is made of you, and you have not really addressed it, is that you are content to cite a source who Professor Evans says is anti-semitic and not a worth while source for a reputable historian to use.

**MR IRVING:** Let me address that point now, my Lord, by way of a response to your Lordship. This is to say that there may be some historians with a political bent who will disregard entirely evidence coming from people of whose politics they disprove. If we were to do that with all sources, of course, we would be left without a very large body of historical documentation, for example, the works of all the Nazi war criminals, somebody like Rudolf Hoess, Kommandant of Auschwitz, who clearly was not very pro-Semitic, to disregard the writings as somebody on the basis of the fact that they have expressed anti-semitic views, or racist views, or any other views of which the

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researcher personally disapproves, is a very poor criterion for selectivity of documentary materials, in my submission, my Lord.

**MR JUSTICE GRAY:** Yes, I see. Would you like to comment very briefly on that? Turn that into a question, if you see what I mean, and give your answer.

**A:** I do not think anybody suggested that Rudolf Hoess was an historian.

**MR IRVING:** Very well, if that is your answer. Now will you go down to page 309 and the justification for my having dealt with that previous matter at such length, my Lord, is the first line of paragraph 1, "another instance of Irving's poor scholarship is". In other words, you are saying that all the foregoing is evidence of my poor scholarship?

**A:** Indeed, yes.

**Q:** Although you now admit that I did not use the book, I have not got the book?

**A:** Do we have to go over this all over again, Mr Irving? I have already given my answer about five times to that.

**Q:** I think I have made my point. Page 312, line 6 of your report?

**A:** Yes.

**Q:** My Lord, I necessarily have to leap forward onto little mountain peaks like this, because otherwise we will get bogged down in the minefield.

**MR JUSTICE GRAY:** As long as they are mountain peaks. You also

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must explain to me in what context if you go to the middle of a paragraph. We are on now the testimony of Shirmeister and Fritsche.

**MR IRVING:** Professor Evans, you objected to the fact that I have mentioned the figure of 91 deaths in the Reichskristallnacht in the previous paragraphs, or are you going to insist that we look for the actual references?

**A:** Well, it is not a very important point, Mr Irving.

**Q:** Can you allow me to decide what is important?

**A:** No. Please, I think I am entitled to say what points in my report I regard as important, and what I do not regard as important. You may disagree with that. That is another matter. But I am perfectly entitled to say that. This is not a particularly important point ---

**Q:** Do you agree you spent an entire page describing this?

**A:** Will let me speak, please, Mr Irving? I am getting very fed up with these constant interruptions. I will read this out, OK?

"In the War Path, published in 1978, Irving gave the official figure of 91 killed, arrived at by the Nazis themselves. Of course, this figure is still far too low, and does not account for suicides, of which there were 680 by Jews during or shortly after the pogrom in Vienna alone. Others were killed after their transport to the concentration camps. However, many other historians have quoted the figure of 91 deaths, and Irving's account

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in 1978 at least gives some insight into what happened during the pogrom".

**Q:** Will you please now stop? That is all we need?

**A:** This is intended to comment relatively favourably, or to sort of find some redeeming features in the account you gave in 1978. It is not a very important criticism.

**Q:** You say it is not an important criticism. You devote an entire paragraph, an entire page, to the suggestion that my entire portrayal is designed to diminish the suffering of the Jews. You pick on the figure of 91 and it turns out many other historians have quoted precisely the same figure.

**A:** Mr Irving, let us read on a bit, shall we?

**MR JUSTICE GRAY:** Just read on, Mr Irving. Let me try and get some sort of sense into this.

If you read that page, I do not think Professor Evans is criticising your use of the figure of 91.

What I think he is saying is (and he is being critical here) that after you used that figure in 'The Warpath', you then reduced it when you came to publish your book on Goebbels. Now, I take that to be the gist of the criticism. It is probably not the most important criticism made, but that is the criticism. So let us address that rather than something that is not being criticised.

**MR IRVING:** I will address it briefly because I do not think it is a just criticism. Are you suggesting that in the book

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on Goebbels I left the final death roll at 35?

**A:** Well, in the book on Goring published in '89, the book on Goebbels '96, you cite a figure of

35 or 36 basing it on an early incomplete report by Heydrich.

**Q:** You are suggesting that I left it at that figure?

**A:** And I cite Goring page 237, if you want to have a look at that?

**MR JUSTICE GRAY:** Mr Irving, show him the passage where you bump the figure up again.

**MR IRVING:** My Lord, you are one who has brought this matter up and I am not prepared to answer that at short notice, but I will look into it and I will bring the figure and the source material out.

The point that I was making with that is that on several previous occasions he has criticised my figure of 91 in the Goebbels book, and here he says, "Well, lots of other historians have had the same figure"?

**A:** And my point, Mr Irving, as his Lordship has quite correctly said, that reduce the figures to 35 or 36 in your later work.

**Q:** On page 309?

**A:** Going back?

**Q:** Yes. Do you rely on the testimony of Schirmeister and Fritzsche and the fact that page numbers and dates are wrong as being one more instance of David Irving's poor scholarship?

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**A:** Well, let me read that paragraph. You give a footnote on page 281 of Goebbels.

**Q:** I summarise it for you? Are you suggesting that I got the dates wrong of the testimony and the pagination wrong which caused your researchers some difficulty?

**MR JUSTICE GRAY:** This is one of the tiniest points I would have thought in the entire report that Professor Evans has ----

**MR IRVING:** My Lord, it is a barrage of tiny points. It is death by a thousand cuts. I am picking on some of them which I can with relative ease amend the damage.

**MR RAMPTON:** Can I intervene because that reflects on something I raised yesterday. I am very concerned about this because it put me in a difficulty. We had passed through Reichskristallnacht yesterday, I would have thought.

**MR JUSTICE GRAY:** So did I.

**MR RAMPTON:** We have now come back to it for what I might call pinpricks. One huge section, major section, of Professor Evans' of Mr Irving's treatment of Reichskristallnacht was the Heydrich telex at 1.28 and we have not touched on it.

**MR JUSTICE GRAY:** You have said just now -- I am trying to guide you, Mr Irving -- that you were concentrating on the mountain peaks. Absolutely right. That is what you must do. Professor Evans has taken some what I agree are pretty tiny points, but you must not forget about the mountain peaks altogether. I mean, the Heydrich telex is

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a crucial part of the criticism that is made of your rendering of the accounts of Kristallnacht. I think Mr Rampton is right and I think I am right in saying that you have not really challenged that part of the report.

**MR IRVING:** I can deal with the Heydrich telex in two lines, quite simply by pointing to the 2.56 telegram that came subsequently.

**MR JUSTICE GRAY:** Sorry?

**MR IRVING:** By pointing to the 2.56 document issued by the officer Rudolf Hess which came subsequent to that which clarifies that matter.

**MR JUSTICE GRAY:** What do you mean, it clarifies?

**MR IRVING:** I mean which renders the 1.20 telex, in my view, of much less significance.

**MR RAMPTON:** No, it is not a question of history, my Lord. It is the question of how it is written by Mr Irving. I am looking at the bottom of page 276 of Goebbels and I see what Mr Irving wrote about it. Then if I look at the actual document, I think I am looking at two completely different things. That is the criticism made by ----

**MR JUSTICE GRAY:** This is the criticism Professor Evans makes.

**MR RAMPTON:** Yes. Mr Irving has not even touched on it. Maybe he accepts it as being a fair criticism. That is what I need to know.

**MR IRVING:** Maybe I find these ----

**MR JUSTICE GRAY:** I mean, there are two points here and they

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are separate points. One is whether you have accurately reported what the telex or the message or the order or whatever it was said, and the second point is whether it matters one way or another. I quite understand you say you can forget about it because things moved on an hour and a half later.

**MR IRVING:** Am I right in understanding that if I do not challenge or traverse something here in cross-examination, then it could be taken as accepted?

**MR JUSTICE GRAY:** Well, the mountain peaks, yes. You cannot chase every single tiny point, and I would not dream of criticising you for not doing so.

**MR IRVING:** To be accused of poor scholarship, my Lord, is not a tiny point.

**MR JUSTICE GRAY:** I follow that, but what I would be critical of is if you did not pick up in cross-examination major criticisms. It is terribly easy to see what the major criticisms are -- at least I believe it is.

**MR IRVING:** We will come to them, and I am not aided by the lengthy discourses which are caused by the very frequent interruptions by Mr Rampton.

**MR JUSTICE GRAY:** I do not think they are very frequent and if they are justified, then Mr Rampton cannot be criticised for making them.

**MR RAMPTON:** Can I add, while I am on this subject, that is one major criticism which seemed to me to have, I do not know

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what the word is, bypassed a mountain peak. Another one appear to have been bypassed yesterday, and again it puts me in a difficulty because I am bound to say at the end of the case, if these mountain peaks are not tackled, I shall say that Mr Irving has conceded them. Another one was the Himmler log entry for 1st December 1941.

**MR JUSTICE GRAY:** Yes. I think Mr Irving must take his own course.

**MR RAMPTON:** I agree.

**MR JUSTICE GRAY:** In the end, he must cross-examine on what he wants to. I am not going to take anything as conceded because it is not cross-examined to, but I ----

**MR IRVING:** Unless I expressly concede it.

**MR JUSTICE GRAY:** --- I think it is right that I should take into account the fact that he has not challenged it. I have to make up my own mind in the end. I do not think I can say that the point goes by default.

**MR RAMPTON:** I am using a shorthand; I would if he were a professional advocate, he is not, but I am bound to say that I will place considerable weight on the fact that he makes no

challenge.

**MR JUSTICE GRAY:** Yes, I can see why you would.

**MR IRVING:** Of course, they have been extensively dealt with in my cross-examination of me.

**MR JUSTICE GRAY:** No, I do not think that is a sufficient answer. I said yesterday (and I will say it again) you

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must cross-examine to the mountain peaks if you want to challenge what Professor Evans says but you can do it briefly.

**MR IRVING:** Yes, I shall certainly do so.

**MR JUSTICE GRAY:** Just going back, let us use the Heydrich message of 1.20, or whatever it was ----

**MR IRVING:** As an example.

**MR JUSTICE GRAY:** --- as an example; if you want to say that what you said about it in Goebbels is entirely accurate and no sensible person can criticise your account of it, you can put that very briefly.

**MR IRVING:** My Lord, the submission that I intend to make on a number of those matters is, apply the following test: if that sentence or that error or that flaw or that misreading be taken out of that book, does it in the slightest alter the thrust or the weight of the arguments?

**MR JUSTICE GRAY:** That is a very good point, but that is a point for final submissions ----

**MR IRVING:** Yes, and that is why ----

**MR JUSTICE GRAY:** --- not for cross-examination.

**MR IRVING:** --- it may well be that I shall readily concede the points when the time comes.

**MR JUSTICE GRAY:** So be it. That, in a way, rather tallies with what Mr Rampton just said. But you must make a judgment about that, but it is very important you

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understand how I see the important points and what should do if you are going to challenge Professor Evans' criticisms.

**MR IRVING:** My Lord, it is revealing no secrets if I say that in my final speech I shall not be addressing all the issues; I shall be strongly addressing to your Lordship that a number of the issues are of far less moment.

**MR JUSTICE GRAY:** I quite agree.

**MR IRVING:** And that the major issues like poor scholarship, distortion, manipulation, Holocaust denier and so on are the ones to which I shall attend in the final speech. That is why, with your Lordship's permission, I intend to dwell on matters like poor scholarship in a way that may appear infuriating to you, but I can only pick on the examples that are given in this report.

**MR JUSTICE GRAY:** Yes, but I am getting the impression -- I am Judge alone, I can say this and I do not have to worry about the Jury -- I get the slight impression that you are cherry picking your way through and alighting on some really rather minor points. I mean, the point about Schirmeister and Fritzsche, if I may say so, with respect to Professor Evans, it be could have been omitted from his report without doing any injustice to the Defendants' case.

**MR IRVING:** Let me just ask two brief questions then, my Lord?

**MR JUSTICE GRAY:** Yes, of course.

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**MR IRVING:** Professor Evans, you find criticism with the fact that the pagination of the references to the testimony did not tally?

**A:** Let me read everything I say about this: "Another instance of Irving's poor scholarship is the footnote reference given on page 281 of Goebbels: 'Mastermind of the "Third Reich"' to back up his claim that 'Goebbels however would brag that he had proved that the Jews could be eliminated from the economy, whatever Funk said to the contrary'. When we turn to pages 190-1 and 235-7 of volume 17 of the Nuremberg Trials documents, cited by Irving as the location of the 'Testimony of Schirmeister and Fritzsche, June 28, 1946' in support of his statement, we find that the reference for pages 190-1 refers to June 27 not June 28, that Schirmeister is never mentioned on these pages, and that Fritzsche's testimony deals with a completely different subject". I am bound to say this is a very minor I point. I thought it, on balance, worth putting in. I was not advised that it should be taken out, but it really is not an important, not a desperately important, point.

**Q:** Can I ask you just one brief question? Are you aware of the fact that there are two parallel editions, one German and one English?

**A:** If you -- well, in order -- if you really want to go into this, Mr Irving, we will have to look up both editions and

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have to have copies of both editions of the Nuremberg Trial documents here and a copy of your book, "Goebbels: Master mind of the Third Reich" which I have here.

**MR JUSTICE GRAY:** Well ----

**A:** Do we really want to go through this?

**MR JUSTICE GRAY:** Speaking for myself, I do not think I would. I would forget it. This is not going to feature in any conclusions that I come to in this case.

**MR IRVING:** The allegations of poor scholarship, my Lord, rest substantially on these trivial complaints.

**A:** I do not accept that, Mr Irving.

**Q:** Pages 321 to 322. We are now back in Riga at the shootings. Can I ask you just a brief, simple question to start with? Professor Evans, do you challenge my account of the shootings at Riga, the actual shootings on November 30th 1941, and if so, why?

**A:** Tell me what your account is, where it is, what you are referring to exactly.

**Q:** Have you read, in pursuance of your duties as an expert witness, the account I have given of that in various books including Hitler's War volume 2 -- the second edition, rather, and the Goebbels biography?

**A:** Can you point me to one of these, please?

**MR JUSTICE GRAY:** We can do that quite quickly.

**MR IRVING:** My problem here, my Lord, is once again the fact that this is not the right witness to ask these questions

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of.

**MR JUSTICE GRAY:** Why not?

**MR IRVING:** Because this was certainly the matter to be addressed to the Holocaust witness rather than to this witness, but he has spent a page and a half looking at this episode, and I am just trying to deal with this summarily. Does he accept my account is right?

**MR JUSTICE GRAY:** I think that is a very sensible question to start with actually.

**A:** Yes, well, turn to pages 347 and 348 of my report, and there you will see my criticisms.

**MR JUSTICE GRAY:** That should give us the reference too for the ...

**MR IRVING:** The manipulation of statistics?

**A:** Yes.

**MR JUSTICE GRAY:** Can somebody find us the passage in Hitler's War? It is not very good on its index.

**A:** This is also Goebbels, page 645.

**MR IRVING:** Shall we just dwell on the Goebbels one which is a more recent one?

**MR JUSTICE GRAY:** Yes. That is page 645 or thereabouts.

**MR IRVING:** Yes, the footnotes. (To the witness): Do you suggest, witness, that I have given the wrong overall total for the number of Jews killed in Riga or on this specific day?

**A:** First of all, you say that on 30th November 1941 5,000

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Jews were killed.

**Q:** Yes.

**A:** Whereas there is a documentation to indicate that 10,000 were killed and after the war the court accepted that the number was actually between 13 and 15,000. You then claim, when you are confronted with this evidence, that each ditch into which these unfortunate people were dumped, shot, would have held 1 or 2,000 victims without having any evidence at all about the size of the ditches. That is the first point.

Then the second point is that in the main narrative in Goebbels you do not say anything about the second massacre on 8th December. You do, however, as I say, in the footnotes say that 27,800 Jews are executed in Riga, but you then claim that that is possibly an exaggeration.

**Q:** Can we take those two points?

**A:** And that is -- yes.

**MR JUSTICE GRAY:** Yes, take them one by one.

**MR IRVING:** Take them one at a time. So we are now on pages 347 and 348?

**A:** Yes.

**Q:** You say: "Faced with this evidence", five lines from the bottom, right, of page 347?

**A:** Yes.

**Q:** "Faced with this evidence, Irving offers a further

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argument". Why do you say "faced with this evidence"?

**A:** Do you not mention this evidence?

**Q:** Did you find these documents that you referred to earlier in that paragraph in my discovery or are they referenced in my footnotes?

**A:** Let me just have a look. This is the Bruns and then there is the ----

**Q:** The evidence for the figure of 10,600 shot on that day which was a book published in 1989. You have no evidence that I was faced with that evidence, do you?

**A:** What you do, what you say is that they will have held 1 or 2,000 victims each. What you are aware of, you see, in the second -- let us leap to the second account here -- is that Einsatzgruppen A reported that a total of 27,800 Jews were executed in Riga, which seems to be a pretty accurate estimate and that is the evidence that you are faced with.

**Q:** That is the second part of the question?

**A:** And are you saying that you ----

**Q:** And you object to the fact that I say that this is possibly exaggerated?

**A:** Well, there is this -- you say that is possibly exaggerated, yes, you try to cast doubt upon it, and then you mention the size of the ditches without mentioning their depth.

**Q:** We will come back to the size of the ditches. You take exception to the fact that I say that 27,800 is possibly

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exaggerated. You are familiar with the historian Ezergailis, the Baltic historian who is, I think we both agree, an expert on this matter?

**A:** Yes, I cite him in footnote 75.

**Q:** And at the end of that paragraph 2 you say that he has arrived at figures of certainly almost 25,000 Jews killed?

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

**Q:** So 27,800 is about 12 per cent more than that, is it not?

**A:** The estimates by the court in Hamburg is about 25 to 30,000.

**Q:** Is Ezergailis, Andrew Ezergailis, who, as you say, used various methods of calculating the victims arrived also at figures of certainly almost, in other words, less than, 25,000 less killed?

**A:** Mr Irving, when you saw possibly an exaggeration, you do not mean to suggest to the reader that it might have been a couple of thousand or 2,800 less.

**Q:** 12 per cent?

**A:** I think you are casting in your usual, a way that you frequently employ, you are trying to cast a general doubt on these figures. "Possibly an exaggeration" does not mean that it is within that range of possibilities. I think you are trying to suggest it could be a gross exaggeration.

**MR JUSTICE GRAY:** Can we just, I am trying keep an eye on the wood rather than looking at the trees. The first

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criticism, if I remember what you said a few minutes ago, was that if anyone just read the text in Goebbels, he would get the impression that there were only 5,000 killed. Am I right so far?

**A:** Yes.

**Q:** And that is page 379 of the text?

**A:** Yes.

**Q:** I cannot find a reference to 5,000. I can find a reference to 4,000.

**MR RAMPTON:** It is 1,000 plus 4?

**A:** 1 plus 4. 1,000 from Berlin and 4,000 from Riga.

**MR JUSTICE GRAY:** Are you saying -- Mr Irving will, no doubt, ask you a question if you are wrong about it -- that there is no reference in the text to any more Jews having been shot at Riga than the 5,000?

**A:** That is right.

**MR IRVING:** But the reference is there in the end notes at the back to 27,800, is that right?

**A:** Yes, where you frequently put embarrassing things in footnotes hoping, no doubt, that the common reader will not consult them.

**Q:** Why would I put footnotes in a book if I hoped that the reader would not consult them? Would it not just be simpler not to put them in at all?

**A:** Well, it is a matter of what strategy you are adopting to try to make your work plausible to those, that minority of

readers who will consult the footnotes.

**Q:** Which of us has the minority of readers? Me with my best selling books or you with the 10,000?

**A:** That is not what I meant.

**Q:** The suggestion that I put footnotes in a book in the hope that nobody will read them is rather implausible, is it not?

**A:** No. I think that the average reader does not consult the footnotes. You are addressing yourself to two audiences, as I think you yourself said under cross-examination. You are addressing yourself to the general reader, but also to people who have a more specialized knowledge.

**Q:** Will you accept that if you are writing a book which has a strong chronological flow and you are dealing with an episode that in happened in November, it would be disruptive to the reader to be told about things at the end of December and that it, therefore, makes sense to put in footnotes the overall result of this kind of murder operation?

**A:** It is not the end of December, Mr Irving. It is 8th December. That is a week later.

**Q:** Yes, but would you accept that it is confusing for ----

**A:** That is not a huge chronological gap.

**Q:** --- a reader to be ----

**A:** No, I will not accept it. I think you have a duty to give an accurate estimate of the numbers killed, and not to

partly underestimate it and then hide the actual final number in a footnote and cast doubt on it in a footnote.

**Q:** Are there better ways of hiding things than printing things in books; you can hide them by just dropping on the floor, like the Schlegelberger document?

**MR JUSTICE GRAY:** I think you have asked that question and I think you have got the answer.

**MR IRVING:** I have, my Lord, and I will I move on now to the pits.

**MR JUSTICE GRAY:** Yes, would you, because I have not quite got the picture on that.

**MR IRVING:** Do you agree that General Bruns in his gripping and harrowing account of the mass shootings that occurred on November 30th 1941 -- you remember the girl with the flame red dress that he had in his mind's eye just before she was shot? Do you agree that he describes that there were two or three pits of a certain length and a certain width.

**A:** Yes.

**Q:** And can we not calculate from that in a rough -- can we not do a check sum to work out the feasibility of numbers of bodies that would fit into those pits?

**A:** No, you cannot, unless you know the depth.

**Q:** How deep can a pit be dug, do you think?

**A:** Oh, goodness! I mean, any depth. I would not want to make an estimate, I mean.

**Q:** Would you accept that I am expert in digging pits, having worked in my early years as a student as a navvi for many years in order to finance my way through university?

**MR JUSTICE GRAY:** Mr Irving, come on. You can dig a pit as deep as you have got the energy to dig it.

**MR IRVING:** My Lord, that is a very hazardous operation if you are standing at the bottom of the pit and you dig it without any kind of shoring. I would now draw your Lordship's attention to one such pit which is photographed in the little bundle I gave you. It is the last item in the bundle. It provides a useful check point for the depth that these pits go when they are only three metres wide.

**A:** And you are saying, are you, Mr Irving, that this is one of the pits in Riga? This is an authenticated photograph of one of them?

**Q:** This is, well, as you can tell by the British soldier standing around with machine guns, this is probably Bergen-Belsen or Buchenwald, where the victims of Nazi atrocities are being buried by some of the perpetrators.

**A:** And what does that tell us about the pits in Riga, Mr Irving?

**Q:** I am sorry, my Lord. You do not have the photograph?

**MR JUSTICE GRAY:** I think maybe I am missing a few pages off the back of this little clip.

**MR IRVING:** This is the photograph from my collection of

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original photographs that I have assembled over the years of Nazi atrocities.

**MR JUSTICE GRAY:** What is the question?

**MR IRVING:** Yes. Do you have the photograph in front of you?

**A:** Yes. I will take it out again.

**Q:** Can you give a rough estimate as to how wide and probably how long that pit or, at any rate, how wide the pit is?

**A:** Mr Irving, I am not -- this is not one of the pits at Riga. This is no relevance whatsoever to the matter we are dealing with.

**Q:** It is relevant to the matter of how deep you can dig a pit in circumstances like this ----

**A:** You can dig pit any depth you like, Mr Irving.

**Q:** Is that your expert evidence as a pit digger or can we apply some common sense?

**A:** As it happens, I have been having my house reconstructed, Mr Irving, recently ----

**MR JUSTICE GRAY:** That is as may be.

**A:** --- and people have been digging pits and I have watched them, so I do know something about digging pits.

**MR IRVING:** Can I ask my Lord, did your Lordship consider that it is possible now using that photograph to make some basic assumptions about the kind of pits and graves that were dug and whether they had layers of soil on top of them and...

**MR JUSTICE GRAY:** Put your case briefly for saying that the

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pits could have contained -- well, put your case briefly.

**MR IRVING:** Would you agree, as General Brunns describes, the ditch was 24 yards long and 3 metres wide, and if it was 2 metres deep, that would be 144 cubic metres?

**A:** 25 metres long and 3 metres wide? No, I do not, no. They could have dug it any depth they wanted to.

**Q:** We will ignore that remark for the moment and continue with this calculation, please. Will you agree that if the pit is 25 by 3 by 2 metres deep, for an example, it would be 150 cubic metres?

**A:** I am not going to challenge your mathematics, Mr Irving, but it really is not a very relevant question. I do not know how deep these pits.

**MR JUSTICE GRAY:** Let him continue. I see which way he is going. That is on the assumption it is 2 metres deep, the arithmetic is right.

**MR IRVING:** Yes. Would you agree that the bodies were not left exposed, that there was a certain amount of back fill done afterwards?

**A:** Yes, if you wish.

**Q:** So, in other words, 2 metres of this hypothetical pit would not be used. But let us assume that it was used and let us assume that the walls went straight down, they did not slope inwards, as you can see in the photograph which is before you, so there we would have 150 cubic metres, and you can get about 10 bodies to a cubic metre if you do

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a calculation with which I will not bother you. So how many bodies would be in that pit, just on that rough order of magnitude?

**A:** You say this all in your footnote, "It would have held 1 or 2,000 victims each", that is what you say, but it is entirely hypothetical. There is a number of "ifs" in that question ----

**Q:** Just one "if"?

**A:** --- if that is the question you were asking. It is entirely hypothetical. We do not know how deep this pit was.

**Q:** So if it was 2 metres deep and if it had straight sides and if there was no back fill ----

**A:** That is three "ifs", Mr Irving.

**Q:** --- would you stop interrupting -- you would get 1,500 bodies into that pit, is that right?

**A:** Yes.

**Q:** So if it was another metre deep, you would get another 750 in, so you can do an order of magnitude calculation, can you?

**A:** On the basis of those four "ifs", yes, you can do any calculation you like.

**Q:** So you can do a ball park calculation of two or three pits of that kind of size and magnitude would hold of the order of, say, three to 7,000 bodies?

**A:** Yes, on the basis of those four hypotheticals, yes.

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**Q:** Did you bother to do such a check sum before you criticised me?

**A:** I did not know how deep the pits were, Mr Irving. My criticism is that there is no evidence of the depth of the pits. You do not provide any. You simply make all these if, if, if assumptions and then somehow treat them as facts.

**Q:** Do you accept that when you are writing history and you cannot get all these documents on hand, occasionally you have to make common sense calculations and deductions?

**A:** This is not common sense, Mr Irving. This is a systematic attempt to undermine the figure given of 27,800 Jews, suggesting that this is too large. This is typical of your minimisation of the statistics of the numbers of Jews killed in any number of instances.

**MR JUSTICE GRAY:** Right. On to the next point, Mr Irving. I think we have exhausted that.

**MR IRVING:** My Lord, I just say, you do accept that I had a document which stated the figure of 5,000, and that it is within the order of magnitude that the pits would allow?

**A:** No.

**Q:** When you write books, Professor, just as an after thought, do you ever bother to look at photographic evidence like that?

**A:** I look at photographic evidence, yes.

**Q:** My Lord, we now come to the Himmler telephone notes. We

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have some brief after thoughts. November 30th and December 1st. We are on page 351 ----

**A:** If I can just tidy my desk?

**Q:** While you are tidying, I can ask you, do you remember yesterday saying that we had, of course, no evidence whatsoever that Himmler telephoned Heydrich. It could easily have been the other way round, could it not?

**A:** I think that is a point you yourself made, Mr Irving, about this telephone log. It does not say who telephoned whom.

**Q:** Was this, in fact, the point you made because I am asking the questions.

**MR JUSTICE GRAY:** Does it matter? Does it matter in the slightest? I mean, tell me if it does.

**MR IRVING:** Will you agree that on page 351 you on more than one occasion state, as a matter of fact, that Himmler telephoned Heydrich?

**A:** Yes, that is an after thought I had on reconsidering this, re-reading this suddenly. As a result of what you yourself said, and you pointed out that one did not know who was phoning whom and I took that on board.

**MR JUSTICE GRAY:** Can you explain very briefly why it matters one way or the other?

**A:** It is additional uncertainty. The point at issue here, my Lord, as you know, is that Mr Irving has on a number of occasions claimed that this is a Hitler order given by

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Hitler to Himmler to transmit then to Heydrich and that ----

**Q:** Well, you have got to get the link between Hitler and Himmler.

**A:** It is the link between Hitler and Himmler which has not been established, and this is a phone log in which there is some uncertainty which I think a responsible historian has to point out. That is all.

**MR JUSTICE GRAY:** Yes, no, I follow why it could be of some marginal significance.

**A:** It is not hugely important.

**MR IRVING:** You say that this is not hugely important?

**A:** The vital question is the link between Hitler and Himmler, plus, of course, your misrepresentation in a number of your publications of the contents of the message.

**Q:** Will you accept that this document is a significant document or is it totally unimportant in the flow of things?

**A:** No, it is a significant document.

**Q:** It is a significant document. Who first found it and who first used it? Was it a revisionist?

**A:** I do not think you described yourself as a revisionist then, Mr Irving.

**Q:** Was it a historian on whom you have generally looked down throughout the last few days?

**A:** Mr Irving, I have not at any point disputed the fact that

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you have discovered large numbers of documents.

**Q:** Did anybody in the world bother to read those telephone notes before I did?

**MR JUSTICE GRAY:** Mr Irving, everybody accepts you deserve credit for not only uncovering this document but a great many others as well?

**A:** It is what you do with them that is the problem.

**MR IRVING:** You mean I make use of them? Is that is the problem?

**A:** No, you misuse them .

**MR JUSTICE GRAY:** Let us get to the point.

**MR IRVING:** Will you look at the Peter Witte book, the Himmler diaries?

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

**Q:** If mine has not been nicked, then I will lend you mine. Here we are. I say that with----

**A:** Will you not need it yourself?

**Q:** I know most of these documents off by heart.

**A:** Mr Rampton, I think Mr Irving should have a copy, really.

**Q:** April 20th 1942.

**MR RAMPTON:** If you do not mind, I will keep mine.

**MR IRVING:** April 20th 1942.

**A:** Where are we?

**Q:** It is a horribly expensive book. It is over £100, I believe.

**MR JUSTICE GRAY:** That explains why I do not have one, does it?

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**MR IRVING:** April 20th 1942. While you are looking for it, what significance did the date of April 20th have?

**A:** It is Hitler's birthday.

**Q:** Adolf Hitler's birth date. If Himmler was visiting Hitler on that occasion, as he was, if he was at the Wolfschanze, Hitler's headquarters, is it likely he would have said more than just, "happy birthday Mein Fuhrer, many happy returns"?

**A:** It says here that he goes to see Hitler at 12.30 and at half past one he brings him the congratulations of the SS. Then at half past two he has a kind of, I guess, birthday lunch.

**Q:** Does he telephone Heydrich on that day?

**A:** At 12 o'clock, yes.

**Q:** Is one of the references in that telephone message "keine Vernichtung der Zigeuner"?

**A:** Yes it is.

**Q:** What does that translate into English?

**A:** "No annihilation of the gypsies".

**Q:** Does that look like murder in that connection?

**A:** No. Clearly, they have been considering killing the gypsies, but they are not clear about whether all the gypsies should be killed. So he is ordering that they should not be.

**Q:** Not clear? If somebody says "keine Vernichtung der Zigeuner", that seems pretty clear to me that an order is

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being given that gypsies are not to be killed. Would you agree? If that is the word, "vernichtung", in that case?

**A:** The Nazis of course divided the gypsies into mixed race gypsies, who were the majority, and what they regarded as pure bred gypsies, who were in a small minority, and for reasons of his rather strange interest in racial history, Himmler wanted to keep the pure bred gypsies alive to subject them to investigation.

**Q:** Is there any indication of those considerations in this telephone call? Is there any reference to pure bred gypsies, or half-bred gypsies, or is it just to gypsies?

**A:** Well, as the footnote explains, 5,000 gypsies had recently, just before this telephone conversation, been killed in the woods in Chelmno, and it quotes an order by Himmler, which is preserved in the Moscow archives, that gypsies who were settled should not be proceeded against. Of course, the fact is that the Nazis did kill very, very large numbers of gypsies in the Second World War in Auschwitz and elsewhere. They are the one racial group, apart from the Jews, who suffered this kinds of genocide.

**Q:** So, although what appears to have been a clear order not to kill the gypsies was issued by somebody at Hitler's headquarters on April 20th 1942, the Nazis killed large numbers of gypsies?

**A:** We do not know how this was followed up, and we do not know precisely which gypsies this referred to.

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**Q:** The follow up appears to have been that large numbers were killed.

**MR JUSTICE GRAY:** Are we not wandering miles away? I am sorry to keep interrupting, but we started off on 30th November 1941.

**MR IRVING:** We have moved on.

**MR JUSTICE GRAY:** Altogether?

**MR IRVING:** I think so, yes, my Lord. We dealt with it at some length yesterday.

**MR JUSTICE GRAY:** All right.

**MR IRVING:** That was an afterthought, as I said. We have now moved on. I do not know if your Lordship considers this item of relevance?

**MR JUSTICE GRAY:** I am not quite sure where we are going. If you could help me?

**MR IRVING:** This is one of the chain, actually. This document I consider to be one of the chain of Hitler----

**MR JUSTICE GRAY:** Your argument is that, because there was an order, and you say emanates from Hitler, that the gypsies should not be killed, that indicates a concern also for the Jews? I am not belittling the argument but that is what it is?

**MR IRVING:** It is a high carat, a 22 carat piece of evidence, if I can put it like that, written in the handwriting of the mass murderer himself, Heinrich Himmler, in Hitler's headquarters, an order from somebody else to him.

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**A:** Sorry, Mr Irving. Can I just quote this diary here? "12 o'clock, telephone with Heydrich. Visit to Greiser, so on, Poles, keine vernichtung der Zigeuner, no annihilation of the gypsies". That is 12 o'clock. "12.30 travel to Hitler's headquarters, Fuhrerhauptquartier, 12.30". Underneath that there is a line that says "RFSS", that is the Reichsfuhrer SS, that is Himmler, Mein Fuhrer, with the Fuhrer. So the telephone conversation with Heydrich which says, "keine vernichtung der Zigeuner", happened half an hour before Himmler even set off to see Hitler.

**MR IRVING:** Pure chance then that this is on that day, April 20th, and there is no connection at all therefore in your opinion with Adolf Hitler or the Fuhrer's headquarters? This is just Himmler suddenly having had a brainstorm, saying, "let us not kill the gypsies"?

**A:** Yes.

**Q:** Yet it happened after all, did it not? They were killed?

**A:** As I say, we are not quite sure how long this lasted. If you can trace that up as literature, you can say how long this lasted, which groups it applied to, and so on and so forth. For the moment

he is saying, "keine vernichtung der Zigeuner". It has nothing whatsoever to do with Hitler. He had not seen Hitler at that time. There are plenty of other things that he puts in this which also appear to have nothing at all to do with the date, 20th

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April. "Termine", for example, visit to Greiser. That has nothing to do with Hitler's birthday.

**Q:** Would you consider it to be a significant entry in the telephone log?

**A:** This? "Keine vernichtung der Zigeuner"? Yes, of course. It is very interesting.

**Q:** Have you seen it mentioned by any other historians whatsoever at any time?

**A:** I have not seen any other historian claiming that this is an order by Hitler.

**MR JUSTICE GRAY:** Have I got this document, Mr Irving?

**MR RAMPTON:** Your Lordship really ought to have a copy of this book.

**MR JUSTICE GRAY:** I have a feeling that somewhere the reference ----

**MR RAMPTON:** I copied the relevant pages for 30th November and 1st December.

**MR JUSTICE GRAY:** 30th November and the 1st, certainly.

**MR RAMPTON:** Those you have. I have never looked at this before. There was a copy of it produced by Mr Irving at some stage.

**MR IRVING:** This is probably in the Schlegelberger file.

**MR RAMPTON:** And I pointed out at that time that this took place before Himmler had lunch.

**MR JUSTICE GRAY:** Yes, I knew I had seen it but, if somebody could give me the reference for it, I would be grateful.

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**MR RAMPTON:** Yes I will try to find it?

**A:** Would you look to borrow this, briefly?

**MR JUSTICE GRAY:** I would rather have the reference. Is it J2? I have not got a J2, incidentally.

**MR RAMPTON:** Nor have I.

**MR JUSTICE GRAY:** These points just will not really get home unless I have got the document. I am sorry, Mr Irving, to interrupt.

**MR IRVING:** I can do it in a very nice way, my Lord, by lending your Lordship the volume of the Himmler diary.

**MR JUSTICE GRAY:** That is very kind. But in a way I would rather have the actual document in a file that I am going to be keeping, because I am not going to keep the book.

**MR IRVING:** I can have a photocopy of that page made during the luncheon adjournment. That is the actual handwritten text.

**MR JUSTICE GRAY:** I think I am actually getting close to it. J Yes, I have it. It is J1, tab 3, for the transcript page 23.

**MR IRVING:** Would you agree, Professor Evans, that this is an odd way for other historians to write history, cheerily omitting documents which you consider to be significant, or which you agree to be significant?

**A:** Well, it is cited by, I think, by Zimmerman's standard work on the gypsies. I have to say that the gypsies, until recently, were not a much studied group of victims

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of the Nazis. Once again, Mr Irving, it is not a problem for me that you made use of this. It is the use that you made, the way you use it.

**Q:** Have you referenced this particular item in your report? Can you remember what your criticism of my use of this item is?

**A:** I am making my criticism now. It is that you are claiming that this is an order from Hitler when it clearly is not.

**Q:** And, using your common sense, of which you are apparently well endowed, you would not consider there is any connection between the fact that this very unusual order, for which there is no precedent, occurs only on the day of Adolf Hitler's birthday, when Himmler is at Hitler's headquarters?

**MR JUSTICE GRAY:** We have had that point.

**A:** He was not at Hitler's headquarters, Mr Irving.

**MR IRVING:** It is an exact parallel to the November 30th episode then, is it not? Is that right?

**A:** He was not at Hitler's headquarters. He went to Hitler's headquarters after he made the telephone call. It says here in black and white.

**Q:** Is this an exact parallel to the November ----

**A:** So you have just made a completely false claim.

**Q:** Is this an exact parallel to the November 30th 1941 episode where the telephone call to Heydrich appears to ante-date the visit to Hitler?

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**A:** It is not an exact parallel but there are similarities. The 30th November telephone call concerns one particular train load of Jews. That is quite clear.

**MR JUSTICE GRAY:** I am sorry to interrupt. I had better have a photocopy from somebody of that page because it obviously has more than I have at the moment.

**A:** We are back to 30th November.

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** My Lord I will provide you with a photocopy of the facsimile, but also with a typescript copy.

**MR JUSTICE GRAY:** That would be kind.

**MR IRVING:** Because the handwriting is, as we have discovered, sometimes prone to misreading.

**A:** That is right, on page 278.

**MR IRVING:** Page 278?

**A:** 13.30 Jew transport from Berlin. No liquidation. And then 14.30 to 1600, lunch with the Fuhrer.

**Q:** Yes. Can you keep that page roughly open because we are now going to go on to the December 1st item.

**A:** Right.

**Q:** Professor Evans, have you misread any words in preparing your expert report for this case?

**A:** I hope not, but one can never be entirely sure.

**Q:** Yes.

**A:** As you have said yourself many times ----

**Q:** These things happen?

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**A:** -- one always makes errors and one does one's best to correct them. That is why I sent you an 18 page list of corrections and amendments to my report on 10th January.

**Q:** Would you agree that mostly misreadings are quite innocuous and have no serious consequences?

**A:** I hope that is true of mine. I do not believe that is true of yours.

**Q:** Do you remember The Spectator letter where the omission of the one word "as" totally reversed the meaning of that letter?

**MR JUSTICE GRAY:** We have been through that.

**A:** I do not think that was my misreading.

**MR JUSTICE GRAY:** We are more concerned with the criticisms of you, rather than the criticisms you make of Professor Evans. I understand why you make them, but let us focus on the point. I know the arguments now.

**MR IRVING:** It is a little bit more colour and flourish to the argument about to develop, my Lord. Would you agree that a historian who sits in a book lined cave taking printed books off shelves, like the Himmler diary in front of you, with a nice index and photographs and beautifully bound, is less likely to make reading errors than somebody who uses the handwritten original, what I might call a shirt sleeves historian, who goes into the archives and reads the microfilm? Is the latter, the shirt sleeved historian, more likely, more prone to commit these stupid

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blunders of reading an E for an A, or something like that?

**A:** Well, it is easier, obviously, to read the printed text than it is to read handwriting. It goes without saying. I have done an enormous amount of reading of handwritten German myself and I know how difficult it is.

**Q:** Yes.

**A:** Or can be. It depends a lot on the kind of handwriting, of course.

**MR JUSTICE GRAY:** If I may suggest it, I think probably the best thing to do is to show the witness the script.

**MR IRVING:** We have two or three versions of it.

**MR JUSTICE GRAY:** There is only one manuscript version.

**MR RAMPTON:** No. There are two different forms of copy, my Lord.

**MR JUSTICE GRAY:** Show the better one.

**MR RAMPTON:** There is one that Mr Irving produced. I am quite happy for Mr Irving to use the copy that he produced.

**MR IRVING:** I think that would be more fair.

**MR JUSTICE GRAY:** I think that is J1, tab 3, page 14 but I may be wrong.

**MR RAMPTON:** That is right.

**MR IRVING:** We have the actual version I used here.

**A:** I have the microfilm version.

**MR RAMPTON:** If Mr Irving is going to use his own copy, I would like Professor Evans to have the same copy. No doubt, if it is necessary, I can come back to the better copy, the

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microfilm, in due course in re-examination, if I have to. But, if Mr Irving is going to use his rather worse copy, then I think Professor Evans should have the same one. Professor Evans will need the J file, J1, tab 3, at page 14.

**MR IRVING:** We are looking first at the November 30th entry which is Judentransport?

**A:** Oh right, yes.

**Q:** We will start with that one.

**A:** Then I have not got that here, I am afraid.

**Q:** There is no need to look at the actual wording. We are going to look at the word "transport" very briefly, my Lord.

**MR JUSTICE GRAY:** We all know what the point is.

**A:** Could you point me to exactly where it is.

**MR JUSTICE GRAY:** J1, tab 3, page 12.

**MR IRVING:** My Lord, I have done a little research on the word "transport" but I am sure Mr Rampton will not begrudge me ----

**MR JUSTICE GRAY:** Put your question, which I could put for you because I know what it is going to be.

**MR IRVING:** I will give my version of the question which is as follows, Professor Evans.

**A:** Yes.

**Q:** Are you familiar with the fact that the Cassell's German Dictionary translates the word "transport" only as

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follows: "The German word transport has only these meanings" in the Cassell's Dictionary and I will give the Langenscheidt one in a moment. The Cassell's entry has it in this order: "Transport, transportation, carriage, conveyance, transfer, shipment". So is it actually referring to a vehicle or to a concept?

**A:** What date is this dictionary, Mr Irving?

**Q:** The Cassell's Dictionary has remained unchanged in this particular one since 1935.

**A:** Are you quoting the 1935 edition?

**Q:** Yes. I spent a lot of money buying them at five year intervals to see if it changed, and they just used a photographic copy the whole way through.

**A:** Can I see a copy, please?

**Q:** Let us refer to the Langenscheidt edition?

**MR JUSTICE GRAY:** I think the witness is entitled to have the contemporary Cassell's Dictionary shown to him if he wants to see it.

**MR IRVING:** My Lord, the point is, if you are looking at a word without the surrounding context, and you are looking for a translation, you pick the primary meaning. If you then later on learn ----

**MR JUSTICE GRAY:** Yes. We do not want to overdo this point. You put that the dictionary meaning of "transport" includes as one of the meanings "transportation" and you say that has been the Cassell's Dictionary definition

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since time immemorial. The witness says he wants to look at the relevant one, which would be the one from the 1930s, and I think that is a fair request.

**MR IRVING:** Can I just show him the typed extract I made last night?

**MR JUSTICE GRAY:** If it relates to the contemporary Cassell's Dictionary, yes.

**MR IRVING:** In that case I will just put to the witness this 1935 dictionary.

**MR JUSTICE GRAY:** Is it Cassell's?

**MR IRVING:** No. This is now a different one. This is a Butler & Tanner. It is a Routledge

Dictionary and unfortunately it is more abbreviated. It does not give the sense that I was looking for in such detail. The point I was trying to make, my Lord, is that it refers to "transportation" rather than "a transport" in the sense of a train.

**MR JUSTICE GRAY:** I know what the point is.

**A:** Here, of course, it does not.

**MR IRVING:** It just says "transport" which is ambiguous.

**A:** "Transport conveyance", transport or conveyance.

**Q:** Yes.

**A:** Those are the primary meanings.

**Q:** I will have to put it to you to in an "if" form, then, and on Monday bring the photocopy of the original. Professor Evans, if the 1935 or if the contemporary wartime edition of the Cassell's Dictionary says that the meaning of

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"transport" in English is in this order of priority, "transport, transportation, carriage, conveyance, transfer and shipment", is it unreasonable to assume, in the absence of any contextual information, that this is referring to a transportation, rather than to a single train load?

**A:** It is unreasonable, I think, yes, from the context here. "Judentransport aus Berlin. Keine Liquidierung" quite clearly means "the Jew transport from Berlin, no liquidation". I think it is likely that, had it said, had they meant there should be no liquidation of any transport, train loads of Jews from Berlin, then it would have said something, they would have said so in the plural, transporte, or he would have put down something like people, emigrants, or people who were deported, or whatever. Let us try and remember what it is that you actually wrote in Hitler's War in 1977.

**Q:** I am trying to narrow this down to a simple matter.

**A:** Which is that Himmler was summoned to the Wolf's Lair for a secret conference with Hitler, I am quoting from your book here, at which the fate of Berlin's Jews was clearly raised. "At 1.30 pm Hitler was obliged to telephone from Hitler's bunker to Heydrich, the explicit order that Jews were not to be liquidated". That is what you said in your book. You did not mention Berlin there at all.

**Q:** Can we keep to the language problem, which is to say, that

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if it was what you said----

**A:** I am sure you would like to, Mr Irving.

**Q:** -- the Jew transport, would it not be "der Judentransport aus Berlin"?

**A:** No, because his telephone log, as you know perfectly well, is in a very abbreviated form that generally leaves out the definite article.

**Q:** Leaves out the context, is that right?

**A:** No leaves out the definite article, is what I said. You can go two lines up, "Verhaftung Dr Jekelius". It does not say "Die Verhaftung Dr Jekelius".

**Q:** What you are saying, this is your expert evidence, is that "Judentransport" could under no circumstances be translated as "transportation of Jews from Berlin"?

**A:** That is not quite what I am saying.

**Q:** Will you accept that it can?

**A:** Just let me answer.

**Q:** Just say yes or no. Will you accept that it can?

**A:** No, I am not going to say yes or no, I am going to give you a full answer.

**Q:** That is what I am trying to avoid, because we really are running out of time.

**A:** I know you are trying to avoid it, Mr Irving.

**Q:** We are familiar with your full answers, unfortunately.

**A:** I did swear to tell the truth, the whole truth and nothing but the truth.

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**MR JUSTICE GRAY:** It will not be very long, this answer, I do not think.

**A:** It says "Judentransport aus Berlin". That is the context. Jew transport from Berlin. It is clear it means a single train load of Jews, "Keine Liquidierung".

**Q:** Are you saying it is clear to you because you are now familiar from the context of all the other documents we know, as indeed I am also now, that that is the correct translation. But my question to you is, if you are faced just with that one line in a document that you read back in 1970, knowing none of the surrounding documentation, right, that it would be totally improper and perverse to translate that as "transportation of Jews from Berlin", which was the sense that I gave?

**A:** Yes. That is what I am saying. And particularly perverse to say that it is an explicit order which Hitler has told Himmler to transmit that Jews were not to be liquidated. No mention of Berlin at all there, Mr Irving. That is a clear falsification of this document.

**MR IRVING:** Avoiding your renewed smoke screen which you are laying across the question I put ----

**MR JUSTICE GRAY:** I am not going to have you saying that. The criticism is that you misrepresented this document in your book.

**MR IRVING:** That is a separate criticism, my Lord, with respect.

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**MR JUSTICE GRAY:** On the contrary, it is the whole point of the criticism. It would not be made unless you had misrepresented, as the Defendants say you did, this document. We not be looking at this document at all.

**MR IRVING:** In that case I shall have to ask further questions on the question of the meaning of the word, which I thought I had established superabundantly to the satisfaction of the court and everybody present, that a primary meaning of the word is transportation and, when one has no other document to go by, and the court has not been shown that at that time I had any other document to go by ----

**MR JUSTICE GRAY:** I know what your case is, Mr Irving. I really do, and I do not think you need spend any longer on the pure linguistics.

**MR IRVING:** In that case I shall move on.

**A:** In the contemporary dictionary you showed me, Mr Irving, the word "transportation" was not there at all. How can it be a primary meaning?

**Q:** In both Cassell's and Langenscheidt "transportation" is given as the primary meaning after "transport". In the Langenscheidt case it is given as the primary meaning.

**A:** I have not seen these dictionaries.

**MR JUSTICE GRAY:** I think we have really spent long enough. I know what the issue is.

**MR IRVING:** When, in your view, did adequate contextual

material in this connection come into the public domain, which would have enabled me to correct the misreading, let me put it like that?

**A:** The adequate contextual material is there in the document itself and consists of two words "aus Berlin".

**Q:** Why, in your view, is that adequate contextual material as to the nature of the transport or transportation?

**A:** You said adequate contextual material to correct your error. Your error was that you said it is an explicit order that Jews were not to be liquidated without any mention of the fact that we are referring to Berlin.

**Q:** We are still concentrating on the word "transport" and I am not looking at the "aus Berlin". Will you now answer my question? When, in your view did adequate contextual material, and I am referring to other source documents, come to light, come into the public domain, which would enable one to put a proper meaning on that? I am referring, for example, to the police decodes.

**A:** I have already given the answer, which is that there is adequate material in the document itself to make it quite clear that it means "Jew transport from Berlin".

**Q:** As opposed---

**MR JUSTICE GRAY:** Mr Irving, really we must move on. I think we are spending an absurd amount of time on an issue which is quite clear to me, and I know what your case is. You have put it perfectly adequately to the witness. You do

not gain anything by going on putting it to him time and time again.

**MR IRVING:** I am trying not to go into the meaning of the word. I am asking about when I should have known. This is the question.

**A:** You should have known when you read it.

**MR JUSTICE GRAY:** The witness has said perfectly clearly that the context of the whole document, the document, makes it clear what is being referred to and that you misrepresented it in your book.

**MR IRVING:** Which is, I respectfully submit, an absurd answer. Anybody looking at that one document in 1970 could not possibly have decided between different meanings of the word.

**MR JUSTICE GRAY:** That is one of the things I will have to decide.

**A:** Mr Irving, you did decide. You decided that it meant it is an explicit order from Hitler via Himmler that Jews were not to be liquidated. You refer to it frequently. Hitler ordered on November 30th 1941 -- I am quoting you here -- incontrovertible evidence that Hitler ordered on November 30th 1941 that there was to be "no liquidation of the Jews".

**MR IRVING:** I am not going to get dragged back into that argument again because his Lordship will not allow it. Can we now ask the following question----

**A:** That is your interpretation of the document.

**MR JUSTICE GRAY:** Professor Evans, you are ONLY provoking A continuation of what I think has become an exhausted topic. So let us move on.

**MR IRVING:** When the appropriate material came into the public domain, by which I mean the police decodes, SS documents and other materials in the 1970s and the 1980s, did I make the

appropriate adjustment in the publication of the book the Goebbels biography?

**MR JUSTICE GRAY:** What page?

**MR IRVING:** Well, this is the ----

**MR JUSTICE GRAY:** It is about 379, I think. It says 379 towards the foot of the page.

**A:** At the bottom?

**Q:** Yes.

**A:** Well, you made a partial strategic withdrawal, as it were.

**MR IRVING:** A strategic withdrawal, was it, not an appropriate correction?

**MR JUSTICE GRAY:** Let the witness finish his answer, Mr Irving.

**A:** I will read these two sentences from page 379, if I may. "According to one army colonel who witnessed it, a train load of Jews from Berlin -- those expelled three days before -- arrived in the midst of this; Aktion, this killing of the Riga Jews. Its passengers were taken straight out to the pits and shot. This happened even as

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Hitler, hundreds of miles away in the Wolf's Lair, was instructing Himmler that these Berlin Jews were not to be liquidated."

So you accept in that text that it refers to a single train load of Jews, but you still maintain the falsehood that it was Hitler who ordered it, with no evidence whatsoever.

**Q:** Would you now answer the question, which is, was this the appropriate correction to the matter of one train load as opposed to transportation?

**A:** Yes. In that respect, it most certainly was.

**Q:** Will you agree with me that historians or writers or scholars sometimes differ on the inference they draw from identical documents, that you will have one reading on it from your political standpoint and I will have another reading on it from mine?

**MR JUSTICE GRAY:** We are now going back to what I have said we must leave.

**MR IRVING:** Well, we now move on to the document of December 1st. I now want you to look at the handwritten page, please. Can I ask the witness please also to look at the original photocopy? That was the one from which I worked. Near the bottom there is a telephone conversation. You assume in your expert report that Himmler telephoned General Pohl, but in fact all we know is that there was a conversation. Is that right?

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**A:** Yes. As I say, I have revised my views of that as a result of your pointing this out.

**Q:** It refers at one point to "Verwaltungsfuhrer der SS haben zu bleiben". Those two phrases are on two separate lines, is that right?

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

**Q:** The words "haben zu bleiben" are pretty indistinct or could you read it easily?

**A:** Of course, I have read this so often now, it is very difficult to say what I would see on first coming to it. The word "haben" is very distinct, it is very clear. "Zu" is pretty readable. The "bleiben" is a little less good, and the "SS" in the previous line is cut off by the edge of the page. But, on the whole, it is pretty readable.

**Q:** That is not Latin handwriting, is it? Do you know the name for this German handwriting that is used?

**A:** Italic. I am very familiar with it.

**Q:** You are very familiar with it now, or as a result of having worked on it for many years?

**MR JUSTICE GRAY:** I do not think it really matters.

**A:** I have worked on it for many years, Mr Irving. I published an edition of documents written in it.

**MR IRVING:** You agree that not many modern Germans can even read that handwriting, can they? No, that is true.

**Q:** So it is a difficult handwriting to read?

**A:** No. Well, it depends. As an actual style of handwriting

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you have to learn it. I train my PhD students in it. It does not take more than a few weeks and a little bit of practice.

**Q:** And you are going to say that it is totally impossible for any reader reading that line for the first time without the benefit of what I would call cheats, in other words printed versions of the document, to mistake in that ancient German handwriting "H A B E N" for "J U D E N"? Is that going to be your answer?

**A:** Yes. I think you have to read this carefully. You thread your way through it. When you are reading handwriting, if you find something difficult to read or ambiguous, you then search for other similar letters, the same letter in other words in the same hand to try and figure out what that particular hand's version of a B or a D or an E or a U actually looks like. What we are dealing with here is your claim that that says, "Juden zu bleiben" or, as you say in Hitler's War in 1977, Himmler telephoned Paul with the order that Jews are to stay where they are. Whereas in fact it is "Verwaltungsfuhrer der SS haben zu bleiben", it is the administrative offices of the SS have to stay.

From this text there are a number of indications which somebody who was not biased and looking for some evidence to the contrary, that is say an objective historian, that this is "haben zu bleiben". First of all, the fact that it is indented, the second line "haben

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zu bleiben" does suggest that it runs on from the first line. The new entries here begin right next to the middle of the page. They are not indented. Secondly, this writer, as is common in this handwriting, generally puts a kind of what you might call a little inverted circumflex over a U.

**Q:** Invariably or generally?

**A:** Generally. Obviously, this is written in some haste.

**Q:** So that is not the clue then?

**A:** That is a general tendency and you can see that above "Besuch" with a little thing over the U. "Fliegermeldungen" is another one there at the top. There is another one over the U. So that is the general habit of this writer.

**Q:** But not invariable?

**A:** Well, you take that from -- that is one of a number of indications. That is the second one. Then you compare Bs and Ds. You can see, when you compare the B of "bleiben" with a B, or if that B in "haben" is a D, making it "Juden", then you look for another D to see whether that is the way the writer writes, and so on and so forth. I think we have been through this at some length in cross-examination.

**Q:** You are going through it at some length, but can I now ask you a simple question? You have gone through this at some length. Does that indicate it is quite difficult to read

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words like this?

**A:** It was a conditional. I said, if you are having difficulty, if you are finding it a problem, then that is what you do as an objective historian. Myself, I think it is very clear from this.

**Q:** Of course, if you came to the conclusion that it was reasonable, if you privately came to the conclusion it was a reasonable kind of mistake to make when one is reading that document for the first time, you would immediately tell the court, would you not?

**A:** Yes I would.

**Q:** You would have no hesitation in saying to the court that, yes, this is a reasonable mistake for David Irving to make. Although I do not like him, on this occasion I will say this is quite right. You would do that, would you not?

**A:** I do not dislike you, Mr Irving. I have no personal feelings at all. But I do not think this is a reasonable mistake to make.

**Q:** Yes.

**MR JUSTICE GRAY:** Can I ask you two questions actually, one is I cannot remember what "Verwaltungsfuhrer" is.

**A:** Administrative officers or leaders -- Administrative leaders.

**Q:** And the other is the extent of the textual analysis of the kind you have just described that you undertake depends in

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a way on the significance of the document. I mean, some documents you really are not going to spend ages trying to work out. Is this a sufficiently significant document for it to be reasonable to expect an objective historian to undertake the sort of exercise that you just been describing?

**MR IRVING:** My Lord, that is precisely question I was going to ask.

**MR JUSTICE GRAY:** I have asked it for you.

**A:** The significance that Mr Irving places upon it does require that, that is to say, when it says in Hitler's War that Himmler telephoned SS General Oswald Pohl with the order that Jews are to stay where they are. That is quite a significant statement and it, therefore, does require that kind of textual analysis. Normally, when you are -- it is kind of the lowest form of historical imagination, as it were, when you find handwriting difficult and you do this. You can do it fairly quickly, in my view, with this particular...

**MR IRVING:** Have you done this kind of textual analysis with every single document you looked at, Professor? Does it take you very long to write your books?

**A:** Yes, I mean, of course I do this with documents, yes, when I am reading through them.

**Q:** You look at a letters, you look at little caps over the Us, you look to see if it is a B or a D? You do this with

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every word you read, do you?

**A:** Yes. You get used to a certain hand and if it is -- if you find difficulty in reading a word, as one frequently does, then that is exactly what you do. I published an edition of 350 handwritten police reports, as you know, and they were quite difficult to read. I frequently had to engage in this kind of exercise if they are written in different hands by policemen who only had a very elementary education.

**Q:** But it would be normal if somebody came to you and pointed out and said, "Oh, I don't think this word is this, that word is probably that", then you would do that kind of textual analysis, but you would not necessarily do it with every word before you came up against that particular ----

**A:** Well, you would do it with words that were significant or difficult to read. I mean, normally, as I say, you get used to a hand and if you are reading through this, this is not a particularly difficult example of this particular script, in fact.

**Q:** There are two obvious corollaries to the questions which I have to ask. The first question is, in your opinion, did I deliberately make this reading in order to serve my political bias? Was it deliberately perverse reading or was it an inadvertent misreading?

**A:** I think it is a deliberately perverse misreading.

**Q:** In other words, I knew the correct meaning and

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I deliberately chose the other one? That is what the word "deliberate" means.

**A:** Yes.

**Q:** In other words, I knew it was "haben" but I deliberately wrote it as "Juden" and I hoped nobody would look at the original document, is that right

**A:** Well, it is quite clear from this that it is "haben". I find it very difficult to think ----

**Q:** Not, that is not what I am asking. You are saying, "I knew that it was wrong and I deliberately wrote the wrong word"?

**A:** Well, we are getting a bit into psychology here. I mean, as it, I am trying to second guess your thought processes here, but I think you wanted to find a statement like this, and when you found what you thought was a statement like that, you just said, "Hooray" and you did not care to look at it any closer. You misread this. You were misled by your overwhelming desire to exculpate the Nazi leadership into misreading this as "Juden" instead of "haben"; whereas to any objective historian, taking even a minimal amount of care about reading this, it was very easy to establish that this meant "Verwaltungsführer der SS haben zu bleiben". To that extent, therefore, I think you deliberately misused and abused this text.

**Q:** Can I just explain to you the meaning of the word "deliberate"? "Deliberate" means, and I am sure my Lord

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will correct me if I am wrong, I knew that the word was "haben" and I deliberately wrote "Juden" in order to serve a political end, is that what you are saying?

**A:** I am saying that it is very obviously that this word is ----

**Q:** That is not the answer.

**A:** --- "haben"; that any objective historian reading this would have very little difficulty in establishing this as "haben", and you put it as "Juden zu bleiben" which itself is grammatically an extremely peculiar phrase which should alert anybody to the fact that it is not likely to be what you say it is. You wanted it to read "Juden zu bleiben" and you made it read "Juden zu bleiben". That is what I am saying.

**Q:** So your submission to the court is that I knew it read "haben" and I deliberately wrote "Juden"? I have to keep asking this. Will you give a simple yes or no to that question?

**MR JUSTICE GRAY:** I think you got an answer "yes".

**MR IRVING:** The answer is yes?

**A:** Yes.

**MR IRVING:** Thank you very much, my Lord. Now, the obvious corollary to that is, if that sentence is taken out of the book, does that in the slightest change the thrust of that paragraph? In other words, was there any reason why the sentence should have been put in?

**A:** Let me have a look at the paragraph, please. This is Hitler's war, 1977 edition.

**Q:** Yes. My Lord, this goes to the importance of the whole matter really. If the answer is that it can be taken out without changing the meaning, then the last 10 minutes have been largely wasted.

**MR JUSTICE GRAY:** No, I do not think that is right at all. So that you know why I do not think that is right, I will tell you reason and it is simply this, Mr Irving, that you might be able to say in relation perhaps even to every one of the passages that are criticised, "Well, by itself, that does not amount to much", but I think the Defendants' case, just so that you know what I am understanding it to be, is that if you put them all together, then they are of significance. I think that is the way it is put. I am not saying for a moment I accept it but ----

**MR IRVING:** Then we would have to look at the word "all" and see what "all" is.

**MR JUSTICE GRAY:** Yes, of course.

**MR IRVING:** Are we just going to look at three sentences and pick two that are adjacent where two flaws have been made or are we going to look at the whole book?

**A:** Right, yes. Well, the paragraph ----

**MR JUSTICE GRAY:** Page?

**A:** Page 332 in the edition that I have, my Lord, Hitler's War 1977, and it consists of an accumulation of falsifications

of documentary evidence of which this is one.

**MR IRVING:** Do you agree that the sentence complained of was cut out of the following edition?

**A:** Could I have a look at the following edition, please?

**Q:** Or was it cut out of the Goebbels biography?

**A:** Which do you want me to look at, Mr Irving?

**Q:** Let us look at the Goebbels biography.

**MR RAMPTON:** It is at page 427 of the 1991 edition of Hitler's War, I think.

**A:** Right. Let us have a look at that first. Page 427?

**MR RAMPTON:** Yes, 427 at the bottom. I think it is there actually. I do not think it is cut out at all.

**MR IRVING:** Well, that is why I suggested the Goebbels book instead because the ----

**MR RAMPTON:** Yes, I have no doubt that is why.

**MR IRVING:** Well, obviously, the error was pointed out to me relatively later on.

**MR JUSTICE GRAY:** Well, it is exactly the same, I think.

**A:** Exactly the same -- I will take your word for it, my Lord.

**MR IRVING:** Professor Evans, do you agree that the error was rectified in the Goebbels biography in the corresponding passage?

**A:** Where is this? Page, please?

**Q:** 377 approximately, is it not.

**A:** Page.

**MR JUSTICE GRAY:** 377?

**A:** 377 again.

**MR JUSTICE GRAY:** I am not sure about that.

**MR RAMPTON:** I think it is 379 actually, I think it is.

**MR JUSTICE GRAY:** That is right.

**THE WITNESS:** That is rather difficult but, presumably, we are looking for a lack of any mention.

**MR IRVING:** That is right but, in other words ----

**MR JUSTICE GRAY:** It has gone altogether, has it? Yes.

**MR IRVING:** --- it has gone altogether?

**A:** But, see, you are essentially lifting paragraphs from Hitler's War and putting them into Goebbels, but changing them slightly.

**Q:** I am relying on a reliable source, namely Hitler's War, when I write the Goebbels biography. Do you agree, to answer my question, that I took the appropriate action when the error was pointed out to me and that I excised it from all future editions of the work?

**A:** Can you give me some evidence to show when the error was pointed out to you? I think it was pointed out -- was this one of the ones pointed out by Professor Bruchsal or not? That is not really the issue, is it, though?

**MR RAMPTON:** I believe the evidence of Mr Irving was in cross-examination that this error was pointed out to him some time in the early 1980s, I think by Eberhard Jaeckel, but I am not sure.----

**MR JUSTICE GRAY:** I am afraid I had forgotten that.

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**MR RAMPTON:** Which is why he retranscribed it in the typewritten version that we have in J3 at page 13 -- sorry, J1, tab 3, page 13. I think his evidence was that he retranscribed the word "haben" from "Juden" on a typewriter which I think he said he had thrown away over 15 or 20 years ago.

**MR JUSTICE GRAY:** So, mid 80s?

**MR RAMPTON:** Yes, I think it is early to mid 80s. I am open to correction. That was done entirely from memory, but I think that is what the evidence was about it.

**MR JUSTICE GRAY:** Can you remember, Mr Irving, as a matter of ----

**MR IRVING:** Well, unfortunately, the mid 80s would be a crucial date because mid 80s is when the second edition went to press.

**MR JUSTICE GRAY:** What, the 1991 edition? It could not have been six years, could it?

**MR IRVING:** Books of this size are in the gestation period a long time, and I sent it off to be edited down and cut down and trimmed, and the first edition was 1975.

**MR JUSTICE GRAY:** '77.

**MR IRVING:** Well, the German edition was 1975, my Lord. 1977 was the first English edition which means that it was actually finished in 1974. So it is not an easy kind of question to answer, that. So I think that is why it is more sensible to look at Goebbels and say it is quite

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simply ----

**MR JUSTICE GRAY:** Well, it has gone from Goebbels.

**MR IRVING:** It has gone from Goebbels ----

**MR JUSTICE GRAY:** --- and everybody accepts that.

**MR IRVING:** --- so the appropriate action was taken.

**MR JUSTICE GRAY:** Yes?

**A:** I do not accept that, Mr Irving. I would need to know exactly when you -- when this was pointed out to you.

**Q:** You do not accept that it went from Goebbels.

**A:** No, no. I do not accept that the appropriate action was taken as soon as it was pointed to you, but in any case that is not really what we are talking about. The point is that it was in your books in the first place.

**Q:** Yes, so to summarize your evidence, your evidence is that the reading of "haben" in old German handwriting as "Juden" was a totally perverse and deliberate action I took in order to exonerate Adolf Hitler?

**A:** Yes.

**Q:** And that, in your opinion, therefore, even when you are confronted with the original faded photocopy that I had before me, and not the printed volume that scholars now use, this was not a permissible misreading?

**A:** No, I think anybody who reads the German handwriting and approaches this with any degree of objectivity can see that it says "Verwaltungsfuhrer der SS haben zu bleiben".

**Q:** This kind of handwriting is pretty easy to read, is it? I

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mean, any historian can read it?

**MR JUSTICE GRAY:** Have we not really had that questioned asked and answered?

**MR IRVING:** Well, I was going to ask one obvious follow up, and that is if it so easy to read, why was it not until I used it that it was ever used?

**A:** I do not dispute the fact that you were the first person to read a number of documents. The point is, Mr Irving, the misuse you make of them when you do read them.

**Q:** Is your contention that that was a sufficiently important sentence in that paragraph that its removal makes no difference to the thrust of my arguments?

**A:** I think you have that sentence the wrong way round.

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

**A:** Could you remind me of the page again? I foolishly shut the book.

**Q:** Let us move on. We will move on then, for heaven's sake.

**A:** I think its removal does weaken the paragraph, yes.

**Q:** Will you turn to page 357 of your expert report, please?

**A:** Do I need this bundle still? Sorry, let me just clear the decks again.

**Q:** You are accusing me of further ----

**A:** Have we finished with this? Well, I will keep that.

**Q:** No, you will not, I will have it. It is mine.

**A:** You have it back, yes.

**Q:** Professor Evans, you accused me of further

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misrepresentations and omissions in connection with the Bruns Report and the subsequent events. Page 357 of your report.

**A:** Yes. Yes.

**Q:** The specific omission you accuse me of is not making use of or not referring to a document, a

letter, written by, if you look at page 359, paragraph 6, a man called Schulz-Du Bois?

**A:** No.

**Q:** You do. You say: "However, he makes no mention of the letter's contents"?

**A:** That is not the specific -- I mean, I make a number of points about this, but that is one of them, yes.

**Q:** One objection you make to my use of the Bruns document is that I rely on the fact that after these German Army officers saw what was going on, the SS shooting Jews on that morning November, 30th 1941, they discussed among themselves who was going to bring it to Hitler's attention, is that right?

**A:** Where is that?

**Q:** According to General Bruns? I am telling you what is in the report.

**A:** Right. Can you just point me to the paragraph and where I say that?

**Q:** I am telling you what is in the report and we have had this evidence before the court.

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**A:** In my report?

**Q:** In the report by General (as he became) Bruns.

**A:** I am looking in my report for where I make this allegation.

**Q:** Paragraph 1 on page 357 is your reference to it.

**A:** Yes.

**Q:** "Irving relies on Walter Bruns as the source for his claim that a report about the killings in Riga eventually reached Hitler's headquarters". Does that refresh your memory?

**A:** Yes. It quotes: "Hitler seemingly intervened at once to order a halt to 'diese Massenerschiessungen' (these mass shootings)" ----

**Q:** Can we take this stage by stage?

**A:** --- "as soon as a report, signed by a junior officer, was forwarded to him".

**Q:** Will you be responsive to the questions I am asking?

**A:** That is what you say.

**Q:** Have you read the Bruns Report?

**A:** Yes.

**Q:** Does the Bruns Report describe how the Army officers who witnessed these atrocities discussed among themselves how to bring it to Hitler's attention?

**A:** Yes. Do we have a copy of that?

**MR JUSTICE GRAY:** Yes, we must look at it.

**A:** We must look at it, yes.

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**MR RAMPTON:** It is a very bad copy, I am afraid. It is J1, tab 4, my Lord. It is very difficult to read.

**A:** Do we have a page number?

**MR RAMPTON:** It is the beginning of tab 4.

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

**MR RAMPTON:** So it is a wartime copy document.

**MR JUSTICE GRAY:** Yes.

**A:** Right.

**MR IRVING:** Have you found the passage towards the end of the report where they are discussing, the question was who was going to bring it to the Fuhrer's attention?

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

**Q:** Do you agree that Colonel Bruns at that time was a senior German Army Engineer Officer in Riga?

**A:** At the time he is referring to, yes.

**Q:** At the time he is referring to, but at the time of this conversation that the British have overheard he is a Major General ----

**A:** That is right.

**Q:** --- in British captivity?

**A:** That is right. It is, whatever you call it, a spying, a record made by the British without the Germans, the captives, knowing that it was being made.

**Q:** What kind of reliance would you place on a report like this on the British intercept, if I can call it that, of an overheard conversation? Is it liable to be dependable,

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used with caution, with proper circumspect?

**A:** One should use all documents with proper circumspect and caution, but it is certainly, since they do not seem to have been aware that they were being recorded, it does seem to be quite reliable.

**Q:** There might be a tendency to brag a bit or possibly even to conceal things they had a guilty conscious about?

**MR JUSTICE GRAY:** I think you got your answer "yes" is the answer.

**MR IRVING:** The reason I am about to ask this is to say how would this compare with the testimony given by somebody in the witness box at Nuremberg, the same person? Would it be more reliable or less reliable?

**A:** That would -- I mean, one has to take all these things individually and actually look at them. One would be perhaps a little more suspicious at the testimony in the witness box at Nuremberg, but one would have to take these things on their merits.

**Q:** Having read the Bruns Report or scanned it, would you agree that he is describing something he actually witnessed, the shooting of these people at the pits, the girl with the flame red dress ---

-

**A:** Yes.

**Q:** "I see her in my mind's eye even now"?

**A:** Yes, yes.

**Q:** The same General Bruns in 1948, did he not deny that he

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had witnessed these things? He said in the witness box under oath that, yes, he had received reports on it and he had sent people out to see what was going on?

**A:** Right.

**Q:** So, in fact, there are distinctions between the calibre of evidence? Sometimes ----

**MR JUSTICE GRAY:** I think the witness has accepted that already.

**MR IRVING:** Yes.

**A:** Yes. I mean, clearly here he did not think he was implicating himself because he thought he was talking in private, whereas in the witness box he was very careful about making any admissions.

**MR IRVING:** So used with proper caution, a document like this CSDIC report is a valuable source?

**A:** Yes.

**Q:** What kind of cautions were then used about what one accepts? Should one be careful about hearsay where they are reporting what B has said to C, or is there any other kind of caution you would apply?

**A:** Yes, cautious in every -- I mean, you take it on its merits.

**Q:** A self-serving statement you would be cautious about?

**A:** If it is obviously self-serving, yes, but, as I say, it is less likely to be self-serving in these circumstances than it is in the witness box.

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**Q:** Are you familiar with these CSDIC reports? Have you worked with them in any detail?

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

**Q:** You have not?

**A:** No.

**Q:** There is something like 50,000 pages of these overheard conversations with top Nazis and you never used them?

**MR JUSTICE GRAY:** Well, come on, Mr Irving, is that helpful?

**MR IRVING:** Page 359 -- I am sorry, we had better have a look at page 358 at paragraph 3.

What happened to the report that went up to Hitler, that was finally sent up to Hitler? How did it go, do you know?

**A:** You tell me, Mr Irving.

**Q:** Is it right that the report was drafted by a junior Army officer was sent up through what one can call Army channels and then across to intelligent channels to Admiral Canaris?

**A:** That seems to be the case, according to the Schulz-Du Bois document, yes.

**Q:** When Schulz-Du Bois refers in his letter, which was, apparently, written in January 1942, is that right? I referred you to paragraph 6.

**A:** Well, yes, it is certainly uncertain. I mean, his wife dated it to January '42, yes.

**Q:** Well, Schulz-Du Bois did not survive the war?

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

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**Q:** On the foot of page 359, you say the report had been forwarded to the top counter-espionage official. Is that a reference to Admiral Canaris?

**A:** Yes, I presume it is, yes.

**Q:** Would you consider a statement made by Admiral Canaris as against Adolf Hitler to be dependable or not? In other words, if he had made a statement that was critical of Adolf Hitler, would that be dependable?

**A:** Those are two different questions.

**Q:** The second question.

**A:** Again, one does regard this in the same way as other sources. I mean, this is ----

**Q:** Was Adolf Hitler a member of the anti-Hitler resistance?

**A:** You mean was Canaris?

**Q:** I am sorry. Was Admiral Canaris -- a Freudian slip -- was a member of the anti-Hitler

resistance and was he hanged for this on April 8th 1945?

**A:** He was indeed, yes.

**Q:** So a statement made by Admiral Canaris to the disadvantage of the Fuhrer should be viewed circumspectly, should it?

**A:** Well, no more circumspectly, I mean, than those of other members of the resistance or any other source. One takes all these things on their own merits. I do not think you can simply discredit what members of the resistance said about Hitler simply because they were critical of him.

**Q:** Not necessarily untrue but ----

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**A:** Though you would like to discredit everything that is critical that is said about Hitler.

**Q:** In other words, a statement made by Canaris would not necessarily be untrue ----

**A:** No.

**Q:** --- but you might want to have a document to back it up, another document, a second source?

**A:** Yes, I think you have to make it clear that Canaris is who he is.

**Q:** At the top of the following page, of course, you quote then what information came back from Canaris.

**A:** Yes.

**Q:** "This man", Canaris, "who has constant access to the Fuhrer is said to have described the consequences and the terrible nature of these methods, namely the killings, to the F", Hitler, "once more compellingly" ----

**A:** Yes.

**Q:** --- "whereupon he", Hitler, "is said to have said, 'You want to show weakness, do you, Mein Herr, I have to do that for after me there will not be another one to do it'".

**A:** Yes.

**Q:** In other words, "I had to do the killings".

**A:** Yes.

**Q:** And this is Canaris' statement about what Hitler's response to him was?

**A:** Yes.

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**Q:** And is the fact that the channel of information that it comes through Admiral Canaris not sufficient to make one want possibly to quote that reference, but add a caveat at the end and say, "Well, of course, Admiral Canaris may have been reporting something genuinely, but it has to be borne in mind that he was later hanged as a member of the anti-Hitler resistance"?

**A:** Well, I do not -- I mean, I do not think that it necessarily disproves it. I mean, the crucial thing really is that this, this is obviously a second-hand evidence and one has to make that clear, but I do not think, as I say, you should discredit, or I do not think you should say that I think it is unlikely that people who disapproved of Hitler and his methods simply made up things about him. I think the members of the German resistance were honourable men.

**Q:** Yes. Are you aware of the fact that I have large parts of the private diary and official diary of Admiral Canaris and his second-in-command, Colonel Naruzon, also? They both kept diaries and I have parts of the Canaris diary which were in British Cabinet Office files right up to June 1943, covering this period, in other words?

**A:** You mean they are in British Cabinet Office files?

**Q:** Yes.

**MR JUSTICE GRAY:** So what? What is the significance of that?

**MR IRVING:** I was going to ask in the best way I can that if

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there is no reference to any such remark by Adolf Hitler in that diary, would that be one reason, if this information had been before me at any time?

**A:** Too many "ifs" there; I would have to see the diary with dates, but it does say here that he is, that he has said to have described the consequences ----

**Q:** Yes.

**A:** --- whereupon Hitler is said to have said, so it is clear. I mean, it is an important piece of evidence, but it is very indirect and I think one has to make that clear.

**Q:** So there are two parts of that statement, that he made the report to Hitler which is probably credible because that is why the report had been sent to him?

**A:** Yes.

**Q:** Whereupon, and this is the second part of the statement, Hitler is said to have said something?

**A:** Yes.

**Q:** And then at some point in time, two or three days later about, a message comes back out to Riga saying, "These shootings have to stop. These kind of mass killings, mass shootings have to stop". This is the first part. I know we will come to the part you want to come to next.

**A:** We have to be clear about the dates here.

**MR JUSTICE GRAY:** Sometime after 30th November 1941?

**A:** That is right.

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**MR IRVING:** Sometime after 30th November?

**A:** January '42 being the letter. So we do not know exactly when this actually happened. It is a piece of supporting evidence for what is in the Bruns document.

**Q:** Can you look at the end of the Bruns Report where Bruns describes going back at some time to see the man he refers to as Altenmeyer, but in fact his name was Altemeyer ----

**A:** Yes.

**Q:** --- a 23 year-old SS gangster who was the big top brass on the spot. Altemeyer says, "We have received this new order saying that this kind of mass shootings have to stop", and then he adds a sneering comment afterwards which we will come to in a minute?

**A:** Well, yes.

**MR JUSTICE GRAY:** I think perhaps one ought to read the whole of what is quoted?

**A:** One should read the whole thing.

**MR IRVING:** My Lord, I do want to take this in two parts, if I may?

**A:** It would help, I think, if I read the whole thing.

**MR JUSTICE GRAY:** I think you should.

**A:** "Altemeyer triumphantly shows me, 'Here's an order that has come that saying that mass shootings of this kind may no longer take place in the future. That is to be done more cautiously or discreetly'".

**MR IRVING:** Shall we take the first part of that first? If

this order has come, that this kind of mass shootings have got to stop, what does your supposition about whether, knowing what you now do about the report that went up from Canaris, through Canaris to the "F", to the Fuhrer, and that back comes this order saying, "This kind of mass shootings has got to stop", can you draw any conclusions from that?

**A:** Yes, it would seem likely that the order derived from Hitler.

**Q:** And is there any connection at all, do you think, with the police decodes we looked at yesterday from Himmler, December 1st 1941, where he orders Jaeckel straight to Fuhrer's Headquarters on December 4th and there is a meeting between the two of them on December 4th, "These arbitrary measures have got to stop. You have got to stick to the guidelines. I will severely punish actions like this." Do you see any connection between all this?

**A:** Well, Himmler's meeting with Jaeckel was in his own headquarters.

**Q:** Do you see any connection with this kind of general chain of events, that killings were going on and they stopped, that there are orders that these mass shootings have got to stop and there are reports to Hitler? Do you see, does your brain -- I know it is difficult for you to grapple with totally new concepts, but here is this matter. We are trying to work out who possibly may have ordered,

"These kinds of mass shootings have to stop"?

**MR RAMPTON:** Well, I am sorry, that just ----

**MR IRVING:** Mr Rampton, I do wish you would stop interrupting every time we are doing something.

**MR RAMPTON:** Counsel, I am afraid, as his Lordship will tell Mr Irving, has a right to intervene when the cross-examination is proceeding on a false and time wasting basis. He has a duty to the court and to his client and to the witness. It is not possible for that question to be answered as though the second sentence did not exist, in my submission.

**MR JUSTICE GRAY:** I have well in mind the whole of it, and I think one has to take the whole of it in end, Mr Irving.

**MR IRVING:** My Lord, we are very definitely going to come to the second sentence, but I do respectfully submit that I am taking this in the proper sequence, and we will give each part of that second sentence the weight that it deserves.

**MR JUSTICE GRAY:** Well, you see, I do not really see that you can do that. If by taking half the sentence you really significantly distort the sense of the whole of it, it seems to me the question is being asked on something of a false premise.

**MR RAMPTON:** Yes.

**MR JUSTICE GRAY:** That is the difficulty. I think what you ought to do, if I may suggest it, is proceed the other way

round, as it were, and deal with the latter part of it, namely that the shootings are to be carried out more discreetly, and put your case.

**MR IRVING:** If that will make my case more comprehensible to your Lordship, I will willingly do that.

**MR JUSTICE GRAY:** I know what it is because you have just mentioned it. I think that is the right way of doing it, if I may say so, and it meets Mr Rampton's objection.

**MR IRVING:** I appreciate why Mr Rampton keeps on interrupting and it is now becoming statistically evident that every time I am about to make what I consider to be an important point --

**MR JUSTICE GRAY:** If I thought he were doing that, I would tell him to desist.

**MR IRVING:** Because it does seriously disrupt the flow of cross-examination when this occurs.

**MR JUSTICE GRAY:** Well, do not let it disrupt it any more.

**MR IRVING:** Professor Evans, I referred just now to the message decoded on December 1st. There were, in fact, three messages, the first one on the morning of December 1st was from Jaeckel to Himmler saying: "I need to have six more tommy guns". Can you accept that as being the fact? We have seen them in court.

**A:** Yes.

**Q:** The next one from Himmler's staff to Jaeckel later on December 1st says: "You are to report back to the

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Fuhrer".

**A:** Yes.

**Q:** "And tell us what means of travel you are adopting".

**A:** Report back, not to the Fuhrer.

**Q:** And the second message is signed by Himmler himself, with what I aver is greater urgency, saying: "This kind of arbitrary action has exceeded the guidelines"----

**A:** No, it says: "Arbitrary actions".

**Q:** "Arbitrary actions" ----

**A:** It does not say: "This kind of arbitrary action", does it?

**Q:** I do not want to ----

**A:** "Eigenmachtigkeiten und zuwieder Handlungen," or something.

**Q:** "Und zuwieder Handlungen werden strengens bestraft".

**A:** Yes, exactly.

**Q:** Is this not an indication that the shootings were done in disfavour at one of the highest levels, if I can put it like that?

**A:** Yes, this relates to the shooting of the transport from Berlin by Jaeckel which ----

**Q:** Now we are coming to ----

**A:** Which Himmler, on 30th November, Himmler and Heydrich clearly wanted to be stopped and did not get to on time.

**Q:** Now we are coming to the point which his Lordship attaches importance. Is there any hint in these messages that went

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from one of these highest levels out to Jaeckel, that shootings could continue provided they were done in surreptitious way?

**A:** The reference in those clearly refers to Jews who were transported from Berlin. It clearly relates to the trainload that came on 30th November and was shot, and it quite clearly relates to the shooting of Jews who were transported from Germany. Himmler and Heydrich wanted it to stop and, indeed, it does stop. What the Bruns document says is, in effect, that mass shootings must continue but more discreetly. They do not ----

**Q:** Can we remain with the hard evidence which is the decodes, please.

**A:** I am sorry, the hard evidence is, "here is an order that has come saying that mass shootings of

this kind" ----

**Q:** No, we are referring to the decodes.

**A:** --- "may no longer take place in the future. That is to be done more cautiously".

**Q:** Which is?

**A:** You interpret that as saying Hitler seemingly intervened at once to order a "halt zu diese Masseneschiessungen" -- these mass shootings -- whereas the word actually says: "Der artige Masseneschiessung" -- this kind of mass shooting, and you leave out the sentence about this having to be done more cautiously.

**Q:** If I can halt the flow of words for one moment ----

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**A:** What Bruns is talking about is an order to continue them more discreetly, and you are presenting this as an order to stop them altogether. Indeed, what we know is that four days after Jaeckel was given his dressing down by Himmler about the shooting of transports from Berlin, the rest of the Riga ghetto of local Jews was shot by Jaeckel.

**Q:** I hesitate to halt this kind of flow of verbiage, but I have to.

**A:** So presumably, Himmler must have therefore discussed with Jaeckel the shootings of the Jews in Riga.

**Q:** Can we try and keep to the point. You referred to the hard evidence, which is the harder kind of evidence, decoded messages intercepted on the same day in real time by the British, of which the SS have no knowledge that we are decoding them whatsoever and which have been in the British archives ever since then, or something said at second or third hand by a German Army General four years later? Which is the hard evidence, in your view?

**A:** Hard evidence of what?

**MR JUSTICE GRAY:** Can we look at the documents. It is all so unsatisfactory. Are we talking about J1 tab 3, page 17 or some other document? If you want me to follow it, you are going to have to tell me which document you are talking about.

**MR IRVING:** I am referring to the police decodes of December 1st, 1941, on the one hand, and the Bruns document of

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April 1945, on the other?

**A:** Let us have a look. Let me see this decode.

**MR JUSTICE GRAY:** I know about the Bruns document. This simply refers to guidelines, does it not?

**MR IRVING:** The simple question that I have asked first of all is ----

**A:** Could you refer me to the decode, please.

**Q:** In the witness's opinion ----

**MR JUSTICE GRAY:** I think it is J1 tab 3, page 17.

**A:** Page 17.

**MR JUSTICE GRAY:** I may be completely wrong, but I do need to be anchored to a document.

**MR IRVING:** I agree, my Lord, and that has narrowed it down these two documents.

**A:** The decode says: "The Jews being out-placed to the Ostland are to be" ----

**Q:** Will you answer my question first, please?

**A:** I just want to read this document that you are referring to.

**MR JUSTICE GRAY:** Let him read it out. You see, he is just reminding himself of what it says,

Mr Irving. Just because you do not want to listen to some of what is given by way of an answer, you must not prevent him.

**MR IRVING:** We will get to his content later, but I must ask him which class of information he considers to be harder and he will not answer this.

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**A:** Evidence is evidence of something; otherwise, it is just a document.

**MR JUSTICE GRAY:** Just read out the bit and then say what you are wanting to say.

**A:** "The Jews being out-placed" [this is an order from Himmler to Jackeln decoded by British on 1st December]. "The Jews being out-placed to Ostland are to be dealt with only in accordance with the guidelines laid down by myself and/or by the Reichssicherheitshauptamt on my orders. I would punish arbitrary and disobedient acts. (Sgd. H HIMMLER)". That refers to the Jews being placed, being transported from Germany, particularly Berlin.

**MR IRVING:** Professor Evans, you do not have to know the content of a message to be able to answer the simple question, in your opinion as a historian and as a person who has written books on historiography, which kind of evidence is harder, in other words, more dependable as a primary source, something which is recorded at the time, in real time by British interceptors of decodes, on the one hand, or something reported at third hand in captivity by a German Army general four years later?

**A:** As a general rule, of course, it is the first. That does not mean to say you discredit the second altogether.

**Q:** I agree entirely, but you have to attach the appropriate weight to each of those sources in the absence of any

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other support.

**A:** Yes.

**Q:** Right. So, our only information of what Altemeyer said, that it has to be done more surreptitiously in future - or whatever word he used more furtively - out of the public eye, is a third-hand report by Bruns as overheard by the British in April 1945?

**A:** Yes, but he also says, Mr Irving (the previous sentence): "Here is an order that has come saying that mass shootings of this kind may no longer take place in the future, that to be done more cautiously". You cannot say that the second sentence is unreliable but the first is. In your work, you make use of the first. You not only make use of the first sentence, you know now that you are just trying to discredit what Bruns says. You actually manipulate and distort it by talking about these mass shootings, instead of saying it is mass shootings of this particular kind.

**Q:** What is the difference between the words: "These mass shootings" and "mass shootings of this kind".

**A:** It is quite clear. "These mass shootings" refers to all mass shootings, whereas "mass shootings of this kind" refers to ones which are indiscreet. You gather that, from me, you are incautious. You gather that, from the second sentence, that two sentences belong together.

**Q:** Did you agree that the reference in the first part of the

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statement by Altemeyer, that: "We have received orders from above that mass shootings" (let me

put it like that) "are to stop", is a clear reference to the kind of signal contained in the decode?

**A:** You are trying to ----

**Q:** And that therefore one has hard evidence supporting that part of his the statement, right?

**A:** Not necessarily, because you are talking about the decode that relates to transports from Berlin, whereas really ----

**MR JUSTICE GRAY:** I am missing something, Professor Evans, can you help me?

**A:** Yes.

**MR JUSTICE GRAY:** The decode is said by Mr Irving to be hard evidence and obviously one understands why he says that. But hard evidence of what, because all that seems to me to say is that the Jews, as you say from Berlin, are to be dealt with in accordance with guidelines, but we do not know what the guidelines are. So I do not quite see what it is hard evidence of. Am I missing something?

**A:** I do not think so, my Lord, no.

**MR IRVING:** Will you read that signal out in full in a clear voice so that the court can hear it, please? The one talking about arbitrary acts and acts against the guidelines.

**MR JUSTICE GRAY:** I do not frankly think it is necessary. It

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has just been read, it was read yesterday and today. What is the point pout of reading it again?

**MR IRVING:** Because it make clear reference to the fact that these shootings have found disfavour higher up and future such actions will be severely punished, and he simultaneously orders the man who does done it to come to his headquarters?

**A:** No, it does not. It says: "The Jews being out-placed to the Ostland are to be dealt with only in accordance with the guidelines laid down by myself and/or by the Reichssicherheitshauptamt on my orders. I would punish arbitrary and disobedient acts". So if you took that, that could mean that they are only to be shot if Himmler says they are to be shot.

**Q:** It could mean anything, could it not? It could mean that they were going to be sent to Butlin's Holiday Camp, but we are going to use common sense here, are we not?

**A:** I do not think it could mean that, Mr Irving.

**Q:** We are going to use common sense here where it says that there has been a mass shooting that very previous day which has been reported to Hitler's headquarters; the words come up the grapevine; now the fat has hit the fan, to put it that way, and heads are going to roll and this has got to stop. I am going to punish this kind of thing in the future. Come immediately to headquarters, which then happens. And this the common sense sequence of

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events and we have back out in the fields, so to speak, Bruns hearing then down the grapevine, as he says a few days later - that is the word he uses. He goes to see Altemeyer, the one who set the mass executions rolling at the lower level, and he says that we have got this order now from on top. The top brass has said that these mass shootings have got to stop. But they are going to carry on anyway, right? Is that the way it was done?

**A:** No, I am sorry, let us look at this decode. "The guidelines laid down by myself and/or the Reichssicherheitshauptamt" could easily say something about doing it cautiously or discreetly.

**MR IRVING:** They could, indeed.

**MR JUSTICE GRAY:** I really think, Mr Irving, that we have he batted this one backwards and forwards enough.

**MR IRVING:** Indeed, and we have, I think, discovered what the harder of the evidence is, and

why there are reasons why one is entitled to discount, if I may put it this way, my Lord, in the mildest possible way, the second part of that sentence for we have no supporting evidence.

**MR JUSTICE GRAY:** No, you say that the first half of it is reliable because of the circumstances under which was provided then it was eavesdropped upon.

**MR IRVING:** And the consequences that flowed from it.

**MR JUSTICE GRAY:** That is reliable but second half is unreliable.

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**MR IRVING:** The second part is less reliable, if I may put it like that. Professor Evans, are you suggesting that the letter of de Bois was in front of me at any time when I wrote any of my books?

**A:** Let me come back and say that the point I am making is that you have misrepresented even the first part of the order on which you rely.

**MR JUSTICE GRAY:** We have moved on.

**MR IRVING:** I am looking at paragraph 6 of page 359.

**A:** Yes, on your website.

**Q:** Yes. Are you suggesting that at any time that the actual letter has been in front of me?

**A:** Yes. Presumably that is why you mention it in the website.

**Q:** I refer to it on the website ----

**A:** Yes.

**Q:** --- to draw people's attention to it?

**A:** Yes.

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

**A:** I would imagine ----

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

**MR JUSTICE GRAY:** The question is whether you had it in your possession, is it not, Mr Irving, really?

**MR IRVING:** Yes.

**MR JUSTICE GRAY:** Well, did you or did you not?

**MR IRVING:** The answer is not, but I cannot lead evidence as a

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cross-examiner.

**MR JUSTICE GRAY:** Of course you can. You can say: Were you aware, Professor Evans, that I never actually had this letter from Mrs de Bois?

**MR IRVING:** Yes. Can I put it this way? Professor Evans, in writing in line 4, "However, he makes no mention of the letter's contents", were you aware at the time you wrote this in your report that I have never had the letter in my hands in my life?

**A:** On this report I quote you as saying that there was this letter and you say it was on your website, and I assumed because you were referring to it and that it is about killings in Riga that you must have known what was in, otherwise why would you refer to it?

**Q:** Is it not just stated on the website that in fact there are some interesting documents if people who want to follow it up may wish to go and have a look at, and one of them is the de Bois letter?

**A:** How would you know it was interesting if you have not seen it?

**Q:** Because I am told by this correspondence. Could that be possible?

**MR JUSTICE GRAY:** Is your case, Mr Irving, because you must put it clearly and

straightforwardly, that you were unaware of what Mrs Schultz de Bois said in this letter?

**MR IRVING:** Yes, and your Lordship will have heard from the

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cross-examination over the previous ten minutes that I do not attach very great importance to the remarks by Canaris.

**MR JUSTICE GRAY:** That is a different matter.

**MR IRVING:** But that the letter was not in front of me at any material time anyway.

**A:** If you think it was an important piece of evidence, Mr Irving, and you did not have it, why did you not make attempts to obtain it?

**Q:** So, winding up this chapter on page 362, once again you have allowed yourself to dip into the dictionary of insult. You say that I am totally discredited a few months earlier; the document proved to be too useful to be discarded altogether; a more egregious institute, manufactured manipulated, doctored, untenable, all the words come out?

**A:** Yes.

**Q:** Are you prepared to withdraw any of those on the basis of what you have been saying this morning?

**A:** Absolutely not, Mr Irving. The point is you acknowledge, as I say on pages 360 to 361, concerning the -- what it is about is your persistent claim that Hitler told Himmler to make the phone call to Heydrich attempting to stop the killing of the transport of Jews from Berlin to Riga, and you produced on your website on 17th May 1998 a document which is now in the Himmler appointments diary edition,

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showing that Himmler only met Hitler after he phoned Heydrich; and therefore that what you then call your original theory, which in fact was presented as a matter of incontrovertible fact that Hitler had told Himmler to tell Heydrich to get the shootings stopped, was wrong. Yet, even though you have done that in May 1998, it is too nice a document for you really to let go of, so you post another document on the website on 31st August 1998 in which you argue that on 30th November Hitler had, "demonstrably ordered that the Berlin Jews were not to be killed", whereas you knew that to be wrong. That, to my mind, is an egregious instance of a completely unscrupulous use of a manipulated source.

**Q:** Are you prepared to accept that historians or scholars or writers sometimes have differing opinions on the interpretation of the identical sets of documents, and that one scholar or historian will have one interpretation because of his own particular mind set, and the other historian will have perhaps better sources, he will be familiar with the CSDIC reports which you yourself have admittedly totally unfamiliar with; he will have worked for many weeks months in the police decodes with which you are also totally unfamiliar, and that this entitles to him to reach conclusions on the quality of evidence which you are not entitled to reach?

**MR JUSTICE GRAY:** I think you are missing the thrust of the

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criticism that Professor Evans is making there. The criticism he is making is that at one point you are actually admitting that you got the Himmler phone log wrong, but having admitted that you later went on to assert again your original interpretation of the log as showing had Hitler had demonstrably ordered that the Berlin Jews were not to be killed. That is the point.

**MR IRVING:** My Lord, I do not want to pick up his particular words here ----

**A:** I am sure you do not.

**MR JUSTICE GRAY:** I am just trying to point out to you that your rather long question missed the point of the question.

**MR IRVING:** I am just about to take this point up. I do not particularly, I repeat, wish to fall into the trap of using the words used by the witness here, which is that I knew it to be wrong. The fact that the Himmler agenda indicates that there was a meeting between Hitler and Himmler after the telephone call to Heydrich, does not exclude the possibility that they met before the telephone call. The fact that he had an appointment with Hitler at a certain time, to say in the words, and your Lordship will find it in the transcript, that he only met Hitler afterwards, there is no proof of that, that he only met Hitler afterwards. What we do know is that they were very close, that they repeatedly went in and out of each

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other's rooms and offices; that the appointment was at a certain time; that upon arriving at Hitler's headquarters for some reason Heydrich had to make this extraordinary phone call ordering a total reversal of this operation going on in Riga, and any common sense historian is going to come to the conclusion that A is in some way connected with B. But we are dealing here with Professor Evans who is not able to join the dots in this particular case and says there is no link.

**A:** You join too many dots, Mr Irving, that is the problem.

**Q:** That is where we differ.

**A:** To answer your ----

**Q:** And to say that this is perverse or obtuse or a manipulation or a distortion is, in my view, a perverse use of the witness box, because you are privileged to make these remarks. You know you can make these remarks without fear of any kind of consequences, because this is a court of law.

**MR JUSTICE GRAY:** Would you like to leave that sort of thing to me. If I thought Professor Evans were doing that, then I would not let him do it but I do not, and it is not for you to say that.

**MR IRVING:** The reason why I will say to your Lordship that I have felt it perfectly proper to continue to rely upon these documents in the manner I have, is that I have perfectly properly, just as your Lordship will remember in

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the case of the Dresden documents, drawn it to the attention of other historians that there may be a flaw in this chain of argument. However, I have the right to remain by my original position on the basis of my entire knowledge which has been assembled, after all, over thirty-nine years of working in the archives.

**A:** I am beginning to wonder who is in the witness box, you or me, Mr Irving.

**MR JUSTICE GRAY:** Yes, but, Professor Evans.

**A:** I am not sure if there were any questions all involved in those series of lengthy speeches.

**MR JUSTICE GRAY:** There was not, so you do not need to answer. Wait for the next question.

**MR IRVING:** My Lord, I am going to ask if we can -- I would normally at this point have asked for a five-minute interruption, but in view of the fact that we are so close to the lunch adjournment can I suggest we make the adjournment now? I have come to the end of this particular part.

**MR JUSTICE GRAY:** Yes, I am perfectly happy with that, but if it does not cause any inconvenience I think we will resume in an hour's time at 10 to 2.

**(Luncheon Adjournment)**  
**(1.50 p.m.)**

**MR JUSTICE GRAY:** Yes, Mr Irving.

**MR IRVING:** My Lord, thank you very much for allowing me an

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earlier adjournment. That was a useful hiatus. We will now proceed to the Schlegelberger memorandum, unless it is not worth discussing. I think myself we ought to.

**MR JUSTICE GRAY:** I certainly would not think it was not worth discussing, no.

**MR IRVING:** This is page 363 of the expert report.

**MR JUSTICE GRAY:** Thank you.

**MR IRVING:** Professor Evans, just so that we can be certain what we are talking about by the Schlegelberger memorandum, do you have a little bundle of documents in front of you?

**A:** Yes.

**Q:** Would you turn page 9 of that little bundle?

**A:** I have been overwhelmed with material here.

**Q:** We are only going to need the little bundle and your report?

**A:** This is bundle D, is it in J1?

**Q:** Page 9 of that little bundle. This is the only bundle I will be referring to myself.

**MR JUSTICE GRAY:** J1 we are in, are we?

**MS ROGERS:** Tab 7.

**MR JUSTICE GRAY:** Thank you.

**MR IRVING:** These are the only documents I shall be referring to in my cross-examination, apart from the expert report. Is document No. 9 in that bundle what we are going to call the Schlegelberger memorandum for the sake of simplicity?

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**A:** Yes, it is in here.

**Q:** In the top left hand corner it has the number 01/111 crossed out?

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

**Q:** Have you seen correspondence in the discovery that I have made in this action which indicates that I was aware of the existence of this memorandum in about 1970?

**A:** No.

**Q:** Have you seen correspondence indicating that in 1972 I dealt with the US National Archives in an attempt to locate this missing memorandum? Can I take you straight, please, to page 22 of the bundle?

**A:** Yes.

**Q:** Do you know who Robert Wolfe is?

**A:** You tell me.

**Q:** He is the head, or he was for about 30 years the head, of the Foreign Document section of the US National Archives. He may have retired by now. Having read that letter, does it look as though I have asked the National Archives to provide me with photocopies of documents in a Nuremberg document identified at that time as PS-4025?

**A:** Yes.

**Q:** Where they found everything except one item?

**A:** Yes.

**Q:** That letter to me is dated May 5th 1972?

**A:** Yes.

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**Q:** So can you conclude from that that I had been searching for some time for that document, specifically identifying it by content?

**A:** No. Just that you are asking them for it.

**Q:** Yes.

**A:** A document, an alleged note on Hitler's intentions.

**Q:** He writes, "With the exception of the alleged note on Hitler's intention to postpone the solution of the Jewish problem", he is supplying me with photocopies of the six documents.

**A:** Yes.

**Q:** My Lord, the purpose of the next few questions for about four or five minutes will be purely to establish where these documents came from.

**MR JUSTICE GRAY:** Which documents?

**MR IRVING:** The Schlegelberger memorandum and the surrounding documents, the other five documents, or the other six documents.

**MR JUSTICE GRAY:** Yes. Just for my benefit, was the one that they were not able to find the original of the Schlegelberger memorandum?

**MR IRVING:** Yes, absolutely.

**MR JUSTICE GRAY:** That was not entirely clear. Thank you.

**MR IRVING:** Would you go to pages 18 and 19 of the little bundle? This is a Staff Evidence Analysis sheet prepared by the American prosecuting staff at Nuremberg.

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**A:** Yes.

**Q:** Is that right? About a year after the war was over?

**A:** Yes.

**Q:** Does that describe a list of five documents that they have found, and they give a brief summary of what each document is?

**A:** Yes.

**Q:** The title and nature is correspondence between the Reich Chancellery and the Reich ministry of Justice on matters concerning the treatment of the Jews?

**A:** Yes.

**Q:** They put the date as March to April 1942?

**A:** Yes.

**Q:** The fourth item on this list is simply stated as being a note stating that Hitler intended to postpone solution of the Jewish problem until after the war?

**A:** Yes.

**Q:** Can you understand why I was interested in seeing the content of that note?

**A:** Yes. Indeed I can.

**Q:** Yes. So I will tell you, Professor, that this Staff Evidence Analysis sheet was provided to me by the Institute of History in 1970 by a colleague working for me, as I can identify by the red rubber stamp at the bottom left hand corner "indexed", which was my rubber stamp.

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**A:** Yes.

**Q:** I first was tipped off that this document had existed in 1970. I am still looking for it in 1972 and it is thanks to the efforts of a German historian, Professor Eberhard Jaeckel, that we finally obtained the actual document. Is that correct?

**A:** Yes.

**Q:** In about 1978?

**A:** Yes.

**Q:** So, when you write on page 364, line 2, indeed it was Jaeckel who first informed Irving of the document's existence, this is not correct, is that right? It was the other way round?

**A:** Well, I should have said perhaps whereabouts. That is strictly true, I suppose, in the sense that it seems to have been lost beforehand and nobody could actually confirm its actual existence.

**Q:** Yes.

**A:** That is true, that statement there.

**Q:** I am not going make anything of it, just a little bit of flag waving.

**A:** You can wave your flag as much as you like, Mr Irving. The point is there was no evidence before that that it actually existed.

**Q:** No evidence that it actually existed?

**A:** No. It seemed to have been lost. It might have been

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destroyed but it turns out that it did and does exist, and it was Eberhard Jaeckel who informed you of that fact.

**Q:** Can I ask you to go, in that case, please, to pages 15, 16 and 17 of the bundle? This is a little bundle of documents issued by a British authority, the Political Intelligence Department of the Foreign Office, even earlier than that Staff Evidence Analysis sheet, November 16th, 1945?

**A:** Yes.

**Q:** Does it show as the final item which they have typed a copy of, actually the contents of the Schlegelberger memorandum, typed out in full with all the initials and everything else?

**A:** Yes.

**Q:** So it existed at that time, the British had it, but by the time the Americans got their hands on the file of photocopies, this particular item had somehow vanished?

**A:** Yes, or been mislaid.

**Q:** Or been mislaid?

**A:** Could not be located. So there was no indication that it still existed.

**Q:** How high would you rate the importance of this document in the order of things as an historian? Was the document linking Adolf Hitler by name with the Final Solution, or with the solution of the Jewish problem? Is it an authentic document? Do you accept that?

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**A:** Well, I think this raises the question of your double standards in the evaluation of documents. If we turn to the document itself, we have heard you in the course of this trial, Mr Irving, using the most nit-picking flimsiest excuses to try and discredit documents you do not like. Here we have a document which has no security classification, no date, no signature, no reference number.

It is clearly in a file that was made up after the war, because the British Foreign Office list the documents as documents found among the files of the Ministry of Justice. So we do not actually know where it came from. It is merely conjecture to say that it was written by Schlegelberger, who was the acting Minister of Justice in 1942. There is no letter head on it at all. And, of course, as evidence of Hitler's views, it is third hand. That is to say, it is somebody, possibly Schlegelberger, reporting on what Lammers had told him about what Hitler had said. There is no indication of actually who wrote this.

**Q:** Can you answer the question?

**A:** If we were to apply your criteria, one would cast tremendous doubt upon this document. But, of course, you have not done that yourself because it is a document that supports your own views.

**Q:** Can you now answer the question? Does the document appear to be authentic? Have you any reasons to doubt its

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authenticity?

**A:** It appears to be an authentic document.

**Q:** Can you agree that this document comes with an amazing pedigree by way of all the documents indicating where it has been and in whose hands ever since the end of the war, which we do not have in one single case in connection with the documents whose integrity I have impugned?

**A:** No. You said yourself it went missing for a long time. But that is an amazing pedigree, Mr Irving?

**Q:** Yes. Can you agree that the document is referred ----

**A:** It is? A document has gone missing for many years. That is an amazing pedigree.

**Q:** Can you look back to page 22, please, which is the letter from the National Archives to me in 1972? In the final paragraph does it say: "The documents are black photostatic reproductions of originals certified by R M W Kempner to have been located among the Justice Ministry files at the Ministerial Collection Centre in West Berlin"?

**A:** Yes. They describe it as an alleged note on Hitler's intentions and so on.

**Q:** We are looking just at the pedigree of the document.

**A:** That is part of it. Clearly the National Archives do not want to accept that it actually exists because they cannot find it.

**MR JUSTICE GRAY:** Could we proceed on the assumption that it

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has a lot of odd features, but you are prepared to accept that it does appear to be authentic?

**A:** Yes, certainly.

**MR IRVING:** To repeat my previous question, does this document come with a somewhat better pedigree by way of documents tracing its provenance than the document whose integrity I have impugned?

**A:** No.

**Q:** On which basis do you place that statement? The document whose integrity I have impugned dated June 24th 1943 has come without any pedigree whatsoever, it is just a document which has turned up in the Auschwitz Museum Archives, having been delivered to them by East Berlin?

**A:** This document is the document that has turned up in a postwar file, claimed to have been located amongst the files of the Ministry of Justice. We do not know. We do not have that original pedigree.

**Q:** I am not going to spend much more time questioning this, but have you seen correspondence between myself and Mr Kempner, who was the Deputy Chief American prosecutor at Nuremberg, in which he accepts that this document was genuine?

**A:** I am accepting it is genuine, Mr Irving.

**Q:** So the whole of that was just a bit of a ----

**A:** No. It was an answer to your question.

**Q:** The question I asked was, do you accept that this document

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is authentic, and now we have a yes from you?

**A:** Yes. The question you asked, Mr Irving----

**MR RAMPTON:** That is not fair because the question was two barrelled, or sometimes five or six barrelled. The question also was, do you accept this has a better pedigree than the document which actually comes from two archives, in two different forms, that Mr Irving impugns? The answer to that is no.

**MR JUSTICE GRAY:** True, but that was another question. Yes, I accept that. Anyway, we have now got to the point where Professor Evans accepts, despite the odd feature, that it is an authentic document. Shall we now see what it actually means?

**MR IRVING:** Very well. Professor Evans, would you propose a translation, or read to us the translation you have given of the document on page 364, of the Schlegelberger memorandum?

**A:** Yes.

**Q:** Audibly so that the courtroom can hear, please?

**A:** I hope I always do this. Do I mumble, Mr Irving? It is in the sort of past reported speech, which makes it somewhat difficult to translate exactly.

**Q:** Past reported speech?

**A:** Yes. Herr Reich Minister Lammers informed me that the Fuhrer had repeatedly, or has repeatedly, declared or explained to him that he, well, wanted, literally wanted

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to know.

**Q:** You can read out your translation on page 364, if you want.

**A:** -- wanted the solution of the Jewish Question put back until after the war. Accordingly, the present discussions possess a merely theoretical value in the opinion of Reich Minister Lammers. But he will be in all cases concerned that fundamental decisions are not reached by a surprise intervention from another agency without his knowledge.

**Q:** Yes. It is actually written in the subjunctive, is it not?

**A:** That is right. It is reported speech.

**Q:** You indicate it as reported speech.

**A:** Yes.

**Q:** It is the equivalent of the perfect tense, I suppose. In other words, "he has said", "the Fuhrer has repeatedly stated", you have said "had" but, if we cannot agree on that, we will move on to the next one.

**A:** Yes.

**Q:** The initials that are on the bottom left hand corner, is that where you would normally expect on a German document the distribution list to be, who the document is addressed to?

**A:** Yes.

**Q:** It is addressed to State Secretary Freisler?

**A:** Not necessarily. I think a possible reading of that is

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"17.7.Freisler" or, in other words, 17th July, which would make it 17th July 1941. It is rather difficult, because the S looks to me like "17.7.Freisler".

**MR JUSTICE GRAY:** Why do you say 1941?

**A:** Because that more likely would fit in for other reasons.

**Q:** I see, for extraneous reasons.

**MR IRVING:** I missed this. Where do we see the 41 then?

**MR JUSTICE GRAY:** That is what I have just asked.

**MR IRVING:** Thank you very much, my Lord.

**A:** I said it said "17.7", which would be 1941 in more likelihood.

**Q:** Do you not accept that the first hieroglyph is the Zutelin German handwriting S, followed by a T, followed by another S, which is the correct abbreviation for State Secretary, which is what his rank was?

**A:** Very obscure, but I think it is a possible reading of it, that it is a 17.7.

**Q:** Yes. If it was Freisler and if he was State Secretary, you would not expect to see him there without a rank in front of his name, would you? You would not expect somebody just to write down just "Freisler"?

**A:** It is rather peculiar. It looks almost as if there is a capital F, and then somebody else has written in after it the rest of his name. It is not his initials, it is not the normal way in which he would himself indicate that he received it. It is another peculiarity of this document.

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**Q:** Could you answer the question? You would not expect, if he is the second most important man in the Ministry, that he would be happy to get a document addressed to him just as Freisler?

**A:** Well, we do not know who has put this on this. It might well be somebody else at some other time.

**Q:** This goes back to my earlier question. Is this the place where, on German Civil Service documents the distribution list was always placed, on the bottom left-hand corner?

**A:** Normally. It has two, seems to be UB4 and U something 5 underneath it, UB5, which would be presumably divisions where it was going to be sent to.

**Q:** Would I be right at this point in suggesting that your reluctance to make progress with this document is because you are very unhappy about this document?

**A:** No. I am trying to point out, Mr Irving that, if you did not like this document's contents, you would be saying everything that I am saying and no doubt a great deal more. It is normal on a document, this is a kind of scrap of paper with no letter heading, no date, no signature, it would be normal actually on a formal important document to type the distribution list on the bottom, particularly if it was relating to a decision that was made.

**Q:** Have you worked ----

**A:** This looks like some kind of note made by somebody to themselves as a kind of aide memoire.

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**Q:** A minute?

**A:** Yes, a minute. It is not a formal minute. It is clearly a kind of aide memoire of a rather informal sort, as it does not have any of the normal things that you get with a formal document.

**Q:** Yes. It has some kind of paginated number in the top left, which appears to be, as you state in your expert report, probably put on there by the Nuremberg authorities, is that correct?

**A:** Yes, crossed out.

**MR JUSTICE GRAY:** I thought we were proceeding on the assumption that it is accepted to be authentic?

**A:** Yes. I am happy to go along with that.

**MR IRVING:** Yes. So it is a memorandum that has been drawn up, unless I am wrong, for the attention of State Secretary Freisler and two other departments of the Justice Ministry?

**A:** Yes Freisler certainly seems to have been, I guess, an addressee of it.

**Q:** Somebody is passing on to him the information from Hans Lammers, who is the head of the Reichschancellory, is that correct?

**A:** Yes. His own information about a meeting or a phone conversation or something with Lammers. That is what he is passing on. His own report on a meeting with Lammers.

**Q:** In which Lammers has passed on the not insignificant

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information that the Fuhrer has repeatedly said he wants the solution of the Jewish problem postponed until the war is over.

**A:** Yes,.

**Q:** So it would be interesting, would it not, to find out when this memorandum came into existence?

**A:** Exactly, yes.

**Q:** Are opinions divided on that?

**A:** It is very difficult because it does not actually have a formal date on it, so you have to weigh up the possibilities. I think there are two possibilities. One is that it came into existence on 17th July 1941, which is the day after an important meeting at which arrangements were made about the administration of the Eastern territories, at a time when the decision to, as it were, solve the Jewish question in the Nazis' own terminology had not been taken. Or it is possible that it belongs in a series of discussions that took place between the Ministry of Justice and other instances in the spring of 1942, in the wake of the Wannsee conference about the fate of half Jews and Jews in mixed marriages. That second context indeed is the one in which it is placed in this made up set of documents.

**Q:** Would you agree that on the Staff Evidence Analysis sheet, which is page 18 of the bundle, it states that the date covered by the file is March to April 1942?

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**A:** Yes. That is wrong, of course, because one of the documents dates from 21st November 1941.

**Q:** Yes. Is that document out of numerical sequence?

**A:** The documents are not in chronological order. That is to say, it depends how you look at it, but sheet 153 is what we are calling the Schlegelberger memorandum, and then sheet 154 is a document of 21st November 41, sheet 155 is 12th March 1942, sheet 156 is the 18th March 1942, and 157 is 5th April, and 159 is 20th November. So, if you are going in strict chronological order of the pagination on the top right hand of the page, you would have to say that this document

came from 1941, because the next document is 21st November 1941. However ----

**Q:** Mr Rampton, do you want to say something?

**A:** -- because this is a made up collection, you cannot be sure that it is in chronological order.

**MR RAMPTON:** Miss Rogers -- I will do at some stage -- asks me to point out that the clip that Mr Irving is using is missing a document.

**MR IRVING:** In November 1941?

**MR RAMPTON:** No, no, no -- is missing. If on that list is the minutes of the meeting on 6th March 1942, it is missing from Mr Irving's clip.

**MR JUSTICE GRAY:** I am not sure I quite followed that. Does it matter?

**MR RAMPTON:** I am not sure that I do either.

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**MR JUSTICE GRAY:** I think we might just press on a little bit.

**MR IRVING:** Yes.

**MR JUSTICE GRAY:** It could be 41, it could be 42. I think in the end, if I have understood you right, Professor Evans, you were inclined to accept that it might well be 42?

**A:** On balance, but it is a very fine balance, my Lord.

**Q:** I understand that.

**MR IRVING:** It is exactly the position I am trying to steer towards.

**A:** One has to make it very clear to anybody reading this document its peculiar nature, uncertainties about its date, its origination, who made it, and all of these sorts of things.

**MR IRVING:** In that case I will put to the witness the evidence that goes towards supporting the 1942 dating. Is there a letter from Schlegelberger to Lammers after the March 16th 1942 conference?

**A:** Yes.

**Q:** We will come back to the March 6th 1942 conference because I know we want to discuss the contents of the memorandum. At present we are just dealing with the dating.

**A:** Right.

**Q:** Is there a letter from Schlegelberger to Lammers in which he says words to the effect: I have read the report on the meeting. Decisions appear to be brewing here which look pretty murky. They must not get away with this. You are

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going to have to brief the Fuhrer. Can we talk about it?

**A:** Which document is this?

**MR JUSTICE GRAY:** I think you must if you can -- I know it is difficult for you, but if you can help me a little as to where one finds that document?

**MR IRVING:** I have only been given a very truncated version of the Schlegelberger bundle, I am afraid.

**MR JUSTICE GRAY:** I see.

**MR IRVING:** It will be in the Schlegelberger bundle, one of the 25 pages, with a complete translation of that letter. It will be dated March 1942. I have provided your Lordship in that bundle with the complete translation of it. It is about a whole page letter.

**MR RAMPTON:** I do not have the translation.

**MR JUSTICE GRAY:** I think it is page 13?

**A:** Page 2 is the translation that I have got in J1.

**MR JUSTICE GRAY:** Well done. We have found it.

**MR RAMPTON:** It is the document with 155 at the top right corner and 371 at the bottom.

**A:** Yes.

**MR IRVING:** Would you agree with my brief gloss on it, that is Schlegelberger saying that he has read the report on March 6th conference, things appear to be brewing, someone is going to have to discuss this with the Fuhrer, can I meet you first?

**A:** Well, not precisely. It is important to say that it says,

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"My assistant has just briefed me on the result of the meeting of the 6th of the 3rd about the treatment of Jews and mixed race Jews". Then he goes on to say that there are decisions in preparation which he says are completely impossible, as you say. Then he wants to have a talk with Lammers about this because of this. Yes.

**Q:** Before the matter goes up to the Fuhrer, is that right?

**A:** "As the outcome of the talks is to form the basis for the decision of the Fuhrer, it would be urgently desirable for me to have a personal talk with you in good time about the affair".

**Q:** Would you agree this helps us to narrow down the period when the meeting, the date of the memorandum?

**A:** It is an indication, yes.

**Q:** Was there a meeting then between Schlegelberger and Lammers in consequence of this? Did Lammers write back a three or four line letter saying, sure, let us meet?

**A:** Yes.

**Q:** What date is that letter, please?

**A:** That is 18th March, and Lammers says he is coming back to Berlin at the end of the month.

**Q:** At the end of March he is going to come back to Berlin?

**A:** Yes.

**Q:** He offers to meet Schlegelberger on this matter, whatever the matter is?

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

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**Q:** To which matter we will certainly come back, I assure you.

**A:** It is pretty obviously a reply to the previous letter, which is about the treatment of Jews and mixed race Jews.

**Q:** So, on the balance of probabilities, the meeting between Lammers and Schlegelberger was some time at the end of March, or possibly running on into early April, as other historians suggest now?

**A:** Yes.

**Q:** Jaeckel suggested it may have been a meeting on April 10th, which he has identified.

**A:** Yes.

**Q:** There is no point really quibbling one way about ten days, is there? We can accept therefore that, on the balance of probabilities, if the 1942 scenario is correct, this was when the meeting took place between Lammers and Schlegelberger?

**A:** It looks like it, yes. There are other possibilities in this very uncertain document.

**Q:** So?

**A:** That is one possible interpretation. We are dealing with matters of interpretation here.

**Q:** So if we can accept this is a minute written by or dictated by Schlegelberger -- and that is an

"if" -- then when he begins by saying, "Reichsminister Lammers informed me", he may very well, on the balance of probabilities, be

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talking about something he has heard at the end of March or early April 1942?

**A:** Indeed, yes.

**Q:** About the Hitler desire that the solution of the Jewish problem be postponed until after the war is over?

**A:** Yes.

**Q:** Does your Lordship wish to ask any further questions about the dating of the document?

**MR JUSTICE GRAY:** No. If I may say so, you have put it very clearly.

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

**MR JUSTICE GRAY:** May I just ask one question?

**MR IRVING:** Yes.

**MR JUSTICE GRAY:** Professor Evans, is there anything (and I cannot remember) between the date when Lammers says, "Yes, we can meet", and the date, the assumed date, on the 1942 hypothesis of the Schlegelberger memorandum, to indicate what the discussions were?

**A:** No. It follows from the -- it all follows from the meeting of March 6th. So there is -- it is an inference that the so-called Schlegelberger memorandum belongs in that period.

**Q:** What I am really getting at, is there any evidence what the substantive discussion was about, whether it was about Jews generally or whether it was about Mischlinger -- sorry?

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**MR IRVING:** That is what we are going to be dealing with in this part of the cross-examination, my Lord.

**A:** It would appear that what we are calling a Schlegelberger memorandum is the indication we have that there was a meeting or to suggest that there was a meeting.

**MR IRVING:** Now we will tackle the topic, Professor Evans. We will try to mutually and jointly arrive at some conclusion as to what was discussed in these deliberations. There were two meetings of importance early in 1942, were there not? There was the Wannsee conference on January 20th 1942?

**A:** Yes.

**Q:** And there was this follow up conference on March 6th 1942?

**A:** Yes.

**Q:** Both of them, effectively, chaired by the Reichssicherheitshauptamt, by Heydrich?

**A:** Yes.

**Q:** And with representatives of a not very high level from all the Ministries involved in the Jewish problem?

**A:** Yes.

**Q:** The Wannsee Conference, I do not think we need to look at in this context, unless you particularly want to make any comments about it? Your submission is, of course, that the Wannsee conference discussed the killing operations because Eichmann admitted this under interrogation, is that correct?

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**A:** That is right, yes. It certainly reached -- there was a very elaborate lengthy discussion of what should be treated, how the Jews of Europe should be treated, and the memorandum -- the minutes of the Wannsee Conference speak in terms of evacuation and so on from all countries of Europe, even those which were not yet under the Germans' control. Eichmann said later when he was in the hands of the Israelis that, of course, that is the language used about evacuation disguised the fact that people had been talking about killing.

**Q:** Disguised it from whom, from the general public or from each other?

**A:** From anybody who should be, from anybody who should get the minutes of the Wannsee Conference.

**Q:** I am only going to dwell a minute or two on the Wannsee Conference, Professor. Your basis for saying that it was disguised language and euphemisms is only the Eichmann interrogation in 1961, is that right? None of the other participants backed him up on that?

**A:** Well, one can infer from the fact that large scale killings of Jews were already going on, that that is what is meant by evacuation.

**Q:** Yes, but none of the other participants, probably about a dozen of them, were questioned about this after the war, when questioned under various conditions either by myself or by the American or the British interrogators, confirmed

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what Eichmann had said, the killing was talked about.

**A:** No, I think it is unlikely that they would wish to do so. There was a representative, I think Freisler was there who represented the Ministry of Justice, so the Ministry of Justice knew perfectly well what the conclusions of the Wannsee Conference were, whether they were concerned with extermination or simply with forced evacuation of Europe's Jews from their resident countries to the East.

**MR JUSTICE GRAY:** We do not want to get sidetracked. The point about Wannsee was that there was not any particular discussion about Mischlinger there or was there?

**A:** There was, my Lord, yes, yes -- quite extensive. They spent a great deal of time talking about them because, although they seemed to have found it easy to decide what to do with Jews, they found it extraordinarily difficult to reach some decision about what to do with so-called Mischlinger and Jews married to non-Jews.

**MR IRVING:** Yes, I think we can agree that the March 6th 1942 conference was almost entirely concerned with the question of the half Jews and the Mischlinger, was it not?

**A:** No, not almost entirely. It was entirely concerned with Mischlinger and half Jews.

**Q:** It was entirely?

**A:** And Jews in mixed marriages, yes.

**Q:** As a component of the Final Solution?

**A:** Yes.

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**MR JUSTICE GRAY:** Is there a document that establishes that? Presumably there is.

**MR RAMPTON:** Yes, your Lordship has it.

**MR JUSTICE GRAY:** I know, but I would just like to know where it is.

**MR RAMPTON:** Yes, I am trying to get help with that. I have it in a file I marked "Schlegelberger" which is terribly helpful with quotes round it, mind. It is quite a long document.

I have it just before the 12th March letter.

**MR IRVING:** It is page 6 onwards. Is this the letter dated April 5th?

**MR RAMPTON:** No, I am talking about the minutes.

**MR JUSTICE GRAY:** 6th March, the minutes of 6th March.

**MR RAMPTON:** Yes, minutes of the Conference on 6th March.

**MR JUSTICE GRAY:** It seems to me this is quite an important document.

**MR RAMPTON:** It is an important document, yes.

**MR JUSTICE GRAY:** And I have no idea where it is.

**MR IRVING:** That has not been in any of my bundles, I know. That would have been in one of their bundles.

**MR RAMPTON:** Yes. Mr Irving did not include it in the papers he gave your Lordship, so we provided it separately.

**MR JUSTICE GRAY:** That is not, I think, entirely fair. Anyway, let us find it. It does not matter whose fault it is.

**MR RAMPTON:** All right, I can tell you. It is in H1(viii), if your Lordship has it?

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**MR JUSTICE GRAY:** Can somebody make a photocopy of it this afternoon?

**MR RAMPTON:** It has been up there, but it has disappeared.

**MR JUSTICE GRAY:** Do not start blaming me!

**MR IRVING:** Is it in English or in German?

**MR JUSTICE GRAY:** German.

**MR RAMPTON:** German.

**MR IRVING:** In that case, my Lord, I will ----

**MR JUSTICE GRAY:** I do not think that probably matters.

**MR IRVING:** --- volunteer to obtain an English translation for your Lordship over the weekend.

**MR JUSTICE GRAY:** That is very kind.

**THE WITNESS:** I do have my own copy of this document. Thank you very much.

**MR JUSTICE GRAY:** I am ready when you are.

**MR IRVING:** Very well, my Lord. I am in the witness's hands here which places me in some dread. Would you give a brief overview of what the conference was about? It was about the treatment, we have agreed, of the problem Jews, the half Jews, the quarter Jews, the people married to Jews?

**A:** Yes, or the Jews married to non-Jews.

**Q:** Yes.

**A:** Yes, and various -- basically, various proposals were thrown about at this meeting and there were some proposals that they should be sterilized and this raised alarm

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bells. I am just trying to find my own ...

**Q:** Why would this be, because of the immense burden that this would place on German medical services or the ----

**A:** Well, the alarm bells in ----

**Q:** --- red tape?

**A:** --- the Ministry of Justice because there are legal proposals. Right, I have got this here now.

**Q:** Was it a very daunting task in any way, to carry out the sterilization?

**A:** There was a proposal that they should be compulsorily sterilized and remain in the Reich, but some thought that would not be -- that it is not impossible during the war -- it was not possible during the war. Mass sterilizations would take up medical facilities needed for the war wounded, and that in any case this would still keep them alive, as it were, and that would be a problem. There was an alternative proposal put forward which says that half Jews would be equated with Jews and "evacuated" possibly to special so-called settlements set up for half-Jews alone.

**Q:** Does it use quotation marks around "evacuated" or does it use the word "evacuated"?

**A:** Sorry, I am saying that -- they are my quotation marks because it is, I think, quite possible that that means they would in the end be killed. It may well be a euphemism at this stage of events if we are talking here,

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well, we are talking about 6th March 1942; and there were other proposals, that there be a law passed which would dissolve marriages between Jews and non-Jewish Germans and that was opposed for various legal and other reasons and that it should be made easier for them to divorce. So there was a great deal of talk about all these various different kinds of solutions.

**Q:** Yes, does it look like a whole bunch of problems they are conjuring up for themselves?

**A:** Well, they are kind of agonising over what to do, given their basic anti-semitic premises, it is a problem for them.

**Q:** What position was Germany in in March 1942? Was Germany pretty well down to its uppers? Was it fighting a desperate battle on the Eastern Front? Had it nearly lost the entire Eastern Army in the previous winter?

**A:** Not as desperate as it became later.

**Q:** So they had quite a lot of things on their plate apart from dealing with these domestic problems?

**A:** Yes, but it was part of their mentality, as you could see from the space devoted to the Mischlinger question in the Wannsee Conference, that they should kind of split hairs and spend a lot of time talking about what seems to us to be completely ludicrous problems, but they took these extremely seriously ----

**Q:** Yes, these lawyers, they sat around all day talking about

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pernickety little details, did they not?

**A:** I am afraid they did a lot of the time, yes. But for them, of course, it was very serious.

**Q:** For the lawyers or for Germany?

**A:** For the lawyers.

**Q:** But Germany, you agree, was fighting desperate battles on the on Eastern Front; the air war was just beginning; they had manpower problems developing; they were trying to control an ever expanding Empire; they had unrest?

**MR JUSTICE GRAY:** Mr Irving, I mean, that is a very long question. In the end, it is pretty neutral because the fact is they were doing it. That may be odd, may be not.

**MR IRVING:** I am moving on to the point of the question.

**A:** Good.

**Q:** If you were Adolf Hitler -- perish the thought -- and somebody came to you with all this red tape and said, "We are tackling this problem now, Mein Fuhrer", what would your response be?

**MR JUSTICE GRAY:** But what do you mean by "this problem"?

**MR IRVING:** Whatever the problem is, whatever ----

**MR JUSTICE GRAY:** That begs rather an important question, I think. I mean, that is the whole point of the discussion you are having at the moment.

**MR IRVING:** If anybody, if you were the Fuhrer or if you were a Dictator of a State in a desperate military situation, and somebody came to you with any problem which was not

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directly related to winning the war, what would your response be?

**A:** It would depend on the problem, Mr Irving.

**Q:** Would you not say, push this on one side, "Let us, for heaven's sake, leave that until this war is over. Let us win the war first and then we will tackle this problem"?

**A:** No, Mr Irving. I think you could say that Hitler repeatedly the previous December made speeches, statements, about what was to happen to the Jews. He spent a lot of time thinking about the Jews and this had gone on into the Wannsee Conference.

Hitler was an obsessive anti-Semite in whom there was really little distinction between the process, the progress of the war and the Jewish question. He regarded the war as having been started by the Jews. He thought they were responsible for it. When America came into war on 11th December 1941, Hitler thought that the Americans had been put up to this by -- I know he declared war in America, but he thought that the American support for the allied side was a result of Jewish machinations. And all of this weighed extremely heavily upon his mind.

On the other hand, the kind of legalistic, you know, and to go on, I mean, he also, of course, considered that the Soviet Union was run by Jewish Bolsheviks and that the Jews were behind that as well. He was completely obsessed with this. Therefore, he does not, kind of, he

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does not even make a distinction between the exigencies of the war and what he regarded as the problem of the Jews of Germany, Poland and the rest of Europe.

**Q:** Is there any evidence ----

**A:** On the other hand, just so that I may finish answer the question -- I apologise, it is rather a long answer, but it is an important question to get straight -- of course, when the Ministry of the Interior and the Ministry of Justice and so on, and all the various other instances start agonizing at considerable length as to what to do about the half Jews, the quarter Jews, Jews married to Germans, where do you draw the line and so on, then it is quite likely that Hitler would have said, "Look, this is all too complicated. We have got the main problem of the Jews solved, we are taking them all out to the East and we are killing them in large numbers, let us leave this relatively small group, let us put that off to the end of the war".

**Q:** That is the spin you put on this document, is it, on the Schlegelberger memorandum?

**A:** If you want to date it, if you date it to this period, to the kind of bureaucratic fall out of 6th March 1942 meeting, then that seems to be the reasonable interpretation.

**Q:** Have you read ----

**A:** If you want to date it to July 1941, then I think you have

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to put a different and broader interpretation on it. It is a matter of balancing out which you think is more equal, which are more likely with this rather problematic source.

**Q:** Look at the evidence for the 1942 one first, and if that is sufficiently compelling, I will invite his Lordship to decide whether we ought to go back and have a look at the 1941 scenario.

Have you seen any testimonies of the people who were present at these meetings, or on the staff of the people involved in this, in which they describe how they approached Lammers for a decision and Lammers informed them that he had taken it up with Hitler and that Hitler had said he wanted it postponed until after the war was over? I am referring to the names of Boley, Ficker and other members of the various Ministerial staffs who were present at the March 6th 1942 conference?

**A:** Yes, yes.

**Q:** So that helps to narrow it down to this 1942 period, does it not?

**A:** That depends how much you rely on their testimony. One has to be rather cautious with it.

**Q:** Because they were Nazis or anti-Semitic? Is this, I mean, the usual story, that we are not going to accept them because they were in some way loaded?

**A:** Well, not necessarily not going to accept them, but

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I think again what you have here is postwar evidence from memory by people who were involved in these decisions who were quite clearly concerned not to incriminate themselves. I think one has to approach that kind of evidence with a great deal of caution. You yourself, Mr Irving, have gone on repeatedly about the superior nature of contemporary evidence over this kind of evidence.

**Q:** If Lammers, for example, had said in the witness box that he wanted to find out for himself and he fixed an appointment with the Fuhrer, "whereupon the Fuhrer told me that, yes, it was quite right that he had given the evacuation order to Himmler, but he did not want to hear any more briefings about this Jewish problem during the war", is that all very much part of this scenario?

**A:** You will have to provide me with the documents, I am afraid.

**Q:** If you would look at page 10, please, of the little bundle I gave you?

**MR JUSTICE GRAY:** Sorry?

**MR IRVING:** My little 25 page bundle of documents.

**MR JUSTICE GRAY:** The one you put in yesterday?

**MR IRVING:** No, it has been before your Lordship for about 10 days. It is bundle B, I think.

**A:** This is J1, is it?

**Q:** Yes?

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**A:** J1, tab 7.

**Q:** You may find this unsatisfactory, but these are the original source notes and end notes for Hitler's War, as you will see ----

**MR JUSTICE GRAY:** Hang on, just let us try to -- the documents are in such a mess, I am not even sure that I know which clip you are ----

**MR IRVING:** Bundle B, my Lord, pages 10 and 11 -- no, bundle D. Bundle D.

**MR JUSTICE GRAY:** I think I am there.

**MR IRVING:** Yes. These are the end notes for the original edition of Hitler's War which we are already at page 2,653. It is the original note 63 which was never published, but it does contain this quotation of Lammers speaking at Nuremberg, volume 11, page 61. I accept it is a brief excerpt and you are entitled to impugn it on that ground.

**A:** Yes.

**Q:** Does this not appear to refer to this particular episode?

**A:** It is not very satisfactory. One would wish to see the original.

**Q:** The original document, yes?

**A:** I mean, we are relying on your notes here, Mr Irving -- it is always a risky thing to do.

**Q:** But you accept that this bundle has been before the instructing solicitors now for some two weeks, and that if

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I had got it wrong, no doubt one of their army of researchers would have by now brandished it and Mr Rampton would have been on his hind legs.

**MR RAMPTON:** Thank you very much for that, Mr Irving. You may keep your insults to yourself. The fact is -- and, indeed, imply them to yourself if you wish -- this document, whatever it may be, if Mr Irving has relied upon it, should have been disclosed by him.

**MR IRVING:** By what?

**MR JUSTICE GRAY:** By you.

**MR RAMPTON:** By you.

**MR JUSTICE GRAY:** It looks as if it was though.

**MR RAMPTON:** "What" may be the right description.

**MR JUSTICE GRAY:** It looks as if it was.

**MR IRVING:** It has been disclosed.

**MR JUSTICE GRAY:** It is 2653, is it not.

**MR IRVING:** Oh, 2653 is part of the discovery.

**MR JUSTICE GRAY:** That is what I thought.

**MR RAMPTON:** No, no, no, the original document.

**MR IRVING:** Well, the original ----

**MR RAMPTON:** If I am looking at page 10 of what Mr Irving calls his ----

**MR JUSTICE GRAY:** I think the answer is it will be in Munich, will it not?

**A:** Yes.

**MR IRVING:** Well, no, my Lord. The answer is it will be one of

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the 46 blue volumes of the Nuremberg trial proceedings, which are no longer in my custody, possession or power, of course.

**MR JUSTICE GRAY:** Because they are in Germany?

**MR IRVING:** Well, they are probably in every major library in the world.

**A:** Yes.

**MR JUSTICE GRAY:** Then why can we not -- why do you say the Defendants have to go and get it?

**MR IRVING:** I provided this excerpt, but I can certainly provide the entire passage and your Lordship is quite right ----

**MR JUSTICE GRAY:** I think you have just accepted this really is not all that helpful by itself.

**MR IRVING:** Yes, you are absolutely right, my Lord, and I will certainly provide the entire excerpt.

**MR JUSTICE GRAY:** Shall we chase that up?

**MR IRVING:** Yes. But my point there is it has been now, both by way of discovery of the original German text and also in this bundle before the Defence now for two weeks, in this excerpted form, and I feel quite sure that had there been any discrepancy we would have heard

about it.

So, witness, if I can ask you the question, Lammers there is appearing to say that at some time he took the matter up with Hitler, including evacuation, whatever is meant by that, and Hitler said, yes, he had

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given the evacuation order to Himmler, he did not want to hear any more about this whole thing until after the war is over?

**A:** He did not want any more briefings, yes.

**Q:** Yes. So this is very much in the same kind of line as the Schlegelberg memorandum, Schlegelberger memorandum?

**MR JUSTICE GRAY:** On your interpretation of it?

**MR IRVING:** On any interpretation, my Lord.

**A:** On your interpretation.

**Q:** I am just saying it is in line, in the same kind of line. I am not talking about being a dilatory Fuhrer -- somebody who was always postponing things until tomorrow. Now we have more interrogations, if we have finished with that particular one, Professor?

**A:** Yes.

**Q:** Professor, you yourself have quoted at somewhat greater length than I have interrogations of people like Ficker and Boley?

**A:** Yes.

**Q:** Can I just start off by looking at my excerpts? If you wish to draw attention to any further excerpts that you have made -- this is page 12?

**A:** Yes.

**Q:** "Cabinet Counselor Hans Ficker of the Reichs Chancellery stated in 1947: from the invitation to the March 6th meeting 'it was evident that evacuation or sterilisation

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were on the agenda'. They took minutes. Lammers took this minute to the Fuhrer, and returned with a memorandum, 'The discussion of the whole affair is to be postponed until the after the end of war'?"

**A:** Yes.

**Q:** That must have been in March 1942, full stop, and he continues, "'To our horror, we learned that that then continued behind the scenes'?"

**A:** Yes.

**Q:** And the original German is on the following pages, I think. Now, do you agree that on the basis of that evidence they did not just discuss sterilization, but wider matters as well?

**A:** No, no. This is rather unreliable evidence, particularly this, "'To our horror, we learned that that then continued behind the scenes'" ----

**Q:** Yes. I understand you do not like that, yes.

**A:** --- which I think is a very obvious piece of self-exculpation.

**Q:** Unless it is true?

**A:** Ficker, if you look at the Himmler Dienststagebuch, Ficker actually had dinner with Himmler seven times in 1942 to 3 at the height of the extermination of the Jews and it beggars belief to suppose that it continued. It also beggars belief to think that the, I suppose he means extermination of the Jews here, carried on behind the

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scenes without Hitler or anybody in the senior positions knowing about it. Ficker and Boley, Ficker himself admitted that he and Boley were together in an internment camp after the war, and they discussed the meeting of 6th March 1942 more than a dozen times. In other words, they cooked up a story, or a kind of version of the events, between themselves, which would exculpate themselves. That does not mean to say that everything they said was wrong, but one has to regard what they said with extreme caution, particularly what Ficker says, because he was not actually at the meeting of 6th March 1942 himself.

There is also a problem when you look at what we are calling the Schlegelberger memorandum, because that simply reports Lammers's view that Hitler, in a kind of ongoing way, had said, repeatedly said, that he wanted the solution to the Jewish question postponed until after the war. It does not say that there was a specific meeting about the event. So I think we have to regard all of these later documents ----

**Q:** Unless Lammers had gone to Hitler and Hitler said, "Herr Lammers, how often have I told you I do not want to hear about this"?

**A:** I think he would have said that he had gone to Hitler because then that would have meant that he had got from Hitler a kind of decision about this, and that is not what happened. That is not what happened.

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**Q:** We do not know. We are just tied to the documents in front of us.

**A:** In you take the contemporary documents, still remembering that it is uncertain whether it really was from the spring of 1942, and if you regard the contemporary document as superior evidence of these cooked up stories from after the war in allied captivity by people who were trying to save their skins, then I think there is no indication that Herr Lammers did go specifically to Hitler. I think, if Lammers went specifically to Hitler and got a ruling, as it were, then it would have been in a different form from this rather unsatisfactory scrap of paper we have.

**MR JUSTICE GRAY:** Professor Evans, do you think that that is borne out if you look at the text of the Schlegelberger memorandum? Because whatever the tense of "habe" and however you translate that, what it appears to me to be saying is that the Fuhrer has been on and on about postponing the solution of the Jewish question.

**A:** Yes.

**Q:** Then he (Lammers) infers that the present discussions, which you say are about Mischlinge, are only of theoretical value.

**A:** Exactly, my Lord.

**Q:** Which is a very odd way of expressing himself if he had actually gone to Hitler and had, as it were, an instruction from Hitler.

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**A:** Precisely the point.

**MR IRVING:** Is it possible, my Lord, I discussed this question with your Lordship, that Lammers, being an experienced Civil Servant, did not want to burn his fingers by taking it up with Hitler again and just said this to the minister?

**MR JUSTICE GRAY:** That is not your case.

**MR IRVING:** No, it is not. But it is dangerous to speculate too far, to go too far outside ----

**MR JUSTICE GRAY:** Of course. I agree.

**MR IRVING:** -- the parameters of the documents. We are just trying to establish what the document can have meant, who knew about it and whether in fact these statements are self serving. Professor Evans, if there were a number of people who were at this meeting and they were all held in allied internment camps, would there not have been a strong temptation for one of them to have purchased early release by shopping the others? Did that not happen quite a lot?

**A:** I thought you said we should not speculate too much.

**Q:** Can I ask you if you have ever heard the witness Wilhelm Hottl H-O-T-T-L, who was an SS officer?

**A:** Where does he appear in relation to the Schlegelberger memorandum?

**Q:** This is a typical example of a witness at Nuremberg who purchased favourable treatment by providing statements

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that the Allies wanted to hear.

**A:** What has this to do with the Schlegelberger memorandum? Which of these people, I mean Ficker or Boley? Ficker was not there so we discount him. Is it Boley then, whom you are saying purchased ----

**Q:** I am not trying to trick you into an answer. I am just asking you if it is not likely that, if there were several people in the allied interrogation centres or internment camps who had knowledge of this very delicate matter, and one of them had information that is the kind of information that the Allies wanted to hear, he would have been quite happy to shop his colleagues by turning it in in order to get an early release date?

**A:** That is totally hypothetical. Which person are you talking about here who did that in relation to the Schlegelberger memorandum, and what is the evidence for it?

**Q:** Was Gottfried Boley present?

**A:** Yes, at the 6th March meeting. Indeed.

**Q:** Did he on September 14th 1945 -- I am now on the second paragraph of my page 12, my Lord -- describe Eichmann's uncouth behaviour at this conference and say how Eichmann used language about Jews being supplied like cattle or being shipped around? One man had objected, "one can't proceed against the Jews who behave correctly", and Eichmann's number 2 said, "that comes under our police

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judgment". Is that a self-serving statement, do you think, a man describing that the conference was conducted in these uncouth terms?

**A:** I think, if he had been really self-serving, he would not have said not "one man", he would have said he protested.

**Q:** Yes, but why did he have to put in these ugly details about a conference that he attended?

**A:** If I had been Boley and wanted to exculpate myself, I would have that I was the man who objected. I would have said, "I said one cannot proceed against Jews that have behaved correctly, and I raise objections to all this," but he does not do that, does he?

**Q:** His final statement on June 10th 1947 in the final paragraph, where he says that Kritzinger sent him to the conference, Eichmann was in the chair, there were 20 or 25 participants, and he then testifies at this conference there was no talk of "really grim things", but of the preliminaries, the evacuation and sterilization.

**A:** Exactly so.

**Q:** You have read those interrogations in full, have you not, or your researchers have?

**A:** We have read them, yes.

**Q:** Did they find anything which contradicts the impressions he gives there?

**A:** Let us take one step back. The March 6th meeting was about so-called Mischlinge and Jews married to non-Jewish

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Germans, and the discussions there, as I tried to summarize them, when you asked me to earlier, Mr Irving, were precisely about evacuations, sterilization, preliminaries, presumably meaning legal, the passing of laws to do with divorce, and so on. That seem to have been fairly accurate.

**MR JUSTICE GRAY:** I am not sure where this all goes, Mr Irving.

**MR IRVING:** I am trying to pin down what actually happened at the conference and to find out whether the ambit of the conference is wider than just sterilization issues or whether it was on a broader field, whether really ugly matters were discussed and apparently they were not, and also to establish the credibility of these witnesses, in particular the first one, who says that afterwards somebody took the memorandum, Lammers took this minute to the Fuhrer and returned with precisely the wording of this memorandum, in fact, and here he is remembering it in June 1947 in very much the same terms as the document itself.

**MR JUSTICE GRAY:** Why do you say that Boley was talking about the 6th March meeting in that little extract you have on your page 12? That could have been Wannsee, could it not?

**A:** He was, my Lord.

**MR IRVING:** It is all March 6th.

**MR JUSTICE GRAY:** Why do you say that? Was this conference not at the RSH?

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**A:** I do not think Boley was at the Wannsee conference.

**MR IRVING:** I do not think he was either. No, he was not there.

**A:** But he was at the March 6th conference and he is talking about that. The point is once more that the minutes of the March 6th conference are all about Mischlinge and Jews in mixed marriages. Schlegelberger in his testimony in his trial at Nuremberg said that is what the conference was about, and the fall out from it in this set of documents is clearly about those questions.

**MR IRVING:** Professor, if we can pause to draw breath here, one point that divides us on the Schlegelberger memorandum, apart from the possible discrepancy on the date, you think there may be a possibility it was 1941, is that you would believe that the Schlegelberger document refers only to the mixed race issue.

**A:** Yes.

**Q:** And the bureaucratic red tape connected with that?

**A:** Yes, if you date it to March 42.

**Q:** I say that the significance of the document shows a general reluctance on Hitler's part to be sucked into talk about the Final Solution?

**A:** No, it is not that. Let us remind ourselves of what it says.

**Q:** Yes.

**A:** Lammers says the Fuhrer had repeatedly explained to him

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that he wanted the solution of the Jewish question put back until after the war. Now you have to ask yourself in this context what does the solution, losung, of the Jewish question, Judenfrager, in this memorandum actually mean? It can mean one of three things. It can mean extermination. Well, if Hitler is talking about extermination being put back until after the war, he must have known about the extermination at this point, and you said, I think, that if Hitler knew about the extermination between the end of 1941 and October 1943, when you admit that he did know about it, then he would approved of it. I do not think it means that.

Then does it mean evacuation? Well, evacuation has already been going on. They started pushing the Jews out of Berlin the previous autumn, as we saw this morning. So why is he suddenly turning round now? Have people been disobeying him? That is an absurd supposition as well. So, if we date it to March 1942, the only reasonable context that a historian would put it in would be the series of discussions about Jews and mixed marriages, which comes under the general heading of solution of the Jewish problem, because it is one aspect of that.

**Q:** These are the theoretical discussions, are they not?

**A:** Yes, all this stuff about the Mischlinge and so on, sterilization or other terrible things that they want to

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do to them, they are saying it is too difficult classifying people, perhaps there are too many problems, we know it in early 1943, for example, when they finally did try and deport the Jewish husbands of non-Jewish German women from Berlin to Auschwitz, there was a mass protest by these very brave women in public in Berlin, which stopped it, so there was a fear that this would raise trouble. There are all kind of reasons why they should have wanted, Hitler and others, this solution to be put off.

As I said, the Justice Ministry was particularly concerned about the legal implications of trying to deal with this. There were problems about the resource implications of having a mass sterilization programme. There were many reasons why they want to put this off. Decisions about what was going to be done about the great mass of Jews who were not in this situation were neither Mischlinge nor in mixed marriages, they had already been discussed at great length in the Wannsee conference. Indeed, what was left over from the Wannsee conference was precisely this problem, what to do with these marginal problematical minority groups.

**Q:** Can I bring you down to earth now with the actual content of the memorandum? If we look at the second sentence, Lammers says in the first sentence, that the Fuhrer has repeatedly said he wants the solution to the Jewish

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problem postponed until the war is over.

**MR JUSTICE GRAY:** Pause there, Mr Irving. If you are right that the Wannsee conference really decided on a policy of extermination, which as I understand is what you say there happened, that is a very odd thing to have somebody as senior as Lammers saying.

**A:** Indeed, my Lord, at this point.

**MR JUSTICE GRAY:** How do you explain it?

**A:** Because it is to do with -- the Jewish question here, he means the aspect of the Jewish solution to the Jewish question that has to do with the Mischlinge and the Jews in mixed marriages.

**MR JUSTICE GRAY:** No, I do not think that really would do. That is the gloss that Lammers is

putting on it. He is saying in effective response to what is to be done about the Mischlinge, "well, the Fuhrer has consistently said postpone the solution until after the war". My question to you is, how could he really be saying that, if you are right about what had been decided at Wannsee, because Hitler would have known what was decided at Wannsee? And Lammers would have known too?

**A:** That is one reason, my Lord, why I think that there is a strong possibility that this is dated from 1941.

**Q:** But you accepted on balance of probabilities that actually it was likely to be 1942?

**A:** Because of where it is in the file, which means it was

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selected by the Americans, or whoever selected it, to put in this particular postwar file.

**Q:** So the only answer that you can really give to my point, as it were, is, well, I put it back to 1941?

**A:** If you think that "losung der Judenfrager" means the whole package, as it were, then it is a deeply implausible thing to be saying at this particular time because so much was going on.

**Q:** That is really my point.

**A:** There are so many uncertainties with this document. If you read that little note in the bottom left hand corner, 17.7, that pushes it back to 1941, and then, on 17th July 1941, it is plausible to say that Hitler repeatedly said he wanted the whole solution put back until after the war, because he was saying that in other quarters and to other people.

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

**A:** You can follow this up through a chain of documents which I go into my report at this time in 1942, which are headed things like "gasuntlosung der Judenfrager" or "Losung der Judenfrager", which then consist entirely of material about the Mischlinge and the half Jews. So it is not entirely implausible whether he was giving this kind of meaning to the Mischlinge. I agree it is another problematical aspect of this document.

**MR IRVING:** I think the basic problem, my Lord, if I can put it

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like this, is that the whole operation of whatever the Final Solution was is so ramshackle, and so multi-headed, so hydra-like, that to try and systematise it in a law court 50 or 60 years after the event on the basis of basis of not complete documentation is a rather hopeless undertaking. We all have to try and do the best we can.

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

**MR IRVING:** Can I now go back to where I was in the cross-examination?

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

**MR IRVING:** I mean no criticism of your Lordship but I will start again and concentrate on that second sentence. After we looked at the first sentence, which says, Reich Minister Lammers informed me that the Fuhrer had repeatedly stated to him that he wants to know that the solution of the Jewish problem has been postponed until the war is over; therefore, or accordingly, rather, the present discussions in the opinion of Mr Lammers have purely theoretical value. What are the "present discussions"? That was the mixed race discussions, was it not? So therefore that cannot be what they are referring to about being postponed. It is the whole problem is being postponed because the mixed race discussions are referred to separately in the second sentence, saying for that reason, these other discussions about mixed races are going to have purely theoretical value. Do you see the

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point I am getting at?

**A:** Yes, I see the point. I do not accept it. What I would like to know is what do you think "the solution to the Jewish question" means in this document?

**Q:** I am sure that, if it had been said the other way round, if it had been put, the Fuhrer has insisted that the solution to the Jewish problem be pressed with the utmost possible and radical speed, then you would have no difficulty in telling me what you meant by that phrase, would you?

**A:** I am just puzzled. You put it to me what you actually understand that phrase to mean, "the solution of the Jewish question"? What is it here that is being put back until after the war, if it is not the ----

**Q:** The whole of this absurd doctrinaire business of plucking the Jews out of the arms factories, plucking the Jews out of their homes, putting them into scarce transport base, shipping them east and west, taking up scarce police forces to escort them, all this business, all the red tape that went with it, which was so pointless in the winter of 1941 to 1942, and Hitler is repeatedly saying in his ineffectual way, "why on earth are we doing this? We have a war on, fellows. Let us finish the war first and then tackle the problem".

**A:** I think the problem for the historian, Mr Irving, if you say that then it means the forced evacuation of Jews to

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the East.

**Q:** Yes.

**A:** This had been going on for several months by this time, on Hitler's orders, a fact that you have accepted many times and in many places.

**Q:** Was it on Hitler's initiative, do you think, or was it because people like Goebbels came nagging him, saying "Mein Fuhrer, I want to get them out of Berlin, please allow me to do that", and Hitler kept on saying, "Oh very well, Dr Goebbels"?

**A:** This relates to a whole set of other documents. It was Hitler's initiative. I think you have accepted many times that Hitler ordered the deportation of the Jews from Berlin, and subsequently elsewhere, beginning in the autumn of 1941.

**Q:** I think this is a very important and very useful discussion.

**A:** If it refers to that, then how can he possibly now suddenly in March 1942 turn around and say that he has repeatedly said that this should not happen? It goes against all the other documentation we have of Hitler's orders and Hitler's views on this matter.

**Q:** We do have a problem, do we not? We have, on the one hand, people like Goebbels and Himmler saying, do this, the Fuhrer has placed this order on my shoulder, the Reich is going to be emptied out of the Jews, all these

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documents that you and I are familiar with. Yet here is a document saying precisely the opposite, not just a mixed race problem because that is in sentence two, saying therefore the mixed race problem has purely theoretical value.

**A:** No, it does not say that. It says, "according to the present discussions", and discussions are on particular policy proposals within the mixed race complex, that is to say ----

**Q:** March 6th?

**A:** Yes, sterilization, or deportation, or laws to enforce divorce of mixed marriages, all these various things.

**Q:** My Lord, I do not think we can extract very much more usefully.

**MR JUSTICE GRAY:** Nor do I.

**MR IRVING:** On this particular matter. Like so many issues, it is going to be left open, which does not harm my case one bit of course.

**MR JUSTICE GRAY:** No, I follow that.

**MR IRVING:** I will just draw your Lordship's attention to two rather disturbing matters about the report that has been prepared by this witness on this matter at page 383. Professor Evans, will you look at the indented paragraph on page 383?

**A:** Yes.

**Q:** You quoted testimony of Ficker. Just skim down to where

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he says that the Fuhrer suggested postponement, line 5.

**A:** Yes.

**Q:** "Postponement for the time being of the whole problem, i.e. what to do with half Jews and mixed marriages"?

**A:** Yes.

**Q:** Can you look at the German original and tell me if that passage is in there?

**A:** No. That is why I provide the German original to make it clear that that is my interpolation, my explanation.

**Q:** Where does the reader find out that that is your interpolation if he is not going to check the German?

**A:** It is there. That is why it is put there. It is to enable you to check the German, and anybody else.

**Q:** Have you put it in round brackets or square brackets?

**A:** It is in round brackets there. Sorry, that is a typographical -- I also have many other interpolations just to help the reader there. The minister being Lammers, the incorrect statement about the address and so on.

**Q:** So you did not wish us to assume that this was part of the original document then?

**A:** No, how could I? It is quite clearly not there in the original that I quote. Otherwise, if I was hell bent on deceiving you, I would have put that in the original document, would I not, in the German?

**Q:** I do not think you would do that, but you in your

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scientific and academic texts insert helpful passages like in square brackets or in round brackets?

**A:** It depends.

**Q:** Do you elsewhere in this report insert square brackets?

**A:** I am not sure I actually -- there is a square bracket there. I mean it is not typographically very clean, I am afraid.

**Q:** Yes. If you look at the following page now, please, the second paragraph, you rather grandly say, "Further testimony by Ficker makes it clear that all that was discussed between Lammers and Hitler was the issue of half Jews and mixed marriages". That is a rather grand statement there to make with no kind of source reference because that is precisely what is at the root of this whole argument this afternoon, is it not, what was discussed between them?

**A:** This is his testimony on 20th December 1946.

**Q:** Where do we know that? You just say "Further testimony by Ficker makes it clear".

**A:** Yes. It follows on. It is covered by the paragraph saying it is his testimony on the 20th December 1946.

**Q:** But you appreciate you have not given us any source reference for what that testimony is?

**A:** The source reference is down there. You can check it out. It is the interrogation on notes 36 and 37. It is quite clear that refers to that. You can check it up.

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**Q:** On page 386, line 2, you say that Hitler made tasteless remarks about cross breeding between Jews and non-Jews. Is that right?

**A:** In Mein Kampf.

**Q:** Yes.

**A:** I said cross breeding and bastards, yes.

**MR JUSTICE GRAY:** What is the point about that?

**MR IRVING:** I am wondering whether in fact a portion of the Jewish community also do not argue against cross breeding between Jews and non-Jews. I am wondering whether he was not actually serving their interests in some odd kind of way. They also are against mixed marriages, is that not so, Professor.

**MR JUSTICE GRAY:** I am obviously missing the point. Let us go on.

**MR IRVING:** On page 388, paragraph 27, you have a meeting under the heading "Endlosung der Judenfrager", and you say it was entirely devoted to the issue of half Jews and mixed marriages. Was that what the "Entlosung der Judenfrager" actually means, then? Is it just the mixed marriages and mixed races?

**A:** Certainly not, but it is the heading that they have used for this particular meeting.

**Q:** Yes. I am nearly finished with this particular meeting document. On page 389, paragraph 1, there is a little bit of mealy mouthed reporting here by you. You say the

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detailed investigation by David Irving is wrong to claim with certainty that the document was dictated by Franz Schlegelberger in spring 1942.

**A:** Yes.

**Q:** In the very next sentence you say this is the most convincing explanation.

**MR JUSTICE GRAY:** No. I think you have the emphasis wrong. Wrong to claim with absolute certainty. I think that is the point that Professor Evans is making.

**MR IRVING:** He still continues by saying this is the most convincing explanation.

**MR JUSTICE GRAY:** Mr Irving, you are missing the point, I think. The criticism of you is not so much -- tell me if I am wrong about this -- that you have the interpretation of the Schlegelberger memorandum wrong, because I think Professor Evans probably would say it is a possible explanation, but I think the criticism is that a responsible, objective historian would indicate to the reader that it is not quite as crystal clear as your text suggests.

**MR IRVING:** Perhaps I can ask a couple more questions to bring that out, my Lord.

**MR JUSTICE GRAY:** Does that misrepresent your view?

**A:** It does, my Lord. What I am saying is that Mr Irving has used this document in his work to trumpet what he regards as Hitler's declaration that the Jews should not be

exterminated or evacuated, and he is in difficulties there because, as I have already explained, if it means exterminated, then Hitler must have known about it. But any responsible historian who did not want to use it for that particular biased purpose would inform the readers that this is an extremely problematical document, that because of its lack of dating, difficulties about its provenance, uncertainties about who wrote it, who it was addressed to, and so on and so forth, all the things that we have been through, should alert the reader to the fact there are a number of possible different interpretations and that, as we have seen in the discussion, almost any one of them actually throws up rather serious problems when you compare them with other documents. I think that would be the way that a responsible, objective historian would proceed. That is what I am saying.

**MR IRVING:** Can I therefore draw your attention to my treatment of this very document in the Goebbels biography on page 388 of the Goebbels biography?

**MR JUSTICE GRAY:** Yes. That is exactly what I was looking for. Actually I was looking at Hitler's War.

**MR IRVING:** I will not said I am sadder, but I am certainly wiser than when I wrote Hitler's War. I think the Goebbels one is the most up to date version of my state of mind. Page 388, paragraph 2. The treatment I give it is as follows: On the following day he took note of an

extensive report prepared by Heydrich's office, probably on Wannsee conference. Was that accurate, do you think, that Goebbels had received this report and it probably was a summary of the Wannsee conference, in other words the January 20 conference?

**A:** I would have to check. Does this really matter?

**Q:** It does not really matter, no, but, if Goebbels received it on March 5th or March 6th, I think this is the only point there, there were still 11 million Jews in Europe. He dictated, Goebbels, summarizing the document, for the time being they are to be concentrated in the East until later, possibly an island like Madagascar can be assigned to them after the war. Undoubtedly there will be a multitude of personal tragedies, he added airily, but this is unavoidable. The situation now is ripe for a final settlement of the Jewish question. In a covering letter Heydrich invited Goebbels to a second conference on March 6th. Goebbels sent two of his senior staff. Eichmann talked crudely at this meeting of forwarding the Jews to the East like so many head of cattle.

**A:** That is Boley presumably, so you accept that there?

**Q:** Yes.

**A:** But you cast doubt on it a few minutes ago.

**Q:** No. I asked if it was a self-serving statement.

**A:** You do not say it is a self serving statement there do you?

**Q:** "The Ministry of Justice handled the report on this new discussion like a hot potato". This is a reference to the March 12th letter in which Schlegelberger asks Lammers "it looks like ugly things are brewing, we are going to have to take this up, you and me, before this goes to the Fuhrer". The Reichschancellery referred it all to Hitler?

**A:** That relies on Ficker and I do not think that is an accurate statement.

**Q:** "Hitler wearily told Hans Lammers that he wanted the solution of the Jewish problem

postponed until after the war was over, a ruling that remarkably few historians now seem disposed to quote"?

**A:** Yes. That is a complete misrepresentation of what we are calling the Schlegelberger memorandum.

**Q:** In what way is it a misrepresentation?

**MR JUSTICE GRAY:** Do not let us go through it all over again.

**A:** There is nothing weary about it. He did not tell Lammers. There was not a ruling. The Schlegelberger memorandum was not a ruling transmitted to the Ministry of Justice, otherwise why would the Ministry of Justice have gone ahead quite shortly afterwards and arranged for the Jews in State prisons to be taken out and sent off for extermination? It beggars belief that this is actually a ruling which then does not leave a paper trail, as you describe Hitler rulings doing, throughout the bureaucracy saying, oh, the Fuhrer has ordered that the solution has

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to be put off, hold it everybody, let us stop. The whole thing goes on. It goes on in the Ministry of Justice which is actually where this document comes from. It is a completely incredible interpretation you are giving there.

**MR IRVING:** You have just referred to a subsequent decision to take the Jewish prisoners out of prisons and send them to be exterminated. Was that your word?

**A:** Yes.

**Q:** And what is your source for that?

**A:** Let me have a look here. It is one of my arguments.

**Q:** Your expert report pages 391 to 392, paragraph 4.

**A:** Yes.

**Q:** September 1942, you say a meeting between Himmler and the new Minister of Justice at which they decided on annihilation through labour. Have you given us the original document or the original German of that?

**A:** I cite it in the footnote there. The German is in footnote 51 about again the October 1942 note.

**Q:** Have you provided the German for the phrase "annihilation through labour"?

**A:** Not there, no.

**Q:** Can you hazard a guess at what the German was?

**A:** Vernichtung deutsche arbeit, yes.

**Q:** We have already seen on several occasions that the word "vernichtung" is not necessarily totally identical and equivalent to killing?

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**A:** I think it means at this time in the war it is. I would like you to provide me with information that it is not in this context. It mostly is. "Vernichtung deutsche arbeit", there is no doubt what that means. They are to be worked to death. Tirak explains. He says: "The judicial system can only contribute in small measure to exterminating members of this race." He is talking about the -  
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**Q:** Can you tell us what word was used for exterminating?

**A:** It is "ausrotten".

**Q:** "Ausrotten". Are you going to accept that the word "ausrotten" is capable of all sorts, an entire spectrum of different shades of meaning?

**A:** Do we want to talk about "ausrotten" now?

**Q:** No. I am going to deal with the Germans on that who know German.

**A:** I know German, Mr Irving, and I can tell you that by this time in October 1942 "ausrotten" means extermination. I would like to see documents where it does not from this period, and in this context, above all, that is what it means. I suppose the exact meaning is extirpation. But if you look ----

**Q:** Have you seen a document ----

**A:** If you look up in the Oxford English Dictionary you will find that extirpation means total destruction.

**Q:** Have you seen a document from Himmler to Martin Bormann

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dated February 1944 where Himmler is reporting on [German spoken] in which Himmler rights to Bormann saying: [German spoken]?

**A:** Yes, but I think that depends on the context.

**Q:** Ah.

**A:** In this context it means extermination. It is quite clear. There is no doubt about it. Tirak is saying that. What else does he mean?

**Q:** Can it not just equally mean that we are going to take these people out of society?

**A:** No. They have already done that.

**Q:** Can it not equally well mean that we are going to send off to slave labour camps where in fact 1,000 of them were shortly shipped?

**A:** He says there is no sense in conserving such persons for years on end in German prisons and penitentiaries.

**Q:** So we will send them off to work in slave labour camps until they drop?

**A:** It is deliberate extermination of these people by giving them small rations and working them to death, such as happened in the concentration camp at Mounthausen which is the one mainly reserved for these people.

**Q:** You then say the police can take their measures or their steps free of the threat of legal persecution and you assume that these measures, these steps are also going to be killing?

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**A:** Yes.

**Q:** At a time of grave manpower shortage in Germany they need the slave labour they can get?

**A:** Yes. This is the time when the mass extermination of the Jews was at its height, some 20 thousand state prisoners were taken out of the prisons with a very elaborate and extremely well documented operation and handed over for killing through labour. One should not fall into the trap of supposing that the Nazi regime was a rational regime which devoted all its resources to winning the war. As I have already said, it regarded the war as a racial war in which the destruction, murder of the Jews and of other groups was part of the war effort.

**MR JUSTICE GRAY:** I think we are going round and round.

**MR IRVING:** We are, my Lord. We are not getting further. It is the meaning of words again which I am not going to deal with this witness on.

**MR JUSTICE GRAY:** Please do not. For reference only, unless you want to pick it up, reference in the transcript that is, it is page 464 of the 1991 edition of Hitler's War. I am not encouraging anyone to go to that.

**MR IRVING:** My Lord the next item in the expert report would be the Goebbels diary entry of

March 27th 1942, but I propose putting the report aside for the remaining three quarters of an hour and looking just at the rest of the documents in the chain. Professor Evans, do you have this bundle?

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**A:** Is this the green piece of paper?

**MR JUSTICE GRAY:** Shall we now, before forgetting to ask you this, decide where it goes? I think somebody said J2. Miss Rogers probably said J2, but I say again I have not got a J2. I have said that many times.

**MR RAMPTON:** Your Lordship is in not in that.

**MR JUSTICE GRAY:** I am sorry, Mr Rampton, but it does not help any of us.

**MS ROGERS:** I am sorry about that, my Lord. I had always understood that your Lordship had a J1 and a J2.

**MR JUSTICE GRAY:** No.

**MS ROGERS:** Because the documents which have been produced on a daily basis I had thought were being put into separate tabs in, essentially, the Claimants' files, J1 and J2.

**MR JUSTICE GRAY:** No, well, not as far as I know.

**MS ROGERS:** If they are not, we can provide your Lordship with a file -- we can give you an empty file now and perhaps we will update it.

**MR JUSTICE GRAY:** That will do, except I probably ought to know what you have already put into J2. Anyway, can I have it for the moment?

**MS ROGERS:** It will all be altogether, my Lord.

**MR IRVING:** So the first one would be December 14th 1941, they are in roughly chronological order.

**A:** Right.

**Q:** Again this document is not strictly part of the chain, but

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it is one that would probably be held against me, so I thought it would be not unfair to include it in this part.

**MR JUSTICE GRAY:** Which document are you going to?

**MR IRVING:** December 14th, 1941.

**A:** Rosenberg, yes.

**Q:** I am not going to spend very much time on this document. Does your Lordship have the document?

**MR JUSTICE GRAY:** Yes.

**MR IRVING:** Is this an aide memoir or note by Rosenberg having had a conversation with Hitler on December 14th 1941?

**A:** Yes.

**Q:** Professor, and what do you think is significant about this document in the context that we are talking about today, the Final Solution?

**A:** Well, he has, Rosenberg has previously made a speech where he has referred rather openly to the extermination of the Jews. I am trying to find a reference to it in my report. I am leafing back. Then there is a declaration of war on America on 11th December, and then Hitler gave a speech to the Gauleiter on 12th December where he made it quite clear that the entry of the Americans into the war had altered things. He spoke in an unusually open fashion about his famous

prophecy, the 30th January 1939, being fulfilled. The war, he said, the extermination of the Jews would happen if the world war broke out, now the

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world war is there ----

**MR IRVING:** When did he say that, in 1939 or ----

**A:** That is right.

**Q:** --- or on this occasion?

**A:** He said -- the prophecy in 1939, he recalls that in his speech.

**Q:** But in 1939 he said "vernichtung des Judentums", did he not, that word again?

**A:** No. We would have it look it up. I am not sure it is "des Judentums".

**Q:** Take it from me that he says "vernichtung".

**A:** Well, I will not take it from you, no. I am lost in my report now, I am afraid.

**MR RAMPTON:** If the witness is looking for the Hitler speech of 12th December 1941, it is on page 412 of his report.

**A:** Thank you. I have just got there.

**MR RAMPTON:** There is the Rosenberg reference as well.

**A:** Yes, it is the Rosenberg reference there.

**MR IRVING:** Yes. Basically ----

**A:** This is just after the ----

**Q:** Declaration of war.

**A:** --- first killings in Chelmno, and there are, this is the annihilation, the vernichtung -- where are we?

**Q:** The destruction of Jewry?

**A:** This is right, this is the 12th December, and he says that the destruction of the Jews will, it will now happen

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because it is the, because we have the war there. Then there is the discussion, and Rosenberg now meets who is responsible, the Minister responsible for the East, Eastern areas, and says, I mean, that is the context and he now says, "Well, I have discussed it with, on the Jewish question", he talks then about the New York Jews, and then he says, "I took the standpoint of not talking about the extirpation of Jewry", the "ausrotten des Judentums". "The Fuhrer approved of this position and said, 'They had forced the war on us and they had brought destruction. It was no wonder if the consequences affected them first'."

So that, in other words, "Judentung" there refers quite clearly to "the Jews" because he goes on to talk about "they", and the context of this is your claim that he is talking about the stamping out of Judaism I think is the phrase you use in your book.

**Q:** Well, I was just asking you what inferences you would draw from this document?

**A:** Well, the inference is that you have manipulated and falsified the document in your presentation of it, Mr Irving.

**Q:** Well, I am asking you what inferences you will draw from the content of this document, rather than the way I have written about it in any way.

**A:** The inference I would draw is that, the inference I would

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draw are that Hitler is approving the notion, and Rosenberg together are discussing the killing, mass killing, of Jews, they think it is a good idea, but you have got to keep it quiet.

**Q:** Rosenberg is informed, of course, of the killings on the Eastern Front?

**A:** He knows what is going on, of course, yes.

**Q:** He is informed because we have just read yesterday the letter to him on November 15th, a few pages earlier in this file, about seven pages earlier, from Lozer, who is the boss in Riga, who has asked him, "What are we supposed to be doing with the Jews? I cannot find anything in the brown file". Do you remember that one?

**A:** Yes.

**Q:** So there is no directives, even in mid November, and now here on December 14th they are talking vaguely about the extirpation of the Jews, but there is still nothing specific being written down by anybody, even at this time, even by Rosenberg who is writing a private diary, he does not say, "Well, the Fuhrer says he is fully aware of what is going on and says, 'Keep on doing what is being done in Riga'." Why does nobody write anything down explicitly, I guess, Professor, this is what I am asking. Perfectly?

**MR JUSTICE GRAY:** I thought we had been through that, that is camouflage, is it not?

**A:** Yes.

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**MR IRVING:** Even in their own private diaries, my Lord, in their own private papers?

**MR JUSTICE GRAY:** You have made that point, Mr Irving. I mean, I have the point.

**MR IRVING:** I did say I was not going to spend very long on that document. I will ask, however, about documents which are not in this bundle. Are you familiar with the private diary of Otto Brottigan(?)?

**A:** Yes.

**Q:** Otto Brottigan was, I think, the liaison officer between Rosenberg and the German Army High Command?

**A:** Yes.

**Q:** Did Brottigan refer in September 1941 to a situation that had arisen because Stalin had rounded up all the so-called vulgar Germans and could they now not take reprisals on Jews?

**A:** Yes.

**Q:** What was Hitler's response to that?

**A:** Can I see the document, please? I had better see it.

**MR JUSTICE GRAY:** Where is the document?

**MR IRVING:** It is not in any of the bundles. The witness has said he is familiar with the diary of Brottigan ----

**A:** Yes, but when we are going to discuss it in detail, I think I need to have it in front of me.

**MR IRVING:** Did Hitler say, "Let us keep all these Jews alive as hostages to keep the Americans out of the war"?

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**A:** I would need to see the document, I am afraid, Mr Irving. I do not mean to cause difficulties, but I really do find it very difficult to discuss these things without having it in front of me.

**Q:** Can you, therefore, now -- we will abandon that.

**A:** Is that a fair request, my Lord?

**Q:** We will go on -- I just put to you the content of the diaries, but if you do not want to ----

**MR JUSTICE GRAY:** I personally think that it is fair.

**MR IRVING:** It is.

**MR JUSTICE GRAY:** We have all been talking about context until we are blue in the face, and I think, you know, one is entitled to see the context.

**MR IRVING:** Yes. It was a matter which occurred to me quite simply because the witness talked about the entry of America into the war.

**MR RAMPTON:** Yes, I know, but I mean there is no dispute that up until Hitler declared war on the USA, which is one of the stupidest things he ever did, amongst others, there was no question about that there was some kind of a plan to keep the Jews as hostages to try to prevent the Americans joining the war. It failed partly, as I say, because Hitler made the mad decision to declare war on the United States, but there it is.

**MR IRVING:** He had bad counsel, did he not?

**MR JUSTICE GRAY:** Well, I personally do not get much help from

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that because if it is designed to show that Hitler was merciful, it does not seem to do anything of the kind.

**MR IRVING:** Can we now move on to the handwritten document of 18th December 1941?

**A:** Yes.

**Q:** Again very briefly. This is Himmler's notes originally for a conversation with Hitler, the conversation to take place at 4 p.m. on 18th December 1941. Do you have the handwritten notes?

**A:** Yes, I do.

**Q:** In my bundle?

**A:** Yes.

**Q:** In my little bundle?

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

**Q:** On the left-hand side Himmler has written as one topic "Judenfrage"?

**A:** Yes.

**Q:** "Jewish problem" -- unmistakable the word there because it is very clearly written?

**A:** Yes.

**Q:** On the right in a slightly different handwriting, probably in his green crayon, he has written "als partisan" and "als surotten"?

**A:** Yes.

**Q:** How do you translate that?

**A:** "To be extirpated as partisans".

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**Q:** Yes, not "like partisans"?

**A:** No, "as partisans". In other words, they are to be treated, the Jews are to be treated as partisans and killed. It is another of these, this rather thick, there is a kind of thickening of documents from the documentary record immediately after the declaration of war on America, and this is one of the documents that follows from that. Probably a fall out of Hitler's speech to the Gauleiters on 12th December.

**Q:** On the following page but one, the next page but one, we have a table talk dated July 24th 1942?

**A:** Yes.

**Q:** This is not from the Henry (sic) Heim table talks now, this is from the ----

**A:** Heinrich Heim.

**Q:** Heinrich Heim. I am sorry, before we do that one, can I direct your attention to one of the little documents I brought in this morning for you? Right at the end, it is typed in big typeface, it is a note on a conversation?

**A:** I do not think I have got it. It is a picture is the last one.

**Q:** Two or three pages before that, you should find two pages typed in large typeface?

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

**MR IRVING:** Heinrich Heim?

**A:** Heinrich Heim.

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

**A:** 1862 is the number on the top right-hand side of it. It is in the small bundle beginning with the type, with a kind of ----

**MR JUSTICE GRAY:** Yes, I have the bundle, but mine, obviously, does not extend as far as everybody else's.

**MR IRVING:** In that case I will leave it then. It was purely the man who did the table talks who had -- perhaps that could be given? Do you have a copy of it, witness?

**A:** Yes.

**Q:** Right. Is this a memorandum drawn up by Henry Heim?

**A:** Heinrich Heim.

**Q:** Heinrich Heim?

**A:** 1968.

**Q:** Yes.

**A:** Rather a long time after the war.

**Q:** Yes. Does he describe a conversation that he records -- was he the man who wrote Hitler's Table Talk?

**A:** He was one of the three people who recorded Hitler's Table Talk, yes.

**Q:** Will you look just briefly at the third page that is in front of you there which is another typescript page -- do you have it -- of an actual page of Hitler's table talk in German.

**A:** Yes, with a "page 4" on top?

**Q:** I think so, yes.

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**A:** No. 4, yes.

**Q:** This is one of the Henry Heim table talks which ----

**A:** Heinrich Heim, yes.

**Q:** --- he himself typed, is that right?

**A:** It is Heinrich Heim and Henry Picker. You must not confuse the two. Yes, it looks like it. There is no date or anything on it.

**Q:** He was in a position to know things. He was at Hitler's table or at the next door table writing notes during his table talk? That is what he did, is it not?

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

**Q:** He was the adjutant to Martin Bormann?

**A:** Yes.

**Q:** In 1968, he remembers Adolf Hitler in December 1941, for what it is worth, and I throw that in and you will comment on that, does he not say: "I remember Hitler clearly saying in December 1941, 'I do not know what the Jews are complaining about. All I ask of them is that they go and do some good hard labour somewhere. I do not know even ask of them to go and serve in the armed forces'"?

**A:** Yes.

**Q:** Do you think that conversation took place or that remark was made by Hitler? He says there, "I forgot to write it down at the time"?

**A:** Yes.

**Q:** Does he not? Would you attach any kind weight to that

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remark?

**A:** I mean, not a great deal since Heim was a dyed in the wool old Nazi who ----

**Q:** Was he a war criminal? Was he arrested?

**A:** --- was described by people who knew him as not really living in the real world and always had this incredibly rosy view of Hitler.

**Q:** He was Hitler ----

**A:** This is about 40 years, nearly 40 years, after the event, and he is trying to tell everybody that Hitler cannot have known about Auschwitz. So I treat this with a certain degree of scepticism.

**Q:** Well it was not 40 years, was it? It was slightly less.

**A:** 1941 to 1968.

**Q:** Yes. But if he had said that in ----

**A:** Take off three years, if you like.

**Q:** --- a German court of law at or about the same time there were numerous trials going on that had been quoted by the expert witnesses in their footnotes of German trials in the 1970s, so it is not impossible -- he says that this remark does keep coming back to him. He keeps on remembering it, does he not? Hitler having said, "I do not know what the Jews are complaining about. I just want them to be sent off to do hard work. I am not even asking them to go and fight in the armed forces"?

**MR JUSTICE GRAY:** Mr Irving, just so that I am clear, you rely

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on that as being Hitler's state of mind at this time?

**MR IRVING:** According to this source ----

**MR JUSTICE GRAY:** No. My question was you rely on this document as establishing that that was, indeed, Hitler's state of mind?

**MR IRVING:** As far as I think the German Jews are concerned, yes. I do not think Heim is specific about which Jews he is talking about. I do not think he is throwing in all the wretched Jews in the Russian cities who have fallen into German hands. It is a document in the Institute of History. It is in their archives. They have conducted several interviews with Heim and, for what it is worth, I have put it in as yet another indication that the people who were close to Hitler never heard him saying anything different. On some occasions they heard him say things like this.

Now, we ----

**A:** Yes, I mean, it is difficult to digest this, just having first seen it. I mean, I would not place a

great deal of credence on this ----

**Q:** I am sorry you have just seen it. It has been in discovery for about 18 months.

**A:** --- on this document. Well, it is just not a very convincing document. It may well be that Hitler made some kind of cynical remark like this, that Jews -- he was always saying the Jews had reason to be grateful to him.

**Q:** Yes.

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**A:** All he wanted from them is work. But I think that is just a cynical remark ----

**Q:** Yes.

**A:** --- in the winter of 1941 to '42 and it does not ----

**Q:** Professor, I think you may very well be right, you may very well be right.

**A:** It does not support the rather kind of romantic things that he goes on to say about Hitler later in the document.

**Q:** Can you now look to a table talk written, not by Heim or probably not by Heim, but by Henry Picker who succeeded him?

**A:** Yes.

**Q:** July 24th 1942?

**A:** Right.

**Q:** It is the end of the first ----

**A:** Sorry, this is your -- you are still on page 4, is it?

**Q:** I am sorry, it is in my bundle ----

**A:** Ah, yes, your bundle.

**Q:** --- of my chain of documents?

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

**Q:** At the end of the first full paragraph ----

**A:** Yes.

**Q:** --- is Hitler quoted as saying: "After this war is over" -- there is that phrase again, is it not -- "after this war is over" ----

**A:** Yes.

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**Q:** --- "I am going to stand rigorously on the standpoint that I am going to knock these cities' heads together", if you can put it like that, "if the Jews don't come out and we get rid of them to Madagascar or some other Jewish national state"?

**A:** Yes.

**Q:** Do you detect there two lines that I have been constantly putting to this court, first of all, the tendency of Hitler to postpone things until after the war is over and, secondly, the tendency for a geographical solution rather than for a homicidal solution, if I can put it like that?

**A:** What I detect there, Mr Irving, is pure camouflage by Hitler. He is telling a group of people at dinner this complete porky pie about wanting to send them off to Madagascar. It is 24th July 1947, the time when the extermination programme is already in full swing. The camps at Belzec, Sobibor and Auschwitz are already in operation, Treblinka had just got its first contingent, and on 10th February 1942 there is a Foreign Office document who, in fact -- in which the official had first proposed the Madagascar plan, many months earlier than this document, says that the Fuhrer

has decided that the Jews should be pushed off, not to Madagascar, but to the East. Madagascar, therefore, does not need to be foreseen for the Final Solution any more.  
So, on his own orders, the plan had been

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abandoned in February, and here he is spinning this kind of smoke screen, to use your phrase, about it in his circle of acquaintances and officers and so in July 1942. So I think this is a ----

**Q:** So he is living in cloud cuckoo land then, is he not?

**A:** No, he is deliberately trying to deceive his audience.

**Q:** Or living in cloud cuckoo land?

**A:** No, deliberately trying to deceive his audience.

**Q:** Well, your sentence that he is deliberately trying to deceive presupposes that you can produce evidence that he knew precisely what was going which is what we have been searching for for several weeks.

**A:** Well, I do not think -- there is plenty of evidence, Mr Irving.

**Q:** I think we have dealt with that document now. Can we now just go on to the next one which is July 28th 1942? It is a white on black document. This is a document that you yourself also quote, do you not?

**A:** Yes -- if I can find it.

**MR JUSTICE GRAY:** Mine is almost illegible and in German?

**A:** Yes, mine is very difficult to read.

**MR IRVING:** I am only relying on the first paragraph, my Lord, and I will read it out to you in English, if I may?

**A:** That is what worries me.

**Q:** There should be a dark version and a light version.

**MR JUSTICE GRAY:** I have only got a -- no, wait a minute, no.

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Actually, you are quite right. There is a page in between in my clip.

**MR IRVING:** Obviously done at some ungodly hour in the morning.

**A:** July 1942.

**MR JUSTICE GRAY:** Anyway, what is it and what are we ----

**MR IRVING:** It is an interesting one because it is talking about -- this is Himmler writing to Berger, General Berger, SS General Berger, right?

**A:** Yes.

**Q:** [German] Berger. On July 28th 1942, which is an interesting period, is it not?

**A:** Yes.

**Q:** In fact, it is a Top State Secret document, highest classification. Is Himmler saying to Berger responding to his minutes or memoranda: "I urgently ask you that there should be no kind of ordinance about what the word 'Jew' is, the meaning of the word 'Jew'. With all these stupid determinations, we are just tying our own hands".

Then he continues, does he not, by saying: "The occupied Eastern territories are going to become free of Jews. The execution of this very grave or burdensome order has been placed on my shoulders by the Fuhrer"?

**A:** Yes.

**Q:** "Nobody can take that responsibility off me in consequence"?

**A:** Yes.

**Q:** "So I forbid anybody to interfere".

**A:** Yes.

**Q:** And "What can we" ----

**MR JUSTICE GRAY:** Can you put how you rely on that document?

**MR IRVING:** I was going to ask the witness, Professor Evans, what interpretation would you place on that, that "The Fuhrer has given me the job, placed on my shoulders a job of rendering the occupied Eastern territories free of the Jews"?

**A:** Yes, well, we are talking about July 1942, as I have said, when the death camps were already in full swing. There are large numbers of Jews from the occupied territories are being gassed in Belzec, Sobibor and Auschwitz, Treblinka, and so on. So I think, given that context, it clearly means that the Fuhrer has told Himmler to kill the Jews in the occupied Eastern territories.

**Q:** That is how you would read between the lines of that document?

**A:** It does not require too much reading between the lines.

**Q:** It is not actually in the document, though. You are entitled to do this; as an historian, you are entitled to extrapolate, are you not?

**A:** Well, it is not a very grand extrapolation, given the context of what was going on at the time.

**Q:** Yes, but in view of the fact that this is precisely what we are trying to determine here, we had to be a bit

careful how far we allow ourselves to extrapolate.

**A:** I think that is a legitimate extrapolation.

**Q:** In fact, all the document says is: "The Fuhrer has told me to clean the Jews out of the occupied Eastern territories and" ----

**A:** No, he does not say that, Mr Irving.

**MR JUSTICE GRAY:** No, it says "will become free of Jews" and that can either mean "free" because they are being booted into the further East or murdered.

**MR IRVING:** Oh, indeed, yes.

**A:** It is difficult to say that they could be booted further East because that is where the Red Army was, the battle front.

**MR IRVING:** Did large numbers of the Jews find themselves being booted over the Euro mountains? Have we seen documents in that connection?

**A:** I do not believe we have.

**MR JUSTICE GRAY:** Well, we have, but, was that not much earlier?

**A:** Have we?

**MR IRVING:** Or taking flight?

**MR JUSTICE GRAY:** 100,000 going over the Eurools?

**A:** That is right, yes. I have not seen that.

**MR RAMPTON:** That was in September 1941.

**MR JUSTICE GRAY:** That is why I said I thought it was rather earlier.

**MR RAMPTON:** Yes, and they were not booted, they ran.

**MR JUSTICE GRAY:** Well, "booted" was a colloquialism.

**MR IRVING:** Can we now turn the page? I am making progress as rapidly as I can, my Lord, as you will see. We are making huge progress.

**MR JUSTICE GRAY:** I do not want slow you down, but can you put what you say the right interpretation of this is, Mr Irving, to the witness?

**MR IRVING:** My Lord, your Lordship will know precisely what I am going to say, that one should not go further than what the document actually says, and that one should say what the document says and leave the reader to form their own conclusions.

**MR RAMPTON:** My Lord, I cannot accept that.

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

**MR RAMPTON:** This is a document which plainly shows, unless Himmler is lying, that Himmler has been given an order -- "order" is the word he uses I think.

**MR IRVING:** Yes.

**MR RAMPTON:** A very difficult order by Hitler to make sure that the occupied Eastern territories are going to be or are becoming free of Jews. Now the question Mr Irving has to grapple with and put to this witness is where were they going? Were they still going to Madagascar, is my question?

**MR JUSTICE GRAY:** I think that articulates rather better than

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I did what I was really inviting you to do, which is to say -- I mean the Defendants say this is quite an incriminating document. I think if your case is, Mr Irving, that it is not an incriminating document you should explain, or not explain, put to the witness why not. Do you follow me?

**MR IRVING:** My Lord, you know my method. I will churn around inside a document as long as I can before moving on to the next document which makes the point I am about to made, which I will now do, if I may.

**MR JUSTICE GRAY:** If that is really right then that is fair enough. The next document?

**MR IRVING:** The next document is the document headed in handwriting at the top right-hand corner September 1942. It is typed.

**MR JUSTICE GRAY:** Not in my bundle.

**A:** Not in mine. Is this NG2586? I have the one.

**MR IRVING:** Does this appear to be a typed transcript of the same kind of agenda for discussion with Hitler, as we have previously seen in December 1941?

**A:** Yes, indeed.

**Q:** The tentative date 17th September 1942, but it might have been 22nd. Is paragraph (iv) headed "Volkestung" which I suppose is nationalities and settlement?

**A:** Races I think.

**Q:** Race and settlement?

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**A:** Race and settlement.

**Q:** Is the first topic "Juden auswandern"?

**A:** Yes.

**Q:** How would you translate that "Juden auswandern"?

**A:** Jewish emigration.

**Q:** Does he then ask the question which he is going to ask Hitler: How should we carry on or

continue?

**A:** Yes.

**Q:** Then there is a tick indicating that, yes, they did discuss it?

**A:** Yes.

**Q:** Then the next line says: The settlement of the district of Lublin. They are looking at various people who they can send there, the people from Lorain, Germans from Bosnia?

**A:** Yes.

**Q:** And so on. They are going to discuss this with this Globos. Who is Globos?

**A:** That is a nickname for Globocnik.

**Q:** Who was the Police Chief in Lublin, is that right?

**A:** That is right.

**Q:** What kind of conclusions can we draw from these admittedly very sketchy notes by Himmler on a talk with Hitler, or for a talk with Hitler? Is this more camouflage?

**A:** It is difficult. It is an extremely cryptic remark.

**Q:** "Auswandern" is that another euphemism?

**A:** It would seem to be at this point in September 1942

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I think certainly a euphemism. The basic point is that they are talking about moving. I mean, the Nazis, particularly Himmler and his agencies, had this grand scheme of resettling Eastern Europe and moving ethnic Germans from other parts of Europe in there, and what he has here under 2 is settling the Lublin area with what they classify as ethnic Germans from Lorain, Bosnia and Bessarabia. Of course the point here is that, in order to move them in and create space for them, Jews were moved out by being deliberately exterminated. That is really the connection between those. It seems that in the previous couple of days there was a conference in which Himmler had taken part on a kind temporarily agreeing to keep a small number of Jews on to work, as in indeed everyone will be familiar from the film Schindlers List.

**Q:** So, do you translate "Juden auswandern" as murdering the Jews?

**A:** No, translated as Jewish emigration, but it would seem to me at this time in the war that it really means killing.

**Q:** This is another ----

**MR JUSTICE GRAY:** I am sorry, Mr Irving, I am bit a puzzled about that because "auswandern" is an odd word to use, even if it is a euphemistic.

**MR IRVING:** It is not the usual word used as a euphemism. They use "Evakuierung", do they not? That has a sinister connotation.

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**A:** "Auszedlum" is another word they use. There is a whole battery of euphemisms that they use.

**Q:** Have you seen "auswandern" used before as a euphemism? I do not want to hang too much importance on this.

**A:** Obviously not.

**MR JUSTICE GRAY:** How would you translate "auswandern"?

**A:** Emigration.

**MR IRVING:** Literally "emigration", wandering abroad, wandering out. It is not one of the regular catalogue of euphemisms which with we have become familiar.

**A:** This again at the absolute height of the mass murders, the mass gassings, the mass shootings,

all over this part of Europe, and it really I think beggars belief to think that they are simply talking some other nice kind of emigration somewhere to Madagascar or somewhere like that. I think this is talking about killing.

**Q:** It is a terrible problem, is it not, that we are faced with this tantalizing plate of crumbs and morsels of what should have provided the final smoking gun proof, and nowhere the whole way through the archives do we find even one item that we do not have interpret or read between the lines of, but we do have in the same chain of evidence documents which are quite clearly specifically shown Hitler intervening in the other sense?

**A:** No, I do not accept that at all. It is because you want to interpret euphemisms as being literal and that is what

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the whole problem is. Every time there is a euphemism, Mr Irving, or a euphemistic or a camouflage piece of statement or language about Madagascar, you want to treat it as being the literal truth, because it serves your purpose of trying exculpate Hitler. That is part of the problem of the way in which you manipulate and distort the documents.

**MR IRVING:** We know I am a manipulator and distorter, we have established that point.

**MR JUSTICE GRAY:** Can I just ask question? Am I right in thinking that at this time, which is, is it September 1942?

**A:** Yes.

**Q:** There was still what I think somebody described as deghettoization going on, namely Jews were being taken from cities in the East within the German jurisdiction and transported to concentration camps?

**A:** To be killed, yes. At this time there seem to have been about 300,000 Jews in the General Government left alive out of about 2.3 million of the original.

**Q:** So that was still going on?

**A:** So this was going on right through this time. If one looks back in Dienskalendar to 18th July 1942, that is the point at which Himmler had given the original order to resettle ethnic German in the Lublin area, and he said to make room for them: "The Jews must finally disappear from

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the town", so the two processes are directly connected and the disappearance there again is another not so mealy-mouthed euphemism for sending them off to be gassed or shooting them.

**MR IRVING:** What makes you think that "Juden auswandern" refers only to the generalgouvernement? It might equally refer to France or any of these countries where they were carrying out these inhuman measures.

**MR JUSTICE GRAY:** But they were not going westwards any of them, were they, at this time?

**MR IRVING:** It does not say. It just says emigrating.

**MR JUSTICE GRAY:** It is not your case that Jews were moving en bloc in a westerly direction?

**MR IRVING:** This is Himmler going to Hitler with that word written in his calendar saying:

"Emigration of the Jews. How are we going to carry on? How are we going to proceed with this?"

**MR RAMPTON:** I am sorry to intervene, but this is all rather odd to my mind, the possibility of that the Jews were going to West to East, from France, Austria goodness knows where.

**MR IRVING:** We do not know where they are going.

**MR RAMPTON:** No, but if they are emigrating from, let us say, France to a death camp in Poland, it is perfectly logical.

**MR JUSTICE GRAY:** Was that happening at this time, Professor Evans?

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**A:** Yes.

**Q:** European Jews?

**A:** Yes.

**Q:** What one might call non-German European Jews?

**A:** September 1942.

**MR IRVING:** But it might perfectly well be somebody saying, "Well, why don't we have them all sent to French North Africa", because at that time that had not been invaded, Operation Torch had not happened.

**A:** I find that somewhat unlikely, Mr Irving ----

**Q:** All that I am looking at ----

**A:** --- in view of the fact there is this mass extermination going on in the area, for which Globocnik was responsible at this very time. The fact it was discussed with Globocnik quite clearly means that this part of the package of things that was discussed, if have the man who is actually responsible for this involved.

**MR JUSTICE GRAY:** Was Globocnik involved in transportation as opposed to extermination?

**A:** He was the Police Chief for the area, so he was involved in all of these things.

**Q:** So he was both.

**A:** Yes.

**MR IRVING:** He was obviously involved in the resettlement of the Lublin district, as is shown by the reference in this connection.

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**A:** Yes, bringing these people in.

**Q:** I will just ask the question once more. Have you seen the word "auswandern" used anywhere as a euphemism where it is clearly so, used as camouflage, on any other occasion?

**A:** I do not recall it having been, that does not mean to say it is not so used, but, as I say, they used a whole variety of euphemisms.

**Q:** We will very rapidly turn the page, and 10th December, we now have the abshafen of the Jews from France.

**A:** Yes.

**Q:** We have dealt with this. I am just going to look, not at the numbers here, but do you agree the figures of 600 to 700,000 are not accurate for France as far as Jews are concerned?

**A:** No, because I think this probably included the French colonies.

**Q:** How would the Germans get their hands on the Jews in the French colonies?

**A:** You just said that they were thinking about sending Jews to Madagascar. That is one of them.

**Q:** Are you familiar with the fact that on 8th November 1942 the first major Anglo-American amphibious invasion operation had taken place and that the French North of West Africa was the target of that, and so there had been a major change in the geographical situation before this conference took place?

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**A:** That is right. Just before this conference, a few weeks before South of France was occupied by axis troops. This is at a point when the transports of Jews from France had already begun. It began in the early Spring 1942 directly to Auschwitz and carried on through the Summer. About 13,000 Jews were arrested in Paris in July. Transports then began from the Vichy region. The background to this is the fact that they have now got control over the whole of France and they are not reliant on the Vichy government any more. So in the following February more transports in considerable number began to Auschwitz and Sobibor.

**Q:** Very briefly, you will find on those two pages of December 10th 1942 that two words were used for how the Jews were going to be moved or disposed of: Abshafen on one document in Himmler's handwriting, and in the typed memorandum he then says they are going to be abtransportiered?

**A:** Yes.

**Q:** Would you like to tell the court what your conclusions are from the use of those two words?

**A:** This first document is just Himmler's own private note, is that right?

**Q:** Yes.

**A:** The second one is a document for circulation.

**Q:** Is the typed version which then was generated after that?

**A:** Yes. So he is, in other words, using a euphemism in the document that has to be circulated, and being more

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explicit in his own notes.

**Q:** How would you translate "abshafen"?

**A:** "Abolish.

**Q:** To dismiss, to abolish and to remove, is that right?

**MR JUSTICE GRAY:** I think you accepted earlier on that did mean liquidate, Mr Irving.

**MR IRVING:** No, my Lord, not necessarily.

**MR RAMPTON:** Mr Irving's translation is no more helpful, except of course than perhaps "abolish". He accepted, it is somewhere in one of his books, the translation "dispose of".

**MR IRVING:** Yes.

**MR RAMPTON:** I do not know about in German, but in English it is difficult to apply that to people, unless it has an entirely sinister sense.

**MR JUSTICE GRAY:** I think that may be what I had in mind.

**MR IRVING:** If we then go to the next document, the third document in this series which is dated just December 1942, you agree that here Himmler is contacting Muller and saying there is going to be a special camp set up to house valuable Jews from France and other nationalities, is that right?

**A:** Yes, this is a scheme, is an order by Himmler that Hungarian, Romanian and French Jews stay together, all those who have influential relations in America should be put in a special camp, and he sees a number of about

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10,000 for this special camp of the wealthy Jews from these three countries who have influential relations in America. They have got to work there, but he adds the unusual condition that they have to work under conditions which keep them alive and healthy.

**Q:** Yes.

**A:** Good for him. So it is a rather different matter. Yes, that is what it says.

**Q:** Because I am sure when we come to be questioned about the Kinna document we are going to find out that the Jews were regarded as being a less preservable species in camps, were they not? There was less importance attached to keeping them alive?

**A:** Yes, this is a very special category of a rather small minority. One would guess maybe that this document came before the outbreak of war with America. It is difficult to say, but this is the hostage idea again I think.

**Q:** Yes, this document is December 1942, is it not?

**A:** Yes. There is no day though on it.

**Q:** Yes.

**A:** There is no day. It is just the month, my Lord.

**MR JUSTICE GRAY:** No, bottom left.

**MR IRVING:** My Lord, the only other document I am going to look at in the chain is October 1943.

**MR JUSTICE GRAY:** Looking at the chain for what purpose, Mr Irving, can you remind me? It is so long since we started

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it I cannot remember.

**MR IRVING:** The chain started off as the chain of documents showing Hitler acting in a benevolent manner, holding out his hand to protect categories of Jews.

**MR JUSTICE GRAY:** I thought that was probably the answer.

**MR IRVING:** But occasionally other documents I have put them into it out of straightforward fairness to Mr Rampton, because I thought that otherwise he will say: Well, what about this and what about that?

**MR RAMPTON:** And he is still going to say that.

**A:** Let me comment there, the second document about the special camp for wealthy Jews from three countries with relations in America, it does not actually involve Hitler at all. This is an idea of Himmler's.

**MR JUSTICE GRAY:** Anyway, it rather suggests that the other Jews are not going to have such a happy fate.

**A:** I am afraid it does, my Lord, yes, particularly where he says they have to be kept in work camps under conditions that keep them alive and healthy, which suggests that is rather unusual.

**MR IRVING:** Was this a time when there were major epidemics raging in the camps? In other words, this is not just simply saying that you have to take great care that no epidemic breaks out in this camp?

**A:** It is not just that. They are saying they are not to be worked to death and special care is to be taken that they

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do not die of epidemics, unlike the rest of them is the implication. This is a very special category of people we are talking about here, with rich relations, influential relations in America.

**MR IRVING:** My Lord, all Mr Rampton has indicated he is not going to discuss the Roman Jews, because it is part of my chain I just want to spend the remaining five minutes looking at the two documents on that, if I may.

**MR JUSTICE GRAY:** Because this is the case where you say Hitler intervened to save them?

**MR IRVING:** As you will see, my Lord, yes, again under very similar circumstances.

**MR JUSTICE GRAY:** Right.

**A:** My Lord, if we are going to discuss this we will have to discuss it at length, I fear. I understood we were going on to half past 4 today?

**MR JUSTICE GRAY:** Just pause for a moment, Mr Irving.

**MR IRVING:** I am shaking my head.

**MR JUSTICE GRAY:** I follow that. What have you managed to do about Monday?

**A:** I am able to come. I have made arrangements to come on Monday.

**MR JUSTICE GRAY:** I see. I see why you say that, because the Roman Jews are quite complicated.

**MR IRVING:** Shall we leave it until Monday then?

**MR JUSTICE GRAY:** I am inclined to have a go.

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**MR IRVING:** Have a stab at it now and see if we can deal with it.

**MR JUSTICE GRAY:** Have you rather put them to the back of your mind because they seem to have not really featured in the case?

**A:** I thought we were not going to discuss these.

**MR JUSTICE GRAY:** The position is Mr Rampton has not relied on it, but that does not stop Mr Irving reintroducing that issue. If you say you need to bone up on it?

**A:** No, I am happy to do it now.

**MR IRVING:** I certainly rely on them.

**MR RAMPTON:** Mr Irving does. He may be making a mistake there, because he does not know the reason why I decided not to. That is his privilege to put his foot in his mouth, if that is what is going to happen. I do not know. I do worry that it may take more than a quarter of an hour though, because it is quite complicated.

**MR JUSTICE GRAY:** I am quite keen to use up all the available time, because I am anxious to get Professor Evans out of the box on Monday.

**MR IRVING:** I can promise definitely that I will do everything I can to have him out of the box. We now have reached October 1943 which is of course, as far as I am concerned, the watershed and Hitler's knowledge.

**MR JUSTICE GRAY:** True, but remember Mr Rampton may have some re-examination.

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**MR IRVING:** I will leave him more than enough time for that I am sure.

**MR JUSTICE GRAY:** Shall we be open about it, because I am quite happy to adjourn now if we are sure we will get Professor Evans out of the box.

**MR RAMPTON:** I can speak only about my re-examination at the moment which consists of but two topics.

**MR JUSTICE GRAY:** So it may be an hour, an hour and a half?

**MR RAMPTON:** Nothing like that. It may be half an hour, maybe three-quarters of an hour.

**MR JUSTICE GRAY:** Are you reasonably confident?

**MR IRVING:** Totally confident and, if not, then it is my own fault.

**MR JUSTICE GRAY:** I would not want to leave it on that basis. Then I think let us adjourn now.

**MR IRVING:** I think we have broken through the barbed wired. We are right through the mine

field now and we are out in the open desert and our guns are blazing.

**MR JUSTICE GRAY:** I had forgotten about the Roman Jews as well. So we are not sitting tomorrow, but Monday at 10.30

**(The witness stood down)**

**(The Court adjourned until Monday, 21 February 2000).**

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