

PROCEEDINGS - DAY TWENTY-SEVEN

P-1

(10.30 a.m.)

MR RAMPTON: I think Mr Irving has something to say, my Lord.

MR JUSTICE GRAY: Yes, Mr Irving?

MR IRVING: My Lord, I understand that today I am going to be cross-examining Professor Funke, which is after he has been presented to the court. There are two things I want to mention first. First of all, I understand from today's Israeli newspapers and yesterday's Washington Post that the Defence now have the Eichmann papers. In other words, they are going to bring in the Battleship Eichmann in a frantic attempt to rescue their position.

I would be very grateful if I had the chance to read them as early as possible rather than just being presented with them piecemeal.

MR RAMPTON: Yes, of course. We have not read them yet. If they contain relevant material, those relevant parts will be disclosed at once.

MR JUSTICE GRAY: Is that enough?

MR IRVING: My Lord, do they not now become discoverable now that they are in their custody?

MR RAMPTON: No, not unless they are relevant.

MR JUSTICE GRAY: I do not know quite what we are talking about is it a diary?

MR RAMPTON: I do not know. I have not seen it. It has come on e-mail. It is about 600 pages of memoirs. That is all I know. If they contain relevant material, then the

P-2

relevant material, plus context of course, will be disclosed.

MR JUSTICE GRAY: That is a slightly unconventional approach, is it not? Normally, it would be a document which would be discoverable if it contained any relevant material. You would not normally redact the non-relevant material.

MR RAMPTON: You are allowed to redact that is the case of *Guardian v. GRE*.

MR JUSTICE GRAY: Only for good reasons, in my recollection.

MR RAMPTON: No, if it is irrelevant. I do not really mind as it is in the public domain anyway.

MR JUSTICE GRAY: Is it?

MR RAMPTON: Yes. It will be from tomorrow morning. The Israeli government are going to release it to the public at large, so I do not really mind. But I do not want to lumber the proceedings with a great fat document if it does not contain anything relevant.

MR JUSTICE GRAY: Nor do I. It just seems to me, in terms of what Mr Irving should see, he probably ought to see for himself and judge for himself.

MR RAMPTON: Yes. It is not a problem. It is just that we have not looked at it ourselves yet. It is not even in readable form at the moment.

MR JUSTICE GRAY: It may feature in your cross-examination of Mr Irving, I suppose.

MR RAMPTON: It may well do. I will know by the end of the day

P-3

whether it will, and he will immediately get a copy.

MR JUSTICE GRAY: He ought to have the copy by close of business today really, ought he not?

MR RAMPTON: I agree.

MR JUSTICE GRAY: Good. Thank you. So that deals with that.

MR IRVING: My Lord, inform me, please. Is it not automatically discoverable now that it is within their custody, possession and power?

MR JUSTICE GRAY: You are going to get it.

MR IRVING: Just so it can be quite plain, the whole document rather than a redacted version.

MR RAMPTON: No. I made a mistake. I thought it had come through in e-mail and has been put into readable form. Apparently not even that has happened yet. There is something the matter with the electronics.

MR IRVING: I recommend Macintosh.

MR RAMPTON: I do not know what the problem is because I am completely ignorant on those matters, so I have to surrender to others.

MR JUSTICE GRAY: Mr Irving, the order I am making, unless I am told that it is electronically impossible to comply with it, is that you should be provided with a copy.

MR IRVING: In electronic form if necessary.

MR JUSTICE GRAY: In electronic form if necessary, of the Eichmann document by close of business, by which I mean, let us say, 5 p.m. today.

P-4

MR IRVING: I am indebted to your Lordship. The second point concerns the videos. I see that preparation has been made for display of videos. I have no notion of which video is going to be shown. It may well be that I would have objections to make to the videos for the reasons that I have already adumbrated to your Lordship, namely videos that have been edited in some way or prepared for broadcasting with sound effects and violins and subtitles, which may have been tendentiously translated, and the rest of it. I see the equipment is there. I certainly have a day of cross-examination of Professor Funke to do today and I think that I should be told in advance what the videos are and be given a chance to make representations.

MR JUSTICE GRAY: I have some sympathy with that.

MR RAMPTON: What I propose to do is to ask Professor Funke to lay the ground for these videos, because I do not think it is right to spring them on Mr Irving or your Lordship just like that, by asking him. Your Lordship will know that at the back of his report there is an appendix containing a list of names and descriptions. I am going to ask him to go through the important characters in that list, to expand on who they are and what they stand for, then to ask him how far he is aware that those people have had contact with Mr Irving, because Professor Funke has had access to Mr Irving's diary correspondence and so on, and to ask him the nature of those contacts speaking to

P-5

us, for example, and the extent of them. That I hope is a short cut through what is a very voluminous and in some senses rather intricate report. Then I propose to show the videos which, as far as possible, we have stripped of editorial content. Most of them simply show people speaking, including, to a large extent, Mr Irving himself on a number ----

MR JUSTICE GRAY: Well, I am not a jury and I am quite capable, I hope, sorting out the wheat from the chaff.

MR RAMPTON: Precisely -- on a limited number of occasions in Germany in the 1990s. What Professor Funke will do is to identify Mr Irving's fellow travellers, if I can call them that.

MR JUSTICE GRAY: Will he also identify in advance what film is going to be shown so that, if Mr Irving has an objection, he can make it.

MR RAMPTON: He or I or Miss Rogers will do that.

MR JUSTICE GRAY: How long is the video going to take?

MR RAMPTON: They can be very short. One of them is really quite long, but I do not believe it needs to have the whole of it shown. Most of them are really quite short. One is about 10 seconds.

MR JUSTICE GRAY: The total?

MR RAMPTON: Total about an hour.

MR RAMPTON: The long one I spoke of is about 70 minutes, but there is an awful lot of, if I may use the word, ranting,

P-6

not by Mr Irving alone, in the course of that video and one does not want to see the whole of it, necessarily. One merely needs to whiz forwards so that Professor Funke can say who the people are. That is 70 minutes but one does not need to watch the whole of it. The rest in total are about 45 minutes. If I said an hour for the videos and about three quarters of an hour in preparation, that will then set the scene for cross-examination.

MR IRVING: My Lord, if it is purely, as I understand it, what Muller would have called visual materials, then I have no objection to them being shown. But if in any attention is paid to the content of what is alleged to be said, or the extracts taken, then of course I would want advance notice of them.

MR JUSTICE GRAY: Let us leave it like this. You are going to get some idea from Mr Funke's evidence what these clips are going to be. If you want to raise an objection when you know what you are going to be presented with, then do so. Shall we leave it like that?

MR RAMPTON: I will tell Mr Irving now what the meetings are. There is one on at Agonou in Azas on 12th November 1989 organised by Mr Christophersen. There is a meeting in Munich under the legend or heading "Vaheit macht Frey" on 21st April 1990. There is a meeting at Passau under the aegis of the DVU and Mr Gerhard Frey on 16th February 1991. There is what is called the Leuchter Congress,

P-7

which is the long tape, on 23rd March 1991, again in Munich, and that is one in which a number of names which will be familiar to your Lordship, if not now, certainly by end of this exercise, feature. Then finally there is what is, in some ways we would suppose, perhaps the most striking, which is an outdoor rally in a place called Halle in what used to be East Germany but by 9th November 1991 was in the reunited Germany.

MR JUSTICE GRAY: That is very helpful. Thank you very much.

MR IRVING: I think I will only have problems with the Halle one because that particular piece of film has been very heavily chopped around, cutting out very important parts of what I said. So, as I said before, if this is purely a rogues gallery, I have no objection to the court being shown it at this stage.

MR JUSTICE GRAY: Have we got a transcript of what you said at Halle?

MR IRVING: We have made a transcript of as much as is on the film as far as we possibly can.

MR JUSTICE GRAY: Just what is on the film? That is your point.

MR RAMPTON: I have not got that.

MR IRVING: It has been on my website for the last year.

MR RAMPTON: That is a peculiar way of making disclosure. Oh, it is not.
MR JUSTICE GRAY: It has probably been disclosed as well.

P-8

Anyway, that is the one you may be objecting to?

MR IRVING: Purely to the text of the film rather than the rogues gallery pictures of these alleged sleezy friends of mine.

MR JUSTICE GRAY: Right.

MR RAMPTON: Now the Professor needs to be sworn.

**Professor Funke, affirmed.
Examined by Mr Rampton QC**

MR JUSTICE GRAY: Herr Funke, do sit down.

MR RAMPTON: Professor Funke, have you made a report for the purposes of this case?

A: Yes, I did.

Q: So far as it contains statements of fact, are you satisfied that they are as true as they can be?

A: I think so.

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

A: I think so.

Q: My Lord, Professor Funke's English is not quite as good as Dr Longerich's was. The subject with which he is dealing is in some senses quite subtle and in other senses quite technical. I am going to invite him at any stage, if he feels uncomfortable in English, to go into German. He must go slowly because otherwise the interpreter will not be able to keep up.

MR JUSTICE GRAY: Yes.

P-9

MR JUSTICE GRAY: If you can manage in English, Professor, it makes life easier.

A: I try my best.

MR JUSTICE GRAY: And a bit quicker but, if you feel difficulties, then have resort to the interpreter.

A: Thank you.

MR RAMPTON: Professor Funke, could you please be given your report? Have you got your report there?

A: Yes.

Q: At the back of your report there are two appendices.

A: Yes.

Q: Could you go to the appendix two, please?

A: Yes.

Q: Which you have entitled "Biographies". Have you got the appendix there?

A: Yes.

Q: We do not need the actual report, I hope, at all, at any rate as far as I am concerned. You heard what I said to his Lordship before you were sworn to give evidence, that I am going to go through some of the names in this appendix and ask you who they are and what they stand for, what their ideologies and policies are. Do you remember my saying that?

A: Yes.

Q: I am going also to ask you in respect of each person whether you are able to give us in summary form an account

P-10

of their contacts with Mr Irving. Can I first take a man who is not on this list, called Michael Kuhnen? Who is or was Michael Kuhnen?

A: Michael Kuhnen was one of the leading neo-Nazi activists in the 70s, throughout the 80s, up to April of '91, when he died. He was up to renew the NSDAP of the period of '33 to '45.

Q: What we now call the Nazi party?

A: Right. So he did a lot together with others internationally and nationally, to ask for relegalization of this Party. Furthermore, he referred to special groups within the Nazi regime, that is the Sturmabteilung, the stormtroopers, a more street violence orientated perception of what the new Nazis, the neo-Nazis, the neo-National Socialists should do. Finally, I want to add that he asked for a second revolution in that sense, so to overflow the liberal democracy. He agitated very much against Jews, very anti-Semitic, he asked for pure Aryan race based state.

Q: Give me again the year that he died?

A: April 91.

Q: April 91. Amongst the neo-Nazi or far right groups now in Germany, are there any that can be described as Herr Kuhnen's direct heirs or successors?

A: There are some, especially I have to say there is a person called Christian Worch and there is another person called

P-11

Gottfried Kussel from Austria, and they both have close links to NSDAPAO, person Gary Lauck from the United States. These are the three most important -- there are others around this camp, like Thomas Wulf from Hamburg, Christian Worch is from Hamburg, Uschi Worch from Hamburg.

Q: Is that Mrs Worch? Is that Frau Worch?

A: Yes.

MR IRVING: My Lord, would it be helpful if the witness at each stage indicated whether it is going to be alleged I had any contact with these names.

MR JUSTICE GRAY: I think that is stage 2.

MR RAMPTON: Be patient, please.

MR JUSTICE GRAY: Yes, stage 2, do not worry. We will get to that.

MR RAMPTON: Can you say whether a man called Ewald Althans is in this grouping or not?

A: Yes, he is, but he did not found with the others one of these groupings in the 70s and the 80s was a group called ANSNA, action front of national socialists, and so forth, and then a group that is of importance for the period in the 80s and early 90s called Gesinnungsgemeinschaft, a group of the like-minded of the new front.

Q: Who do we find in that -- have we got an abbreviation for that because I cannot say it each time?

A: We can call them Gesinnungsgemeinschaft.

Q: All right. I will try. Gesinnungsgemeinschaft.

P-12

A: We can call them also it is done sometimes in the social scientists reports "the Kuhnen crew".

Q: Right, who nowadays is in the Kuhnen crew?

A: Nowadays?

Q: Yes-- no, go back to the time when Kuhnen died, who do we find in the ----

A: At that time it was Christian Worch, it was Althans, it was Uschi Worch. So far I see at the side lines also Ingrid Weckert, Gottfried Kussel, Thomas Wulf, and others.

Q: Right, now taking them in turn, or, first, have they inherited, those people, the same kind of neo-Nazi ideology, particularly in relation to anti-Semitism, that was propounded by Kuhnen before he died?

A: They did not change the course of their ideas, as far as they are stated publicly. There are tactical, you know, changes but of lower degree. If I may add, nowadays means this year and some of them are still active like the Christian Worch near to the NPD extreme right-wing extremist party. That in itself changed in the course of the 90s to a more radical strategy.

Q: Can we stay at the moment, please, in the early 90s at and around the time and immediately after the time of Kuhnen's death? At what date in Germany did Holocaust denial become illegal?

A: There were in the middle of the '80s several laws set through the parliament that this is a kind of incitement

P-13

of racial hatred and defamation of survivors and killed people. So in the middle of the '80s, there was a striking, a sharpening of this kind of law that this is forbidden and again in '94, and so there was again renewal of this, of this law.

Q: Yes, now among those people that you have mentioned -- I am going to take them in turn -- you have had access, have you not, to Mr Irving's correspondence, his diary and material of that kind, have you not?

A: Yes, I did.

Q: First, may I take Mr Kuhnen who is now dead? Did ----

MR JUSTICE GRAY: Mr Rampton, I am so sorry to interrupt. For the transcribers' benefit, shall we just spell the names that we are really concerned with?

MR RAMPTON: K-U-H-N-E-N.

MR JUSTICE GRAY: Thank you.

MR RAMPTON: "Michael". Can you tell us whether or not Mr Irving had any contact with Michael Kuhnen and, if so, to what extent?

A: So far I see, but you know better, to a limited degree he saw him once, at least -- I have to be very precise -- they were at the same meetings.

Q: Right.

A: In 1990 and so far I recall in '90 -- no, in '90, especially in '90, and in late '89. They were at the same meetings.

P-14

MR JUSTICE GRAY: How many meetings?

A: At least two I recall in Hagnau and on the 21st April of '90 and -- no, this is it, yes.

MR RAMPTON: Yes.

MR IRVING: Could the witness be specific about what he means by being at the same meetings? Does he mean that Mr Kuhnen was in the audience or on the platform next to me?

MR RAMPTON: That is a good question.

MR JUSTICE GRAY: It is a fair question, yes.

A: Exactly. He was in the audience and ----

MR JUSTICE GRAY: Sorry, who was in the audience? Mr Irving was in the audience or Mr Kuhnen was in the audience?

A: Excuse me.

Q: It is quite important which actually?

A: Mr Kuhnen was in the audience and Mr Irving spoke in the, you know, a Congress [German] in Munich at the 21st April '90.

MR RAMPTON: Yes, then what about Ewald Althans?

A: This is very different. Mr Irving had close contacts ----

Q: Pause, sorry, I forgot. Althans is A-L-T-H-A-N-S. Ewald is E-W-A-L-D. Sorry.

MR IRVING: Mr Rampton, most of the names are on the list that I have given to the transcriber.

MR JUSTICE GRAY: I did not realize that.

MR IRVING: She will be able to find them eventually, but they

P-15

are in the sequence of my questions rather than your questions.

MR JUSTICE GRAY: That is very helpful, Mr Irving.

MR RAMPTON: Tell us now about the relationship, if there is one, between Mr Althans and Mr Irving, Professor.

A: If I may say so, it is a very close relationship, so far I got it from the diaries. Of course, this is a limited source, but also by the disclosures and by other social scientists, researchers. Althans was very active in that period of time as a kind of mediator of the Zundel, of the Ernst Zundel, one of the leading revisionists, and he was a kind of pupil, if I may say so, of the late Otto Ernst Remer, one of the so-called heroes of the neo-Nazi scene.

MR RAMPTON: If I hold my hand up, can you pause because it means that something you have said has prompted another question? We will come back to Althans in a moment.

A: OK. I will restrict myself. Excuse me.

Q: No, only if I hold my hand up otherwise you continue.

A: I will look at you.

Q: Can you just tell us a little bit about is it Otto Ernst Remer?

A: Otto Ernst Remer, right.

Q: Who was he? Is he still alive?

A: No, he died in the middle, in the later '90s.

Q: Tell us first who he was.

A: He is perceived as one of the heroes of the crushing down

P-16

of the coup attempt of the resistance movement during the Nazi period in 20th July 1944. He was in one of the Berlin battalions to crush the coup d'etat attempt down and since then, after '45, he was perceived.

Q: What rank in the Army did he hold at the time when he crushed the 20th July plot?

A: So far I recall, I am not quite sure, I have to look it up, a Major. That is a kind of middle high range below the General level.

Q: Yes, we know what a Major is, I think. It is roughly the same, I imagine, in Germany. What rank did he achieve after he had crushed the coup?

A: He got up, but I cannot recall to what degree.

Q: Sorry, I should not have interrupted you. You continue with his place, please in this scenario which you are painting for us.

A: So maybe I should say two sentences to Remer to finish this ----

Q: Yes, then we will go back to Althans?

A: --- for that period of time. He was then very active in one of the early neo-Nazi circles, after '45. So he was with founder of the Sozialistische Reichspartei -- cofounder, excuse me, of the Socialist Reich Party, I would say, and these were clear cut people who tried to renew National Socialism. If you may imagine that at that time there was a lot of applause in parts of

P-17

the population in Germany, and because of that but also by, you know, convincing value reasons, this party was forbidden in '52. So after that the famous Fritz Bauer who did the Auschwitz trial in Frankfurt had a court from the state side against court ----

Q: Action?

A: --- procedure against Remer statements in the early '50s. So there was really something to him. Then he stayed course, if I may say so, throughout the '50, '60s, '70s and got some resonance again in the '80s and especially in the '90s with a very harsh, I would say, neo-Nazi course of the so-called Remer Depechert(?). This is a little magazine, kind of magazine.

Q: You told us that in some sense Althans was a protege of Remer?

A: Right.

Q: How exactly did that happen and what does it mean?

A: As a young boy, Althans is in the '30s still, of 14 or 16, he joined Remer and got very intense lessons by Remer's convictions, and he referred himself in several statements, I mean Althans referred himself to this Remer like convictions and he said that they came from him to a degree.

Q: Now, what relationship does or has Althans had with some of the other people you have mentioned, for example, the

P-18

Worchs and Kussel?

A: They were at the period that is of interest, in the period that is of interest, very close. So they interacted, they had their quarrels, but they interacted a lot to prepare revisionist congresses, demonstrations, and I may add to widen their influence to the new free zone for influence, that is to say, the former GDR, East Germany. That was a very fruitful field after the falling down of the Wall. Immediately after that ----

Q: Explain as briefly as you can why that was a fruitful field for the activities of these people.

A: The authoritarian GDR regime lost not only control but all sorts of convictions that many people in authoritarian regime. This took place especially in the 80s, I am very sure. So a lot of various youngster groups spread and came to the fore, leftist, rightist and, in the middle of the 80s, in the face of the decay of the former authoritarian GDR regime, the extreme right-wing skinheads, very violent groups, took over in the scene out of the formal youth groupings and youth movement. Since 86 or 87 we have had really a fascist scene that were very brutal against foreigners already at that period. So they were there without a control in 89 and early 90. This was the situation in which the far right groups, and especially these neo-Nazis we are talking about, said, OK this is a chance to widen our influence, to make and to

P-19

steer and to be an avant-garde of male youngsters movement of that kind.

Q: We are going to see the film shortly. One such occasion as you have described with lots of these young skinheads took place at Halle in November 91, did it not?

A: Yes, this is right, but also before and after.

Q: Where is Halle is my question? We are ignorant English in this court!

A: Halle is around one hundred kilometres or so south to Berlin in East Germany former GDR.

Q: In the former GDR?

A: Right.

MR JUSTICE GRAY: Mr Rampton, I am not sure I am aware of the extent of Mr Irving's connections with the likes of Otto Remer. Althans you have dealt with I think. Otto Remer: Is there a connection alleged.

MR RAMPTON: I have not dealt with him. I will do that. I do not want to take too long. At the same time I do not want to cut any corners. Are you aware whether or not Mr Irving had any contacts with Otto Ernst Remer before he died?

A: I think so. During the meetings.

Q: Do we see Otto Ernst Remer in any of these films or not?

A: Yes, we will see them, if the videos will be shown.

Q: I pass from Althans to somebody called -- I will take them out of order because I want to stick with what you have

P-20

just told us, but I am coming back to some other names afterwards. What about Gottfried Kussel, the Austrian? Where does he stand in this? What is his position?

A: Gottfried Kussel is perceived as one of the three dominant successors of the Kuhn crew, the Gesinnungsgemeinschaft. Aside of Christian Worch, who was the organisational leader, so to speak, and aside of a third person, wait a minute, Gottfried Kussel, Worch, I come to him in a minute.

Q: All right.

A: Gottfried Kussel was and is an Austrian who joined this kind of attempt of renewal of the Nazi party, and he was eager to prepare paramilitary groups by so-called Wehrsportgruppe -- can you translate that?

THE INTERPRETER: Military exercise groups, military style support groups.

A: So he was very active in that, it was his part.

MR RAMPTON: Dressing up in battle dress with guns?

A: Right.

Q: Marching around in the woods?

A: And using old weapons they found from the Second World War or using Bundeswar weapons, if they get them, using weapons of especially the army of Austria.

Q: Do you take that kind of activity seriously?

A: I did not do it up to 89, I have to say, because up to 89 there was such tiny little groups that we just looked over

P-21

as social scientists, but since they got some influence and even widened this influence in the early 90s, you may recall that there was a brutal wave of violence against foreigners with 70 killed peoples within three years. So with this I was very eager to analyse it a bit more.

Q: Yes I understand that.

MR JUSTICE GRAY: Professor, when did the Berlin Wall come down? I should know.

A: 9th November 89, so two years before this Halle meeting we are coming to.

MR RAMPTON: I have two diversions for you, I am afraid. The 9th November is an anniversary of something else, is it not?

A: Yes. It is the most loaded kind of anniversary date we have.

Q: Apart from the 30th January perhaps, or the 20th April?

A: No, it is even more loaded, if I may say so.

MR JUSTICE GRAY: You are a bit elliptical at this stage.

MR RAMPTON: The 30th January is the speech in the Reichstag in 1939.

A: Hitler's birthday, if I may add, is 20th April.

Q: Tell us about the 9th November.

A: There was a coup d'etat of Hitler and his comrades at the 9th November 1923, the so-called ---

-

MR JUSTICE GRAY: Putsch?

P-22

A: March to the Feltan Halle. You discuss it here.

MR RAMPTON: Tell me about that.

A: Yes. Of course 15 years later, 9th November, the so-called Reichskristallnacht, the night of the broken glasses, and again 9th November 1989. This was, by the way, the reason that the authorities did not dare to use this as a kind of national anniversary date.

Q: No. As you said, it is a bit loaded. Do you know whether Mr Irving has had any contacts with Gottfried Küssel?

A: I do not know. Again, the same as it is with Kuhnen, if I may say so, on the same level. They were at this same meeting, especially in Halle, and he has seen him, so far as the video shows, but maybe he sees it different. But the video is, I think, very clear on that. And the like. So no mentioned connections in the diaries and elsewhere.

Q: Now we come to somebody who I think we do find fairly often in the diaries, two people, Christian Worch and his wife Ursula or Uschi Worch. Do they appear in the diaries?

A: Yes. This is, I would say, the interactions between David Irving and Christian and Ursula Worch, as intense as they were with Ewald Althans.

Q: Characterize, if you will.

A: I just counted the interactions so far we got it from the disclosures, from other sources and from the diary of David Irving, 26 in three years. A lot of interaction

P-23

between others and David Irving and the Worches.

Q: Others such as whom?

A: Others like Karl Philipp, another very interesting person in this network.

Q: I am coming to him. Karl Philipp. Anybody else?

A: Yes. Christian Worch was one of the main organizers, as I said, of the neo-Nazi movement between 89 and 93, the period that is of interest here. By the way, furthermore, so he is at the centre of this Kuhnen crew after his death.

Q: Is he still active?

A: He is still active. He organised a demonstration at the 29th, so one day before the 30th January 2000 in Berlin, against the attempt to build a memorial of the Holocaust, a very neo-Nazi like

demonstration, very ----

MR JUSTICE GRAY: Can I just ask this? Are you saying that Mr Irving and Karl Philipp have had contact with each other?

A: Yes, very much so. Karl Philipp, Ewald Althans and Christian Worch are those with whom David Irving had the most intense interactions at that time.

MR IRVING: My Lord, I think he ought to specify, if he says I had 26 contacts, what he means by contacts.

MR JUSTICE GRAY: I do not think that was Karl Philipp actually?

A: No, that was Christian Worch.

P-24

MR IRVING: If we are to use that kind of statistic, I think it would be useful just to telephone --
--

MR JUSTICE GRAY: If you want to, up to a point.

MR RAMPTON: Absolutely right.

MR JUSTICE GRAY: I am anxious to get the broad picture at the moment, but can you explain what you mean by interactions or contacts?

A: It is all sorts of interactions to prepare things, to take sides, to be invited. So, for example, at the 3rd March of '90 David Irving was invited to the group. He especially had, I have to say, in Hamburg, the so-called nationalist, this is a bunch of little tiny groups. So he was invited to give one of David Irving's speeches there, and there were, of course, the Nationalists, so part of this neo-Nazi camp, in that region, that is to say in Hamburg, and, on the other hand, new invited East Germans around the new built other group like the Deutsche Alternative. So just to say the minimum that groups of the neo-Nazi camp around Hamburg and groups of the new organized groupings of East Germany came together to hear David Irving at the 3rd March of '90. This kind of interaction, preparing speeches, tours and the like. The same holds true, if I may add this, in preparation of the event of the 9th November '91, in Halle. This Halle event was interesting in the regrouping and further organizing of the neo-Nazi movement in the early 90s. They tried to

P-25

combine their groupings and you will see it on the video.

Q: Can we just pause there?

A: Yes.

Q: These summaries are taken from your report. We can see an illustration of what you are talking about, my Lord, if we take the second file, RWE file, and turn to tab 11. Could the witness please be given that? Could you turn please, Professor, to the second page in the summary which you will find at the beginning of that tab? It has a (ii) at the bottom of the page and we are looking at some dates.

A: Say it again, excuse me.

Q: The second page of the summary at the beginning.

A: Yes.

Q: We see some dates from March 1990 to August 1991.

A: Right.

Q: We do not need to read them out unless anybody wants me to. Would you just read them to yourself and continue down to the end of 9th November '91 on the following page.

A: Yes. **(Pause for reading).**

Q: Now, if one reads on, one sees that they went on corresponding with each other through until June 1993. Can you please just look at the entry for the 1st January 1992? It is the middle of page (iii).

A: Yes.

Q: You, or rather Miss Rogers, has written summarising your evidence, letter P, that is Mr Irving, to the Worches,

P-26

using the informal address "du". What does that signify in German if one addresses people in that form?

A: It signifies a close relation, that they know each other by private level.

Q: How do you then respond to a suggestion, if it be made, that these Worch people were just informal slight acquaintances of Mr Irving who sometimes turned up to his meetings?

A: No. They are of central importance. You let me read the page before, and it is stated that they met not only at the 3rd March but on the next day, Althans and Worch together with the plaintiff. Then Althans organized something with the help of Worch. That is the 21st April, the first revisionist Congress in Munich that was a joint organization. It is very interesting that you have joining the revisionists and the like with these kind of clear cut neo-Nazis. Then they met again the next morning with Wilhelm Staglich, another ----

Q: I am going to ask you about that entry for 22nd April in a moment. You say a close relationship, had Worch been present on these occasions when Mr Irving has spoken?

A: Yes.

Q: Has Worch spoken on the same occasions?

A: It is several times the case. For example, at the second so-called Leuchter Congress at the 23rd March '91 and again at the 9th November '91, and so far, yes, these are

P-27

occasions.

Q: Yes.

A: They planned to invite Mr Irving to the Wansiedel meeting. This is very important for this scene. The Wansiedel meetings every year in August, remembers the death of the hero in that circle, Rudolf Hess. Mr Irving did not come to the Wansiedel meeting because he did not want, as the diary shows, to take sides openly with Michael Kuhnen, but, as we see, he did with the other person. This is Christian Worch.

MR IRVING: Would the witness just explain what he means by taking sides with Michael Kuhnen?

A: So far I recall your diary, but you know it better.

MR IRVING: May I put it to the witness that in fact I made it quite plain I would not attend if Kuhnen was going to be there.

A: Right. Taking sides. But, you know, if I may add -- no, I should not. I see. Go on.

MR RAMPTON: Who is Rudiger Hess?

A: He is one of the activists in the scene and the son of Rudolf Hess.

Q: Can you turn to the entry in the summary for 22nd April 1990 please?

A: Yes.

Q: Mr Irving's diary records that he had breakfast on the morning after the Wahrheitnachtfrei in Munich with

Staglich, Hancock and the Worches. Who is Wilhelm Staglich?

A: Wilhem Staglich is a former judge, and is very active in these revisionists circles, quite a while, a very old man. I think he died in the middle of the 90s.

Q: Does revisionism in that sense include any element of Holocaust denial?

A: It is often the case, and with him it is.

Q: With him it is? I am going to ask you some other names now. I am going to go backwards through this summary that you have produced. Who is Udo Walendy?

A: I think he is one of the most outspoken persons in the Holocaust denial network and activities. He did and he is doing a magazine. I have some copies of that in my hotel, so I can show it if it is necessary. He presented to the German audience the Arthur Butz Holocaust denial attempt.

Q: "Hoax of the 20th century"?

A: Right, in the 70s. I am not quite sure, the sources say that he attended Hagenau, this revisionist meeting in November 89.

Q: We are going to have a look at that.

A: So he is the most, if I may say so, outspoken and differentiated in trying to make this cause.

Q: Do you know whether Mr Irving has been associated with Staglich or Walendy?

A: Yes, they met in their circles of course, in their

revisionists meetings.

MR JUSTICE GRAY: How do you know that?

A: By the sources, with respect to this both persons, but I have to look them up because it is such a bunch of people who are interacting, interconnecting, meeting networking and so forth. So forgive me that I have to look it up.

MR RAMPTON: Well we will see Staglich in some of the films and perhaps Walendy, and we can see already that Mr Irving has had breakfast with Wilhelm Staglich on 22nd April 1990. We get that from his own diary, do we not?

A: Yes.

MR IRVING: That is the only entry in the diary which mentions it, is it not?

A: He was there around, you know. He was there often around. This is the entry mentioning, but, as you know, on the day before he was there too, and you too.

MR IRVING: In the audience.

A: In the audience, but you know the audience, and you know Mr Staglich, I think.

MR RAMPTON: What about somebody called Michael Swierczek?

A: Maybe I should spell it for the court?

Q: No?

MR JUSTICE GRAY: I think it might be helpful because sometimes the transcriber cannot really cross refer. That is the problem?

A: Go ahead.

MR RAMPTON: S W I E R C Z E K. Yes? Good. Who is he?

A: He belongs to this first mentioned Kuhn crew, or Gesinnungsgemeinschaft, and he organized an own little tiny group more in the south to make this neo-Nazi cause along the lines

of Michael Kuhnen, the National Offensive NO, and Swierczek invited David Irving, so far I recall, in '91. The success of these events were modest.

Q: Thank you.

MR IRVING: Did you say events or event?

A: There were two invitations, So far as the diaries and your sources says, and they were both, if I recall, in the effect of selling books and presenting to a bigger audience.

MR RAMPTON: I have not asked about the policies and ideologies individually of each of these individuals. You said there is an element of Holocaust denial in many of them, of the heirs of Michael Kuhnen, you said there was anti-Semitism xenophobia. Yes?

A: Yes, very much so.

Q: Is this true of somebody like Swierczek?

A: Yes. In this whole neo-Nazi camp they are only little differentiations because they have to stick to their card organizations.

Q: Let me ask you a general question then. Do any of these neo-Nazi individuals, or groups of individuals, have a

P-31

policy which is Nazi, but not anti-Semitic and anti-foreigner?

A: I have to be very modest in answering this. I did not see any hint of this Kuhnen crew, the Gesinnungsgemeinschaft, that they distanced from that kind of rhetoric, agitation, ideology, world view. No, not any person of this I mentioned, not any person in any situation, so far I got the datas, so it is a clear cut thing. They are joining a kind of same world view.

Q: I cannot remember whether we have dealt with Karl Philipp or not?

MR JUSTICE GRAY: Yes, we have.

MR RAMPTON: Good. I will pass backwards over him. Do you know who Ditlieb Felderer is?

A: Just a bit. He is a Swedish joiner of this revisionist camp, and also politically very active.

Q: I think we are going to see him in one or other of these tapes, are we not? What about somebody called Thomas Dienel?

A: Thomas Dienel is one of the outspoken neo-Nazis in East Germany, so he is one of the East Germans who took this cause after '89. He changed his views and parties, but he was one of the most crude or crudest anti-Semites.

Q: Is it true that in July 1992 a Jewish leader called Heinz Galinski died?

A: Yes.

P-32

Q: And what was the reaction of Dienel and his friends to that?

A: They made bad, very cynical, jokes on that.

MR IRVING: My Lord, I think it should be properly stated whether any allegation is made that I have ever met this Mr Dienel, who is obviously an extremely unsavoury character.

MR JUSTICE GRAY: I am trying to keep a track of the extent to which ----

MR RAMPTON: That is always going to be my next question. I just want to get a picture of this nice Mr Dienel first.

MR JUSTICE GRAY: Before we paint a picture of him, he is not one of those who has a section in RWE one or two?

MR RAMPTON: No, he does not. The reason I mentioned him is partly that he is mentioned in this biography section in the appendix, and one can read for oneself.

A: Yes. I may just allude to Thomas Dienel, he is of some importance, if I may say so, your Lordship.

MR JUSTICE GRAY: Can you start though, by explaining, if may say so, Mr Rampton, what the connection with Mr Irving is.

MR IRVING: Thank you.

A: Yes, of course. The connection is very simple and maybe very short. He was the inviter, together with Christian Worch, of the 9th November Halle meeting.

MR IRVING: Never heard of him in my life before.

P-33

MR JUSTICE GRAY: You will get your chance, Mr Irving. We must not make this too conversational.

A: You heard him. He spoke before you spoke.

MR JUSTICE GRAY: Professor, can we keep some sort of form to this? We have a system here. It is Mr Rampton questioning at the moment, so do not start conversations with Mr Irving.

A: Excuse me. Maybe I should add something to Thomas Dienel? Excuse me. I rely on your questions.

MR IRVING: I am sorry, I interrupted. Perhaps we ought to carry on.

MR RAMPTON: We can read on page 142 of the appendix what sort of a man Thomas Dienel is on your account. Is he one of those that we shall see on the film of the rally at Halle?

A: Yes, I alluded to that just before. He was the one of the organisers of the Halle rally, together with Christian Worch. It was a joint action and at that time, to my best knowledge, he was a member of the NPD, the National Democratic Party of Germany, so they did a joint effort, the neo-Nazis and this ultra right-wing extremist NPD. But then Thomas Dienel changed and organized a new clear cut neo-Nazi group, the DNP. It is maybe not of such an interest, but the point is that he was one of them at that period of time, the most outspoken crude anti-Semites. He, after the death of the famous Jewish representative Heinz Galinski, by the way, survivor of Auschwitz, who in

P-34

a way never could escape the memory of Auschwitz, if I may say so. I knew him very well. An effort at that city where he stayed, Thomas Dienel, he took part in an action at the 20th July '92, following the death of this leader, Heinz Galinski, of the Jewish communities, pigs' heads were thrown to the garden of the Jewish community with labels that read "Every pig dies, you too Heinz". That means Heinz Galinski. In '92, Dienel was found saying unfortunately the younger generation has not yet killed any Jews.

Q: What age of man is this Thomas Dienel?

A: He is in the 40s, I think.

MR JUSTICE GRAY: I am still, if I may say so, unsure on what basis you are suggesting, Professor, that there is a connection between ----

A: I did not say connection.

Q: Well, you said, I think, that Dienel, together with the Worches, was responsible for inviting Irving to speak at the Halle rally?

A: Yes. Then I said you can call it connection. It is a connection for that given invitation and action.

Q: But why do you say Dienel was involved in inviting Irving to speak? Where do you get that

from?

A: No. It is more precise. The demonstration in Halle, the Halle rally was organized and the invitation came from two persons, or two groups represented by these two persons.

P-35

This is Thomas Dienel, the then NPD speaker, it is very public, and on the other hand by Christian Worch. The diary shows in that sense, I realize the surprise of David Irving just a minute ago, that he was invited by Ursula Worch ----

Q: That is what I was getting at.

A: -- To come to this rally. So it was a kind of conflation of invitations, and by this he was in the scene. You know that David Irving is a very good understander of German language. So he knew him by hearing him, by participating at that demonstration and at a very prominent level. That is what I am saying, not more, and I did not do anything more in the report.

MR JUSTICE GRAY: Thank you very much.

MR IRVING: I am indebted to your Lordship for asking that question.

MR RAMPTON: We go now to man called Gunter Deckert. Before I ask you about Gunter Deckert, do you know of any connection between Mr Irving and Herr Deckert?

A: By his website.

Q: How do you mean? That, to me, is a slightly Delphic explanation.

A: They have a long interaction by communicating and referring to each other. He, Deckert, invited David Irving to speak in Weinheim at a given period of time, the early '90s, I think, in '90. So there was a clear cut

P-36

each other knowledge of what they have stood for and that they stand for.

Q: Can you tell me what sort of information they exchanged on the website?

A: I have to say only to a limit because it is so much to read, if I see the web sites of David Irving that I restrict myself, but to a degree he refers to the court things Deckert was in because of the event in Weinheim. Deckert got debated imprisonment by doing this event in early, in the early '90s, I think in '91. So David Irving is repeatedly referring to this kind of aftermath of this event.

MR IRVING: It is actually an appeal for funds for the family of Deckert, is it not, while he is in prison?

A: Excuse me?

MR JUSTICE GRAY: Mr Irving, I think we had better just leave it to you to cross-examine later. It seems that Deckert is somebody you were in fairly regular contact with.

MR IRVING: No problem with that one at all.

MR RAMPTON: Well, then is this no problem about the contact? Can we know something about Herr Deckert himself and his views, please?

A: Deckert is one of those who is very near to the hardcore revisionists and he got the NPD Chair in '91 to '95, and he was one of the persons who radicalized in this period of radicalization of right-wing extremist movements in

P-37

Germany because of the scenery, especially in East Germany, he radicalized the NPD. This is, if I may say so, out of the perspective of a social scientist, a very interesting, you know, change at that period of time, because that means in the following years that the interaction between the

neo-Nazis and the NPD grew. And finally after all this neo-Nazi -- no, after a bunch of these neo-Nazi groups were banned by the German authorities in '92 and '93 and '94 and '95, the NPD was the so-called still formally legal but ultra right-wing extremist party who took over, and organized this little tiny neo-Nazi groups to a degree in their camp. So we have the interesting thing, just to finish it with one sentence, that at the end of the century we had a kind of joining efforts of the Christian Worch camp on the one hand and the NPD camp on the other conflating in the demonstration of 29th January through the Bahnhof Gate against the attempt of a memorial.

MR IRVING: What year was that? 29th January what year?

A: 2000, just to give a kind of overview how this conflation took place.

MR RAMPTON: Good. I have only three others on my list at the moment. We may have to ask further questions when we look at the tapes, Professor. A man called Thies Christophersen, tell us about him. Tell us, first, whether he has been associated with Mr Irving, will you?

P-38

A: Very much so because Thies Christophersen is one of the networkers who is on the very radical side of the clear cut Holocaust denier. He has some resonance in these groups by having been in Auschwitz as a kind of lower officer in the kind of garden area near to the camps. So he pretend to know all about Auschwitz, and he wrote one of these famous books "Die Auschwitz-Lüge", "The Auschwitz Lie". So he organized that he was very sharp in presenting his case. So he was caught, he was attacked by the judicial authorities, so he had to leave Germany. He resided in -- he lived in Kolant in Denmark for a period of time and, to make it very clear, he is one of those who combined this radical revisionists with the neo-Nazis.

Q: Right, so, in other words, he makes a bridge or link?

A: Yes, he is one of the bridges the linkers.

Q: The neo-Nazis on the one side?

A: Yes.

Q: And the Holocaust deniers on the other?

A: Yes. So he was also responsible for this Hagenau meeting to a degree and the revisionists' meetings at that time. He died then in the '90s.

Q: Yes, when we look at the Hagenau meeting which is the first one we will look at, it is quite short, that was organized by Christophersen, is that right?

A: So far I recall, yes.

P-39

Q: And I think we are going to see, but you will tell us whether we are right, Arthur Butts?

A: We do not see him, but it is said that, according to the sources, that he is there.

Q: OK, yes. Christian Worch whom you can identify?

A: Yes.

Q: Karl Philipp you think?

A: I think. The sources says it, but we cannot see him in that meeting. I think we will see him in another meeting.

Q: Right. Wilhelm Staglich?

A: So far as I recall, he could -- you could see him.

Q: If Worch and Staglich are both there, then, on the one hand, you have a neo-Nazi Worch and,

on the other hand, you have a denier in Staglich?

A: Yes, this is a very interesting point, that you have a kind interaction to say the minimum between this kind of revisionists and this kind of neoNazis, that has, of course, something to do with the ideas behind. So there was a conflation. And to say in one sentence more about that, especially in Germany and Austria, if in any sense neo-Nazis can get some success, political success, they have to do as the first thing to by any means try to rehabilitate National Socialism as far as it is possible. This is the crucial point. By denying, by relativizing, by blaming the Jews as those who made it up or who did it or who let it do, so by all various kinds of rhetorics,

P-40

agitations, to downplay this Nazi period, to restore, you know, the kind of proud of the extreme Aryan racist anti-Semitic nation. This is the bottom line of it. So they conflate one and again, once and again.

Q: Do I understand what you have just said to involve, I hope you do not mind a little piece of colloquial English, that you are telling us that your familiarity with neo-Nazi and denialist publications, utterances, speeches, and so on and so forth, one of their themes is that the Jews had it coming to them and brought it on themselves?

A: Yes, this is one of the most, if I may say personally, most striking things, that it is said that in the course of centuries or, to quote David Irving, of 3,000 years in one of his quotations, the Jews are responsible because they are disliked. Whether -- and the direction is that the Jews are the reasons for being disliked because of their various behaviour, alleged behaviours, and so they are responsible, they are so to speak ----

THE INTERPRETER: They carry part of the guilt.

MR RAMPTON: Sorry?

A: They carry part of the guilt or the whole guilt that they were murdered, and in a quite illogical, irrational way, this is then changed by saying, "OK, but the Holocaust did not happen, at least not to the degree" so you have a double ----

Q: One might ----

P-41

A: --- double standard ----

Q: Yes.

A: --- double meaning, a kind of controversial in itself, but this can only be solved by the distance and even hatred against the Jews in that camp.

Q: Can I stick with what I was on? We have seen the passage and other passages from Mr Irving's utterances that you speak of, my question is this. Is that thought, really it is all the Jews' own fault, if it did happen, which it did not, they deserved it or they brought it on themselves", is that a common theme amongst the denialist and neo-Nazi publications with which you are familiar in Germany?

A: It comes always to the fore. If you see Hagenau, you see all of a sudden Mr Zundel rousing his voice and saying, "This Juden pack".

Q: What does that mean?

A: I do not know.

THE INTERPRETER: "Pack of Jews".

MR JUSTICE GRAY: A pack.

MR RAMPTON: A pack of Jews?

A: It is a very negative connotation.

MR RAMPTON: What, as though they were dogs or something?

A: It is a kind of bunch of people who are doing this dirty, ugly thing. It is a kind of slogan we know in Germany, "Juden pack", these people who are doing these bad things.

THE INTERPRETER: "Pack" meaning low people with low

P-42

intentions.

A: So just a representation of aggression, of very aggression and humiliating the Jews.

MR RAMPTON: This is the famous Ernst Zundel from Canada, is it?

A: Right.

MR RAMPTON: Goodness me!

MR IRVING: There is no suggestion that I had used words like that.

MR RAMPTON: There is a suggestion that Mr Irving was at this meeting and made a speech, is there not, to this audience?

A: Yes.

Q: People like Mr Zundel?

MR JUSTICE GRAY: At Hagenau, yes.

A: Maybe he did not hear him, but he was there.

MR RAMPTON: Yes. Hagenau is in Alsace, is it not? It is in France?

A: Yes, in Alsace.

Q: Then two others, finally, who are not on my list -- there may be others when we look at the tape -- Professor, one is a Spanish man, I think, called Pedro Verala, who is he?

A: It is again one of the -- you know, he is the successor of a bunch of neo-Nazis who fled to Spain because, as you may know, the Franco Spain was a kind of resort area for National Socialists.

Q: Yes. He is what? He is a neo-Nazi or revisionist? What

P-43

is he?

A: Both.

Q: Both. Finally, then, a somewhat curious figure amongst all these Aryans, somebody Ahmed Rami. Who is he?

A: He is a wide anti-Semite, to say the minimum.

Q: Where does he come from?

A: Stockholm, but original descent from Morocco. He is talking in the second Leuchter Congress, you will see it if you decide to.

Q: He speaks in French?

A: He speaks in French. He is always talking about the Zionist Mafia who lead the world and this kind of, 20 minutes in this video, so you will see how long you will view it.

Q: Do you propose any further connection between Mr Irving and -- I have lost his name?

MR JUSTICE GRAY: The Spaniard.

MR RAMPTON: Verala and Rami, other than that they appeared at this meeting in Munich together on 21st?

A: So far as I know, but I have to check again in various revisionists meetings -- no, excuse me, no. David Irving was invited by this camp in Spain and spoke.

Q: Oh, really? Do you know when?

A: Excuse me?

Q: When?

A: In that same, I have lost it, I have to check it, but in

P-44

the late 80s, early 90s. I read the diaries from 1989 to '93 and there he was in Spain. But it must have been quite successful, but I have to recall when it was.

MR JUSTICE GRAY: Invited by?

A: Give me a minute, so I will say to you in a minute.

Q: Invited by Verala, is that what you are saying?

A: Yes, so they know each other. You know, it is a little tiny group who interacted between each other on various levels and various levels of intensity, so sometimes I get mixed up but not on the basic things.

MR RAMPTON: Looking at the whole spread of material, Professor, looking at the whole spread of material which you have been through in detail, so far as Mr Irving's connections with these various people and groups are concerned, how deep would you say that his involvement in these affairs is?

A: I think very -- he was involved very much in this whole affairs. Not to get mixed up, I did a show picture to see this ----

THE INTERPRETER: A graph.

A: --- a graph to represent this interactions, and you have, you know, the whole bench of revisionists from Tony Hancock, Peter Verala, Staglich, Valendi, Otto Ernst Remer, Ahmed Rami, Zundel, Zundel as one of the main persons, together with Christophersen and Mark Rebo of IHR in California, on the one hand, then you have an

P-45

interconnecting person, Karl Philipp, then you have, on the other hand, the Althans group and the person himself especially, and then you have some Austrians, by the way, very famous right-wing extremists, like Rephandel in Skrinkski, who are known to David Irving, then you have the DVU connection we did not talk about in the '80s.

Q: No, Gerhard Frey?

A: Gerhard Frey, this not legalized extremist party, then you have the interaction we talked about, the Gunter Deckert of NPD then in the '90s radicalized NPD, and you have the neo-Nazis we spoke about at the beginning. So you have a whole, you know, if you want to centre Irving, you can do so. You know, they are the revisionists, if I may say so, they are the neoNazis, they are the Austrians, not so intense, intense, the DVU Frey, the Deckert NPD, the Althans, the Philipp person as person transmitters and, you know, organizers. Then there is another bunch of people out of the late '70s and early '80s of the then active network of right-wing extremists -- just I could name some of them.

Q: We will stay with what we have at the moment because it is already rather indigestible. Could we have a look at that beautiful document? When did you make it?

A: In the last days.

Q: Yes. I have not seen it before.

A: Because to get, you know ----

P-46

Q: Could I have a look at it because if it looks impressive, we had better have it copied. Mr Irving will see it too in a moment. It is slightly untidy, Professor.

A: Yes, I know. My writing is limited to the degree of being very clear, clean.

MR IRVING: Perhaps you could wait until we see how many names we can knock off this before he makes the ----

MR JUSTICE GRAY: I am not particularly enthusiastic about this.

MR RAMPTON: Right. Give the drawing back to the Professor then. I can tell your Lordship this, that there are diary entries in Mr Irving's diary for November 1989 which describe a speaking tour of Spain starting on -- it is a very short one, two days, three days.

A: Yes, I recall.

Q: Four days. That is not short. I could not speak for four days. Four days starting on November 17th 1989 seems to have been organized by Verala?

A: That is what I meant.

Q: That is what you meant, yes.

A: Thank you.

Q: There is also a Rami section, my Lord, in the RWE files in the second one at tab 18. Thank you very much.

MR JUSTICE GRAY: I have not got a tab 18. I did look for Rami and I ----

MR RAMPTON: He is right at the back.

P-47

MR JUSTICE GRAY: He is not in the index, but at the back. You are quite right.

MR RAMPTON: He is not in the index, but he is at the back. There is not an awful lot on him. I think seven entries ----

MR JUSTICE GRAY: Thank you very much.

MR RAMPTON: --- involving Mr Irving. Thank you, Professor, for the moment. We will need your help because I am now going to show these tapes. Miss Rogers, my Lord, before we start looking at the films, has prepared a chronological, not exhaustive, list of Mr Irving's speeches starting in January 1983 and ending in November 1988 upon which your Lordship will find or in which your Lordship will find the three or four that we are going to look at now.

MR JUSTICE GRAY: Thank you very much. Where shall we put that?

MR RAMPTON: In front of RWE1, I should have thought. One for the witness, I think. Who is going to control this ----

MR IRVING: This is not an exhaustive list of speeches, is it?

MR RAMPTON: No, I said it was not.

MR IRVING: It is a very selective list. I mean, in some years I spoke 190 times in one year.

MR RAMPTON: I quite agree. When Mr Irving is speaking to the East Grinstead RSPCA I have not put in a ----

MR JUSTICE GRAY: It is selective.

P-48

MR RAMPTON: It is selective indeed. I would like to show the tapes. Where are the tapes, is the first question? I think, my Lord, the safest way of dealing with this, if I may suggest it, is if Miss Rogers is allowed to stand up there, do you mind doing that, and with help stop it at the

right places.

MR IRVING: My Lord, when it comes to the speech upon Halle, I would like to know whether it is the raw, uncut footage they are going to show.

MR JUSTICE GRAY: Shall we pause before Halle? Is Halle the last one? I have the impression it was.

MR RAMPTON: Yes, Halle is the last one. I cannot answer Mr Irving's question on that, I am afraid, I just do not know.

MR JUSTICE GRAY: No, but he can make his objection to it then. Is there a transcript of Halle?

MR RAMPTON: There is not a transcript of any of them.

A: But it is a disclosure of -- he is on the website.

MR JUSTICE GRAY: No, but I would like to see the transcript all the same. I suspect in the end, Mr Irving, I am probably going to have to see it and then form a view about your objections, if there is no transcript.

MR IRVING: Precisely. Your Lordship will be familiar from the inter partes correspondence that there was a major dispute about the Halle tape.

MR JUSTICE GRAY: No, I am not conscious of that at all.

P-49

MR IRVING: It was concealed from me in discovery and I had to conduct several interlocutory actions under the rules of discovery to force the -- it was accidentally discovered to me, the raw tapes.

MR JUSTICE GRAY: Anyway, you got it in the end.

MR IRVING: And we had a lot of trouble over it.

MR RAMPTON: My Lord, may I sit while this is going on.

MR JUSTICE GRAY: Of course, please.

A: This is in Hagenau, if I may say.

MR RAMPTON: It seems to be a still. **(The video tape was played)**

MR RAMPTON: Can we stop there, please? Who is that speaking in the middle?

A: This person to the left -- maybe David Irving can help us.

MR JUSTICE GRAY: Well, I am not sure that is quite the way to conduct this.

MR IRVING: I would be happy to assist if I recognize him.

MR JUSTICE GRAY: I think I will not ask you to, let us just see what the witness can say.

MR IRVING: It is not Valendi, as far as I know.

A: I am not sure. That is why -- but I heard that he organized the debate.

MR RAMPTON: Who is the one in the middle with the stripy tie?

A: Now, in the back not seeing is Ernst Zundel, to the right it is Faurisson.

Q: So it is Faurisson -- can we just go back a couple of

P-50

frames?

A: This is Ernst Zundel in the back.

Q: Yes, I see. That is Faurisson on the right with the stripe with the white shirt, is it?

A: On the right side.

Q: Thank you. **(The video continued to be played)**

A: "I would have given a gift to him when I realized that he was here". That is the gist. "So this

devil lie that this Juden pack that the Jews gave to us Germans". That is a reference to the so-called Holocaust lie. This was a last sentence.

MR IRVING: I was not aware we were going to be shown edited goblets like this. We have no idea what that little piece or snatch of conversation was, whether he was quoting from a book or quoting from something that was said or what.

MR JUSTICE GRAY: No, I do not think he is was quoting from a book. I think, Mr Irving, I understand your concern but ----

MR IRVING: If we are just looking at a rogues gallery, that is perfectly proper use of this footage.

MR JUSTICE GRAY: I think in the end what is going to have to happen is that I see all this material because it is impossible for me to form a view because I do not know what is coming next. We have not seen you at all but I know you were there, so I expect we are going to see you.

P-51

MR IRVING: Well, we do not know if I am actually there at the time these people were there or whether they are saying that or not.

MR JUSTICE GRAY: Let us wait and see when you feature.

MR IRVING: It has been heavily edited there, of course.

A: There to the back, if I may say so, this is the person in the middle now, Christian Worch.

MR JUSTICE GRAY: The young one?

A: The young one, right, in the middle, right in the middle. This was just a second back, if I may ask you -- now go further -- this person, so far I can identify him, of course it is with limits, as you can imagine, on the right side, seems to be Staglich.

MR RAMPTON: With his head by the window?

A: Yes.

Q: Stop there, please. What is Mr Irving talking about in that extract?

A: You know the reference is he is referring to the alleged excesses of eyewitnesses with respect to the Holocaust experience.

Q: Pause please.

A: And then ----

Q: No, pause. When you said "excesses", do you mean that there are more survivors than there should be?

MR JUSTICE GRAY: No, I think exaggerations I think is the sense.

P-52

MR RAMPTON: Exaggerations, that is why I interrupted you.

A: Yes, and with this he very cynically, I would say, says OK, "There was one, there was just one", that is the gist of it, so far as I read it. Maybe there can be more correct translations of these wordings. "There is one man gas chamber there, you know, a kind of Sedan chair and soldiers carried that around the landscape and then, like a telephone cell, you have a ring and the soldier says, 'OK, it is for you, Jew'". So this is the gist of it so far I read it but ----

MR IRVING: Excuse me.

A: --- of course Mr Irving said it so he may ----

MR JUSTICE GRAY: Just pause.

A: --- translate it more precisely.

MR IRVING: The word was not "excuse you", "it is for you, Jew".

MR JUSTICE GRAY: Well, we are going to get into a frightful tangle if we are going to go through the films having simultaneous translations.

MR RAMPTON: No, no, not simultaneous translations, but it would be a false exercise on my part if Mr Irving were talking about the wild flowers in Alsace at that point. One has to know what the gist of these meetings were about ----

MR JUSTICE GRAY: I quite agree. No, I am just thinking it is better ----

P-53

MR RAMPTON: --- for them to have any point at all.

MR JUSTICE GRAY: Don't let us all talk at once it would be better if we had a translation.

MR RAMPTON: It would be much better if we had a translation. Before we close the case we will get translations and transcripts, I expect. I will do my very best, but at the moment, I am sorry, we do not have them.

THE INTERPRETER: It is easy to translate phrase by phrase, this passage.

MR RAMPTON: I am sorry, I cannot hear.

THE INTERPRETER: It is easy to translate this passage phrase by phrase.

MR JUSTICE GRAY: That will take a very long time.

MR RAMPTON: Don't let us do that now.

MR IRVING: The other point I would ask in cross-examination of this particular passage is that we have seen me speaking, we have heard me speaking and now we see instantly picture cross-cuts to a laughing audience, and we have no way of knowing, for they have only got one camera there, and it is done by clever editing. We do not know what they are laughing at.

MR JUSTICE GRAY: I understand that point. Whether it is a good one or not, I am not so sure, but I understand the point you are making.

MR IRVING: It is the editing point again, my Lord. Your Lordship would not allow the introduction of an edited

P-54

document in which bits have been put in and bits have been taken out. This is a document.

MR JUSTICE GRAY: I entirely understand the point. Mr Rampton, can you tell me this, and I should have asked before you started playing it, who actually made this film? ----

A: That was done by those who organized the conference.

MR RAMPTON: I see.

A: It was then given to Michael Schmidt. Michael Schmidt was the person who was in this revisionist and the other scene for quite a period of time, and then had four days of videos. He was given this video by one of the main organizers, so far as I recall, and by Ernst Zundel himself.

MR JUSTICE GRAY: Right, let us carry on.

MR RAMPTON: I just want to chase that up. Did Schmidt then make a documentary film using this material?

A: Yes, he did so, but the basic clips, of whatever he had of ours, of course, documented by the documenter of this conference, so we have again a problem of documents.

Q: So far as we can tell, that is original film of the meeting at which we saw Mr Irving.

A: Organized by themselves.

MR JUSTICE GRAY: Who did the editing, that is the point?

A: Of course, Michael Schmidt did the editing. He shortened it and, of course, they had a longer version given by the organizers of this conference, that is to say, by Zundel

P-55

or Christopherson, so far as I recall, by Zundel.

MR JUSTICE GRAY: You say Schmidt is a Revisionist himself?

A: No. Michael Schmidt did ask to film the scene, and that caused, later on, a lot of problems for Schmidt and the scene. They got in an argument, but he managed to make a long film.

MR JUSTICE GRAY: But is Schmidt a right-wing extremist?

A: No, he is not.

MR JUSTICE GRAY: He is not?

A: So far, he presents himself in the public and buys literature.

MR IRVING: He has written a book, has he not?

A: Right.

MR IRVING: My Lord, I think the question that you are really asking is who has edited this film that is in the machine.

MR JUSTICE GRAY: No, I was not asking that.

MR IRVING: It has been re-edited by the Defence solicitors, of course.

MR RAMPTON: No.

MR JUSTICE GRAY: Sorry, can you just remain silent for a moment. Has it been re-edited by your team?

MR RAMPTON: Yes, but it has been re-edited in such a way -- yes, is the answer, I think. Can I just find out what actually did happen, because I was not there. **(Pause for consultation)**. Yes, now I do have the full story. That is taken from Schmidt's film, my Lord, which was broadcast on

P-56

Dispatches in this country. The commentary is in English with a German accent, as one can hear. What Miss Rogers and the solicitors did was to take out as much editorial content as they possibly could, including emotive stuff like music, if it has not an original place in the programme, and as much commentary as possible.

MR IRVING: My Lord, If that were true, of course, there would be English subtitles as well, but there are not any. How would the English Dispatches audience have understood what David Irving was saying in German.

MR RAMPTON: Because the commentary is in English in a German accent.

MR IRVING: We have listened to it ourselves. It is me speaking in German, it is Zundel speaking in German and there are no subtitles at all.

MR RAMPTON: That is not commentary; that is original speech about putting Jews into telephone boxes so as to kill them.

MR IRVING: It has been twice edited and is a totally unsatisfactory document.

MR JUSTICE GRAY: It seems really to have been edited three times, probably originally by the people who organized Hagenau, then by Schmidt and then by your team.

MR RAMPTON: It matters not the slightest. If Mr Irving disputes that that is him speaking those words in that company with those other people there, by all means let

P-57

him do so but, once he accepts that that is an authentic record, not a complete record but an

authentic record of what happened, then it becomes admissible evidence. What weight is attached to it is another question.

MR JUSTICE GRAY: I think it is right as far as the identity of other people are concerned. I am not happy with using what they said in the absence of a ----

MR IRVING: Complete transcription.

MR JUSTICE GRAY: --- of at least a translation. So shall we carry on for the moment? We can come back to these films when there is a translation available, but shall we carry on for the moment just using them to illustrate who was present at these meetings who Professor Funke is able to identify.

MR IRVING: My Lord, the volume control will solve the problem. If the sound was turned down ----

MR RAMPTON: No. When Mr Irving is speaking, I want his words heard.

MR IRVING: These are the redacted words as selected by the Defence.

MR JUSTICE GRAY: What I am going to say is that we will certainly use these films to see who was at the various meetings. If reliance is placed on what Mr Irving said at the meetings, then there must be a translation made rather than have it translated in the way that it is at the moment.

P-58

MR RAMPTON: There will be.

MR JUSTICE GRAY: So, shall we proceed on that basis?

MR RAMPTON: Yes. **(The video taped continued).**

Q: Who is the man in the middle clapping?

A: This is again Ernst Zundel to the right of the middle and to the left is Staglich.

Q: Thank you. Sitting next to each other?

A: Right.

Q: That is that one I think.

MR JUSTICE GRAY: That is Hagenau.

MR RAMPTON: Now comes Munich, I think, in April 1990, does it not?

MR JUSTICE GRAY: 20th - 22nd April, is that right?

MR RAMPTON: Yes.

A: The 21st.

Q: Again, this is taken from the Dispatches programme.

A: Your Lordship, the 21st.

Q: This is altogether a bigger event. **(The video tape continued).**

Q: Pause there, please.

A: In the middle to the left, this is Raymund Bachman.

Q: Who is he?

A: He is an Austrian right-wing extremist who is perceived as a very good speaker. Then to the right of the middle, this is the Althans.

P-59

Q: In the middle?

A: In the middle to the right, the right to Mr Bachman, the next is Ewald Althans and the third person is also active in this scene, but I cannot recall the name. I can check it if I have a bit of

time.

Q: What does the rest of the banner above the hand say?

A: "Wahrheit macht frei" David Irving and the like, I do not know.

MR IRVING: "Ein Engländer kemft um die jede Deutschlands".

A: "Ein Engländer kemft um die jede Deutschlands", thank you, Mr Irving.

MR RAMPTON: We know, but what is the message of "Wahrheit macht frei" in this context?

A: It means basically that truth produces freedom and relief, and that truth is related to a rechange of the Holocaust history.

Q: Does it have any resonance with some language used during the Nazi period?

MR JUSTICE GRAY: I think we all know.

A: It has resonance to "Arbeit macht frei".

Q: Which we find where?

A: In the concentration camps but, of course, I do not know if this is directly related to it but it has undercurrents.

Q: You can leave that guesswork to us, thank you, Professor.

MR JUSTICE GRAY: Yes.

P-60

(The video tape continued).

A: This is Michael Kuhnen. This man in the middle now, you see him.

MR JUSTICE GRAY: With the dark hair.

MR RAMPTON: Without the glasses.

MR IRVING: Which one?

MR JUSTICE GRAY: Dark hair, without the glasses.

A: Right to the person with the glasses. You see it?

MR RAMPTON: That one?

A: This one, right, excuse me. This is -- excuse me.

MR IRVING: That is Remer.

MR JUSTICE GRAY: Staglich?

A: Yes, to the right one. This is, in the middle, Otto Ernst Remer. **(Video continues.)**

A: This speaker says that Michael Kuhnen is in the meeting and also Manfred Roeder. Manfred Roeder was convicted by a court of having done terrorist activities against asylum seekers. He got out of prison some time before this event.

Q: What terrible things did he do to asylum seekers?

A: He arsoned their house.

Q: Arsoned?

MR IRVING: Set fire to it.

MR RAMPTON: Yes, set fire to it.

A: Set fire, thank you.

P-61

Q: Were the people inside?

A: Two people were killed.

Q: You say he is welcomed to this meeting?

A: Yes.

MR IRVING: He was a lawyer, was he not?

MR JUSTICE GRAY: Mr Irving, will you get your chance. I do not really think we can make this too conversational.

A: OK.

MR RAMPTON: Yes.

A: But I may state that Manfred Roeder is not Jurgen Rieger - this is a very famous right-wing extremist lawyer. **(The video tape continued).**

MR JUSTICE GRAY: Can we pause there. Do you recognise that man?

MR IRVING: It's Anthony Hancock.

A: Yes.

MR RAMPTON: Who is Anthony Hancock? We will not have evidence from Mr Irving at this stage.

MR JUSTICE GRAY: We do not have want Dispatches conclusions after that.

MR RAMPTON: What?

MR JUSTICE GRAY: We do not want Dispatches conclusions after their detective work; we want this there witness to identify.

MR RAMPTON: No, I want to know what this witness says. I do not want to hear Mr Irving says either.

P-62

MR JUSTICE GRAY: Anyway, you said Hancock?

A: Tony or Anthony Hancock, it is put differently. He is one of the very active British revisionists, active also in a political sense, and in close connection to David Irving, very close. **(The video continues.)**

MR JUSTICE GRAY: Can we pause there. I am not understanding what this is being used for.

MR RAMPTON: That is Mr Hancock lying about his name and his reason for being there.

MR JUSTICE GRAY: So what, if I may say so?

MR RAMPTON: Well, it is there; it does no do any harm.

MR JUSTICE GRAY: Well, I think it possibly does. All I am concerned to get out of this, as I understand it, is who was present at the meetings at which Mr Irving either spoke or was himself present.

MR RAMPTON: This is such a person.

MR JUSTICE GRAY: Well fine, but we have established that he was there. Why do we have him being evasive on camera, because that seems to me to be prejudicial without being probative.

MR RAMPTON: It may be so, but the fact is this witness has told your Lordship that this man has a close connection with Mr Irving.

MR JUSTICE GRAY: Yes, fine, but the fact he is lying presumably out of Mr Irving's hearing seems me to be

P-63

stretching this all too far.

MR RAMPTON: No. If he has a reason to lie, it may be inferred in this context what it is.

MR JUSTICE GRAY: Can we fast forward to the next bit which identifies somebody else as having being present. **(The video continues.)**

MR RAMPTON: I think we do need to see those gentlemen. Who are they?

A: These are Munich skinheads, staging something - it is difficult do explain ----

MR IRVING: It is a stunt.

A: It is very simple, on the other hand. They are staging a thing that was already staged in 1978. It is a repetition ----

MR RAMPTON: Right.

A: Where Christian Worch, the same Christian Worch, and Michael Kuhnen said similar things. Here it is said: "I ass believe still what is told to me". It is a clear reference to the so-called Auschwitz lie.

Q: You mean: "I am an ass because I believe that Auschwitz happened"?

A: Excuse me.

MR JUSTICE GRAY: Well, "I just believe everything I am told".

MR RAMPTON: Yes, including Auschwitz, is that right?

A: It is a clear-cut reference to the ideas of the Holocaust denier, that it did not happen but: "I, ass, believe that

P-64

it was told that Holocaust happened".

MR JUSTICE GRAY: Professor Funke, is this something that was done on stage, as it were, at the meeting in Munich on the 21st April?

A: It was on stage during this Congress, 21st April, in Munich.

Q: On 21st April?

A: 1990.

Q: On stage, as it were?

A: On stage.

MR IRVING: My Lord, that photograph is not actually on the stage. It is somewhere in the audience or in the auditorium.

A: Excuse me. You are right. He is right. It is not on stage, but it is staged. **(The video continued)** They are singing the first verse of the national anthem that is, since 45, forbidden. It refers to the Reich in the space of the Reich (German). That is a clear cut ----

THE INTERPRETER: From the river Mars to the River Memel.

A: One river is in Belgium. The other river is north to East Prussia. Because of that and the first beginning of this first verse, Deutschland uber alles, Germany above all, the first verse of the national anthem is forbidden since decades, so this is a clear cut attempt to attack it.

MR RAMPTON: Do you mean it is forbidden by law?

P-65

A: It is forbidden by law.

Q: And has been since 1945?

A: Not 1945, but early on in the Federal Republic **(The video continued)** You see again both, to the left Ewald Althans and on the right Christian Worch. This is, I would interpret, a telling picture of the organizational activities and activists. I think this person -- excuse me -- but I am not totally ----

MR JUSTICE GRAY: If you are not totally sure I do not think ----

A: Not totally sure. This is again Staglich and then the next, it is Karl Philipps, this one, so far. I know but, because I do not know him personally and I have just some photos, I am very cautious, but I think, as this is told in the TV, this is Thomas Heinke, the chief of a skinhead faction, very violent activists group in Beiderfeld, this is in north west Germany.

MR JUSTICE GRAY: How do you know it is Heinke?

A: It is said by different sources, and by those who did the Michael Schmidt film, who helped to do the Michael Schmidt film, so one of the best experts I had, I must say. **(The video continued).**

MR RAMPTON: Can we stop there please? Do you know what is taking place here? This looks like a march?

A: Yes. This is a debated march to the Feltan Halle of the

P-66

21st April Congress, and it was then later on cut by police intervention.

MR IRVING: Can I ask you if you ----

MR JUSTICE GRAY: I think you will have your chance, Mr Irving.

MR IRVING: It is important we should know if they are marching northwards or southwards, my Lord.

MR JUSTICE GRAY: You mean to or from the conference hall? Do you know the answer to that.

MR IRVING: Is that the Vienna Strasse in Munich.

MR JUSTICE GRAY: Do you know whether they are going to the conference or away from it?

A: They go away from the conference, but I do not know to what direction, north, south, because I am not familiar with Munich.

MR JUSTICE GRAY: Right. Let us get on with this. **(The video continued)** Here, stop, please. Back a bit, if I may ask that.

A: This is again Michael Kuhnen, so you see here both of them. We are talking about twenty minutes or an hour ago, on the one hand David Irving and here Michael Kuhnen.

MR IRVING: Can I ask you again, can you recognize whether I was walking northwards up Vienna Strasse from the background there?

A: As I said, I am not familiar with----

MR JUSTICE GRAY: Mr Irving, you will have your chance. Can you just sit patiently.

P-67

A: Here you see the Reichskriegsflagge.

MR RAMPTON: You will have to explain Reichskriegsflagge, strictly speaking, because this is an English court.

A: Shall I do it now?

Q: Yes because we are going to see it again. Pause. Down in the bottom left hand corner of the picture there is a flag with an eagle in it. Right?

A: Yes. Right.

Q: Yes. It is easy for you now. Reichskriegsflagge is what?

A: This is a flag that was used by nationalists before the First World War, and during the Weimer republic, but it is here, you see there Michael Kuhnen, and there the Reichskriegsflagge. Michael Kuhnen, for example, said that we use this flag as long as we cannot use the swastika.

Q: Just so that we get it right, a Reichskriegsflagge is a Reichs war flag, is that right?

A: Right.

Q: Thank you very much.

A: You know the German Nationalists, before the National Socialists came to influence in the late 20s, they were very anti-democratic in their own ideas, to a degree anti-Semitic too, and of course, especially before the First World War, very much war mongering. So this is a kind of reference to these kind of ideas. **(The video continued).**

MR IRVING: That again does not appear to come from the Dispatches programme, my Lord. There was no commentary of any kind. It appears to have been just glued together from various odd bits and pieces.

MR JUSTICE GRAY: Is that right?

MR RAMPTON: No. I did not do it, but I am bound to say I find these repeated attacks on the integrity of my junior and my solicitors perfectly absurd.

MR JUSTICE GRAY: I do not think it is attack on anyone's integrity.

MR RAMPTON: Of course it is.

MR JUSTICE GRAY: If your instructions are, or you are told by Miss Rogers that that does come from Dispatches, for my part, I would accept it straightaway.

MR RAMPTON: I am told it is all part of the same occasion and this is what the Professor says.

MR JUSTICE GRAY: It is all part of the Dispatches programme? That is the point.

MR RAMPTON: Is it? Somebody must know the answer. I did not do it.

A: I know. Can I say?

MR JUSTICE GRAY: You had better wait and see.

MR RAMPTON: It is partly from the actual programme and it is partly from what I think are called the rushes, the uncut material taken on the same occasion. If Mr Irving says this is not Munich on 21st April 1990, let him say so.

MR JUSTICE GRAY: This is Dispatches material, but it was but not actually part of the broadcast?

MR RAMPTON: It was stuff that was not transmitted, yes.

MR IRVING: My Lord, of course, the point I am making is that, if there is cross cutting to indicate there are people over there and I am over there, and there is subsequent, quite clearly from the quality of the film footage, they are taken on different cameras.

MR JUSTICE GRAY: Mr Irving, what I have said is that these films are going to be admitted for the purpose of demonstrating, if they do demonstrate it, who was present at meetings at which you spoke or were present yourself.

MR IRVING: I am aware of that.

MR JUSTICE GRAY: I think that should be the limit of it. Are we finished with Munich?

MR RAMPTON: I think we are finished with Munich. I use Mr Irving's words in a minute. There is an aspect of this on which I also rely. It is not simply who else was there, and I have said this before, and what was said by the various people, including Mr Irving, which is obviously important because we are talking about groups of like minded people, it is, to use Mr Irving's phrase, the rabble rousing element of it, which one will see very clearly when one comes to Halle.

MR JUSTICE GRAY: When Mr Irving can be seen to be present and involved, yes.

MR RAMPTON: Rabble rousing.

MR JUSTICE GRAY: Otherwise no. I think that must be the distinction.

MR RAMPTON: You will see the rabble. When you get to Halle, you will see the skinhead rabble and then you will see Mr Irving standing on a scaffold rousing the rabble.

MR JUSTICE GRAY: Right.

MR RAMPTON: This is a film made by Mr Irving himself, I think. It comes from his own video, my Lord, called "Ich komme wieder". It has probably been edited out of existence.

MR JUSTICE GRAY: Where is this?

MR RAMPTON: Passau. This is No. 3, Passau DVU. It is very short. **(The video continued)**

A: This is Gerhard Frey, this person.

Q: That is Gerhard Frey.

A: Yes, this person in the middle here. Left to the -- no, right from here, right to David Irving, there you see David Irving and on the right you see next to the middle Gerhard Frey, the DVU chief, the chief of the German Volksunion, of the Deutsche Volksunion, the leader. **(The video continued)**

MR JUSTICE GRAY: That is it.

MR RAMPTON: That is it.

MR JUSTICE GRAY: Was that Passau in '87 or?

P-71

MR RAMPTON: Yes?

A: No, not in '87.

MR RAMPTON: '91?

A: In '91.

MR RAMPTON: The next one, my Lord, is the long one, the Leuchter Congress. I would like the people in charge of the machine to zip through -- I do not want a whole lot of speeches.

A: Yes, I agree.

Q: A whole lot of speeches from this group, just to know who they are and get a flavour of the occasion.

A: This is Ewald Althans. It is before the museum in Munich.

MR JUSTICE GRAY: What is the date of this?

A: 23rd March '91.

MR JUSTICE GRAY: Thank you.

MR RAMPTON: Can you pause there a moment? I would like to tell his Lordship or I will ask a question, who made this tape?

A: It is shown in the beginning, it is Samisdart(?). This is the name of the Samisdart publisher, Ernst Zundel, in Canada.

Q: Zundel?

A: Zundel.

Q: Commercially made, was it?

A: It was -- it was remade for publishing.

Q: Yes.

P-72

A: So it was cut and there are written things on it, so if you are interested we can go into details, but...

Q: Excuse me, this is a film made by Mr Zundel for his own purposes, professionally made, so it

has been cut and edited?

A: Exactly.

Q: And was it to be sold and distributed to the world at large or whoever wanted it?

A: I am not sure if it is only for limited purposes, of limited audiences and publics, I do not know.

Q: But the important thing about this is it is Zundel's document?

A: Exactly.

Q: It was disclosed by Mr Irving and so far -- you have seen it before.

A: Yes.

Q: The Defendants have not tampered with it?

A: The Defendants?

Q: Tampered, fiddled?

A: No, no, it is just by Zundel.

Q: It is an entire Zundel document?

A: Right.

Q: Thank you very much.

A: This is Mrs Von Tonningen. This is a person from the Netherlands, a networker of high skills, very identified with the National Socialist cause. This is the famous

P-73

Ahmed Rami with his very anti-Semitic speech. This is the translator. It is Bouffeur from France who is also active in the revisionist scene. This is another translator, Fritz Becker from Einshaus. Henry Rock, he is a stated, he is an author, a Gerstein expert and editor of the French Zeitschrift Review D'histoire Revisionist.

MR IRVING: My Lord, can I draw your attention to say that so far we have not seen my face once on the screen yet.

MR JUSTICE GRAY: I was looking out for you.

MR IRVING: Yes. You will recognise me when I come. **(The video continued)**

A: Can I ----

THE INTERPRETER: Since we are playing the sound, would you like a running translation of it?

MR JUSTICE GRAY: No, I think we are not going to do it that way.

MR RAMPTON: No. We will get it transcribed and translated in each case.

MR JUSTICE GRAY: I think that is the right way.

MR RAMPTON: We might have had enough of this.

MR IRVING: I was enjoying that!

MR RAMPTON: Could we fast forward, please, since we do not know what he is saying?

MR JUSTICE GRAY: I do not think, from what I could gather, there was very much that was of any particular materiality

P-74

it is a chronicle of the ----

MR RAMPTON: On this occasion it may be more a question of who else was there.

MR JUSTICE GRAY: Yes, that is the point, is it not?

MR RAMPTON: And what they were saying.

MR JUSTICE GRAY: Who is he?

A: Is this Staglich again?

MR RAMPTON: It is the same old faces.

A: This is one person there ----

MR JUSTICE GRAY: Can you go back a bit?

A: --- who will speak later, Peter Verala to the right, just to the right. This is Pedro Verala. He stood all the time in the back of the stage. This is Paul Knutsen a Danish activist of the same scene, both revisionists and right wing extremist activities involved. This is now Pedro Verala speaking and having a tape of the Haute Lyons D'Egrelle(?). That was the Lyons D'Egrelle.

MR JUSTICE GRAY: Was that Althans?

MR RAMPTON: Althans in the ----

A: This is Althans again, right.

MR JUSTICE GRAY: Yes, I thought so.

A: This is now Ditlieb Felderer, a Swedish activist of the international.

MR RAMPTON: Is it a man or a woman -- oh, it is a man.

A: There is Christian Worch, organizer of the security aspect of this conference, with his troopers, if I may say so.

P-75

This is again Raymund Bachman of Austria. To the left you see Christian Worch. They sing again the first verse of the National Anthem that is forbidden. This is a reference to the berk(hof?) of Hitler, so far as I see it. This is it.

MR IRVING: My Lord, your Lordship will have noticed that apart from my actual appearance, there is no appearance of myself in that video, if you see what I am saying?

MR JUSTICE GRAY: You will have an opportunity to say whether you were or were not there for the whole of it.

MR IRVING: While the images were fresh in your Lordship's memory, I wished to...

MR JUSTICE GRAY: Yes, all right, well, that is fair enough.

MR RAMPTON: How long is this one?

A: That is a rally in Halle.

MR JUSTICE GRAY: Is this the last one, Halle?

MR RAMPTON: The last one.

MR JUSTICE GRAY: Shall we try to deal with it?

MR RAMPTON: Yes. We will deal with it, if your Lordship will permit, by the same means.

MR JUSTICE GRAY: Yes. We have actually got a transcript of Halle.

MR RAMPTON: Have we?

MR JUSTICE GRAY: Tab 11?

A: This is Gottfried Kussel.

MR JUSTICE GRAY: Is this Halle already?

P-76

A: Yes.

Q: Just pause a second. I do not know whether it is -- at least I assume it is the same tab 11 in D2(iii)?

MR RAMPTON: Your Lordship is miles ahead of me, D2(iii).

MR JUSTICE GRAY: Is it November 9th 1991, Professor Funke?

A: That is 9th November of '91.

MR JUSTICE GRAY: Yes, it is the same one.

MR RAMPTON: That is absolutely right, my Lord.

MR IRVING: Can we establish whether this is from Dispatches or the raw uncut footage, please?

MR JUSTICE GRAY: I think that is a proper enquiry.

MR RAMPTON: Of course it is. I do not know the answer. That is all. It is taken from This Week, not Dispatches, and it is such footage as we have.

MR JUSTICE GRAY: So we are getting the whole lot, in other words?

MR RAMPTON: Yes, but again I suggest that we do not need to -- we identify Kussel.

MR IRVING: My Lord, if I can just ask you to pause for a moment? There are three video tapes. There is the "This Week" programme as broadcast and there are two video tapes which fell into our hands by accident, containing the raw uncut footage of this programme. The "This Week" programme is heavily edited and, as a matter of interest, I would just like to know what the court is going to be shown now, whether it is the raw, uncut footage.

P-77

MR JUSTICE GRAY: "This Week", I think, is what is being shown and the whole of "This Week", as I understand it.

MR IRVING: I understood Miss Rogers to say it was such footage as they had.

MR RAMPTON: It is not edited. You can see that from the timing ----

MR IRVING: So this is the raw, uncut footage?

MR RAMPTON: --- thing. That is why it is rather long and, I am afraid, it is very "samey", but the sameness is rather striking so perhaps we should continue in fast forward for a bit.

MR JUSTICE GRAY: Exactly the same basis as before. Yes?

A: As I said, this is Gottfried Kussel marching at the top so representing that he is the successor of ----

MR RAMPTON: Excuse me. When you get to Kussel being interviewed, could you stop it, please, because I want to hear ----

A: By the way, this is the main transparent -- banner, thank you, showing that, you know, Reiner Sonntag, Rudolf Hess and a third person. These are the matters of the Reich. This matter of the Reich, you see it down.

THE INTERPRETER: Matters of ----

A: Matters of the Reich, Rudolf Hess in the middle, Reiner Sonntag to the left and Michael Kuhnen to the right. I have to say that Reiner Sonntag was a neo-Nazi activist in Dresden of the same camp, of the neo-Nazi camp, and was

P-78

killed by non-political reasons, as far as the record is there. Michael Kuhnen died by disease in April '91.

MR RAMPTON: Right, thank you.

A: This is Deutsche TV. You see now all the political little tiny important for them and for the scene groups, and here this is the political arm of the Kuhnen crew or the Gesinnungsgemeinschaft. So a group that is described by all sources, including the official ones in Germany as neo-National Socialists.

Q: What significance are the colours black, white and red, if any?

A: This is again schwarz, weiss, rot, black, white ----

THE INTERPRETER: Black, white and red?

A: --- and red, reference to the Nationalistic cause to as long as they are not allowed to use swastikas, swastika flags.

Q: Carry on. **(The video continued)**

A: It is a bit quick. I cannot identify the persons by this speed. Here again you ----

Q: Continue with the ----

A: This is the Reichskriegsflagge again. The police sheltering the demonstration. Ah, maybe you go a bit back, if I may ask you? OK, now with tone, with sound.

Q: Stop there, what?

A: This, OK.

P-79

Q: What are they shouting first of all?

THE INTERPRETER: "We'll get you all"?

A: Yes.

MR RAMPTON: "Alle wir kriegen Euch"?

THE INTERPRETER: "We'll get you all".

A: "Wir kriegen Euch alle". "We get you all".

Q: Who is "all", who is "you"?

A: This is a slogan that is used by this very aggressive demonstrations and attack attempts on asylum seekers home in the early 1990s, so I did book on the Rostock event where this kind of attack of assylum seeker home where this again was shouted. So, it is a very aggressive, "We get you all".

MR JUSTICE GRAY: Yes, but it is xenophobia, it is not specifically anti-Semitic?

A: No, but it can turn because often they are both and they were asked to be both, anti-Semitic destroying cemeteries of Jews, and be against foreigners. This is Deutsche Hessen, German Hesser, and there to the right you have one of the other main active neo-Nazis leaders thinks Heinz Reisz, R-E-I-S-Z. He is one of the active persons in Hesser. This is a run down region of --

Q: Can you pause there a moment? Professor, have you tried to estimate or do you know how many people were at this rally?

A: It was estimated by various sources around 5 to 600.

P-80

Q: The pictures we have seen so far are mostly, not entirely, are of what one might call skinheads wearing what the English call "bovver" boots. To what extent were they characteristic of the audience?

A: They are very characteristic. You have here a clear cut sign or picture, better to say, of several, you know, groupings coming together. The basis of them are these often without hair, you know ----

Q: Skinheads?

A: --- short hair, dressed and boots of this kind where you can do this kind of marching things, using this Reichskriegsflagge as described, wearing special jackets. They are the core of the skinhead, the violent skinhead, scene. This is the one level. The other level is that all the little tiny groups of the Gesinnungsgemeinschaft, of the Kuhn crew, after his death, the Kuhn crew, of course, with Worch and others are there joining, and also those who are a bit of distance,

you can see it a bit later, coming to join because there is a joint effort to go to the next step of this strategy. The third dimension, the third level, so to speak, is that also the NPD, the normal right-wing extremists, if I may say so, not so violent, not so neoNazi orientated, come to a degree also and are invited by this already mentioned to Thomas Dienel, the chief of the NPD of Tourignia, Tourignia at that point, at that

P-81

time, and the second chief or one of the second chiefs of the Federal level of the NPD. So you have an attempt to join on the very radical level the whole scenery to make the next strategical step. You have to recall, if I may say this as a last sentence, that in the period between '89 and this very day since the fall of the Wall, two years were gone, and in this they could establish this kind of movement of male youngsters to be as furious against foreigners as anti-Semitic and for Aryan race based state. Last sentence again, the amount of violence, you know, were more intense in '91 than in '90, and again in '92. So they are at a juncture of spreading their influence in the violent youngsters' scene, especially in East Germany.

MR JUSTICE GRAY: Do we see Mr Irving on the way in ----

A: We will see.

Q: --- as it were, to the meeting? We will see him, will we?

MR RAMPTON: I do not know if we see him on the march.

A: No, no.

Q: We certainly see him on the scaffold in due course?

MR JUSTICE GRAY: That is what I was really wondering. Yes, I see.

A: This is -- you can go on. This is another Krubrich is the name, another activist. Can you go a bit back, if I may

P-82

ask you? You see there the Leipzig(?) grouping come and join to, tried to join. **(The video continued)**

A: With sound, please?

Q: Can you stop there, please? What are they shouting?

A: I cannot hear it.

THE INTERPRETER: A moment ago they shouted "Aus lande aus" and the last bit was unintelligible, so "Foreigners out" they shouted before.

MR IRVING: Would you comment or can you see red flags there in the background?

A: Yes. These are not flags of, if I may interpret it, if you allow?

MR RAMPTON: Yes.

A: These are not red flags of leftists, as you may think. These are flags of the national bloc. This is very much to the hardcore right-wing extremists of the neo-Nazi scene. Again, a kind of revolutionary, representing a kind of national socialist revolutionary strategy of strasse faction way back to the early '30s, and they are of the rural area, this group. "Rotfront verrecke" was shouted. "Rotfront verrecke".

THE INTERPRETER: "Red front, go and die".

MR RAMPTON: Sorry, I did not hear that, what?

A: This to the right in the middle is Thomas Dienel, the already mentioned Thomas Dienel. In the middle you have

P-83

Christian Worch. So the both organizers, as I alluded to before, and to the left, this is so far as I know, an activist of the region of Halle. **(The video continued)**

A: This is, excuse me, this flag is the flag of Christian Worch's group of Hamburg, the nationalist NL.

Q: Which flag is that at the back?

A: This black, white.

Q: Yes, thank you. **(The video continued)**

A: This is Worch has spoken.

MR IRVING: My Lord, can I pause a moment? My Lord, I do not think you were looking, but there was a cut between the introductory passage where your Lordship starting marking and then the camera moved its position. I think it would have taken him probably five, 10 or 15 seconds to move to a new position during which you missed, obviously, 15 seconds of intervening text.

MR JUSTICE GRAY: How long did you speak for?

MR IRVING: I was a guest appearance of five minutes, I think, altogether. I arrived. I spoke for five minutes and I immediately left.

MR RAMPTON: The diary says for the appropriate date that he made a "rabble rousing 10 or 15 minutes".

MR IRVING: 10 or 15 minutes, and if you could just run it back just a few seconds, then you will see where the actual

P-84

break occurs.

MR JUSTICE GRAY: You are right. I was reading but I was following it.

MR IRVING: There. **(The video continued)**

MR IRVING: Another cut there.

A: You see "Sieg Heil" shouting. Christian Worch is speaking.

MR JUSTICE GRAY: Is there much more of this?

MR RAMPTON: That is about it.

MR JUSTICE GRAY: It was not a criticism; it is just that I see the time.

MR RAMPTON: No, I know. We can look at it again at the end of the case, if necessary. One sees what one sees and hears what one hears.

MR JUSTICE GRAY: Yes. Five past two.

(Luncheon Adjournment).

(2.05 p.m.)

MR RAMPTON: My examination in chief of Professor Funke has ended.

MR JUSTICE GRAY: I thought it probably was, Mr Irving.

Cross-Examined by **Mr Irving.**

MR IRVING: Professor Funke, good afternoon. Before we start looking at your report, I think it makes sense for me to take up some points of what has been said in the examination-in-chief while it is still fresh in our

P-85

memory, and particularly some of the things that we have seen on the videos. The very last video we saw was the events in Halle on November 9th 1991. Is that is correct?

A: Yes.

Q: Have you studied the events of that day in any particular detail, looked at the press clippings or other footage than we have seen on television?

A: I tried the best I can.

Q: Yes. Am I right in saying that the world's television news commentators were there, all the big names, Martin Bell, the equivalent of the German television stations were there?

A: There was a lot of coverage about this demonstration, this event.

Q: Are you familiar with the fact that German television newsreel teams, in order to spice the footage of what they are filming, sometimes bribe people in the audience to do illegal acts, committing illegal acts?

A: I do not know about it.

Q: Have you heard of episodes where, for example, a Frankfurt television producer was prosecuted for arranging for skinheads to give Hitler salutes?

A: If you give me evidence, it would be fine to see it and to react on this.

Q: That is a perfectly proper answer.

A: If this is the case, of course it has to be criticised.

P-86

Q: Yes. Did you see on the footage that we just saw, when these irresponsible shouts from the audience of Siegheil, -- which is a Hitler salute, is it not?

A: Yes.

Q: Did you see me put up my hand to tell them to stop?

A: Yes. At least, you did a kind of gesture, not instigating it but ----

Q: To indicate that it was not welcome?

A: In a way, yes. I would say so. It is a guess, though, it is an interpretation, but definitely you did not ----

Q: I did not encourage it?

A: -- go with these kind of shoutings at that given moment.

Q: Did you hear from anyone, or did you see any other film footage which suggested that in the first part that was missing I had said to the audience, you are a predominantly youthful audience?

A: Please repeat the question, if I may ask.

Q: In the first passage that was omitted from that, did you see any other footage, or hear any tapes, or read any suggestions that in that part that was cut out, to which I drew his Lordship's attention, I said to the audience "You are young people" effectively?

A: What I recall very vividly is that you referred to the future of Germany and alluding to these youngsters there, yes.

Q: That I said "You are Germany's future"?

P-87

A: Something like this.

Q: And that "No-one can accuse you of war crimes"?

A: Something like this, but now we have to get your website on the desk so I can interpret it with you together.

Q: Did you hear on the video that we saw me saying in German, as they gave the skinheads the Siegheil salute, did you hear me saying, "You should not be coming with the slogans of

Germany's past"?

A: Something like this sense. The complete wording I am not aware of.

MR JUSTICE GRAY: Should not always be thinking about the past?

MR IRVING: Well ----

MR JUSTICE GRAY: Same thing.

MR IRVING: I was asking for the actual words that I used, which were, "You should not be using the slogans of the past when I have just described you as being Germany's future". Another couple of general questions. Did you see the pictures of me standing in my rain coat watching this crowd of people coming down the street?

A: Yes.

Q: Did you get the impression from my demeanour that I was overjoyed and very happy at what was going on? Or did I look rather -- would you describe me -- well, how would you describe me? I cannot lead.

A: I cannot answer this question precisely, but maybe extend

P-88

to two or three further sentences that include my picture. That is that you came into the hall, as the video showed, the hotel hall, saw the people there, a lot of them who were then in the demonstration. You came supposedly with Uschi Worch. So you knew, Mr Irving, about the character of this whole event, as I said it just before the break. The Christian Worch and Uschi Worch groupings came into this demonstration. I would think that, because of this shouting throughout the demonstration -- your Lordship, you saw just a bit of it -- there was steadily this kind of "aus aus lande aus" shouting, again and again "Siegheil", not only at that point.

THE INTERPRETER: Foreigners out.

A: "Out out foreigners out", and this shouting alike, so the character of the demonstration would have been very clear for you.

MR IRVING: Now my question again. Did I look shocked when I was standing there in my rain coat?

A: I cannot say. I really cannot say.

Q: Was I waving my arms enthusiastically, or was I standing there?

A: You did not shout "Siegheil", and you did not make these gestures of the Nazi period. I did not see that. This is all what I can say.

Q: This takes me to another question, which may well interest

P-89

his Lordship. Was there any manifestation of Holocaust denial on that day in Halle? Do you understand the question?

A: To me? Excuse me.

MR JUSTICE GRAY: Yes, it was to you.

A: Yes. I understood.

MR IRVING: Or was it just --

A: There was a rousing speech afterwards, of too much Diemel. That was very, very aggressive and I have to recall -- maybe you will see the typewritten version or you will see the video. It was very aggressive against foreigners, but Holocaust denial things I did not hear.

MR IRVING: Yes. This leads to another question. Were there any expressions of anti-Semitism during the functions or on the video tapes that you have seen of that particular function, not just xenophobia, not just "aus lande aus."

A: I got your point.

Q: Explicit anti-Semitism? Are these useful questions, my Lord?

MR JUSTICE GRAY: Absolutely.

MR IRVING: Yes.

A: No, they were concentrated on this hatred against foreigners.

Q: Did you see any pictures in that film footage we saw of me with this gentleman, Thomas Dienel, together?

A: On the stage.

P-90

Q: Together?

A: You know he was around. We have to look on the video. You know on the stage there were Christian Worch and you and ----

Q: It was the back of a lorry, in fact.

A: Skinhead guys, so far as I know, of the region. Then you came before this both, you came and then you left. This is what I saw. You are right.

Q: In fact, have you read my diary and do you get the impression from my diary in doing so that I arrived, I spoke and I left immediately and headed back to West Germany within ten minutes?

A: I think you would not make it in ten minutes to West Germany.

Q: Well, I stayed around for ten minutes to make my speech and left immediately. Was that the impression you got? Or did you get the impression that I stayed there the whole day, applauding every speaker?

A: The diary shows no further inclination with the procedures afterwards.

Q: The diary refers to my making a rabble rousing speech, does it not, which Mr Rampton read out this morning?

A: So far as I recall, yes.

Q: Have you seen any references in my diary to my making a rabble rousing speech to my third daughter, Paloma, when she misbehaved one day and I made a rabble rousing ----

P-91

A: You have to give me evidence.

MR JUSTICE GRAY: That I think I would not pursue as a question because it will involve about ten minutes of explanation.

MR IRVING: Yes. I think I have established the main points. Just let me ask you once again. Do you specifically recall seeing any image of me on that film footage on the back of that truck next to or talking to Thomas Dienel?

A: I did not see it on the video, no.

Q: No. The Leuchter Congress, which is the film that was shown just before that, March 23rd 1991, his Lordship invited you not to translate what I said in my remarks, but would it be right to say that I just told the audience, "I have to tell you that I cannot tell you anything, the police have ruled that we cannot talk about history"?

A: This is right.

Q: Did I then continue to say that my topic was going to be a lecture on Winston Churchill and the United States entry into World War II? Was that going to be the topic?

A: Yes.

Q: It was not going to be Holocaust denial or it was not going to be an anti-Semitic talk, to your knowledge?

A: No.

Q: The Munich lecture of April 1990, this was the Wahrheit Macht Frei lecture that we saw, the one that cost me so much, those few words, Wahrheit Macht Frei is "the truth

P-92

shall set you free". Is that an appropriate translation of that?

A: I think so.

Q: Is that not in fact a quotation from the Bible, the scriptures, from John 8.32?

A: I do not know. I am not so Biblefest, as we say in German.

THE INTERPRETER: Not as well versed in the Bible.

MR IRVING: It had nothing to do with whatever private obsessions Mr Rampton may have with that phrase? It has nothing to do with anybody's -- in other words there are other possible explanations why that is a popular phrase in Germany?

A: The question of Richard Rampton was quite valid. It came into my mind in the subconscious.

Q: The resonance?

A: The resonance and the reference to the Nazi period, because of the aggressive outlet of the whole event in April 90 as set out by Mr Althans in saying, this is the end of the defence revisionists and now we have to think reverse.

THE INTERPRETER: We have to change our thinking.

A: And then, according to the sense, for a new political revolution or the like. I have to find the exact quote. So there is a surrounding atmosphere that can lead to these kinds of sensitivity that can allude to this Nazi

P-93

period slogans.

Q: Still dwelling on the Munich events, have you seen any reference in my diary to my criticising Althans for the appearance at that function?

MR JUSTICE GRAY: For what at the function?

MR IRVING: The appearance, the way it was staged, the staging of it.

A: So far as I recall with respect to the 1st April '90 Congress, you said two things, except the skinheads and the flags, or so in your diary.

Q: Yes. I did not like the skinheads and I did not like the flags and I told Althans that.

A: Can I add something?

MR JUSTICE GRAY: Yes, do. I was just looking up the diary entry.

A: Of course it is of interest to see you again meeting these skinheads in Halle and elsewhere.

MR IRVING: Confronting them, or having them imposed upon me? Would that be the right way to say it?

A: I cannot say yes to that.

Q: It is not impossible, of course, that these skinheads have been bribed to come along and shout those slogans for the benefit of the newsreel cameras?

A: No way, because I looked very exactly to the surrounding conditions and I laid this out before the break, and I could extend it to hours, what this special meeting in

P-94

early November '91 meant, especially for the two levels of the three I mentioned, that is the neo-Nazi reorganizing attempts and the reference and the organizational capacity they want to extend to the violent skinheads scenery in East Germany.

Q: Of course, you agree that, if I had no connection with anybody at that Halle function, apart from the invitation from Mrs Worch to come and deliver a five-minute talk, then what the infrastructure may have been is not necessarily something that I will have heard about?

A: It is a kind of denying, if I may say so. This whole circumstance, this political revisionist, the like, circumstances, you took side, you cooperated for a period of time with 26, you know, mentioning of the interaction between the Worches and so forth, the Ewald Althans interaction was even more intense, the Karl Philipp interaction. So, if I may draw the attention to the whole picture you will get if you see Mr Irving throughout these years interacting with these groups, and he again and again had to face this, and all the way long he reiterated his quest to speak before these audiences, and was there. So in that sense, I will draw a different picture than this is alluded in the question of Mr Irving.

Q: You talk about getting the global picture. Well, today and I suppose now tomorrow as well, we will be getting the global picture, which is everything I was doing at that

P-95

time and not just these one or two episodes that have been selected. Do you agree with that?

A: Not everything, oh no.

Q: There is a much wider picture.

A: I just pinpoint these things that are of importance for the libel act, having extremist views, are you a dangerous Holocaust denier. You know, the Holocaust denier thing is somehow embedded in these political years, and that may cause a judgment to be dangerous, and this is up to of course the court and not to me. But there is something that conflates the two levels of activities -- conflate, coming together.

MR JUSTICE GRAY: Converge?

A: Converge, excuse me.

MR IRVING: Yes. You have picked altogether on, I think we will find we end up with about half a dozen names that mean anything, because most of these people, you will probably agree, I have never met or heard of before. So, if we end up with half a dozen or a dozen names.

MR JUSTICE GRAY: That is too broad to be answerable.

MR IRVING: There is a question that actual follows. That was a comma there. The question now follows. Professor Funke, will you now please have a look at the little bundle of documents I gave you, so we can give it a kind of scale of proportion.

A: Is this the bundle J?

P-96

MR JUSTICE GRAY: Yes.

MR IRVING: Yes, it is. Professor Funke, if you just look at pages 4, 5, 6 and 7, I do not want you to read them, just look at the numbers at the top of each of those pages. Will you agree with me that those are the title pages of five of my address lists on my computer, and that they show respectively totals of addresses of 571, 1169, 966, 2000, 158, 1662 records? All told about 6,500 acquaintances that I have, just from these five address lists. You have picked on six or 12 or of that order of magnitude. I have contacts with all of these 6,500 people. That is the global picture. You have picked on just these few. Would you agree that therefore possibly the poisonous

extremism which you think you have found in David Irving is possibly diluted when it is dropped into the larger ocean of all these worldwide contacts, many of whom are left wing liberals, for example?

A: It is not my duty to judge the 6,000 plus addresses and to look after them.

Q: Yes.

A: It was my duty to refer to the cause of the libel act, and so far I have to reiterate that the bunch of people we discussed before the break are so decisive in making up a very violent movement, that of course there is a question how far, Mr Irving, if I may say so, you are interacted with them, or not. My judgment is that you were in the

P-97

course of these years.

Q: In your opinion, yes. I will be looking at a lot of these names in detail as we go through your report but I am going to ask general questions now. You had complete access to all my private diaries, although I noticed in your report there is a reservation about whether it was complete access or not. You had complete access to all my telephone logs. Did you notice that in my private diaries at the beginning of every year there were pasted lists of people who received Christmas cards from me, or from whom I received Christmas cards, just as one thermometer, so to speak, of personal friendships? Did you notice these lists?

A: I saw some of them and, of course, I did not address it because it is not to the interests of the public court I let of course out all the very private things, and this is due to my personal understanding, and I think also to the rules of the court.

Q: But, Professor Funke, you would certainly have mentioned in your report if you had noticed that I had received regularly Christmas cards from the Worch family or from your Thomas Dienel, or any one of these other people, you would have mentioned it, would you not, or if I had sent them? It would have indicated a closer degree of intimacy than just being telephoned by these people?

A: This question presses me to go in further detail to what

P-98

I realized with respect to both Worch, and again I have to restrict myself, but what I can say definitely and we can have further detailing of that, that there was a very, very intense relationship, cooperation, and what-have-you, between David Irving and Christian and Ursula Worch. This is for sure.

MR JUSTICE GRAY: Yes, but we were on Christmas cards. You do not need to repeat what you have said already, if I may say so, Professor.

MR IRVING: The answer is no, I think, is it not?

MR JUSTICE GRAY: I think the answer is that if you had discovered there were Christmas cards being exchanged with the Worchs regularly, you probably would have said so?

A: I do not know.

MR IRVING: Another general question: in the exchanges that passed between myself and the Worchs, is there any element of Holocaust denial or anti-Semitism to your memory?

A: Say it again?

Q: In the exchanges, the contacts, between myself and Worch, Mrs or Mr Worch, was there any element of Holocaust denial or any element of anti-Semitism?

A: I mean, the very fact that Mr & Mrs Worch was a key organizer of this very Holocaust denier Congress in Munich is an indication that, yes.

Q: Mr Worch was an organizer of the Leuchter Congress, in your opinion?

P-99

A: No, of the first Congress in 21st April '90.

Q: On what?

A: He was there and he was there again.

Q: On what evidence do you base that statement?

A: If I may add, he was there again in late March, as you could see just a minute ago.

Q: You say he was there, but how many people do you estimate were there Lowenbraukeller in Munich on 21st April 1990, 2,000 people?

A: I do not know. It was said that there were 800 or so.

Q: So being there is not enough. What evidence do you base your statement that Worch was an organizer of that Congress?

A: Because he prepared it together with others. He was ----

Q: What evidence?

A: He was responsible for the so-called security thing. I said deliberately that this picture, we are both of these various persons stood together, that is Althans, on the one hand -- he was, of course, the more important -- and Christian Worch, on the other hand, showed something about the degree in which they were interacting by preparation and enacting the Congress.

Q: So your statement is based purely on that visual image we have of Althans standing next to ---
-

A: No, also the references in what you got, I think, of the whole, of the whole letters from you to them and back and

P-100

so forth.

Q: I do not want to hold you up, but if you can find evidence that Worch was involved in the organization of the Lowenbraukeller meeting, then perhaps you can present it morning?

MR JUSTICE GRAY: Sorry, is the Lowenbraukeller meeting ----

MR IRVING: April 21 1990, my Lord. That was the second video that was shown to us today.

(To the witness): You estimate there were 800 people in the audience?

A: I cannot say. I was not there.

Q: And all people that were drawn to our attention, the person you identified as Michael Kuhnen craning his neck, the one without glasses, and Otto Ernst Remer and Manfred Reuder, these are the names of people you picked out, they were all sitting halfway down the audience, were they, or in the middle of the audience?

A: I do not know.

Q: They were not wearing nameplates or anything? They had no name tags on, did they?

A: So far as I saw, no.

Q: These may seem silly questions to you, but I have to ask them for obvious reasons. It was the same on the first video that was shown at Hagenau. You identified there Mr Faurisson, Mr Zundel and Mr Worch and somebody you said seemed to be Staglich?

A: Yes.

P-101

Q: And do you agree that I was not visible on any of those shots in which those people were visible. Therefore, there is no indication that I was in the room at the time that they were there or when Mr Zundel was making his speech?

A: Not by this video.

Q: Not on this video?

A: No, I cannot see because you spoke at the given time and the video is not the last proof if you are at this given moment you were in the room, and there is no way to identify it 100 per cent.

MR JUSTICE GRAY: I beg your pardon for interrupting. Are we on the April 1990?

A: No, he went back to Hagenau.

MR IRVING: This is Hagenau, the first video, my Lord, Hagenau.

A: Yes.

Q: The people pointed out to us were Mr Faurisson, Mr Zundel, Mr Worch and somebody who "seems to be Staglich". Those are the only comments I have to make on the videos which were, as I understand it, only introduced or accepted for identification, rogues gallery purposes, on this occasion. Unless your Lordship has any questions to ask?

MR JUSTICE GRAY: I do one, yes, is Worch's first name is Uschi?

MR IRVING: "Christian".

P-102

A: There are two Worchs.

MR IRVING: And his wife is Ursula.

MR JUSTICE GRAY: Who is Uschi?

MR IRVING: His wife, Ursula.

A: It is a shortening or a kind of nickname of Ursula.

MR JUSTICE GRAY: Mr Irving, I am not sure whether you are putting this, are you suggesting you were not there for the whole of the Halle meeting?

MR IRVING: Yes, my Lord. I am suggesting that I arrived two or three minutes before it all began. I got on the back of truck, made my 10 minute brief statement to the young Germans, got back in my car and got out of it as fast as I could being thoroughly aggravated by the whole episode.

A: Can I say something to that?

MR JUSTICE GRAY: Yes, please.

A: You said two or three minutes before you staged your speech?

MR IRVING: A few minutes before, two or three minutes.

A: I have to pinpoint to the fact that it is shown in the whole scope of the video, of one of the videos I saw -- I saw several versions -- that you already met, that Mr Irving already met, let us say, half an hour or more before a lot of these people who are organizing or with organizing who are the main participants of this demonstration in the hotel hall where Uschi or Ursula Worch and David Irving arrived.

P-103

Q: Yes, are we talking about Hagenau or Halle?

A: So the whole event has to be taken into account and not only the five or 10 minutes speech during the demonstration. It has also to be taken into consideration the surrounding minutes

before Mr Irving spoke.

MR JUSTICE GRAY: Yes. Are you talking about Halle now?

A: Yes.

Q: I thought so.

A: Excuse me. 9th November '91.

Q: I am bound to say, I do not know whether you looked at the diary entry, did you?

A: Yes.

Q: Because that appears to show Mr Irving arriving at 2 p.m. and leaving at 5 p.m.?

A: Right.

MR IRVING: 2.00 and 5.00, yes?

A: Not 10 minutes.

MR IRVING: Let me put this question.

MR RAMPTON: Three hours.

MR IRVING: Well, I was talking actually about the meeting place which is a different part of the town. Perhaps I can be more specific by cross-examination. The hotel that you referred to where these meetings apparently took place, was that one or two miles away from where the truck was parked, if I can put it like that, where the speech was made?

P-104

A: That can be. I am not informed about the site. It is possible.

Q: Yes, that I think explains that, my Lord, that I arrived at the hotel. I remember meeting Martin Bell there and people like that, and I then went over shortly before the speech, made the speech and then got out of it.

MR JUSTICE GRAY: I do not want to get bogged down on one diary entry, but that is not, perhaps, the way it reads to me. It says: "Arrived at 2 p.m. I spoke first".

MR IRVING: Yes, as is visible.

MR JUSTICE GRAY: "10 or 15 minutes". That takes you to 2.20, 2.15, 2.20, and you left at 5 p.m.

MR IRVING: My Lord, what I said is not incompatible with the diary entry, but probably cross-examination by Mr Rampton is a proper place to bring that out ----

MR JUSTICE GRAY: That may be right actually.

MR IRVING: --- if I can be so bold as to say that.

MR JUSTICE GRAY: Yes. Anyway, you press on.

MR IRVING: But I have an answer for everything, if I can say that?

MR JUSTICE GRAY: Well, I would not put it quite that way. **MR IRVING (To the witness):** I am now going to deal with some of the names that you mentioned, and I am now taking them out of sequence out of your report purely because you brought these names to the front in the examination-in-chief this morning. You say that I had a

P-105

very close relationship with Ewald Althans?

A: Yes.

Q: This is correct, is it not, you said that?

A: Yes.

Q: And it is also ----

A: At a given time.

Q: --- not something that will be denied, but I want to ask you a few questions about Ewald Althans. To your knowledge, when did I first get to know him?

A: I think ----

Q: In what year?

A: I think ----

MR JUSTICE GRAY: Mr Irving, may I interrupt again because you said something this morning which slightly worried me which was that you were not allowed to ask leading questions. That is true in strict theory, but in practice you can ask leading questions when you are cross-examining.

MR IRVING: In cross-examination I can, my Lord, yes.

MR JUSTICE GRAY: But you did realize that? You said something this morning which made me think you did not realize.

MR IRVING: But the situation this morning was not exactly cross-examination; it was more interrupting Mr Rampton.

MR JUSTICE GRAY: No, no, you said it in the course of cross-examination. I mean, for example, with Althans, it will save time if you say you did not meet him until such

P-106

and such a date, just say.

MR IRVING: Thank you very much, my Lord, yes

MR JUSTICE GRAY: "Do you accept that I did not meet him until whenever it was?" MR

IRVING (To the witness): In that case, Professor Funke, you accept that I first may have met Mr Althans in Canada in March 1989?

A: Right.

Q: It is possible that this is the Ewald that I met, according to my diary, is that right?

A: Right.

Q: But that I first really got to know him in October 1989?

A: This is very probably.

Q: From your knowledge ----

A: Very likely.

Q: From your knowledge of Ewald Althans and his rise and fall, was he a very bright student, a very bright person? Was he very gifted and intelligent in many ways?

A: I cannot say this. I do not know.

Q: Yes.

A: But you said something in the diaries to the account of very energetic, and so in any case, whatever the personal judgment may be, you co-operated with him.

Q: Well, let us see who the person was that I co-operated with and what he became, shall we? Am I right in saying that he spent six months or a year of his life in Israel

P-107

for an operation called Operation Atonement, Aktion Suhnezeischen?

A: I do not know.

Q: You do not know that?

A: No. I did not -- I have to say I read it if it is stated somewhere.

Q: Are you surprised to hear that?

A: It is totally new for me.

Q: What kind of young man would go to Israel voluntarily on a atonement mission for six

months or a year of his life aged about 20, as he then was, and seek to make amends for what the Nazi had done? Would that be inclined to impress you, that kind of young man?

A: Again I am surprised.

Q: I am asking not about Mr Althans now, but about any young man ----

A: Yes.

Q: --- if he did that. It would tell you something about what kind of character he was?

A: Yes, definitely. I think so.

Q: But you accept that people can later on go off the rails, they can be led astray, they fall into bad company.

A: This can happen.

Q: Yes. Later on, of course, he did fall into bad company, did he not? He made a lot of neo-Nazi acquaintances and he undoubtedly turned into a right-wing extremist for a

P-108

time?

A: At least he turned to a right-wing extremist and, as you say, neo-Nazi.

Q: Yes. Now, when he was finally put on trial in Berlin for having taken part in a film, he was sentenced to three and a half years in jail, is that right?

A: At least to a big amount and I cannot recall how many years.

Q: Yes. Do you remember what one element of his defence at that trial was which rather surprised the press?

A: It was, as far as I recall, but correct me or others may correct me, that he may took side of the State Secret authorities of the verwaschungsschutz.

Q: Did he not claim credibly to have been in the pay of the German Security Services for a substantial part of the latter part of his political career, that he had been acting as an agent for them?

A: I am not very familiar with it, so it would be better I have evidence because it is very debated, and I really did not get it through what really was at stake and what the real, you know, state of affairs in this period, let us say, '93, '94 was, so...

Q: Let me take it in stages then.

A: I have to react on your question very vague.

Q: Let me take it in stages then. You did hear the newspaper reports that Althans had made this very surprising claim?

P-109

A: Yes, I saw it, yes.

Q: Have you any indication or can you remember how long he was taking money from the Security Services?

A: I do not know.

Q: He offered to supply ----

A: I even do not know if this is the case.

Q: Yes. Would he be likely to have made a claim in a court in Berlin that could easily have been refuted by the Public Prosecutor if it was untrue?

A: It was very debated so I cannot comment on that without evidence.

Q: Yes. So, in other words, he is a very mysterious character, Mr Althans, towards the end of his political career?

MR RAMPTON: I think it would be important to have a date for this particular event because if it occurs after the end or near the end of Mr Irving's association with him, with Althans, then it, of course, is of no relevance whatsoever.

MR JUSTICE GRAY: The trial was in '94, I think.

MR RAMPTON: Yes, precisely. Unless Mr Irving knew at the time when he was in close association with Ewald Althans that he was, in effect, a government spy, it is of no relevance whatsoever.

MR IRVING: Then let me put this question to the witness. Dr Funke, have you seen correspondence between myself and

P-110

Dr Fry in which Dr Fry warned me that Althans was a very suspect character?

A: Yes, I read this.

MR JUSTICE GRAY: When is that? I mean, I am not quite sure where it is taking us.

A: It is in the early time when David Irving and Ewald Althans did this very intense cooperation.

MR IRVING: In other words, it was at the material times to which Mr Rampton is referring I did receive already an advanced warning that there was something fishy about Mr Althans?

A: But may I add something to that?

MR JUSTICE GRAY: Yes.

MR IRVING: Of course.

A: You know, it has to be taken into account that the DVU was a Congress organization on the right extremist ----

THE INTERPRETER: A competitor?

A: A competitor on the right, right-wing extremist side. So they feared, so far I recall the diaries and the letters and so forth, that the action Althans is proposing to David Irving may hurt his reputation as accepted in this right-wing extremist circles around the DVU as accepted speaker, because Althans was more far right, as I said, as a neo-Nazi, and may endanger this special, you know, interaction between the right-wing extremists around the DVU, on the one hand, and David Irving on the other

P-111

hands. So there are several causes that this warning came, and it did not allude to the fact that he may be a member of the Secret Service. If I am allowed to, I would then question also why David Irving took sides with this, you know, dangerous, or whatever, mysterious character at that time for that period of time, but this is a question that may be valued by others.

MR IRVING: Certainly it is a question for Mr Rampton to consider when his turn comes along, but the fact remains that if Mr Althans was working for the German Government security agencies, it is possible that he had been given the task of framing me, is it not -- if you can understand that question?

A: Can you translate it?

MR JUSTICE GRAY: I am afraid I do not.

MR IRVING: I beg your pardon?

MR JUSTICE GRAY: I am afraid I do not. Of entrapping you?

MR IRVING: [German]. Entrapping, yes.

A: I cannot answer that. I cannot answer that.

MR IRVING: Are you an expert on the verwaschungsschutz, on the German security agencies?

A: Yes, I know it a bit, but I am not an expert on that.

Q: Are you familiar with any other instances where they had used these kinds of methods?

A: Yes, of course.

P-112

Q: Yes, thank you. You made reference to the Wehrsportgruppe, the military exercise units, and Mr Rampton rightly asked you, rather like the Americans who go running around pooping off guns at each other in World War II uniforms, there is that kind of comparison, is there not? The same kind of thing happens in the United States?

A: I am shy to compare these different, you know, political cultures, but there are some to a limit some comparable things there.

Q: There is no suggestion, is there, that I have any connection with one particular group, the Hoffmann group, which you mention in your report?

A: No, I did not mention it in relation to David Irving. I did mention it in relation to, and this was an interesting, you know, action, with respect to the DVU and its leader, Gerhard Frey, who so eagerly tried to be legal and said in the letters to David Irving again and again: "Don't mention Jews, don't mention Hitler, just because to be not illegalized as an extremist party". So it was -- I wondered very much that this could happen in the late '70s with Gerhard Frey ----

Q: But there was no reason why ----

A: --- and Hoffmann.

Q: --- you are not implying that I had any connection with that group?

P-113

A: No, no, not at all. It shows, you know, the extent in which right-wing extremism, although legal, tried to extend their behaviour.

Q: Now you say that in March 1991 it was planned to invite me to Wansiedel?

A: Yes.

Q: To speak on Rudolf Hess. Are you familiar with the fact that I am an expert on Rudolf Hess and that I have published a book on Rudolf Hess?

A: I know that you published a book on Rudolf Hess.

Q: Yes. So would I be a natural speaker to invite to a function like that?

A: I have to put it differently to answer it correctly according to my knowledge, and to my judgments, of course, that goes with it, the invitation to speak there was multifaceted. It was also how you present Rudolf Hess to a given audience, so they knew whom they want to invite and have there speaking, and the letters back and forth are very interesting in that respect. As I mentioned earlier, you did not answer positively because of the appearance of ----

Q: Well, this is the next question.

A: OK.

Q: Can I ask the questions in sequence, please? The book that I wrote about Rudolf Hess would have told them what they needed to know, would it not, what my attitude on

P-114

that man was?

A: Say again?

Q: The book that I wrote about Rudolf Hess would have told them what my attitude on that man

was?

A: Yes.

Q: Was that attitude reprehensible, in your view?

A: I say, I just say that in combination of the book and how you present the Rudolf Hess case in your speeches in Germany makes it valid for these neo-Nazis to invite you.

Q: Is there any difference between the hypotheses that I set in my book on Rudolf Hess and the content of my speeches on Rudolf Hess which have been printed several times? There is no distinction?

A: Again I would pinpoint to the context, the political context.

Q: You accept that the book on Rudolf Hess was published by Macmillan & Company in this country which is one of our most prestigious companies?

A: So far I know.

Q: And that they would be unlikely to publish a neo-Nazi or Holocaust denial book or an anti-Semitic book on Rudolf Hess?

A: I did not say that.

Q: The reason that -- we now come to the point you are about to make -- I finally rejected the invitation to spoke at Wansiedel, do you know what that reason was?

P-115

A: So far as I got a clue by the diaries and the letters between Worch and you and others.

Q: Tell the court what the reason was, so far as you know?

A: You did not want to be on a demonstration or an event where also Michael Kuhnen would be there.

Q: Yes, I refused to be in the same place as Michael Kuhnen. Does that tell you anything about my contact, to use that word, with Mr Michael Kuhnen?

A: I did not say that you cooperated with Michael Kuhnen, but with the main successors and cooperators of Michael Kuhnen. So with the person you did not do a lot so far as the data are there.

Q: Can I just ask you to look quickly at the little bundle of documents? It should be page 9 or page 8. It is a letter from me to the Der Spiegel?

A: Yes, it is 8.

Q: Page 8 or 9, is it?

A: It is 8.

Q: Is this a letter in which in the second paragraph I am telling Der Spiegel and their readers: "It is not accurate to say that in August I will speak at a function of Mr Kuhnen in Wansiedel in connection with a memorial function for Rudolf Hess"?

A: Yes, as you said before.

Q: Then when Der Spiegel refused to publish the letter, because they had said exactly the opposite, that on

P-116

February 17th 1991, if you will turn to the next page, please, I then wrote to my lawyer -- I am sorry, this is not the right letter at all. Do we have the right letter?

A: Maybe it is my report.

Q: Yes, it is. I am sorry. It is page 30. Page 30 of that bundle?

A: What bundle? Your bundle, yes.

Q: It is either page 29 or page 39, probably page 30. It is headed "Discovery 12.8.9"?

A: 29 is a sheet of paper with nothing.

Q: It should be headed "Discovery 12.8.9"?

A: Maybe it is before, I do not know. No, it is blank. Maybe I get yours for a minute. Thank you.

Q: Am I asking my Munich lawyer from Sprade, who is a reputable firm of lawyers, to take action to force Der Spiegel to publish this dissociation of any contact between myself and Mr Kuhnen?

A: I have to read it. May I read the passage that is of interest?

Q: Yes.

A: Quotation -- no, Kuhnen had been identified in the previous paragraph as follows. Then quotation: "Also", that refers Der Spiegel, quotation, "Also, neo-Nazis like the self-proclaimed Fuhrer of the West German Brown movement, Michael Kuhnen, 34, intend to use Irving increasingly as a figure head. They plan", quotation,

P-117

'close collaboration'" quotation end, then quotation "with respectable person like this", quotation end, "Kuhnen hopes we will also reach circles that otherwise give us a wide berth".

MR IRVING: Yes. Let me ask you a question on that now.

A: So it is right again that you did not take sides with Kuhnen himself, but you took sides with the Kuhnen movement.

Q: In fact, I made it quite plain to Der Spiegel that I have not the slightest intention of allowing them to use me. Is that right?

A: You were very clear on that.

Q: And can you suggest any reason why a magazine like Der Spiegel would print the opposite story? Would there be an intention to defame me?

MR JUSTICE GRAY: That is neither here nor there and anyway, he cannot possibly say.

MR IRVING: While you have the bundle in front of you, can I ask you to look at page 28?

A: That is blank. There is nothing there.

Q: Page 27?

A: Yes, there is something.

Q: Discovery 10.96?

A: Yes.

Q: Is there a letter translated from one of Germany's leading publishing houses, Robot Publishing House, to myself dated

P-118

July 2nd 1985?

A: That is right.

Q: It is a letter from somebody called Dr Michael Naumand. Does that name mean anything to you?

A: Yes.

Q: What is Dr Michael Naumand now, please?

A: Minister of Culture.

Q: At that time he was the Chief Editor of Robot Publishing House?

A: Right.

Q: Here he is writing a letter, "Dear Mr Irving, Mr Hochhut has drawn my attention" -- who is Rolf Hochhut, do you know?

A: He is a playwright in Germany, for example, on Pious 12th's relation to the Nazi period.

Q: Is he a left wing liberal?

MR JUSTICE GRAY: Mr Irving, I am not quite sure what this goes to but Mr Naumand is expressing an interest in your forthcoming biography of Winston Churchill. Where do we go from there, as it were, especially with this witness?

MR IRVING: It is very difficult to do this with any other witness, my Lord.

MR JUSTICE GRAY: You have done it with me. For what it is worth, I have got the point. I think you have better weapons in your armoury on this point.

MR IRVING: I am being accused of having the whole rogues

P-119

gallery, to use Mr Rampton's phrase, of sleezy right-wing extremist friends and in fact I have a "du" friendship with Rolf Hochhut, who is one of Germany's leading left wing liberal playwright since February 1965. This was the point I hoped to bring out, I had hoped, in about ten seconds of cross-examination.

MR JUSTICE GRAY: All right. Ask the question.

MR IRVING: Well, do you know who Rolf Hochhut is? Is he a left wing liberal German playwright?

A: He is a play writer, who attacked in his plays very harsh the silence of Pope Pious the 12th on the issue of the Holocaust during the Nazi period.

Q: So he is the opposite of a Holocaust denier, then?

A: I would say so, and he is a believer --

THE INTERPRETER: An admirer.

A: An admirer of Hans Junge, who is on the right, so I cannot say if he is a left liberal or right. He is a playwright.

Q: Yes. He is a playwright.

A: A famous playwright.

Q: Have you seen about 5,000 items of correspondence between me and Mr Hochhut in the discovery?

A: I did not see 5,000 or whatever, but I saw in the diary that you met him in a very friendly manner.

Q: Yes, thank you very much. You mentioned that Mr Staglich, the late Mr Staglich, was a former judge. Did he retire?

A: Oh this case, I am not very ----

P-120

Q: You do not know the answer to that?

A: I am not very informed about that whole biography of Mr Staglich.

Q: You do not know if he retired?

A: There were quarrels because of his denialist or so books and, if I get a minute, I can answer a bit better than just now.

MR JUSTICE GRAY: If Mr Irving puts to you that he lost his job, is that right, because of his right-wing views?

MR IRVING: That he was dismissed from his position for his views on German history.

A: This is my recollection, but I was not sure, so I am cautious.

Q: Does this often happen in German? Are judges frequently relieved of their position by the

Ministry of Justice for having incorrect---

A: That is seldom. It is related to this, especially -- for example, to other things also -- to the Holocaust denier things because of the state of laws in Germany.

Q: Do you know how difficult it is to remove an English judge from their position?

MR JUSTICE GRAY: I think we are straying a bit. That was not said defensively or anything like that! But let us move on. We are slowing down.

MR IRVING: The point is I was about to come on to Gunter Deckert. Did the same thing happen in the case of Gunter

P-121

Deckert?

A: Yes.

Q: You mentioned the case of Gunter Deckert, who is admittedly a friend of mine. He has been in prison now for seven years. What happened originally? Was he acquitted by two judges?

A: There was back and forth decision processes in Manheim and on higher levels of various courts, because of this denialist thing, and this leads to the whole issue how the German, after 45 for public, deals with this kind of incitement.

Q: Incitement to hatred?

A: And hatred and insult.

Q: Defaming the memory of the dead?

A: Insult of dead people, defamation, right. Thank you. This is a very decisive, very important thing in the whole debate between the judicial system and political and law-making processes.

Q: All rather unpleasant. Can you confirm that the two judges in the Court of Appeal said unanimously that they found that Gunter Deckert was an outstanding teacher and a patriot who had done what he considered to be best for his country and they acquitted him on that ground?

A: I have to see the events. I do not know.

Q: Do you know what happened thereupon to those two judges, Judge Ortlett and another?

P-122

A: Give me the evidence, to be sure.

Q: Did it not make great headlines in Germany about three or four years ago when the two judges were dismissed and sent to early retirement for having come up with the wrong conclusion?

A: So far as I recall, yes.

Q: This was a decision of the Ministry of Justice in Germany for the judges that come up with an undesirable verdict?

A: Give me the evidence. Then I can look. But now you are not interested in the overall picture.

Q: I am interested in whether Gunter Deckert is somebody of with whose friendship one can be comfortable, namely somebody who has been acquitted by two judges before they themselves are penalised, or whether in fact he is the kind of neo-Nazi extremist that is of interest in this matter.

MR JUSTICE GRAY: I think the point that the Professor has made is that he was leader of the NPD from 1991 to 1995.

MR IRVING: My Lord, we will come on to the character of the NPD in the course of the more regular cross-examination on the basis of his report, but I was looking at the person of Dr Gunter Deckert himself, which was touched upon in the little preview given by Mr Rampton this morning. Mr Rampton took you briefly through the matter of whether the Jews had themselves to blame. I do not want to dwell on that in great detail because it is not a part of your

P-123

expert report, but in fact it is a matter which has caused I think, inflamed passions here in the courtroom. I was going to ask you if, in your answers, you would agree there is a difference between something being explicable and something being excusable? If I can put it in a totally non-Jewish context, I can say that what happened to Dresden was explicable, but not excusable?

A: I understand the differentiation you are opting to do with these two words.

Q: Yes. You understand there is a difference? Can you say that perhaps what happened to the Jews in the Baltic states was explicable but of course not in the least bit excusable?

A: I think this is done in the court procedures with various historians, and I am not an expert on that. With respect to the prejudices against Jews, I have to say that, if the dimension of explicability and excusability comes together, are linked, then we get a problem. I would say that some of the statements you made, for example, and are made, generally spoken, of those who are against Jewry, who are anti-Semites, exactly make this problem, that these persons say, OK, they are the disliked, it is caused by them, so they have a kind of partial or full guilt of what happened with them, and this is at the core of a very, very intense anti-Semitism, at the time in the 30s, and again in the 90s, throughout to this century.

P-124

Q: You have read all my diaries, have you not?

A: Not all. No, not possible.

Q: They have been made available to you. Have you found any examples of anti-Semitism in my diaries that you can remember?

A: Not in the diaries, so far as I recall. Maybe there are some exceptions, but it is not dominant.

Q: By anti-Semitism, of course, we are not referring just to somebody saying a critical remark about a Jew in particular, or about a particular group, we are talking about a visceral unreasoning blind hatred?

A: Right, and I was here in the courtroom when Richard Rampton asked you about a bundle of quotations of speeches and statements and interviews that you gave. My personal judgment was he quoted racist and anti-Semitic statements, a lot of them, so I was really shocked at that minute in the courtroom.

Q: We are all shocked. I was shocked too but of course, when you put things in these contexts sometimes, the shock factor diminishes.

A: Can I add ----

MR JUSTICE GRAY: Mr Irving, I am not going to stop you -- forgive me, Professor.

MR IRVING: I have his report now open, my Lord.

MR JUSTICE GRAY: It just seems to me that, in a way, I know what the Defendants rely on and it is for me to make up my

P-125

mind whether the charge of anti-Semitism ----

MR IRVING: As soon as the witness used the words "in his judgment" I could hear bristling coming from the bench.

MR JUSTICE GRAY: Good. Anyway, you have said you are going to his report, and I think that is a good thing.

MR IRVING: I want to ask you a few general questions first. The first question is that it is quite

obvious from your expert report, Professor Funke, that you do not like right-wingers, do you?

A: I am asked to define right-wing extremism, and to do research how far you are connected with them, or said extremist views. That was my duty.

MR JUSTICE GRAY: Professor, I think it is a fair question, though. He is asking you really your own personal opinion. I think that is legitimate.

A: OK, but I have to separate it with respect to the report.

Q: Of course, but I think he is entitled to ask the question even so.

MR IRVING: I can say straightaway that I do not think he is biased, my Lord. There is certainly no bias here that I would detect.

MR JUSTICE GRAY: Then you are not entitled to ask the question. The only relevance to the question was to suggest that he is biased. If you are not suggesting that, then you do not need to ask the question. I think that must be right. Tell me if I am wrong.

P-126

MR IRVING: How far right of centre does this dislike start?

A: Say it again?

Q: How far right of centre line would this dislike of the right-wingers start? It would have to be very extreme right-wing before Professor Funke starts disliking him, or Mrs Thatcherish, or Helmut Kohlish?

A: The problem is the same your Lordship raised, so I am a bit in a problem.

MR JUSTICE GRAY: Can I try and clarify it because maybe I have not understood Mr Irving correctly. Professor Funke's personal political position seems to me to be relevant if and only if you are making the suggestion that he has been influenced in his report by his own political leanings.

MR IRVING: If I can put ----

MR JUSTICE GRAY: If you are suggesting that, then I understand the line of questions. If you are not ----

MR IRVING: I am. Would I be right, Professor, in suggesting that your report can be summarized under the title of a hostile view of the right-wing as viewed from the far left?

A: No, I cannot agree. What I did, if I may answer in two or three sentences, is to refer to the state of research, and to the state of social sciences and to the definitions of the offences for the protection of the constitution, where right-wing extremism is defined. You could read it and it was a kind of sober account, to my judgment. Then

P-127

I looked through these various developments and political organizations through the course of the Federal Republic from 45 onwards to the early '90s, and especially for that period that is of interest for the court. So this is the layer and the criteria of this definition I set out in the first pages. It is related to how far these right-wing extremists attacking the core of the institutions of the liberal democracy of the 45 period of Federal Republic, how far they are striving, acting, going for authoritarian state, how far this is linked with anti-Semitism, is this linked with foreign hatred, and within the right-wing extremism how far it is clear cut for the re-establishment, or the establishment, to put it differently, of a pure Aryan race based state. So a Fuhrerstadt and so forth. These are the definitions that are laid out in the social sciences, and you may say these social sciences I quote are hostile to whatever.

MR IRVING: Yes. That takes me to my next question which is, if I have understood your report

correctly, your major basis for your statements, apart from my own discovery, are either the reports of the office for the protection of the constitution, which you describe as the OPC, or the consensus of opinion of social scientists, if I put it like that. You refer to the opinions of the social sciences. So we are up against now the consensus problem, that is all you social scientists who are saying

P-128

right-wing extremism is that, plus the opinion of the government security agency, and you rely on that definition, do you, of right-wing extremism?

A: I put it my way.

Q: Those are the two sources?

A: It is a kind of distorting of my presentation of the first 20 pages.

Q: I am going to be asking you in a minute to look at the offices of the protection of the constitution, and what kind of body it is, but I want to take you through one or two other matters first. First of all, a simple question that I have asked all the other witnesses. Are you under any kind of contract to Yad Vashem? Do you owe them any kind of money? Do you have any kind of outstanding obligations to them at all?

A: To Yad Vashem?

Q: Yes.

A: I would like, but I have not.

Q: On page 6 of your report -- we are actually digging into it now -- first line, Hajo Funke (that is you) has written a book or an article called "The Republicans" in a book called "The Brown Danger". That is a reference to the Nazis, is it not?

A: You can say so, yes.

Q: Does not the title "The Brown Danger" imply that it is a kind of a left wing book, a left wing look at things?

P-129

MR JUSTICE GRAY: Well, Mr Irving, let us press on. I do not think that is an appropriate question.

MR IRVING: You have also written an article on Martin Walser and Ignatz Bubis in the General Jewish Weekly, the Allgemeine Jüdische Wochenzeitung?

A: Yes.

Q: What was the problem about Martin Walser and Ignatz Bubis, if you can summarize it in three lines? Martin Walser is a German novelist, a very famous novelist, is he?

A: Yes.

Q: Did he find fault with something about Ignatz Bubis?

A: Maybe, if it is of value for ----

MR JUSTICE GRAY: I do not think it really is helpful, no.

Q: Not helpful? Right.

MR JUSTICE GRAY: It is a question of priorities really, is it not? I think you have to tackle the ----

MR IRVING: The people, yes. If you look now at the second paragraph from the bottom which you have numbered 14, we have something here about Ewald Althans.

A: Yes.

Q: You say that a man called Althans sells and distributes books, videos and cassettes of mine.

Now, as of today, 1,430 shops deal directly with me, selling my books, videos and cassettes, and large numbers of major distribution companies do, too. So do you rely very heavily on the fact that this man Althans sold books of

P-130

mine?

A: It is in the context of your interaction with Ewald Althans. It is not only this kind of selling.

Q: You do not attach much importance that he was a book seller. In paragraph 15, the next paragraph, you refer to the fact that I have been deported from Austria, and you make something of that. I do not blame you. That was June 26th 1984, was it not?

A: Yes, so far as I recall.

Q: That I was complemented out of the country, as they say.

A: Yes. You were then in November '89 and you had to leave.

Q: Can we remain with the 1984 one?

A: Yes.

Q: Can you tell the court what was the role of the Austrian Minister of the Interior, Karl Blecher, in that? Did he do that personally?

A: I do not know exactly. I read it, but it did not go into detail.

Q: Do you know the role of the Austrian documentation archive of the Wiedestant in securing my deportation, of the resistance archive?

A: I know the archive, but I do not know the role.

Q: Can you characterize this Austrian resistance archive, what its politics are? Has it got strong communist leanings? Is it known as a communist body?

A: I do not know.

P-131

Q: Can I ask you to look at the first item in the bundle of documents I gave you? It is a letter from me to The Times dated July 11th 1986.

A: Page 1.

Q: Am I complaining to The Times that, having reported my deportation from Austria, they have not reported with one line the fact that the deportation has been ruled illegal and the Minister has been ordered to pay compensation? You will see on the following page The Times item that reports this little victory.

A: It seems so.

Q: The final paragraph of page 3, The Times item, says: "The spokesman for the Ministry of Justice said Mr Irving will be bringing a case for wrongful arrest against the officials involved later this year". So it is not just as cut and dried as you said, is it, deported from Austria?

A: Just it occurred and so I refer to it.

Q: It occurred and you refer to it. But you then say in the two lines from the bottom that he is banned from entering Australia.

MR JUSTICE GRAY: Mr Irving, can I interrupt you again? Do forgive me for doing so. I am not remotely ----

MR IRVING: Interested.

MR JUSTICE GRAY: "Impressed" is the word I was going to use, or will be influenced by the fact that you have been banned and deported from these various countries. It

seems to me I have to make up my own mind.

MR IRVING: It very marginally goes to the accuracy of this witness.

MR RAMPTON: No. Anyway, Mr Irving was reading from the pleadings and not from Professor Funke's report. I make no capital out of the fact that he is banned. Your Lordship is obliged as a matter of comity not to comment on the deportations, but I much prefer that we make up our own minds, or your Lordship makes up your own mind, in this court whether Mr Irving deserved to be banned, which is quite a separate question.

MR JUSTICE GRAY: That is entirely the way I intend to approach it. I can see you resent it, but I think you can forget about it, or forget about them, the deportations, for the purposes of this case.

MR IRVING: I will say in one line what I would have said about Australia and Canada, my Lord. Banned from Australia is because the labour Prime Minister said I was a bad character. They changed the immigration law to make it possible. Banned from Canada was because of a technical infringement of the Immigration Act. It was nothing to do with the Holocaust denial views. That was what I had hoped to elicits in this particular piece of cross-examination. In paragraph 1.3.2, on page 9, five lines from the bottom, you suggest that my diaries have been

sanitized for other readers. This is quite a serious suggestion to make in view of the fact that the diaries are before the court. What justification do you have for the allegation that I sanitized the diaries, 20 million words of them, before making them available to the court?

A: Of course, this is a judgment, or a value statement, an assessment. There are important phases I did not see, I mean periods of time I did not see. Maybe you did not put something in your diary, and of course, and this is the main point, the things we figured out by other sources with respect to the letter and to the events are not stated there as intense as private things that I am not interested in. So I had to read and make up my own mind by other sources. So in that sense it gives not a full picture of your interaction so far as they are important for the case that is at stake in the court.

MR JUSTICE GRAY: Can I see whether there is a misunderstanding because there may be. Are you, by the use of the word "sanitized", suggesting that Mr Irving has manipulated or redacted, and I am not sure what the redacted is, the diaries? "Redact" is a very curious word.

A: I would say of course all diaries are redacted in the mind of the people and, with respect to what is at stake here, they are of course, I would say, redacted. Look at the Halle event, so you see a full scale different picture.

Q: I follow that. What I am trying to get at, and I cannot quite think of the right term, is are you suggesting that Mr Irving has deliberately altered the diaries after the event in order to present a different picture from what would originally have been given?

A: I did not say this.

MR JUSTICE GRAY: I think that perhaps was a misunderstanding.

MR IRVING: I could not let that pass, my Lord. I had to draw attention to it, and also the following phrase that I have to draw attention to is four lines from the bottom: "As will be set out below important passages in Irving's diaries have not been released to the defence". What basis

do you have for making that allegation that implies that I have withheld documents on discovery?

A: It implies that you did your diary, and all of a sudden interrupted your diary. Because of this assumption, there are left out very interesting phases in the course of your activities in Germany and Austria. In Germany.

Q: You do accept that the way either you have expressed yourself or the way it has been translated into English, it gives the impression that I have had these pages of diaries and that I have taken them out of the file.

A: I cannot say this.

Q: I have said I am not going to give them to the defence lawyers.

A: No, I cannot say this. I cannot say that you did

P-135

something deliberately against ----

Q: Because that would actually be a contempt of court and, if I was to do that, I would be culpable.

MR JUSTICE GRAY: Not suggested.

MR IRVING: Not suggested. On the following page, two lines down, you make the same suspicion that I have not disclosed crucial speeches. Are you just saying again that I did not transcribe them, or that I did transcribe them, or I did have tapes and did not make them available to the lawyers? It is the same question.

A: Again, it is not a deliberate assumption, assumption of deliberativeness, that it was done deliberately. I cannot say this because I have no proof of it, so I will not. But, of course, there are crucial speeches not there. One of them we will get in the next hour or so.

Q: Yes, because, of course, if I had edited the diaries or the speeches, then I would have taken out the little racist ditty that Mr Rampton thinks I should be horse whipped for.

MR JUSTICE GRAY: It is not suggested you have doctored them.

MR IRVING: You refer in paragraph 1.3.3, which is page 10, and I think this is a useful place to take it on, to the German Office for the Protection of the Constitution, which has been busy monitoring extremist organizations, as you describe. Now, can you explain to the court what the structure of the OPC is? There is an overall Federal

P-136

body, is there not?

A: Yes.

Q: And each of provinces has its own provincial OPC. Is it a political body?

A: No, it is a state institution on the Federal level and on the provincial or state level the like. They have their duty, according to the constitutional law and to various laws that were given by the parliament, to observe extremism of my kind, to monitor, and this is the main function.

Q: Yes, but it is a body that in each case, both at Federal level and at provincial level, is subordinated to the Minister of the Interior, who is a political animal, is he not? He has the say?

A: I have to reiterate what I said. It is not a political body. They have to stick to the rules. I do not know, it goes with the idea, and to a degree realized idea, that state officials stick to the rules, stick to the laws, and are not politicisable.

MR JUSTICE GRAY: Mr Irving, I am wondering whether this is not in a way a bit similar to courts in foreign countries making decisions that you be deported and banned and so on. I do not think I am really very concerned, am I, with the views or activities of the OPC?

MR IRVING: You are, my Lord, if I may respectfully say so, because much of his report

depends on the reports provided

P-137

by the OPCs. He quotes them extensively as though they are the word of God. If I can establish to the court's satisfaction that the OPCs are political animals created, run and generated as propaganda instruments by the government agencies and the government ministers concerned, which is why they never criticise the activity of the established parties, even when they are unconstitutional, and demonstrably so, then this would devalue whatever these people have to say about unfortunate people who come under their magnifying glass.

MR JUSTICE GRAY: Yes. I suppose that is right.

MR IRVING: Let me just put to you, Professor Funke, a decision of the constitutional court in Germany, that, when the OPC ruled that a party was right-wing radical or right-wing extreme, or was an enemy of freedom, and I will give you the German in a moment, and a danger for the liberal democratic basic order, then this was a value judgment which the Federal Minister of the Interior was uttering in pursuance of his constitutional duty to protect the liberal democratic basic order. I will say it to you in German now (**German read from document not provided**). In other words, this is a statement of the Supreme Court in Karlsruhe, which states that it is purely the opinion of the minister when he decides that a party is right-wing extreme or not.

A: Can I see it?

P-138

Q: It gives the actual source. I have highlighted it in yellow for you. The footnote is the source.

A: Thank you.

Q: The point is that such statements defining people as right-wing extreme are the opinion of the minister, a value judgment and not a statement of fact.

A: Things are a bit more complicated. That is why I do not know, this is also important for this context, I do not know the context of what is said here. So there are different levels of decision-making processes of the BundesVerfassungsgerichte, the highest court in Germany.

MR JUSTICE GRAY: I really do feel, I am sorry again to interrupt you, Professor Funke, this is not going to help. We are getting terribly ----

MR IRVING: Into detail.

MR JUSTICE GRAY: No, on the contrary. I think what counts is really what these individuals and parties have said and done. I take your point, which is why I did not stop you, that the views expressed by the OPC probably do not count for a huge amount, but I do not think we want to go into a detailed analysis of what the German Supreme Court has said about the way in which the OPC performs its function. That is what I am really getting at.

MR IRVING: I would hope that you would attach more value to the opinion of the German Supreme Court than to myself in this matter.

P-139

MR JUSTICE GRAY: I am not sure that really either in a sense is particularly material. That is no criticism, obviously, of either of you.

MR IRVING: As long as your Lordship bears this in mind when we come to judgments on these bodies and people uttered by the OPCs and I may remind you of it.

MR JUSTICE GRAY: I am more interested in Professor Funke's own view rather than a reflection of somebody else's. **MR IRVING (To the witness):** Professor Funke, lower down on page 10, paragraph 1.3.4, you say that some of your sources are what I would consider anti-fascist?

A: This is a very interesting point.

Q: Well, briefly, please?

A: Yes, briefly. I had to rely for the insider report that was done after the Michael Schmidt film on a source that was given by an anti-fascist so-called, self-described anti-fascist group, and that is because these groups, and I met them personally to be sure that I get the data right, these groups are near to this right-wing extremist scenery. So, in a given moment, for a special question, I had, for example, to identify one of these persons, I had to go to these sources, but I never, by each person are restrained to these sources. So I checked them double or triple to make a good judgment.

MR JUSTICE GRAY: Yes.

MR IRVING: So there are occasions when you can use tainted

P-140

sources, am I right, and still establish the truth using them?

A: I do not say that they are tainted sources as sources. They are very valid and I can prove it ditch by ditch or centimetre by centimetre.

Q: Yes, if you go to page 12 where we have the OPC defining what it means by the word "extremist"?

A: Yes.

Q: Paragraph 2.6?

A: Yes.

Q: This is the Office for the Protection of the Constitution "defines as extremist all endeavours aimed at abusing, fully or in part, constitutional law and all efforts to replace it with a totalitarian nationalistic system". Now, this is your own words, and I am going to have to ask you when we come to these various people and figures and organisations whether they fit that criterion; somebody like Ewald Althans, was he trying to overthrow constitutional law and replace with a totalitarian system, in your view?

A: As joining a neo-Nazi Party -- a neo-Nazi grouping, of course, of course.

Q: Yes.

A: This is the core of it. I mean, read the text of Michael Kuhnen. I quote at length about the second revolution. It is the second revolution in the course of the Nazi

P-141

groupings around strasse, and he rephrased it a bit and even sharpened it, so saying that Hitler is the hero of the Aryan race and so forth. So this is something.

Q: Is the PDS an extremist body in the opinion of the OPC? What is the PDS?

A: The PDS is a party that came out of the former Communist SED, changed the name, changed by the course of the last 10 years parts of the ideas, parts of the electorate, parts of the membership, and I would describe this grouping, this party, as a kind of post socialistic, partially authoritarian sticking to the democratic liberal rules party. So it is a mixture, very interesting to observe but not by the OPC observed party.

Q: Why does the OPC not scrutinize this left wing Communist party successor then which appears to fulfil the criteria?

A: No, no, this is debated, so this is a kind of tricky decision they have to make, if the dominant groupings in the party in the PDS really can be described as anti-constitutional or not. So this is debated, and there are sources that say that this is not the case and other sources say it is the case.

Q: It appears to be a bit elastic then, the way they define the word "extremist"?

A: In that sense they have to because it is clear from the case.

MR JUSTICE GRAY: I think, honestly, we have taken this far

P-142

enough. We are not going to get into examinations of totalitarian socialism. We are dealing with totalitarian nationalism.

MR IRVING: If we now look back at the right-wing end of the spectrum, again the Republicans, Franz Schonhuber's Party, you have linked me with them, have you not?

A: You had some connections, some interactions, in the early phase of '89 and follows with them.

Q: Where they defined by the OPC as extremist?

A: To a degree, it depends again because this again is a case not identical with the PDS, on the other side, but after a period of discussions and looking through the internal structure and ideologies of the Party, they decided to a degree to observe them, but, compared to the other parties, the NPD and the DVU, it is, you know, of lower intensity because of the kind of vague self-definition ----

Q: Before we ----

A: --- of the Party.

Q: Before we leave the Republicans, is it right, in fact, that the Republicans fought a High Court battle in the Supreme Court against the Office of Protection of the Constitution and had the watchdogs taken off them, if I can put it like that?

A: This is only the case for one State.

Q: For one State?

P-143

A: For Berlin.

Q: I did not know that. So effectively ----

A: And maybe some other States. I know it from Berlin, but it is not true for the Federal level.

Q: Are you saying that the Republicans are extremists or not? Are you still saying they are extremists in the meaning ----

A: I personally, in my judgment, because I did a piece on that, I would say they are extremists because of the anti-Semitic rhetoric of especially the then, the then, leader of the Party, Franz Schonhuber, and the furious hatred against foreigners he spread and leanings to authoritarian state likewise. So I can go into detail if it is necessary.

Q: Then this brings up again your own political opinion, though, if you state that your personal view of Schonhuber or your personal view of the Republicans ----

A: No, it is a personal scientific opinion based on an analysis of this party at length. My personal views are not of interest except your Lordship are interested in that, so I, of course, would be able to say something about my personal opinions.

Q: Even the OPC has been ordered to take off the watchdogs in Berlin anyway, then this implies that they ----

A: I said ----

Q: --- are very borderline.

MR JUSTICE GRAY: We have had that ----

MR IRVING: They are very borderline, are they?

MR JUSTICE GRAY: --- and we are not spending long on the OPC, I hope?

MR IRVING: I am using them as a north, a kind of pole star to steer the court by. What entitles you to describe the German people's union as being a right-wing extremist body?

A: You mean DVU?

Q: Yes, the DVU. Have you ever read their manifesto, so to speak?

A: I read a bunch of papers of them.

Q: Are they anti-Semitic?

A: I have even the newspapers of these days here, but maybe it is not of interest ----

Q: Can we deal with the manifestos first? Are there manifestos, did they have a Holocaust denial element?

A: I referred to the Holocaust denial publications of the central paper, newspaper, of this Party, the Deutsche [German] where at length over months the [German] presentation of the hoax of the 20th century was distributed to the people who were reading this Party newspaper.

Q: A Holocaust denial is illegal in Germany, is it not?

A: Yes, to a degree, yes.

Q: Has the DVU ever been prosecuted for Holocaust denial or

have any of its newspapers ever been prosecuted for Holocaust denial, and it would be a useful standard to judge by, would it not?

A: I think they could have done but they did not.

Q: The answer is no?

A: This is up to the authorities to do if there is no [German] ----

THE INTERPRETER: If there is no one claiming, no one bringing a court case.

A: If there is no one claiming this case to the court, like as long as there is no institution claiming the DVU was an illegal party, illegal party, so it is formally legal, but because of the content and of the strategy, according to the OPC and to the social sciences right-wing extremist.

Q: We are dealing with the Holocaust denial element at present. I did not quite understand your answer. Are you saying that nobody prosecuted them for Holocaust denial because nobody complained, did I understand that?

A: At that period.

Q: But you know as well as I do, do you not, Professor Funke, that under German law, as it relates to Holocaust denial, specifically nobody has to complain? The Public Prosecutor can start a prosecution even without a complaint?

A: It was in the '70s and it was not in the centre of interest and public interest is important, as you know,

familiar with the liberal democracy.

Q: But at all material times for this case they have not been prosecuted and at any time the Public Prosecutor could have prosecuted the DVU if they had engaged in Holocaust denial within the meaning of the law?

A: They could have, yes, yes, they could have, definitely.

Q: Yes, and the same goes for anti-Semitism. Have they ever been prosecuted for anti-Semitic remarks?

A: I am not sure ----

Q: In any of their publications?

A: --- that there are not some cases, so I have to restrict my knowledge, my answering on the -- restrict on the knowledge of -- restrict to the knowledge I have about this kind of relation between the Party and the judicial institutions.

Q: I have to say the correct answer is not to your knowledge they have not been prosecuted?

A: Not to your knowledge, thank you.

Q: Page 15, the first two or three lines?

A: 15?

MR IRVING: Page 15, the first two or three lines. You are saying: "Right-wing extremism is often connected with an ideology and/or a practical tendency towards violence, militancy and terror". In calling me a right-wing extremist, are you saying that I am a violent, militant and terrorizing person, is that what you are trying

P-147

to ----

A: No, you have a militant rhetoric with respect to Jews.

Q: With respect to Jews?

A: And with respect to so-called other races, but you are not, you did not, you did not say violent things so far I saw it or, you know, applauding violence or instigating that, but you joined groups who, like the neo-Nazi groups, I said, I described before the break that are utterly for violent acts to get the second revolution done.

Q: If these groups that you say I joined were committing these illegal acts, would they not have been prosecuted or declared illegal at the material times or have been declared illegal?

A: Say it again.

Q: If these groups that you say that I joined had been committing these illegal acts under German law, would they not have been prosecuted or put out of business?

A: They are, they were.

Q: At the time I allegedly joined them?

A: It was nearly in the same time, so let us talk about the NO invitation, the National Offensive invitation in '92, of Swerzik, we had it. These, the groups around the Michael Kuhnen crew, or let us say the Gesinnungsgemeinschaft, were banned to a degree in the same year. So Deutsche Alternative, National Offensive, others, were banned because of the instigation of racial

P-148

hatred and instigation of violence against foreigners. This was the reason why they were banned.

Q: I have to hold you to this now because the question I have to ask you is at the time I spoke, if I spoke to any of the bodies that you have mentioned, were they banned or not?

A: Not, of course.

Q: Yes, and how could I have anticipated that at some time in the future in a country where there had been no bans, these bodies that I have been speaking to would suddenly find themselves banned?

A: As an intelligent man who knows Germany, you could have known.

Q: Oh, yes. Can I take you back to the previous remark which I cannot allow it to go

unchallenged where you say that I used militant language against the Jews, do you have any particular passage in mind or was this a throw-away line rather like the ----

A: No, I do not do this throw-away lines. We have 40 pages during the ----

MR JUSTICE GRAY: We are back now to where we were about 25 minutes ago.

A: Yes, but ----

MR IRVING: Very well.

MR RAMPTON: May I intervene? I think what Professor Funke is trying to say is that he has read my cross-examination of

P-149

Mr Irving on that topic.

MR JUSTICE GRAY: Yes, well, I was going to say the same thing in a slightly different way. We have got the allegedly anti-Semitic speeches and so on that you made. Professor Funke, no doubt, could give evidence about it, but I just do not think it is a worthwhile use of the court's time.

MR IRVING: My Lord, in my ignorance, I thought it important not to allow that remark to go unchallenged in case Mr Rampton a week from now says, "This was stated and he did not challenge it".

MR JUSTICE GRAY: If he did, I would not listen to him.

MR IRVING: Professor Funke, would you look at paragraph 2.2.5, please?

MR JUSTICE GRAY: If I may say so, Mr Irving, whilst I am interrupting again and apologies for doing so.

MR IRVING: Slow progress?

MR JUSTICE GRAY: It is all very -- not much, I am bound to say. Again we are spending a lot of time on what we might call the preliminaries, whereas I read this report when he really is getting down to make the case he seeks to make against you and your connections with these various right-wing extremists, that really comes a good deal further on and ----

MR IRVING: Well, he is throwing in names the whole time.

MR JUSTICE GRAY: I know he is and we have had this sort of

P-150

problem before, but what I would find helpful is if you could cross-examine about the specific instances that are relied on of your being associated with individuals who he treats as right-wing extremists or with organizations, and that comes really from my reading as from about 38 onwards.

MR IRVING: Well, I would say it comes from 19 onwards, my Lord, which is the right-wing extremist DVU.

MR JUSTICE GRAY: I do not think I can stop you because all of this material is there.

MR IRVING: At 3.1.1 you say that Mr Irving had spoken to bodies and organizations like banks, bookshops, student fraternities, the US Army Corps and so on. You are aware that I also spoke at universities like Harvard, Cambridge, Oxford and Bonn and Geeson and Marburg, are you?

A: I recall Bonn, yes.

Q: At 3.1.2 you criticise publishers that I deal with as publishing former NS, in other words National Socialist figures, and suggest that makes them right-wing extremists. Are you not familiar with the publishers who publish the memoirs of Albert Spear, who is another top Nazi? Does that make them right wing extremists? What is the special chemical element that turns a

publisher into a right-wing extremist?

A: Good question. It is again that they did it by a special purpose, to present the right-wing extremist cause, as the

P-151

GFP, the Society for Free Communication. That is part of the network after 45, after the ban of the clear cut neo-national Socialist party of Remer. Then this networking was a kind of replacement in the early 60s with Gert Sudholt and the Deutsche Kulturwerk and all this groupings Dietmar Munier of the Arndt-Verlag. So they tried to make the cause, although the whole political scenery is not fostering these kinds of groupings.

Q: Would they not have been prosecuted if they had been publishing politically incorrect materials or illegal materials?

A: Yes, and this is the case for some of them at least. I value it. It is the case, if the things are very, very intense, repeatedly, and going to the direction of hardcore right-wing extremist or neo-Nazi extremism or are related to violence, and of course the Holocaust denial, you know, groupings. These are the four dimensions in which official institutions intervene more than in other cases.

Q: The Germans clamp down quite a bit on publishing, do they not? They burn a lot of books in Germany even now, do they not?

A: Say it again.

Q: The Germans burn a lot of books in Germany even now, do they not?

A: I cannot answer this question. You allude to the burning

P-152

of the books in 33.

Q: You have an index, do you not, of banned books in Germany?

MR JUSTICE GRAY: Well Mr Irving ----.

MR IRVING: The follow up question was, to your knowledge, have any of my books ever been banned in Germany on any of the indexes or lists? The answer is no, right?

A: I do not know.

Q: Yes. At paragraph 3.2.1 you now bring in the Socialist Reich Party. Do you allege that I had any contacts with this Socialist Reich Party?

A: No.

Q: Then why do you mention it?

A: No. If I may say so, you misread it. I just wanted to give an overview for the court that there was something, as I did now to the court verbatim, that there are groups in the early 50s of a special importance. Then it went down to a degree and it came in the mid or late 80s more to the fore and even was perceived as the danger for some liberal democracy basics. So this was an overview, and it does not mean, and I did not say, that you are related to these groups. You are were 14 years old when the group was banned, so there is no way.

Q: This is a report on my extremist activities so-called.

A: This is a misreading. If it is mistaken, then I have to say, no, you as a 14 years old boy was not interacting with the then banned SRP.

P-153

MR JUSTICE GRAY: Mr Irving, we must get on. We are really make no progress at all.

MR IRVING: Am going to ask a general question. In other words, you do mention an awful lot of names in this report without my having had any contact with them whatsoever, is that right? It is a total kaleidoscope of German politics of the last half century and I have had no contact with any of those names.

A: I need not defend my report.

MR JUSTICE GRAY: I think the answer to that is yes. When I read it, which was a long time ago now, I got the impression that there was an awful lot of initials and names of organisations that I am not in the end going to have to be concerned with. Is that fair?

A: I disagree.

MR JUSTICE GRAY: I was hoping you would agree.

Q: But to make a point.

MR RAMPTON: Your Lordship might like to look at it, or think about looking at it, in the way that I do. I am principally concerned obviously with Mr Irving's immediate and intimate contacts, who organizes the meeting, what is said at those meetings in particular by Mr Irving and those immediate contacts. However, those immediate contacts do have a genealogy, and that, it seems to me, having read the report again, is how the names, what I might call the outer circle of names, come into the

P-154

picture. Whether they matter very much at the end of it all is a separate question.

A: Your Lordship, can I say something to you both?

MR RAMPTON: Include me as well.

MR JUSTICE GRAY: Yes. Please do.

A: I thought I did a favour to the court and to the debate to try to bring this genealogy, to get a sense of this different political culture after 45. They have to renew a democracy, then they have to fight those who tried to go back. So I have to at least mention them, and especially then these persons often are the same that came to the fore in the late 80s, in the case of the SNP with respect to the founder Remer. Then I thought, OK, it is too many names for all of you, for all three of you, so to speak, and I did a short paper of 22 pages. I delivered it the other week to the solicitors, and I hope you will get it and you have it.

MR JUSTICE GRAY: As a matter of fact, I have not got it.

MR RAMPTON: Sorry, I did mention it.

MR JUSTICE GRAY: Yes, you did.

MR RAMPTON: I have got it. If, when this evidence is finished, your Lordship would like it, it is a convenient summary, but we frankly took the view that your Lordship is so already burdened with paper that, if we gave another 23 pages summarizing what is already in the report, it might not go down all that well.

P-155

MR JUSTICE GRAY: Shall we see when the evidence is finished?

A: Your Lordship I tried to minimize the names to a degree that I, from my social science perspective, said it is unbearable, just to make the point.

MR JUSTICE GRAY: Yes.

A: So it is a kind of ----

MR JUSTICE GRAY: Let us try and be practical about it. Mr Irving, I think what Professor

Funke is saying is that he is a social scientist. He therefore felt that he had an obligation in a way to explain really the political pressures and counter pressures that have been operating in Germany really ever since the end of the war.

MR IRVING: It is frightfully interesting, and I read it with great interest.

MR JUSTICE GRAY: It is all very interesting and it is extremely scholarly, but in the end what I am concerned with, and he is not really implicating you specifically in that, save to the extent that the background of the organizations may have some bearing on your willingness to associate with them, but in the end what I am concerned with is your contacts with this quite limited number of organisations.

MR IRVING: I agree.

MR JUSTICE GRAY: What I was saying to you a while back is that I think you should concentrate on that, not get, if I may say so, bogged down in the social science aspects of

P-156

Professor Funke's report.

MR IRVING: I agree.

MR JUSTICE GRAY: I do not think you lose anything by taking that course.

MR IRVING: The risk we have, my Lord, is that we spoke yesterday of the rogues gallery that we were going to enter. We find ourselves in the rogues gallery with thousands of little photographs and now we are being told, well, ignore all these photographs, just pay attention to the six down in the bottom right hand corner. I am quite happy to do that as long as Mr Rampton does not later on say that Mr Irving has ignored all these other gangsters.

MR JUSTICE GRAY: I am going to take the Defendants' case as really in the end coming down to maybe a dozen individuals.

MR IRVING: Six.

MR JUSTICE GRAY: Who have been identified by Mr Rampton this morning.

MR RAMPTON: It may be rather more than six.

MR JUSTICE GRAY: I said a dozen. It may be more but they have been identified and their organizations have been identified, and I think, with due respect of course to Professor Funke, that that is what I am concerned with and that is all I am concerned with.

MR RAMPTON: To be fair, it is actually what the guts of the report is concerned with. It is a chronological account

P-157

of Mr Irving's neo-fascist contacts in Germany.

MR JUSTICE GRAY: Yes. I am not criticising Professor Funke at all, or indeed Mr Irving, but I just think that we all need to focus on what matters, and not get sidetracked.

MR IRVING: Of course, the serious problem there for me is that I do not know what dozen names Mr Rampton is thinking about.

MR JUSTICE GRAY: I do. We heard them this morning. Indeed overnight, if it would help, I suspect it would take five minutes for Mr Rampton or Miss Rogers to write them out on a piece of paper.

MR IRVING: That would be extremely helpful.

MR RAMPTON: I do not know whether Mr Irving is still getting the daily transcript. If he is, they will be in there.

MR JUSTICE GRAY: Whether he is or he is not, I think it is something that would not be unreasonable to invite you to do.

MR RAMPTON: I will do, but I will have to see the transcript myself first because my memory is fallible.

MR JUSTICE GRAY: I have actually been highlighting the ones that I think have been mentioned.

MR IRVING: Some are obvious but some are less obvious, if I can put it like that.

MR RAMPTON: Most of them are in the index to the two bundles apart from Rami and Verala that I mentioned.

MR JUSTICE GRAY: You are not relying on all the ones in the

P-158

index. There are an awful lot who have not been featured at all.

MR RAMPTON: I do not know about that. Is that right?

MR IRVING: If we can strike out all but a dozen, then I am sure that your Lordship would be very happy and so would I. I am prepared to carry on with what I am doing at present, if your Lordship would indicate where I should resume the cross-examination from.

MR RAMPTON: Would Mr Irving just restrain his youthful enthusiasm for a moment.

MR JUSTICE GRAY: Why do we not do it now? Can I tell you what my impression is? Tell me if I have it wrong, Mr Rampton. If we start at the appendix, page 140?

MR RAMPTON: I am probably in the wrong page.

MR JUSTICE GRAY: Maybe I am in the wrong bit. I think 140 is right.

MR RAMPTON: I see. I am sorry.

MR JUSTICE GRAY: Maybe you have a better reference.

MR RAMPTON: That one?

MR JUSTICE GRAY: Yes.

MR RAMPTON: I was going to use the two main bundles, but one can start with Althans.

MR IRVING: My Lord, I have highlighted the names that Mr Rampton referred to this morning.

MR JUSTICE GRAY: Let us go through them so that we all know where we are. Althans, yes.

P-159

MR IRVING: Christophersen, yes.

MR RAMPTON: Yes. I will do it, if you do not mind, Mr Irving. Deckert yes. Dienel, yes, although there may be a tenuousness about the contact. It was one of the ones I mentioned. Felderer on page 143. Rudiger Hess I mentioned but I think only in passing, at the bottom of that page. Gottfried Kussel in the middle of the next page.

MR IRVING: Philipp.

MR RAMPTON: Karl Philipp on page 145. Ernst Otto or it may be Otto Ernst Remer at the bottom of 145. I do not remember whether I asked about Jurgen Rieger. He was mentioned by the Professor in evidence. Then we get to page 148 where we find Staglich, Swierczek, Walendy, and over the page the Worches. I do not think I mentioned Ingrid Weckert. I am not much interested in her.

MR IRVING: Thomas Wulff.

MR RAMPTON: I did not mention him, the Professor did.

MR JUSTICE GRAY: That, I think, may be quite a useful exercise.

MR IRVING: As long I am not penalised for not cross-examining on others.

MR JUSTICE GRAY: You will not be.

MR RAMPTON: Can I say something else as well? Mr Irving is not going to be penalised, or I

am not going to attempt to get your Lordship to penalise him, for not having put

P-160

this, that or the other contradiction about this, that or the other figure. Where, however, the central case, as in some of the historical stuff, is not dealt with, I think I am entitled to make the assumption, maybe a provisional assumption or a rebuttable assumption, that the case is not really contested. For example, Mr Irving has already said that he accepts that he had a long, or whatever the word is, association with Althans and that Gunter Deckert was a friend of his. Now, if there is total silence, for example, in relation to the Worches, then I shall draw conclusions.

MR JUSTICE GRAY: I agree with that and I think, Mr Irving, that you can take it that I will only concern myself with the alleged association you have with the individuals whose names we have just gone through, and with any organizations which it can be shown by the Defendants those individuals are directly connected with.

MR IRVING: I was about to mention the organizations, my Lord, because we have looked at individuals, but I am also accused of associating with organisations, both in Germany and elsewhere.

MR JUSTICE GRAY: Only through these individuals, I think it is fair to say.

MR RAMPTON: And this is Germany only at the moment. The other people that have come have drifted in through, well, Zundel is actually a bit more than the side of the

P-161

picture; other people have come from France, Spain, Austria and America, and they of course do count in their own landscaped.

MR JUSTICE GRAY: There are only about four altogether.

MR RAMPTON: But Zundel is separate. He must not be forgotten. He after all was the cause of Mr Leuchter's martyrdom in Toronto.

MR JUSTICE GRAY: I think a list would be helpful. We have it on the transcript, Mr Rampton, at some stage, in fact I think overnight, if you would, a list of those things, plus any non-Germans.

MR RAMPTON: All right.

MR IRVING: I will cross-examine just on those tomorrow, my Lord.

MR JUSTICE GRAY: Yes.

MR RAMPTON: I do not think, well, I do not know. I do not say any more about that at the moment. We will see.

MR JUSTICE GRAY: Yes, certainly. I am encouraging you I think to make a start, if you would, this evening.

MR IRVING: Yes.

MR JUSTICE GRAY: We have a bit more time.

MR RAMPTON: If Mr Irving is in difficulty, there are some things I should like to mention while he finds his place, as it were. I now have the disk of the Eichmann memoirs, which I will hand to Mr Irving at the close of play, but on this condition for the time being. The copyright in

P-162

this version belongs to the Israeli Government. They have consented that it should be used for the purposes of this case, but rather like the daily transcripts it cannot go on to Mr Irving's website.

MR JUSTICE GRAY: I am not sure it is a question of copyright so far as I am concerned. It is

more a question of the implied obligation in relation to ----

MR RAMPTON: I have given them an undertaking personally that it will not be used for any purpose ----

MR JUSTICE GRAY: Yes, but I think it is a confidentiality point so far as these court proceedings are concerned, and not a copyright point.

MR RAMPTON: Except that they have got the copyright on these.

MR JUSTICE GRAY: I am sure they have, but I am not so much concerned with that as with the fact you are disclosing it and it this is therefore subject to the implied obligation.

MR RAMPTON: Not to use it for any other purpose.

MR JUSTICE GRAY: At all events, until it is used.

MR RAMPTON: It will become public knowledge in due course, in which case it can go on anybody's website, but for the present -- there are terrible lawyer words about undertakings being muttered in my ear.

MR JUSTICE GRAY: There is implied undertaking.

MR RAMPTON: Exactly.

MR JUSTICE GRAY: As I am sure you know.

P-163

MR IRVING: The implied undertaking evaporates. Once it has been mentioned in open court, my Lord, the implied undertaking is destroyed.

MR JUSTICE GRAY: I wondered whether that point would ----

MR RAMPTON: No. No, that is completely wrong. Mr Irving's law is pretty poor in many respects and it is completely wrong in this respect. The implied undertaking lasts until the court has read the document or it has been read in court.

MR IRVING: Mentioned.

MR RAMPTON: No.

MR JUSTICE GRAY: This is an argument that I am hoping I will not have to resolve, because I am not sure it is quite as simple as that.

MR RAMPTON: I will not hand it over without the undertaking.

MR JUSTICE GRAY: Mr Irving, are you prepared to give me your undertaking?

MR IRVING: I will give the undertaking not to make any untoward use of it, yes.

MR JUSTICE GRAY: No, not good enough. Are you prepared to give me your undertaking until we can resolve this question, and we can set aside a little time to argue it if needs be, that you will not make use of this tape you are being handed otherwise than for the purposes of these proceedings and, in particular, will not put it on your website?

P-164

MR IRVING: For the purposes of this litigation, indeed, my Lord, yes, I give the undertaking.

MR RAMPTON: Thank you very much. What in fact the Israelis have told us is that the version which will be made available to the public will not be this electronic version; it will be a printed version.

MR JUSTICE GRAY: Yes, fine. That can be handed over.

MR RAMPTON: Very well.

MR IRVING: Thank you.

MR RAMPTON: I think I am wrong about what I just said about the law. My apologies to Mr

Irving.

MR JUSTICE GRAY: I think you are wrong too, but I did not like to say so!

MR IRVING: So who was right then?

MR JUSTICE GRAY: Yes, you were, Mr Irving. It is an unusual and rather curious position, but I think you are right.

MR IRVING: I have been in trouble about this before, that is why I am familiar with it.

MR JUSTICE GRAY: Anyway, let us press on. Can you make a start on what we have all agreed now is really the guts of Professor Funke's report?

MR IRVING: Yes. I think I am right in saying, my Lord, there were actually three more names than those listed in their appendix.

MR JUSTICE GRAY: Yes. One is Zundel. One is the Spaniard.

A: Verala.

P-165

MR JUSTICE GRAY: Thank you.

MR IRVING: There is Michael Kuhnen.

MR JUSTICE GRAY: Kuhnen is in the list already.

MR IRVING: He is not in the list.

MR JUSTICE GRAY: All right.

MR IRVING: Gary Lauck.

A: Lauck.

MR RAMPTON: I did not mention Lauck, but if Lauck is important let us have him.

MR JUSTICE GRAY: You are going to get a list of names tomorrow morning.

MR IRVING: Is Dr Frey included in the list?

MR RAMPTON: Yes, Dr Frey was mentioned. He is in a slightly different category because he is DVU, but the Professor has explained why he puts DVU in, what shall I call, a slightly milder version of the radically neo-Nazi, other people.

MR IRVING: Professor Funke, Dr Frey is the Chairman of the DVU, is he not?

A: Right.

Q: Is the DVU a democratically organized body?

A: No, not at all.

Q: Not at all?

A: Not at all to the gazettes, the law of the parties, that includes inner party democracy, democratic procedures within the party system. This is ruled by special laws

P-166

that are of interest in the public in these months in Germany. So it is very clear what the law said, and it is very clear that the DVU in its internal organization failed to apply to this law.

Q: Yes, but of course the main established political parties also do not comply with a lot of the laws?

A: I alluded to that.

Q: Yes, Chancellor Kohl has been in trouble recently, has he not?

MR JUSTICE GRAY: Let us move on.

MR IRVING: If I draw your attention to paragraph 3 ----

A: He is not the Chancellor any more.

Q: Ex-chancellor. 3.2.5, you refer to the disparagement of democratic institutions and persons,

which is an element of right-wing extremism.

A: 3?

Q: Page 22, I am over the page. It is line 5.

A: Line 5.

Q: Am I right in saying, and this is confirmed by paragraph 4.3.1 on page 46, that the DVU has fought countless election battles under the normal election rules, has it not?

A: Yes.

MR JUSTICE GRAY: That is neither here nor there, Mr Irving. Come on.

MR IRVING: It has never resorted to violent or revolutionary

P-167

means, has it?

A: Say it again?

Q: It has never resorted to violent or revolutionary means of conducting politics?

A: Not as the party, but in the party, as I said, there were leanings to skinheads, violent skinheads, there were leanings and associations and actions by DVU members to this kind of violence against foreigners. There was this kind of support of the Wehrsportgruppe Hofmann, a very violent group in the early 80s or in the late 70s. Hofmann was then fined. So not in the centre, they were very cautious to circumvent any illegalising procedures.

Q: Was politics for a time in Germany very violent when the East Germans Stazi were providing funds?

A: I do not know what time you are referring to.

Q: Well, were there violent demonstrations in Germany which required meetings to be protected?

MR JUSTICE GRAY: Mr Irving ----

A: What time are you referring to?

MR JUSTICE GRAY: --- I thought we had agreed we were going to get on to the positive case that is made against you, and discussing whether there was violence in German politics when the Stazi was financing it is, I think, just too nebulous for the purposes of these proceedings.

MR IRVING: Well, the witness mentioned the use of paramilitary people to protect the meetings, and that was invited by

P-168

that. On 3.2.24, paragraph 3.2.24, you mention my keeping company with Rudel and Remer: David Irving was keeping company with Nazis like Otto Ernst Remer and Hans Ulrich Rudel. We are not interested in Rudel, he is not on the list, but you say that I have kept company with General Remer. Have you seen any documents in my private diaries or elsewhere showing me keeping company with Remer?

A: I refer here to the data of the Schleswig-Holstein in '82, and that is it.

Q: Yes. So you rely entirely in making that statement on a report of the OPC?

A: In that respect, right.

Q: Of the OPC, and his Lordship is not going to pay any attention to what the OPC says. Are you aware from the proceedings of this trial that I have produced a one-page diary entry showing me interviewing General Remer for the purpose of the Goebbels book and this was the only meeting I had with him?

A: If you say so.

Q: Have you seen any other entries in my diaries indicating meetings with General Otto Ernst Remer, apart from occasions when I have spoken and he has been one of many faces in the

audience? You have not seen any other documents?

A: It seems that this quotation of the OPC, of Schleswig-Holstein, is an overstatement.

P-169

Q: An overstatement, yes.

MR JUSTICE GRAY: Can I help you, Mr Irving, by saying that this seems to me precisely the sort of way in which it is helpful to cross-examine.

MR IRVING: Yes.

MR JUSTICE GRAY: That is really intended by way of guidance.

MR IRVING: So, effectively, notwithstanding what we have seen on the video tapes of General Remer being present at meetings which I have spoken at, you would not say that I have had close contacts with him?

A: I would not say.

Q: Yes. 3.2.25 when I address the DVU rally, one of Dr Frey's rallies on freedom for Rudolf Hess, you object to my use of the word "martyrdom" or "martyr" for Rudolf Hess? I think we can leave that. It is not really important.

A: Yes, I can allude to this, I can explain it, if it is of interest.

Q: Paragraph 3.3.2, at page 32, you say the OPC report of 1993, you are quoting that. What year does that refer to, 1992?

A: The second ----

Q: Is this one of Dr Frey's newspapers that is being referred to there?

A: Yes.

Q: And it published anti-Semitic articles according to the

P-170

OPC report of 1993?

A: A lot.

Q: Yes. Had I left Germany by that time?

A: No.

Q: When was I deported from Germany?

A: End of '93.

Q: End of 93.

A: You recall that?

Q: It cites two examples of anti-Semitic articles. One is a criticism of the Edgar Miles-Bronfman, well, I do not think this is sufficiently important.

A: I mean I can read it.

Q: 3.3.11, please?

A: Maybe I can just say, you know: "The German Weekly, the DNZ's sister papers in the Frey press imperium, presented one Hungarian-born son of a Jewish lawyer as the 'finance guru of the world', a master of financial speculation, who through his dealings undermines the German mark, the DWZ made the point that they economic recovery central Germany was jeopardised by Jewish restitution claims." So these kinds of things.

Q: You consider that to be anti-Semitic?

A: Yes, and I can prove this by going into the sentences, if you want.

Q: Paragraph 3.3.11, please, page 35. This is describing the events we saw on the video, April 21st 1990.

P-171

A: 3.3.11. Thank you.

Q: 3.3.11.

A: Yes.

Q: This is the event that led to my being put in the police van. You describe it as an "illegal demonstration". Why do you call it an illegal demonstration?

A: It was ----

Q: Have you any proof that it was illegal, that there were any arrests made for it? Was anybody fined for conducting illegal demonstration? What I am asking you is why do you call the demonstration that I was seen in illegal? You have no proof, right?

A: No.

Q: No. 3.3.12 ----

A: I mean I can allude to that bit further. It was the intervention of the police, you could see. So there were some calls in the administration to say, "this goes too far", because of the whole thing, of the whole conference. It went out. It was not asked for by the police, institutions. So in that sense it was illegal. Excuse me that I had to wait a minute to realize what it was about.

Q: Let me just ask you one more question and this concerns the position of the police president in German life. Unlike England, the police president in Germany is a political appointment, is he not?

P-172

A: It depends.

Q: In each city?

A: No, it depends. The police president is, as I alluded to before, is a Staatsbeamter.

Q: A Civil Servant?

A: Civil servant, and the civil servants, as I said, have to stick to the laws and nothing else, whereas the politicians can do their own cause, be it a mayor of a city or so. So there is a different ruling and a different structure. Of course it happens that, this is in democracies like ours is the case, I do not know how it is in other countries, but, you know, they appoint a person of a given party or near to a given party and so forth. But once the position is established they have to shy away of these political affiliations and have to stick to the laws.

Q: He is appointed by the ----

A: So it does not make a point if you say it is a politicized system, and so they are not, you know, whatever allowed to do this or that.

Q: But the city administration of Munich is socialist, is it not, it is left-wing?

A: It depended. I mean ----

Q: At this material time.

A: So as far as I recall, yes, but there was a time when there was a big debate, whatever.

P-173

Q: My Lord, I think this might be a useful time to stop.

MR JUSTICE GRAY: I wondered whether you did not want to get to the end of paragraph 3, because that that all seems to me to stick together, and then there is a rather new chapter

beginning at 4 or maybe you have not got any questions on the remainder of paragraph 3.

MR IRVING: Section 3.

MR JUSTICE GRAY: Sorry, section 3 is a better word.

MR IRVING: Yes, I have one page of questions. Page 3.3.12 or paragraph 3.3.12, you refer to a leaflet put out by Ewald Althans containing the phrase: "300 participants joined David Irving in spontaneous demonstration to the Feldherrenhalle after our event", which is a reference to that demonstration we saw on the video, is it not?

A: Right, no, it is -- yes, right.

Q: Do you have any evidence that I was actually on the demonstration that went to Feldherrenhalle, apart from that leaflet issued by Althans?

MR JUSTICE GRAY: Are you saying that you did not, Mr Irving?

MR IRVING: I am saying I did not, yes, my Lord. In that case I will put to the witness the letter from Mrs Worch which is page 9. Can I ask you to look at page 9 in the documents, it is either page 9 or 10.

A: Yes, 9.

Q: Is this a letter from Ursula Worch and her husband Christian Worch written to my lawyer February 17th 1991?

P-174

A: Yes.

Q: If I summarize it very quickly, the actual letter is two pages later on page 11 probably in German. If you look at the German version, if I summarize it quickly, she is saying that after the end of the function in the Lowenbraukeller there was a spontaneous public demonstration: "We joined in that. We lost sight of Mr Irving who remained in the hall", right, "before we could make a firm appointment. About an hour later, shortly before the police broke up this demonstration, we met Mr Irving in the street where he had been looking for us", right? So the scene we saw on the video, would that be consistent with the crowd being ushered back to the hall by the police who then, for some reason, started making arrests?

A: I mean the whole thing is inconsistent. On the one hand you have these letters of this couple, Worch, and of course it has the function for, you know, for the lawyer and so forth, and on the other hand you have the video and you have the Althans presentation you just quoted. So there is a lot of probability that this video is more correct than the letter.

Q: Professor Funke, do you remember me asking you to look at the video and tell the court which way this little band of forlorn stragglers was moving, being ushered across the Viennastrasse and you could not tell?

P-175

A: All the evidence I have by Michael Schmidt, and especially Michael Schmidt who was there at the time and in his book and four days long, you know, whole videos of that, this is a short version we saw, I would say that in my overall cautious judgment I cannot say yes to your implication.

Q: Since we are talking about this demonstration, I had £2,000 worth of books on the book table at that function. Would I have left them unattended with 800 people in the hall in order to join a demonstration?

A: You joined this going, and all the sources I had says, including Althans, that this was going to

the Feldherrenhalle.

Q: Did you read my diary covering that particular episode?

A: Yes, I read.

Q: Did you read the police statements that were taken describing what had happened in the file which was made available by discovery?

A: You know, I think I did it also in the report, I read this and I came to the conclusion that there are more reasons for the case I state that you joined for a given period of time this march.

Q: You think I would have just left £2,000 worth of books unattended on a book table in a beer hall with 800 people?

A: I do not know. There are other possibilities to take care and maybe you did and you joined. I do not know.

P-176

Q: Do you remember the police statements that were made at the time?

A: I read the things that are of interest all around this case.

Q: But my question was, do you remember the police statements that were made covering this particular event, the demonstration and the reason that I was taken in and so on?

A: I think I recall, but help me.

Q: Yes. Well, if you have not read them there is not much point in my putting it to you.

A: I think I had.

Q: Are you aware that Michael Schmidt who took the videos and on whom you rely is a paid police informer?

A: No.

Q: Well, are you aware that this emerges from the police dossier which is in my files which were provided by way of discovery?

A: Michael Schmidt was not a police informer.

Q: Where did the police obtain the video from on the basis of which they prosecuted me?

A: But I have no evidence that he sided police functions, no evidence whatsoever.

Q: Have you read in the police dossier the words, "Michael Schmidt has come forward and volunteered to us a video which he took at the Lowenbrau meeting?"

P-177

A: This is a different, this a different, you know, what is it, observation. That does not include that he is paid or whatever integrated in this secret or police system.

Q: You referred repeatedly in your report to that fact that in the written agreements between myself and Dr Frey it was stated in writing that I would not talk about the Holocaust in any of my talks?

A: Yes, Frey again and again reiterated that. He may have had reasons. I do not know.

Q: Yes. Well, can you speculate on what the reason would be, possible reasons?

A: You were there too. The one is not to be illegalized; the other is that you may depart from it.

Q: Would you agree that the more likely reason is in the German climate, that even though neither of us intended, neither Dr Frey nor I, should speak about that subject, it would be alleged against us by malicious parties and we wanted it therefore to be set out in writing that that was not an agreed topic, and that this is the reason why it was fixed every time in writing between us?

A: It seems ----

Q: So we could not be tricked.

A: It seems the case.

Q: Yes, and using your own political nouse, your ability, your acumen, would you agree that this is probably the more likely conclusion on the basis of the correspondence

P-178

as you have read it?

A: It does not defer from what I wrote or did I get it wrong?

MR JUSTICE GRAY: No, I think you are all agreed. It was a precaution that he took to protect himself, his party and indeed Mr Irving from being prosecuted.

MR IRVING: It was a precaution we both took, my Lord. Can I add another question as rider? Have you seen any reference or indication of the fact that at any of the DVU meetings I departed from that agreement and that I spoke Holocaust denial?

A: I mean there was the quarrel between Mr Frey and Mr Irving with respect to the other activities you took at that period of time, and that was also in relation to the, to quote, "Hitler and Jews" thing. So this made him concerned that you will lose the ability, that Mr Irving, so to speak, lose the ability to stay freely and to speak freely in Germany and he lost.

Q: Yes, but will you now please answer my question because it is important. Have you read any indication anywhere, in my diaries or on the speech notes or anything like that, that I spoke on Holocaust denial or the Holocaust or Auschwitz at any of the meetings that Dr Frey commissioned me to speak at?

A: So far as I recall not, no.

Q: And the same goes for anti-Semitism of course, that I did

P-179

not go vapouring on against the Jews at any of these meetings?

A: So far as I see, not with respect to the DVU, but in other circumstances very different.

Q: We will take each one as we come to it. In paragraph 3.4.1, and I am nearly at the end, you say that I was a main speaker for the DVU?

A: Yes.

Q: Is not the correct way to say it in fact that I was speaker frequently hired by the DVU as an historian, that I never spoke for them? I was not a spokesman for them?

A: You were a star speaker used by the political party for political aims.

Q: Why do you call me an agitator for the DVU in that same paragraph, an agitator?

A: Because of that.

Q: Would you like to justify the last sentence beginning, "The DVU is itself a party that propagates hatred against foreigners, an-Semitism, revisionism, incites violence"? Is this not again an example of your loose writing, you just throw these things in there?

A: Not with respect to the DVU. As I stated it before, you did not do that. Is it is very interesting to describe this. The speaker, Irving, is cautious in sticking to the law as he can with respect to the DVU, but the DVU itself is taking him as a star speaker, and representing their

P-180

cause or its cause as an anti-Semitic, right-wing extremist, and often denialist, as you can see in the newspapers and as are referred to by the articles thing. So it is a kind of mutual interaction with often very cautious tactic lines.

Q: But, Professor Funke, each of those activities or agitation factors that you list there, propagating hatred against foreigners, anti-Semitism, inciting violence, each of those would be an illegal activity if it was true. So why was the DVU never prosecuted, as you say it was not?

MR JUSTICE GRAY: You asked that before.

MR IRVING: Yes, my Lord, but I wanted to underline the point, if the DVU is accused in that sentence of conducting these activities, it seems highly improbable given that they were never prosecuted.

A: Again, Mr Irving took sides with this extremist party, and I can go into details of how intense anti-Semitic party members and the newspapers are. There is no doubt about that.

Q: But not in the extreme form.

A: The other part of the answer is that that does not mean that this party is illegal, because of the special importance parties, as parties, were given by the constitutional law as a reaction to the period before, and that includes that the political party has a special ----

THE INTERPRETER: A right to participate.

P-181

A: --- stated by the constitutional law directly. So it is very difficult to push aside parties when they not only claim but by their structure are parties, although they may not be in the internal structure democratic ones. This is why at the beginning it was so extended to describe the specifics of the German political system and the right-wing extremist cause they have to fight.

MR IRVING: I think it would be easier to deal with personalities tomorrow, my Lord, because the organizations are clearly problem.

MR JUSTICE GRAY: So that I have some idea of the timing, how much cross-examination?

MR IRVING: I have one more day at this rate, less than a day.

MR JUSTICE GRAY: A day of cross-examination of Professor Funke?

MR IRVING: I think so, yes.

MR JUSTICE GRAY: Your original estimate was half a day.

MR IRVING: I will abbreviate it then.

MR JUSTICE GRAY: No, do not do it because I say that.

MR IRVING: Your Lordship is excellent at brooming me along and making me scrap hours of work.

MR JUSTICE GRAY: It is a matter for you to take whatever course you think.

MR IRVING: If I know your Lordship is not going to pay attention to those matters ----

MR JUSTICE GRAY: I have give you a very, very clear

P-182

indication I hope of what I would be paying attention to.

MR IRVING: Had I had that indication last night ----

MR JUSTICE GRAY: I agree, but I did not know what you were going to be asking about. 10.30 tomorrow.

(The witness withdrew)
(The court adjourned until the following day)

P-183