

In the High Court of Justice

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

1996 -I- 1113

Before:
The Hon. Mr. Justice Gray

B E T W E E N:

DAVID JOHN CAWDELL IRVING

Claimant

-and-

PENGUIN BOOKS LIMITED

1st Defendant

DEBORAH E. LIPSTADT

2nd Defendant

MR. DAVID IRVING (appeared in person).

MR. RICHARD RAMPTON QC (instructed by Messrs Davenport Lyons and Mishcon de Reya) appeared on behalf of the first and second Defendants.

MISS HEATHER ROGERS (instructed by Messrs Davenport Lyons) appeared on behalf of the first Defendant, Penguin Books Limited.

MR. ANTHONY JULIUS (instructed by Messrs Mishcon de Reya) appeared on behalf of the second Defendant, Deborah Lipstadt.

Closing Speech by the Claimant

MARCH 15, 2000

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A note by Focal Point Publications

. . . on our editing policy with this document. This is the closing statement made by David Irving in the trial, which he delivered from about midday until 5 P.M. on March 15, 2000. Comparison with the transcript will reveal differences in the version as delivered, but in general it can be said that this version, being the script from which he delivered his speech, is the more complete. By prior arrangement with the Court and by consent the statement as delivered condensed large areas involving for example the "global endeavour" of international Jewish organisations to abridge Mr. Irving's freedom of speech, and he also decided at the last moment not to include the materials revealing the connections of the Defendants' expert witness Professor Hajo Funke connections with left-wing ideologues in Berlin, an omission which Mr. Justice Gray welcome, but which Mr. Irving later

regretted. As with any seasoned speaker, moreover, Mr. Irving interpolated extempore remarks – here, praise for the trial reporting by individual newspapers (*The Jewish Chronicle*), there a statement about the importance, when death statistics run into the hundreds of thousands, never to lose sight of the fact that each of these was a human life. The latter stretches of the speech were interrupted by heckling from Defence counsel Mr. Richard Rampton QC and his team, particularly when Mr. Irving attacked the authenticity of the "Bischoff document", and finally halted altogether by a discussion between the Judge and Mr. Rampton on various points of law.

In law, it was this full version of the closing statement that was before the Court, *i.e.* as published below, plus any additional remarks that the transcript of the version as spoken contains. Typographical embellishments and topic headings are added in the printed version. – fpp

Closing Statement by the Claimant



At the High Court *David Irving arriving with his book HITLER'S WAR, his personal copy of the Himmler Diary, and bundles of copies for the press gallery.*

“THE DEFENDANTS IN THIS ACTION, THE PUBLISHERS Penguin Books Ltd. and the American scholar Deborah Lipstadt, have sought to cast this trial as being about the reputation of the Holocaust. It is not. The world's press have also reported it in this way. Again, it is not.

This trial is about my reputation as a human being, as an historian of integrity, and – thanks to the remarks made by Mr. Rampton – as a father. The Defendants are saying, and have so convinced many people, that I am not entitled to continue to earn a living in the way that I have earned it for nearly forty years. A judgement in my favour is no more than a judgment that disputed points which I have made about some aspects of the narrative are not so absurd, given the evidence, as to disqualify me from the ranks of historians. Under the laws of defamation in this country, it could not be any thing else, and nor must the defence team, no matter how powerful, or moneyed,

or eloquent, or numerous, be allowed by their tactics to skew it in any other way.

I may add that the points I have made do not necessarily lessen the horror or the burden of guilt. I always have accepted that Adolf Hitler, as head of state and government, was responsible for the Holocaust. I said, in the Introduction to my flagship biography, *HITLER'S WAR*:

If this biography were simply a history of the rise and fall of Hitler's Reich, it would be legitimate to conclude: “Hitler killed the Jews”.¹ But my years of investigation suggested that many others were responsible, that the chain of responsibility was not as clear cut as that. Nothing that I have heard in this Court since January 11 has persuaded me that I was wrong on this account.

These latter points lead to another consideration. Your Lordship will have heard of the – largely successful – effort to drive me out of business as a historian. This Court has seen the timidity with which historians have already been fraught once the Holocaust is questioned: one notable historian, ordered by summons to attend, showed himself reluctant even to confirm what he had written in my favour, repeatedly, over the last twenty years. A judgment rendered against me will make this paralysis in the writing of history definitive; from then on, no-one will dare to discuss who exactly was involved in each stage of the Holocaust, or how extensive it was. From then, on discussion will revolve around “safe” subjects – sacred texts in the Middle Ages, or Marx in the old USSR, or the Koran in a fundamentalist state today. Every historian will know that his critique needs to stop sharply at boundaries defined by certain authorities. He will have a choice: accept the official version, *holus-bolus* ; or stop being a historian.

A judgment in my favour does not mean that the Holocaust never happened; it means only that in England today discussion is still permitted. My opponents would still be able, just as now, to produce other documents if they can; to expound alternative interpretations. They would be as free as ever to declare that they think I am wrong. They would be impeded in one way only: they would not be able to say in a loud and authoritative voice that I am not a historian, and that my books must be banned. As a result of my work (and of this case) the Holocaust has been researched more. Those who (rightly) believe that these crimes should never be forgotten should ask whether their case is better served by a compulsory – and dead – text imposed by law and intimidation, or by a live and on-going discussion.

Our Common Law has at its kernel an “adversarial” procedure whereby, it is believed, truth is best elicited by each side putting their case as strongly as possible. I agree with English Common Law.

¹ *HITLER'S WAR*, 1991 edition, at page 17.

I read in *The Independent*, in a lengthy and deeply libellous article published only last week, these words: "But if he wins, it will open the door for revisionists to rewrite any event in history without the requirement to consider evidence that does not suit them and without fear that they will be publicly denounced for their distortion."²

In bygone days, I venture to submit, such an article, published while an action was literally *sub judice*, would have been a clear contempt of Court. Your Lordship will have noticed that I wearied, after a few days, of drawing attention to the coverage of this trial. Allow me however to introduce one cautionary statistic: not including the fuss about the Eichmann manuscript, the British press have published no fewer than 167 reports during the *seven* days that I was on the witness stand, that is 24 per day; but just fifty-eight reports during the twenty days when the boot was on the other foot and I was cross-examining Mr. Rampton's witnesses, that is roughly three per day. That is a disparity of some eight to one against me.

If Your Lordship has noticed any of these items, you will perhaps have observed that the reporting in both cases is almost exclusively devoted to the defence statements, or their questions to me, and not to the product of the examination. The Court however operates by different standards, and it will not allow public sentiment to guide its verdict. I believe it was Churchill who once said, "There is no such thing as public opinion, there is only published opinion."

Given such a baleful glare from the press gallery, My Lord, I am glad that Her Majesty has such a resolute officer presiding over this case. The outcome is in your hands, and yours alone, and I am confident that nothing that the Press has written, or may yet write, will deflect Your Lordship from arriving at a just conclusion.

THE DEFENDANTS HAVE SOLD AROUND THE WORLD A BOOK, *Denying the Holocaust*. May I say that I see here Penguin Books Ltd to my sorrow, as they have published my own works in the past; but they are continuing even today to sell this book for profit, in the knowledge that it contains very defamatory allegations and that these allegations are held to be untrue. It is a reckless, even foolhardy posture.

Neither of these Defendants evidently bothered even to have the manuscript professionally read for libel. I say "*evidently*," because we do not know: they have not deigned to enter the witness box to answer even that straightforward and most elementary of questions. Nor have they answered this question when it was put to them in writing. Such a report is, in my submission, not privileged, and I would have been well prepared to argue the point; had they claimed that privilege, I should have asked, "On what grounds?" If a report was written, it should and no doubt would have been disclosed. It was not. We are entitled to assume they did not bother to have the book "read", therefore. So it does not exist.

Whatever other limited excuses – whether of sheer ignorance, or of innocent dissemination – that the publisher might have (quite wrongfully) deployed for publishing this malicious and deeply flawed work were destroyed from the moment when they received my writ in September of 1996, and were thus informed,

if they did not in fact know already, of the nature and scope of the libels it contains. And, as said, they have continued to sell it, hoping no doubt to cash in on, to profit from, the notoriety gained by these libel proceedings, a textbook case of *Rookes vs. Barnard* if ever there was one, since the book they are selling still contains even the several libels which they have made no attempt here to justify. They have to justify their allegations, or their defence fails; and as your Lordship is aware, where the defamations are particularly grave, a higher burden of proof falls upon them than the mere balance of probabilities that is normally acceptable. In both Defendants, moreover, there is clear evidence of malice, both in those few documents which the author of this work has disclosed, and in the fact that the same firm of publishers had previously distributed a work in which I was variously caricatured as Adolf Hitler, and wearing swastika eye-glasses.

The very worst of the libels are so blatant, that neither Defendant has insulted the intelligence of this Court by offering any justification for them. They hope instead to divert the court's attention by reference to distant and notorious matters of history. In consequence, for thirty days or more of this Court's time we have had to rake over the embers of what may be one of the greatest crimes known to Mankind: a harrowing, time-wasting, and needless effort, which has yielded even now few answers to great questions and mysteries which even the world's finest academics have so far not managed to unravel.

The Hizbollah Allegation

On page 14 of the book, the Defendants published one of the gravest libels that can be imagined for a respectable English citizen who lives a very public life, namely that I consort with the extremist anti-Semitic Russian group Pamyat, with violent anti-Israeli murderers, with extremist terrorists, and with Louis Farrakhan, a Black Power agitator who is known to be acting in the pay of a foreign power, namely the Libyan dictator. This is not just the simple allegation of associating with "extremists", about which they have made so much. The words on page 14 are as follows – and I make no apology for reminding the Court of them:

"The confluence between anti-Israel, anti-Semitic, and Holocaust denial forces was exemplified by a world anti-Zionist conference scheduled for Sweden in November 1992. Though cancelled at the last minute by the Swedish government, scheduled speakers included black Muslim leader Louis Farrakhan, Faurisson, Irving and Leuchter. Also scheduled to participate were representatives of a variety of anti-Semitic and anti-Israel organisations, including the Russian group Pamyat, the Iranian-backed Hizbollah, and the fundamentalist Islamic organisation Hamas."³

The whole statement was a reckless lie. It appears from their Discovery to have been based on a press release issued by the Jewish Telegraph Agency, which neither that agency or the Defendants made any attempt to verify. The Court will have noticed in one of my bundles the letters which I sent to every Scandinavian embassy at the time, anxiously denying the mali-

² *The Independent*, "HOLOCAUST CASE RESULT WILL DELIVER JUDGMENT ON IRVING", March 4, 2000.

³ She gives her source as release from the *Jewish Telegraphic Agency*, Nov 26, 1992.

cious JTA allegation. I have pleaded, as Your Lordship is aware⁴, that the innuendo was that I was

“thereby agreeing to appear in public in support of and alongside violent and extremist speakers including representatives of the violent and extremist anti-Semitic Russian group Pamyat and of the Iranian-backed Hizbollah and of the fundamentalist Islamic organisation Hamas and including the black Muslim minister Louis Farrakhan, born Louis Eugene Walcott, who is known as a Jew-baiting black agitator, as a leader of the U.S. Nation of Islam, as an admirer of Hitler and who is in the pay of Colonel Muammar Gaddafi.”

And

“that the true or legal innuendo of the word “Hizbollah” is that used to refer to and describe a known international terrorist organisation led by one Sayed Hassan Nasrallah from Beirut in the Lebanon also known as the Hizbollah whose guerrillas kill Israeli civilians and soldiers thereby deliberately provoking retaliation, and which organisation has been determined by President Clinton, at the international anti-terrorism conference in 1996, as being among the enemies of peace, and whose officials and armed activists are now being hunted down by . . . the Israeli army.”⁵

The Hamas Allegation

As for the Hamas, I set out in para 12 of my STATEMENT OF CLAIM that “the true or legal innuendo of the words “Hamas” is that of an Islamic fundamentalist terrorist organisation similar in nature to the Hizbollah.”

I submitted to Your Lordship at the outset of this trial a representative selection of news reports from reliable outlets, including the BBC, on the murderous nature of the organisations concerned.

In my pleadings, I also (paragraph 8) argued that by these allegations I had “been brought into hatred, ridicule, contempt, risk of personal injury, and/or assassination”. The nature of the libel, and the damage that it caused, hardly need arguing in detail here. To put it in a domestic context, if the Defendants had equally untruthfully stated, for example on a Channel 4 television documentary, that I consorted with Ulster loyalist death squads who were part of a conspiracy to murder Roman Catholic nationalists, itself a grave accusation which also would put me at risk of assassination, and if the Defendants made no attempt to justify that libel, then I respectfully submit that Your Lordship would have no hesitation giving judgment in my favour. I submit that there is no difference between these examples.

The “Hitler portrait”

The Defendants have relied however on Section 5 of the Defamation Act. In other words, they accuse a respectable Englishman of consorting with terrorists and murderers, and then plead the relative insignificance of the accusation when it turns out to be a reckless lie. And there are other incendiary lies which they

have stuffed into that particular sand-bucket, Section 5, in the hope that they will sputter out: the Defendants repeated the story – first published in *Izvestia* – that I placed a portrait of Hitler over my desk.⁶ For that lie too they have offered no justification. I read incidentally recently in *Literary Review*, January 2000, that Lloyd George had signed photographs of both Hitler and Mussolini on display.⁷ The only signed photograph in my apartment, as many journalists have observed, is one of Sir Winston Churchill.

I submit that Your Lordship should not accept the Defendants’ contention that these allegations should be disregarded on the basis of Section 5. Even if they could sufficiently justify their claim that I deliberately bent history in favour of Hitler, and I submit that they have not, it would still “materially injure the plaintiff’s reputation” (thus the wording of Section 5) to say that I had a portrait of Hitler above my desk. The claims which they do seek to justify suggest that I am culpably careless and (perhaps unconsciously) sympathetic to Hitler; bad enough, but having a portrait over my desk implies a full-hearted 100 per cent conscious commitment to that man, which is very different.

I have provided to Your Lordship in one bundle a number of passages quoted from A J P Taylor’s words. Taylor himself accepted that they inevitably improved Hitler’s image: maybe he did not originate the actual mass murders himself; maybe he did slip into war with Britain rather than planning it; maybe the Anschluss with Austria was more a stroke of good fortune, which he grasped, rather than long planned as a take-over; maybe the Nazis did not burn down the Reichstag in 1933. These views of Taylor have been criticised as being wrong, even as being too sympathetic to Hitler. But everybody would accept that to suggest that Taylor had a portrait of Hitler “over his desk” would suggest something far worse. So it should be for me too.

Again, for the purpose of Section 5, the allegation that I bend history in favour of Hitler because I am said to admire him, and that I consort with other people holding such views, is a very different kettle of fish from stating, as the Defendants do, that I consort with people who are widely regard as violent and murderous terrorists. Indeed, the word used by the Defendants in the Hamas/Hizbollah/Pamyat context is “confluence”, which suggests something even worse than “consort”. The passage suggests that I provide support (maybe only theoretical support, but still support) for violence and murder – murder now and murder in the future. I ask therefore that Your Lordship not allow either of these matters to be discarded into section 5.

MY LORD, THE COURT WILL BE AWARE THAT FROM THE very outset I argued that this hearing should not, effectively, leave the four walls of my study, where I wrote my books; and that what happened fifty or sixty years ago was of less moment to the issues as pleaded. The matter at issue, as pleaded by the Defendants, is not what happened, but what I knew of it, and what I made of it, at the time I put pen to paper. To take a crude example: neglecting to use the Eichmann memoirs, released to us only a few days ago, had they con-

⁴ Statement of Claim, para 9(i).

⁵ Statement of Claim, para 11.

⁶ Deborah Lipstadt, *Denying the Holocaust*, page 161.

⁷ *Literary Review*, March 2000, Kenneth Rose, review of Owen Lloyd George: *A Tale of Two Fathers*.

tained startling revelations – which they did not – could not have been held against me because they were not available to me in the 1960s, 70s or 80s.

Argument on Section 5, Defamation Act

Your Lordship took a different view, and I respectfully submit that it was wrong. The Defendants have invested a sizeable fortune in re-researching the Holocaust, and possibly for that reason alone we have all been dragged through that vast and inhuman tragedy yet again; and quite needlessly in my submission. It would have sufficed for their purposes if they could have proved, on the basis of the total disclosure of my files which I made to them and their experts, that I had indeed “distorted, misstated, misquoted, and falsified.” Fearing or finding however that they were unable to prove wilful fraud, in effect, they have fallen back on the alternative plea in the tort of negligence: that “Mr. Irving ought to have known.” I respectfully submit that this unobvious change of defence should not have been allowed to them, as it was not pleaded at the outset.

If my submission on the law is, however, wrong then Your Lordship must ask what effort would have been *reasonable* on the part of an individual historian, acting without institutional support like that of Yad Vashem, and with the doors of archives increasing being slammed against him because of the activities of the bodies to which I shall shortly refer? These Defendants have spent reportedly some Six Million dollars, and twenty man-years or more, in researching this case: this blinding and expensive spotlight has been focused on the narrowest of issues, yet still it has generated more noise than illumination. I heard the expert witnesses who were paraded before us use phrases like the “consensus of expert opinion” as their source so often – in fact the word *consensus* occurs so far no fewer than forty times in the daily transcripts of this trial – that I began to wonder what archives were for. I suggest that these experts were more expert in reporting each other’s opinions and those of people who agree with them than in what the archives actually contain – and do not contain.

The Phrase “Holocaust Denier”

The phrase “Holocaust Denier”, which the Second Defendant boasts of having invented, is an Orwellian stigma. It is not a very helpful phrase. It does not diminish or extend thought or knowledge on this tragic subject. Its universal adoption within the space of a few years by media, academia and government and even academics seems to indicate something of the international endeavour of which I shall make later mention. It is in my submission a key to the whole case. Perhaps this Court should raise its gaze from the red and blue files and bundles for a brief moment, and re-read George Orwell’s brief appendix to “1984” which seems to be very relevant to this case.

From the witness box, with its revelations of the “consensus of opinion”, “moral certainty”, and the massed male-voice choir of the “social sciences” or “social scientists” on which the Defendants’ German expert Professor Hajo Funke relies for his certainty as to what is “right-wing extremism”, we seem to hear more than a vague echo of Orwellian Newspeak – a language that moulds minds, and destroys reputations and livelihoods.

Orwell was however wrong in one point: he thought it would take the forces of the State to impose Newspeak: Professor Lip-

stadt and her reckless publishers Penguin Books Ltd – I shall justify that adjective shortly – have sought to impose it through the machinery of the literary and media establishments. Only the Royal Courts or Justice, independent and proud, can protect the rights of the individual from now on. And those rights include the right, as Lord Justice Sedley recently put it in another Court in this same building, of any person to hold to, and to preach, unpopular views, perhaps even views that many might find repellent.⁸

My writings and reputation as an historian

I have not hesitated to stand in the witness box here, and to answer questions. Mr. Rampton rose to the occasion, and he – or indeed I – may yet regret it. Your Lordship will recall that when I brought a somewhat reluctant and even curmudgeonly Professor Donald Cameron Watt, doyen of the diplomatic historians, into the witness stand, he used these words:

“I must say, I hope that I am never subjected to the kind of examination that Mr. Irving’s books have been suggested to by the Defence witnesses. I have a very strong feeling that there are other senior historical figures, including some to whom I owed a great deal of my own career, whose work would not stand up, or not all of whose work would stand up, to this kind of examination . . .”

When I invited him to mention some names, of course he declined. What he was saying was that whatever mistakes, or whatever unconventional interpretations of mine, the Defendants have revealed with their multi-million dollar research, this does not invalidate me as an historian, or my historical methods and conclusions.

Your Lordship will find that Professor Watt continued by suggesting that simply by facing the challenge of the views that I had put forward, “and basing them on historical research, rather than ideological conviction,” this had directly resulted in other historians devoting an “enormous burst of research” to the Nazi massacres of the Jews, an area which can in consequence now support journals and conferences. “This, I think, is a direct result of the challenge which Mr. Irving’s work [posed] and the consistency and the effort which he has put into maintaining it in public.”⁹ In other words, Watt stated that, far from being a “Holocaust denier” my work has directly increased historical research into, and understanding of, the “Holocaust”.

Professor Eberhard Jäckel made the same controversial point in his essay in the book published by the U.S. Holocaust Memorial Museum, namely that before my book *HITLER’S WAR* was published in 1977, there had been virtually no meaningful research into the tragedy at all.¹⁰ Professor Hans Mommsen, Pro-

⁸ Report in *The Daily Telegraph*, July 29, 1999: “PREACHER HAS RIGHT TO BE HEARD, HOWEVER IRRITATING.” Citing Socrates and two famous Quakers, William Penn and William Mead, Lord Justice Sedley said: “The irritating, the contentious, the eccentric, the heretical, the unwelcome, and provocative have a right to be heard.”

⁹ Day 7, January 20, at pages 48–9.

¹⁰ Eberhard Jäckel, in Michael Berenbaum and Abraham J Peck (eds.), *The Holocaust and History*, Indiana University press, 1998, at page 24.

fessor Raul Hilberg, Professor Gordon C Craig – all have more or less supported my claim to be regarded as a serious historian. The outcome of my research, my books, and my speaking is therefore that people in general are more, not less, aware of the horrors of the Holocaust, and they are certainly better informed.

One of the most damaging accusations is that the Plaintiff, driven by his obsession with Hitler, distorts, manipulates, and falsifies history in order to put Hitler in a more favourable light, thereby demonstrating a lack of the detachment, rationality and judgment necessary for an historian.¹¹

I submit that in assessing whether I am *an historian* who “distorts, manipulates and falsifies,” Your Lordship should give most weight to my *avowedly historical written works*. I suggest my speeches and the very occasional lapses of taste in them (Mr. Rampton has identified and mentioned, repeatedly, I think, three) are relevant purely as background material. Of those written historical works, I submit that your Lordship give most weight to my flagship work *HITLER’S WAR*. I ask that Your Lordship read (again, if Your Lordship has already done so) the Introduction to the 1991 edition: this was published well after the year when the Defendants (wrongly) assert that I “flipped over” to become what they call a Holocaust denier.

I have always differed from colleagues in my profession in insisting on using original documents, including where possible the authors’ drafts of books or memoirs rather than the heavily edited West German editions, later rewritings, or posthumous adaptations. I also make use of many more unpublished original documents than my historian colleagues. In the 1960s and 1970s this was more difficult than today.

I differ too from others, in making copies of the original documents which I unearth freely available to others as soon as my own works are complete, and often before (as the *panne* with Professor Harold Deutsch’s book showed).¹² As page 14 of *HITLER’S WAR* shows, I donate these records regularly to publicly accessible archives and I also make them available on microfilm. There are nearly 200 such microfilms, containing nearly half a million pages. I also devote time to corresponding with and assisting other historians and researchers. If, therefore, some of my interpretations are controversial, I also do all that is possible to let other people judge for themselves. This speaks strongly against the accusation that I distort, manipulate and falsify history.

“Hitler’s War” on Hitler and the Holocaust

On Hitler and the Holocaust I wrote these words – *after* the time when I had supposedly become a Holocaust denier obsessed with Hitler and with exonerating him:

¹¹ Defence of the First Defendants, Section.6.

¹² Day 19, February 14, at page 83. I had supplied Deutsch with the General von Fritsch papers. He used them before me. I was then accused of having plagiarized his research without attribution. Cross examination of Prof. Evans. Evans: “I agree. I will climb down on Professor Deutsch.” In another instance, I gave crucial entries in the Moscow Goebbels diaries to Hans-Georg Reuth, who published them in his five volume digest edition three years before I used them in my biography. His publishers Piper Verlag then vilified me on German television.

At page 2: My conclusions . . . startled even me. Hitler was a far less omnipotent Führer than had been believed., his methods and tactics were profoundly opportunistic.

At page 4: . . . the more hermetically Hitler locked himself away behind the barbed wire and mine fields of his remote military headquarters, the more his Germany became a Führer-Staat without a Führer. Domestic policy was controlled by whoever was most powerful in each sector – by Hermann Göring . . . Hans Lammers . . . Martin Bormann . . . Heinrich Himmler. . .

At page 17: If this biography were simply a history of the rise and fall of Hitler’s Reich it would be legitimate to conclude: “Hitler killed the Jews.” He after all had created the atmosphere of hatred with his speeches in the 1930s; he and Himmler had created the SS; his speeches, though never explicit, left the clear impression that “liquidate” was what he meant.

At pages 17–18: For a full-length war biography of Hitler, I felt that a more analytical approach to the key questions of initiative, complicity and execution would be necessary. Remarkably, I found that Hitler’s *own* role in the “Final Solution” – whatever that was – had never been examined.

At page 38: Every document actually linking Hitler with the treatment of the Jews invariably takes the form of an embargo.

This is the famous “chain of documents”, and notwithstanding everything we have heard in Court I still adhere to this position.

At page 19: It is plausible to impute to him that not uncommon characteristic of heads of state: a conscious desire “not to know”. But the proof of this is beyond the powers of a historian.

At page 21: . . . dictatorships are fundamentally weak. . . I concluded, the burden of guilt for the bloody and mindless massacres of the Jews rests on a large number of Germans (and non-Germans), many of them alive today and not just on one “mad dictator”, whose order had to be obeyed without question.

The similarity with the thesis propagated by Dr. Daniel Goldhagen in his world-wide best-seller book *HITLER’S WILLING EXECUTIONERS* will surely strike everybody in this Court. Allow me to rub this point in: What I actually wrote and printed and published in my “flagship study” *HITLER’S WAR* was that Hitler was clearly responsible for the Holocaust both by being head of state, and by having done so much by his speeches and organisation to start it off.

Where I differed from many historians was in denying that there was any documentary proof of detailed direction and initiation of the mass murders by Hitler. The view was considered to be heretical at the time. But this lack of wartime documentary evidence for Hitler’s involvement is now widely accepted. Indeed, on the narrower matter of the lack of wartime documentary evidence on “gas chambers”, Your Lordship was already good enough to grant as follows, in an exchange with Professor Evans:

IRVING: If his Lordship is led to believe by a careless statement of the witnesses that there is a vast body of wartime documents, this would be unfair, would it not, because you are not referring to wartime documents? You are referring to post-war documents?

EVANS: I am referring to all kinds of documents.

IRVING: You are not referring to wartime documents?

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

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

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

MR. JUSTICE GRAY: I expect you would accept, Professor Evans, just to move on, the number of overtly incriminating documents, wartime documents, as regards gas chambers is actually pretty few and far between?¹³

To summarise, in *HITLER'S WAR* I differed from other historians in suggesting that the actual mass murders were not all or mainly initiated by Hitler. I pointed out that my sources were consistent with another explanation: A conscious desire "not to know" (I referred to a Richard Nixon kind of complex).¹⁴

I submit that I have not distorted, manipulated, and falsified. I have put all the cards on the table; I made the documents available to all comers, on microfilm and in the archives, and I and have pointed to various possible interpretations.

I further submit that, while certainly "selling" my view, I have been much less manipulative than those historians, including some whom you have heard in Court, whose argument has in important part been simply this – that I ought not to be heard, because my views are too outlandish or extreme. Disgracefully, these scholars have cheered from the sidelines as I have been outlawed, arrested, harassed, and all but *vernichtet* as a professional historian; and they have put pressure on British publishers to destroy my works.

To assist Your Lordship in deciding how outlandish and extreme these views of mine are, I allow myself to quote from A J P Taylor's *THE WAR LORDS*, published by Penguin – the First Defendants in this action – in London in 1978. Of Adolf Hitler. . .

It was at this time that he became really a recluse, settling down in an underground bunker, running the war far from the front. (*At pages 55–57*)

He was a solitary man, though he sometimes accepted, of course, advice from others, *sometimes decisions* [my emphasis]. It is, I think, true, for instance, that the terrible massacre of the Jews was inspired more by Himmler than by Hitler, though Hitler took it up. (*At pages 68–70*)

These quotations are from the foreword of A J P Taylor's own flagship work, *THE ORIGINS OF THE SECOND WORLD WAR*, published in 1963:

¹³ Day 20, February 15, at page 91.

¹⁴ See Days 4, January 17 at page 195; Day 5, January 18, at page 44; Day 16, February 7, at page 41.

Little can be discovered so long as we go on attributing everything that happened to Hitler. He supplied a powerful dynamic element, but it was fuel to an existing machine. . . He would have counted for nothing without the support and co-operation of the German people. It seems to be believed nowadays that Hitler did everything himself, even driving the trains and filling the gas chambers unaided. This was not so. Hitler was a sounding-board for the German nation. Thousands, many hundred thousand, Germans carried out his evil orders without qualm or question.

What I wrote, with less felicity of style than Professor Taylor, was a reasonable interpretation of the information available to me at the time. I might add that my words are often accepted, quoted, and echoed by other historians far more eminent than I (including the government's Official Historians like Professor Sir Frank Hinsley, in his volumes on British Intelligence). Some may regard my interpretations as not the most probable. But they are never perverse. For the Defendants to describe me as one who manipulates, distorts, and falsifies it would be necessary for them to satisfy Your Lordship that I wilfully adopted perverse and ridiculous interpretations. I have not.

The Defendants' historiographical criticisms

I now turn to some of the particular matters which exercised Your Lordship, in the list of points at issue.

I trust that Your Lordship will bear in mind that the task facing a historian of my type – what I refer to as a "shirtsleeve historian", working in the field, from original records – is very different from the task facing the scholar or academic who sits in his book-lined study, plucking handy works of reference, printed in large type, translated into English, provided with easy indices and often with nice illustrations too, off the shelves of a university library within arm's reach.

Your Lordship will recall that while researching the Goebbels Diaries in Moscow for the first week in June 1992 I had to read those wartime Nazi glass microfiches through a magnifier the size of a nailclipper, with a lens smaller than a pea.¹⁵ The Court will appreciate that reading even post-war microfilm of often poorly reproduced original documents on a mechanical reader is a tedious, time consuming, and unrewarding business. Notes have to be taken in handwriting, as there are no "pages" to be xeroxed. In the 1960s xerox copies were nothing like as good as they are now, as Your Lordship will have noticed from the blue-bound volumes brought in here from my own document archives. Mistakes undoubtedly occur: the mis-transcription of difficult German words pencilled in Gothic or Sütterlin-style script, a script which most modern German scholars find unreadable anyway; mistakes of copying; mistakes of omission (*i.e.*, a passage is not transcribed because at the time it appears of no moment). These are innocent mistakes, and with a book of the size of *HITLER'S WAR*, currently running to 393,000 words, they are not surprising.

Your Lordship may recall one exchange I had with Professor Evans:

¹⁵ See my opening statement; and Peter Millar's evidence, Day 15, February 3, pages 40–41.

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

EVANS: No.

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

EVANS: No, we did not see that.

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

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

IRVING: You said that my footnotes are opaque because they do not always give the page reference. Do you agree that, on a page which we are going to come across in the course of this morning, of your own expert report, you put a footnote in just saying "See Van Pelt's report", – the expert report by Robert Van Pelt, – and that expert report is about 769 pages long, is it not?¹⁶

From this exchange it is plain that I was not just a conjurer producing quotations and documents out of a hat; I made my sources and references available in their totality to historians, even when they were not printed in the book.

The allegation that the mistakes are *deliberate* – that they are manipulations, or distortions, – is a foul one to make, and easily disposed of by general considerations. If I intended deliberately to *mistranscribe* a handwritten word or text, I would hardly have furnished copies of the original texts to my critics, or published the text of the handwritten document as a facsimile in the same work (*e.g.*, the famous November 30, 1941 note, which is illustrated as a facsimile in all editions of HITLER'S WAR); or placed the entire collection of such documents without restriction in archives commonly frequented my critics.

And if I intended to *mistranslate* a document, would I have encouraged the publication of the resulting book, with the correct original quotation, in the German language, where my perversion of the text would easily be discovered? Yet like all my others works, both HITLER and GOEBBELS have appeared in German language editions with a full and correct transcription of the controversial texts. Is this is the action of a deliberate mistranslator?

As for the general allegation that the errors or exaggerations or distortions that were made were "all" of a common alignment, designed to exonerate Adolf Hitler, the test which Your Lordship must apply should surely be this: if the sentence that is complained of be *removed* from the surrounding paragraph or text (and in each book there are only one or two such sentences of which this wounding claim is made) does this in any way alter the book's general thrust, or the weight of the argument that is made?

An example of this test is the wrong weight which I gave to the contents of the 1:20 A.M. telegram issued by SS-*Gruppen-*

führer Reinhard Heydrich on *Kristallnacht*. It is a famous telegram, printed in the Nuremberg volumes. Would such an error have been committed wilfully, given the risk that it would inevitably be exposed? Is it not far more likely that in the process of writing and rewriting, and of cutting and condensing, the GOEBBELS manuscript, the author gradually, over the eight years, lost sight of the full content and thrust of the original document? Your Lordship should know that that book went through five successive drafts and retypes over eight years, filling four archive boxes, a total of about eight cubic feet, all of which I disclosed to the Defendants by way of Discovery. St Martin's Press, my U.S. publishers, particularly asked that these early chapters of the book should be trimmed in length.

These general considerations dispose too of the defence arguments on the "Policeman Hoffmann" evidence rendered at the 1924 Hitler Trial. For the limited purposes of writing a biography of Hermann Göring – not of Hitler – I relied on the thousands of typescript microfilmed pages of the transcript of this trial. So far as I know, nobody had ever used them before me. The handy, printed, bound, indexed, cross-referenced edition on which Professor Evans drew had not appeared. It appeared in 1998, eleven years after my GÖRING biography was published by Macmillan Ltd.¹⁷ I extracted – with difficulty – from the microfilmed pages the material I needed relating to Hitler and Göring, and I was not otherwise interested in Hoffmann at all. I do not consider that the printed volume on the trial which is now available shows that I made meaningful errors, and they were certainly not deliberate.

Night of Broken Glass, 1938

The *Kristallnacht* of November 1938 is a more difficult episode in every way. As said, I clearly made an error over the content (and reference number) of the 1:20 A.M. telegram. It was an innocent error. It was a glitch of the kind that occurs in the process of redrafting a manuscript several times over the years. The Court must not overlook that by the time the book was completed, in 1994/5, and as described in the Introduction to GOEBBELS. MASTERMIND OF THE THIRD REICH, I had been forcefully severed both from my own collections of documents in German institutions and from the German federal archives in Koblenz. On July 1, 1993, when I attended the latter archives explicitly for the purpose of tidying up loose ends on the GOEBBELS manuscript, I was formally banned from the building for ever on orders of the minister of the interior – one of the gravest blows struck at me by the international endeavour to which I shall later refer.

The allegation of the Defendants is that in order to "exonerate Hitler" I effectively concocted, or invented, a false version of events on *Kristallnacht*, namely that he intervened between 1 and 2 a.m. to halt the madness. I submit that their refusal to accept this version is ingrained in their own political attitudes. There is evidence both in the archives, in reliable contemporary records like the Ulrich von Hassell, Alfred Rosenberg, and Hellmuth Groscurth diaries, and in the independent testimonies of those participants whom I myself carefully questioned, or whose private papers I obtained – Nicolaus von Below, Julius Schaub, Karl Wolff and others – and which the Court has seen,

¹⁷ L. Gruchmann, R. Weber (eds.), *Der Hitler-Prozeß 1924. Wortlaut der Hauptverhandlung vor dem Volksgericht München I*, Vol. 2 (Munich, 1998), 545–546.

¹⁶ Day 19, February 14, at page 45.

to justify the version which I rendered. It was therefore not an invented story. It may well be that my critics were unfamiliar with the sources that I used before they made their criticisms. The dishonesty lies not with me, for printing the “inside” story of Hitler’s actions that night, as far as we can reconstruct them using these and other sources; but with those scholars who have studiously ignored them, and in particular the Rudolf Hess “stop arson” telegram of 2:56 A.M., issued “on orders from the highest level,” which the Defendants’ scholars have testified is a reference to Hitler.

Your Lordship may well have marvelled to hear the defendants’ witnesses dismiss this message – like the Schlegelberger Document, referred to later – as being of no consequence.

The *Kristallnacht* diaries of Dr. Goebbels, which I obtained in Moscow in 1992, some years after I first drafted the episode, substantially bore out my version of events – namely that he, and not Hitler, was the prime instigator, and that Hitler was largely unaware and displeased by what came about. Your Lordship will recall that Professor Philippe Burrin, a Swiss Holocaust historian for whom all the witnesses expressed respect, comes to the same conclusion independently of me.¹⁸ Now, he is manifestly not a “Holocaust denier” either. The Court will also recall that the Witness Evans admitted that, unlike myself, he had not read all through the available Goebbels diaries. He had not had the time, he said; and we must confess a certain sympathy with that position – for an academic, time is certainly at a premium. Reading all of the available Goebbels diaries is however necessary, in order to establish and recognise the subterfuges that this Nazi minister used through his career as a diarist, in order to conceal when he was creating what I call alibis for his own wayward and evil behaviour.

I drew attention to this historiographical conundrum several times in the book. I discussed both in my scientific annotated German-language edition of the 1938 diaries, and in my full Goebbels biography, which Your Lordship has read, a characteristic example from this same year, 1938: although the one episode which most deeply unsettled him that year was his affair with the Czech actress Lida Baarova, which drove him to the brink of resignation, divorce, and even suicide, neither her name nor any of those events figures explicitly in the diary or at all, unless the pages are read particularly closely, when certain clues *can* be seen.

The Goebbels diary is sometimes a deceitful document; it must be recognised as such and treated very gingerly indeed. The fact that it was evidently written up not one, but two and even three days after, during the *Kristallnacht* episode, calls for additional caution in relying on it for chronology and content.

Shooting of Jews in the East

There is no need to discuss here in detail my various narratives of the Nazis’ shooting of Jews in the East. There is little dispute between the parties on what actually happened in my

¹⁸ See Day 19, February 14, page 77. – Philippe Burrin, *Hitler and the Jews, the Genesis of the Holocaust*, at page 57: “While Hitler could only have endorsed the concept of exacting reprisals, namely on the Jews, he seems to have been surprised by the extent of the destruction. [. . .] In each case Hitler covered for Goebbels who did not derive the hoped for benefits from the affair.” Copy in my Bundle F, “Prof. Evans”, No. 48.

view, and Your Lordship is aware that I have given these atrocities due and proper attention in the various biographies I have written; I would however add the one caveat, that they are not intended to be reference works on the Holocaust, but orthodox biographies.

I believe I was the first historian to discover and make use of the CSDIC reports relating further details of these killings, particularly the Bruns Report, and I made them available to many other historians. (These are the eavesdropping reports on prisoners, using hidden microphones). It took many days to read them; there are thousands of pages in these files. Over the last twenty years I read these horrifying narratives out repeatedly to public audiences, including “right-wing” audiences. This fact alone entitles me to express my contempt at those who would term me a “Holocaust denier.”

We have seen the Defendants scrabbling around at the end of the Bruns Report for its third-hand references by the SS murderer and braggart in Riga, Altemeyer, to an “order” he claimed to have received to carry out such mass shootings more circumspectly in future. But we know from the late 1941 police decodes – a much firmer source-document than a snatch of conversation remembered years later, in April 1945 – precisely what orders had gone from Hitler’s headquarters, radioed by Himmler himself, to the mass murderer SS *Obergruppenführer* Friedrich Jeckeln, stating explicitly that these killings exceeded the authority that had been given by himself, Himmler, and by the Reichssicherheitshauptamt (RSHA). We know that the killings of *all* German Jews stopped at once, for many months. When I first translated the word *Judentransport* (which *can* mean “transportation of Jews”) as “transports of Jews”, in the plural, in the 1970s – being unaware of the surrounding context of data which helps narrow the purport down to the one Riga-bound trainload from Berlin – I was thus inadvertently coming closer to the truth, not further from it: because the liquidation of *all* the trainloads from Germany was halted the next day, December 1, 1941, by the order radioed from Hitler’s headquarters (whether initiated by Himmler or Hitler seems hair-splitting in this context).

As I stated under cross-examination, I did not see the Schulz-Dubois document when I wrote my books, and I have not seen it since; having now read what Gerald Fleming tells us about it, I confess that I would be unlikely to attach the same importance as does learned counsel for the Defendants, to what the famously anti-Nazi *Abwehr* chief Wilhelm Canaris allegedly told Lieutenant Schulz-Dubois of Hitler’s reaction. The British decodes of the SS signals, to which I introduced the Court, and the subsequent events (the actual cessation for many months of the liquidation of German Jews) speak louder.

Hitler’s Table Talk, October 1941

Your Lordship asks for my comment on Hitler’s table talk of October 25, 1941. Your Lordship is familiar with the Defendants’ argument, and with mine. My extract from this document was based on the original Weidenfeld translation, as is known. In disagreement with the Defendants’ experts, I still maintain, and others have followed me in this (notably Professor Philippe Burrin, who translated *Schrecken* as “the ominous reputation”) that the appropriate translation *here* for the word *Schrecken* is indeed “rumour” and not “terror”, a word which makes for a wooden and uncouth translation anyway.¹⁹ A relevant passage

from the SS Event Report from activities in the rear of the eastern front, dated September 11, 1941 (provided by the Defendants), shows that this is precisely what was meant: “The rumour that all Jews are being shot by the Germans had a salutary effect.” The Jews were now fleeing before the Germans arrived.²⁰ The rumour! To accuse me of wilful mistranslation and distortion, when (a) I used the official Weidenfeld translation, not at that time having received the original German from Switzerland, and (b) the word “rumour” gives the precisely correct nuance that the surrounding history shows the word was *meant* to have, seems to be an excessively harsh judgement on my expertise.

Goebbels’ diary, November 22, 1941

Next in line is the Goebbels diary entry for November 22, 1941: This diary entry includes a fair example of how dishonest the reporting by Goebbels was, when it comes to his meetings with Hitler. He records the “exceptional praise” of Hitler for the weekly newsreel produced by his ministry; in fact Hitler was forever criticising this very product of the Goebbels ministry, as the diary of Rosenberg shows. Goebbels then continues, “With regard to the Jewish problem too the Führer agrees completely with my views. He wants an energetic policy against the Jews, but one however that does not cause us needless difficulties.” Goebbels’ diary entry continues: “The evacuation of the Jews is to be done city by city. So it is still not fixed when Berlin’s turn comes; but when it does, the evacuation should be carried out as fast as possible.” Hitler then expressed the need for “a somewhat reserved approach” in the question of mixed marriages – the marriages would die out anyway by and by, and they shouldn’t go grey worrying about it.²¹

I have suggested that on the balance of probabilities Hitler was alluding to the public unrest caused by the suicide, a few days earlier, of the popular actor Joachim Gottschalk and his family. Apart from *needless* becoming *endless*, an irritating typo which hardly amounts to “manipulation”, this passage bears out what I have always said of Hitler: While Goebbels was the eternal agitator, as witness his anti-Semitic leading article in *Das Reich* on November 16, 1941 Hitler was (even by Goebbels’ own account) for a reserved approach toward Jewish problems; and he was doing so, even as the trainloads of Jews were heading eastwards from Bremen and Berlin, for instance, to the conquered Russian territories and the Baltic states. Your Lordship will not need reminding of the curious British decodes, which revealed the provisioning of the deportation trains with tons of food for the journey, stocks of many weeks’ food for after they arrived, and even the deportees’ “appliances” (*Gerät*). So evacu-

¹⁹ Burrin, op. cit.: “. . . It is a good thing we are preceded by the ominous reputation of exterminating the Jews. . .”

²⁰ Ereignismeldung No. 60, dated September 11, 1941, at page 9: “*Günstig wirkt sich das Gerücht aus, daß von den Deutschen alle Juden totgeschossen würden.*” And see Ereignismeldung No. 81 of September 12, 1941 where Einsatzgruppe C reported, “The gratuitous evacuation of hundreds of thousands of Jews may be considered to be an indirect success of the work of the Security Police. As we hear mostly from the other side of the Urals, this is a considerable contribution to the solution of the Jewish question in Europe.” Translation in Arad, Cracowski and Spektor in *The Einsatzgruppen Reports*, page 131.

²¹ Goebbels diary, printed text, November 22, 1941.

ation at this time evidently meant just that to very many Reich officials, and no more.

Peal Harbor and Hitler’s speech to the Gauleiters

Mr. Rampton went to some effort and expense to suggest that I suppressed vital information from the newly discovered Goebbels diary, December 13, 1941: in this day’s entry, Goebbels reported on Hitler’s rhetoric to the gauleiters on December 12 in Berlin. Anybody who is as familiar as I am with Hitler’s speeches, and with Goebbels’ diary entries relating to them, will effortlessly recognise this entire passage as being the usual Hitler gramophone record about the famous 1939 “prophecy”. It was part of his stock repertoire when speaking to the Party old guard – they had carried him into power and expected to hear from him that he had not abandoned the hallowed Party programme. I can understand the temptation for the younger generation of scholars, unfamiliar with Hitler’s rhetoric, to fall greedily upon such freshly discovered morsels as though they were the answer to the great Holocaust mystery: None of the witnesses to whom this item was put by myself, or by counsel for the Defendants, was able to identify any part of this passage which was out of the ordinary for Hitler.

Even if I had read that far on that day’s glass plate in the Moscow archives, and even if I had seen those lines of the diary entry, some twenty pages after the page where I in fact stopped reading for that day, – and I must emphasise again that I did not, as it did not come within my remit – I doubt that I would have attached any significance to them, other than adding this entry to the list of occasions on which Hitler harked back, for whatever reason, to his famous “prophecy” of 1939.²²

Hans Frank’s remarks on December 16, 1941

I have read again the printed version of the meeting of the Generalgouvernement authorities – Hans Frank – on December 16, 1941. It is significant to see the amount of space taken, even in this abridged published version, by the typhus epidemic sweeping through the region, the climax of which was expected to come in April 1942 (pages “68–72”). Frank states that he has begun negotiations with the purpose of deporting the Jews to the east, and he mentions the big Heydrich conference set down for January 1942 on this topic in Berlin (page “73”). On page “74” comes the sentence which pulls out the rug from beneath the Defendants’ feet: “For us, the Jews are exceptionally damaging mouths to feed. We’ve got an estimated 2.5m in the Generalgouvernement, perhaps 3.5m Jews now, what with all their kinfolk and hangers-on. We can’t *shoot* these 3.5m Jews, we can’t *poison* them, but we’ll be able to do something with them, which somehow or other will have the result of destroying them, in fact, in conjunction with the grander measures still

²² See the answers by Peter Millar, examined on Day 15, February 3, page 40:

IRVING: Was I going to be there [*Moscow*] only for a limited space of time?

MILLAR: As far as we knew.

IRVING: Would it therefore have been practicable for me to have browsed at length in the diaries for passages which were not on the list?

MILLAR: I do not think so.

to be discussed at Reich level.” Clearly, only a geographical solution was at that time on the cards, and anticipated at the Berlin (*i.e.* Wannsee) conference.

Himmler’s December 1941 agenda

The December 18, 1941 diary entry by Himmler reads: *Judenfrage | als Partisanen auszuwotten*. Himmler had, as I pointed out to the Court, repeatedly referred in earlier documents to the phrase “*Juden als Partisanen*”. This was nothing new or sensational therefore, and the words he was recording were not necessarily Hitler’s but more probably his own stereotype phrase. The correct, pedantic *translation*, is in any case: “Jewish Problem | to be wiped out as being partisans.” Not “like partisans”, which would have been “*wie Partisanen*.” There can be no equivocating about this translation of *als*. *Wie* is a comparison, *als* is an equivalent.²³

ANOTHER MOST DIFFICULT PIECE OF HISTORICAL PAPER FOR my opponents is the Schlegelberger Document. In late March or early April 1942, after seeing Germany’s top civil servant, who reported only to Hitler, Franz Schlegelberger dictated this famous memorandum, upon which all Holocaust historians, and the Defendants’ expert witnesses in this case have hitherto turned enough blind eyes to have won several battles of Trafalgar. For many years after the war it vanished: but that is another story. Asked about this specific document after a lecture in the German Institute, here in London in November 1998, Dr. Longerich, who is now the Defendants’ expert witness, had the function’s chairman rise to inform the audience that the speaker was not prepared to answer questions from David Irving. It is a genuine document, referring in one breath both to *Hitler* and the *Solution of the Jewish Problem*. Confronted with it in the witness box, he and his fellow experts have argued, *either* that it was totally unimportant; *or* that it concerned only the *Mischlinge*, the mixed race Jews, and not the Final Solution in any broader sense. Ingeniously, Dr. Longerich even tried to suggest that it originated in 1940 or 1941. The document has them in a breathless panic.

The Schlegelberger Document

The document’s own contents destroy their latter argument: In the first sentence, it says:

“Mr. Reich Minister Lammers informed me that the Führer had repeatedly declared to him that he wants to hear that the Solution of the Jewish Problem has been adjourned [*or postponed*] until after the war.”

That this is the broader Final Solution is plain from the second sentence, which shows namely that the *Mischling* question was something different: “Accordingly,” the memorandum continues, “the current deliberations have in the opinion of Mr. Lammers purely theoretical value.” Those deliberations were, as my opponents themselves have argued, solely concerned with what to do with the *Mischlinge* and the like. The document is quite plain; and it was dictated by a lawyer, so he presumably

knew what he was writing. There is no room for argument. My opponents have pretended for years that this document effectively does not exist.

I have dealt at length in my statements in the witness box, and while cross-examining the witnesses, with the other contentious items, namely the Goebbels Diary entries for March 27 and May 30, 1942, the Himmler minute of September 22, 1942 and his note for his meeting with Hitler on December 10, 1942; meetings with Antonescu and with Horthy in April 1943; the deportation and murder of the Jews in Rome in October 1943, Himmler’s speeches on October 4 and 6, 1943, and May 15 and 24 1944, and Hitler’s speech on May 26, 1944, and Ribbentrop’s testimony and evidence from his cell at Nuremberg. I contend that my use of these items was quite proper.

Submitted to Hitler – or not?

I must mention the Report (*Meldung*) No. 51 submitted by Himmler to Hitler through their adjutants, and dated December 29, 1942. The Defendants have made great play with this document, claiming that it is clear proof that Hitler was apprised by Himmler of the murder of over 300,000 Jews on a transparent pretext in the previous three months.

Your Lordship will remember that I established that on the same December 1942 day, which was at the height of the Battle of Stalingrad, and in exactly the same manner, a document of precisely the same general character, namely *Meldung* No. 49, had to be “*vorgelegt*” or submitted to the Führer not once but twice – a clear indication that he was not reading them on the first occasion or perhaps even at all. If I may draw an analogy, with which the Court may well be familiar, sometimes a series of briefs are put to a fashionable and expensive Counsel; he is obliged to read them fully and properly, and draws a fat fee for doing so; but in fact he does not. A number of names are known for this particular dereliction in legal circles, not of course that I am comparing them with the Führer, or even indeed with Mr. Rampton. In law, as in history, the fact that a document has been “*put to*” somebody does not mean that that somebody has *read it*, unless there is some collateral evidence of feedback, and in this case there clearly was not.

Marie Vaillant-Couturier

My various references to Marie Vaillant-Couturier seem to have been quite justified, from what we know of her and of her full testimony to the Nuremberg tribunal in 1946. She had married the editor of *l’Humanité*, she and her father [Lucien Vogel] were bosom friends of Willi Münzenberg, author of the propaganda about the Reichstag Fire – a founder member and one of the most accomplished propagandists of the Comintern. It is evident from the way that the hard-pressed defence counsel [Dr. Hanns] Marx conducted his cross-examination of her that he was implying to the tribunal that she had not even been in Auschwitz. Your Lordship will remember that she described to the International Military Tribunal [at Nuremberg] a “beating-machine” used by the SS to administer corporal punishment. Her testimony is riddled with such absurdities, and when the experienced American Judge Biddle jotted down his sceptical comment on this witness, even as she was still speaking, he meant it – and I certainly took it in that way – to be a reference to all that he had heard (and largely disbelieved) up to that point.

²³ See the argument on Day 16, page 135.

The Aumeier Dossier

I found the Kurt Aumeier dossier by conducting a systematic, “shirtsleeve” search of the Public Record office files in 1992. Any one of the scholars introduced by the Defendants as witnesses could have found it equally readily. At first I intended to transcribe and publish the document myself, properly annotated, like the 1938 Goebbels Diaries. Instead I drew the attention of several scholars to it, including, to the best of my recollection, both Sir Martin Gilbert and Dr. Gerald Fleming; I had often sent them documents I had found which I knew would interest them. When I abandoned the publication idea, I drew the attention of other scholars to it, including Professor Robert Van Pelt, in a very lengthy letter written to him in May 1997; in this I identified to him numerous archival references of interest to his special subject, including the Aumeier dossier. Not receiving a reply, I published that letter to Van Pelt in full in a 1997 newsletter, and I posted it on my website.

Numerous correspondents utilised the email link to Pelt on that page, and the Defendants’ solicitors eventually asked me to “deactivate” it. My long letter had been mailed to Pelt from Chicago with proper postage, addressed to his correct postal address at the university, and it was never returned to me. Professor Van Pelt claimed here [on oath] not to have received it, and he suggested in his report that I told people about it only when the Defendants’ legal team of researchers found the file in the PRO.²⁴ This is absurd. They found the Aumeier file not least because it was included in my Discovery (both in the general *Judenfrage* archive box, and as No. 2066). I did not know until two years later that he was to be a witness in this case.

As for the Aumeier dossier’s content, his manuscripts suggest, or confirm, the existence of limited-scale gassings at Auschwitz. The figures are unreliable, and many of the other details conflict with those provided by the equally flawed writings of Auschwitz commandant Rudolf Höss. This is in my submission the most likely reason why the Defendants have not relied heavily on either source in their defence.

The Eichmann memoirs

Nor for that matter have they made any use of the loudly trumpeted Eichmann memoirs prised out of the Israeli Government archives – perhaps because in the entire document, although this former SS-*Obersturmbannführer* is writing with brutal frankness, and describing the most appalling spectacles that he has seen, he does not refer even once to being shown a gas chamber during his official guided tours as “executioner in chief” of the Auschwitz and Birkenau camps.

I heard what Professor Evans and learned Counsel had to state about General Kurt Daluge as a source for the criminal statistics for 1932. The Defendants have been unable to locate the figures that I quoted in the Daluge lecture which I used as one source. Nor did they notice that it was in fact a lecture to the recently formed Interpol.

Evans appears not to have looked in the other three sources listed for that one sentence in my book, which included two reputable works of history, so his strictures are meaningless. For the reasons known to the court, since 1993 I no longer have access to the German institute in which those sources are housed. I do not invent statistics, and it is clear by inference

that the data which I gave came from one of the other three sources and not from the lecture.

Hitler’s knowledge of the Solution of the Jewish question

This became the most controversial issue, both in this courtroom and stretching far back into my writing career; I wish, just because of this, that I had picked upon a different biographical subject.

Because of the inescapable conclusion – that Hitler had probably not ordered, or been aware of until relatively late, the ultimate fate of the European Jews – I forfeited, as my U.S. agent predicted, perhaps half a million dollars or more of lucrative sub-licensing deals with major corporations – the Reader’s Digest, paperback houses, reprints, *The Sunday Times*.

After I completed a first draft of the book in about 1969–1970, I realised that there was this inexplicable – and unexpected – gap in the archives. I hired a trusted friend, Dr. Elke Fröhlich of the Institute of History, to go through all the then-available German archives again, with the specific task of looking for documents linking Hitler with the Final Solution.²⁵ She did a conscientious and excellent job, working for me in the files of the Nuremberg state archives, the Institut für Zeitgeschichte, the Berlin Document Center, the Bundesarchiv, and the military archives in Freiburg. Her resulting research materials, my correspondence with her, the index cards and photocopies, form a part of my Discovery in this action. It was she who produced for me for example the then-unpublished diary entry of Governor-General Hans Frank – actually a meeting-transcript of December 13, 1941 – currently being edited by her colleagues at the institute, to which I duly made reference.

I would incidentally rely on this episode as one further instance of my integrity as an independent historian: Inherently dissatisfied with the results of my own research, I hired and paid out of my own pocket for this second opinion, as an *avocatus diaboli*, to trawl once more, and with a net of finer mesh, across the same fishing grounds for documents that might in fact destroy my, then still tentative, hypothesis. In a similar step, which I think I took to appease the now worried American publishers, I wrote in December 1975 to four or five of the major international Jewish historical research institutions, appealing for “evidence proving Hitler’s guilt in the extermination of the Jews.” All of these inquiries by me drew a blank, except for one. As I summarised in a letter to *The Sunday Telegraph* on June 19, 1977, “. . . all offered their apologies, except Professor Raul Hilberg, author of the standard history on the subject, who honourably conceded that he too has come to the view that Hitler may not have known.” (His letter is in my Discovery).²⁶

The other institutions stated that they had no such evidence, or they did not reply.

²⁵ These items of the Claimant’s Discovery relate to the task put to Dr. Fröhlich, 1970–1971: Nos. 247, 269, 271–4, 279 (her fees and expenses, etc).

²⁶ Bundle E, page 9: David Irving to *The Sunday Telegraph*, June 19, 1977. – Claimant’s Discovery item No. 2069: Letter from the Plaintiff to Professor Raul Hilberg, December 5, 1975, and reply, December 12, 1975, referred to in Item No. 440, Letter from Plaintiff to Teresa Egan, The Viking Press, March, 1976.

²⁴ Van Pelt, report, page 390.

The Global Endeavour to destroy my Legitimacy as an Historian

Before I proceed to the problems with the accepted version of the history of Auschwitz, I turn first to the submissions that Your Lordship will allow me to make on the thirty-year international endeavour by a group of organisations to destroy my legitimacy as an historian. I submit that I am entitled to draw these documents to Your Lordship's attention, because these bodies, acting with that secret and common purpose, compiled dossiers and reports on me with the intention of destroying me. They did so exercising no proper care for accuracy; and, as is evident from the Second Defendant's Discovery, and from the Introduction to her book in which she explicitly acknowledges the assistance provided by many of these bodies, she drew upon these tainted wellsprings as the source for much of the poison she wrote about me.²⁷ We shall hear that, buried in the files of the Simon Wiesenthal Centre in Toronto, is a document, now also in ms. Lipstadt's files – they sent it to her – which forms something of a blueprint for the attempt to destroy my name. A researcher for the Centre, commissioned to investigate my life in detail, recommended in that compilation, after referring to my "thorough archival research" and "genuine historical insight" as follows:

"Given this accurate version of reality, it is all the more clear why his activities must be curtailed, and why his [David Irving's] alleged legitimacy must be eradicated."

I have been subjected since at least 1973 and probably before then to what would be called in warfare a campaign of interdiction. I know of no other historian or writer who has been subjected to a campaign of vilification even one tenth as intense. The book *Denying the Holocaust* was the climax of this campaign. There exist, as I said in my opening speech, various bodies in this country and around the world who have at heart the interests of special groups. I make no protest about that: but many other Englishmen have noticed, or found out, usually by chance, that these bodies keep files on us, which they use to our disadvantage if they believe we are a danger to their interests.

Despite the best intentions of the Data Protection Act, it seems that we have no means of checking those files, or revising their content, let alone of cleansing them of libels. To give one particularly gross example: Under the cover provided by the United States First Amendment, the Jewish Telegraphic Agency accused me in 1995 of having supplied the trigger mechanism for the Oklahoma City bomb. That item was picked up by the American, and then faintly echoed by the British press. It was only months later that I found out who had started that lie.

But regrettably this has become a campaign to defame people whom they regard as a danger. A number of special bodies exist solely for this purpose. Some of them are listed on my website index as being "... some traditional enemies of Free Speech". Professor Kevin MacDonald, of the University of Southern California, a sociologist who is the world's leading expert on these things, expressed forceful opinions to this Court in his

²⁷ For the full list of thirty such bodies and names, see para. 10 of my affidavit of September 4, 1998, in support of a successful application for specific Discovery against the Second Defendant, to be found in Bundle E at pages 245–7.

expert report – on which he offered himself for cross-examination – and I urge Your Lordship not to disregard the substance of what he had to say.

These bodies will not endear themselves, if found out, to the victims of their campaigns.

Mr. Rampton made much of Mr. Ernest Zündel's gross and ill-considered reference to the *Judenpack* – as anti-Semitic a word as one might hear.²⁸ Mr. Rampton labels this man as an extremist, and anti-Semitic, in consequence. The Court has been told nothing by Mr. Rampton of what if any remarks, or incidents, preceded the outburst by Mr. Zündel. We do know, and I can so inform this Court, that his home has been torched and burned to the ground. Such violent incidents certainly can not excuse the violent remarks; but they can explain them. Because they don't like what he writes or publishes, these bodies have attempted to destroy his life with criminal prosecution in an attempt to have him deported or jailed.

They have failed, and Canada's highest Court has ruled that he is free of any criminal taint. Your Lordship may consider that this finding by a judicial body has some bearing on the label of extremism. Quite probably as the direct result of these bodies' agitation against him, he was subjected to violent assault. He was sent a large parcel bomb which the RCMP police authorities took away and detonated. The instigators were a British Columbia group of "anti-fascists". of course Mr. Zündel ought not to have used such an expression. Apart from anything else, his opponents are not Jews in general but self-appointed bodies of would-be censors. The Court will readily accept that I – Mr. Zündel is not the claimant here – have not used such language in all the thousands of pages, videos, and recordings which I have readily disclosed.

MY OWN EXPERIENCE AT THE HANDS OF THESE SELF APPOINTED censors has not been so very different. It began in 1963 when agents of *Searchlight* raided my home and were caught red-handed in this criminal attempt. Ever since then that publication has tweaked my tail with a stream of defamatory articles: a thirty-seven year onslaught, to which I as a good Christian turned the other cheek. After ten years this campaign had begun to threaten my livelihood.

Lord Weidenfeld, one of my favourite publishers – he published no fewer than three of my major works, including my best-selling ROMMEL biography – was the first publisher, first of a long and illustrious line, to come under clandestine pressure to tear up his publishing contract with me because my books offended these special-interest groups. He told me at the Frankfurt Book Fair on October 13, 1973 that "he had cancelled the book [HITLER'S WAR] under extreme outside pressure, he said, from officials of Zionist groups, and representations made by certain embassies."²⁹

It might be said that the real Defendants in this case are not represented in this Court, but their presence has been with us throughout. These are the people who commissioned the work complained of [*Denying the Holocaust*], and provided much of the materials used in it. I understand they have provided considerable funds for the defence – I am talking primarily of the

²⁸ Day 27, page 42; day 28, pages 37, 189.

²⁹ Bundle E, pages 6–7: David Irving diary, October 13, 1973; Discovery, No. 372.

American Jewish Committee and the Anti-Defamation League of the B'nai Brith, a long-established American body.

I know very little about the former body, but I am aware that the latter has a \$50 million annual budget, substantially greater than an author commands whose livelihood has been destroyed by their activities. When your lordship comes to such things as costs and damages, I would respectfully submit that you bear these things in mind.

We have them to thank for the spectacle that has been presented in this courtroom since January. Without their financial assistance, it is unlikely that Mr. Rampton and his defence team and his instructing solicitors could have mounted this colossal onslaught on my name. One day in 1998 I was shown a letter written that morning by Mr. Julius to some of the country's richest men, inviting them to bankroll this action. It had chanced into our hands. That is the other side of a piece of legal coinage that has recently come back into currency – champerty and maintenance.

FOR OVER THREE YEARS THIS WELL FUNDED TEAM SITTING opposite me has drilled down deep into my private papers and burrowed on a broad front into the archives of the world, on a multi-pronged attack – trying to establish that what I have written over the last thirty-five years is distorted or mistranslated in pursuance of an agenda (namely the exoneration of Adolf Hitler); and trying to dig up every little morsel of dirt on me that they can.

My book *HITLER'S WAR* was published by The Viking Press in New York in April 1977, and by Hodder & Stoughton in this country in June of that year. What can be seen as a co-ordinated attack on the book began. The Viking Press was one of that nation's most reputable publishers (and is now owner of the First Defendant company). Public attacks on the book in the press were concerted with clandestine attempts to have my book squelched and me, as its author, ostracised.

The Anti-Defamation League (or ADL) – a body which turns out to have been closely in league with the Second Defendant in the current action – did what it could to disrupt my USA lecture-circuit and television tour promoting the book.

The ADL had its Washington branch put pressure on the Channel 5 television network that was to carry a "Panorama" interview with me: we are rather well informed about how this American lobby of bigots carries out its duties, and I reproduce these extracts of its secret internal report on its efforts.

Hearing of the booking for me to attend the programme, the local ADL agent reported to headquarters:

"As a consequence, I arranged with the show's producer to place on the same show in a debate posture my associate, Randy Koch, which airing took place on April 18, 1:00 to 1:30 p.m. A cassette of the show is being sent to you under separate cover for your advice and analysis."

They added:

"The following information is provided to you so that in addition to the cassette you may better appraise Irving's knowledgeability and toughness as an adversary in conjunction with ADL's problems with him."

The ADL's "problems" with me

What were the ADL's "problems" with me, one wonders? I had had no dealings with them whatsoever. If we had been able to cross-examine Professor Lipstadt, we might have asked her, since her own *Discovery*, limited though it is, shows her to have been in cahoots with them.

With more fervour than accuracy, the ADL report continues with the remarkable disclosure:

"David Irving is the *nom de plume* of John Cawdell, a revisionist historiographer of Adolf Hitler, particularly regarding Hitler's role in and knowledge of the mass extermination of European Jewry. His major premise is that Hitler was largely oblivious to the large-scale killing of Jews in the death camps. He alleges and underscores the lack of historical evidence in documentation form that will show any orders from Hitler to Himmler, Heydrich or others. Irving further maintains that no direct documentation exists of Hitler giving orders to liquidate Jews."

The agent's report continues that the book is a work of over 900 pages, including 100 pages of footnotes. "It would appear from the quantity of research and time that Irving put into the work that the author appears knowledgeable and expert in subject area." The cause for ADL concern then follows:

"My monitoring of the aforementioned telecast leads me to conclude that Irving comes through as an extremely knowledgeable and tough adversary although he is extremely defensive in debating his latest work. [. . .] I see no problem in our joining in debate situations with him provided our proponent does sufficient homework."

"Irving is definitely not anti-Semitic"

The report adds that they had questioned a local Board member, identified as James Jacobs, an atomic scientist who had allegedly befriended me when I was researching my book *THE VIRUS HOUSE*, the history of the German atom bomb project. While I have to confess that I have no memory of that man, the 1977 report adds: "Jacobs states that Irving is definitely not anti-Semitic, that he is an excessive Germanophile [. . .]."

This was no doubt an accurate report on my private conversations with the man.

"According to Jacobs, Irving is extremely thorough in his research and cites in this connection an inordinate amount of time spent by him in the United States going over the German archives reports and time spent in discussions with eminent authorities in the field covering associate matter concerning Irving's writings. Jacob's appraisal concurs with mine that as a consequence of the foregoing, Irving does make a tough adversary."

The report concludes that Jacobs would "co-operate with you" – the addressee, evidently the ADL's London friends, the Board

³⁰ Bundle E, pages 11b-d: Typescript ADL report, headed "ADL" and "4/17/77" in pencil; published in full on my website at <http://www.fpp.co.uk/BoD/ADL1977IntelliReport.html>.

³¹ Bundle E, page 16: ADL backgrounder, 1983.

of Deputies – “in any way he can to further assist you in your appraisal.”³⁰

When I then began my lecturing activities around the USA in the early 1980s, speaking at private functions, schools, and universities, the ADL headquarters sent out a secret circular, a “Backgrounder,” to all their local agents.³¹ The backgrounder, dated July 6, 1983, began with the words: “British author David Irving has been of concern to ADL, as well as to the Jewish community generally, since the 1977 publication of his book *HITLER’S WAR*,” and it indicated that it was the controversy over Hitler and the Jews that was the reason. We have heard of similar such circulars being generated by them on other famous literary names, for example *The Daily Telegraph* writer Auberon Waugh and Noam Chomsky, who though an eminent Harvard professor also found mysterious problems in getting material published.³²

In my case the ADL instructed its “regional offices”:

“Should he [Irving] surface in your region, please notify the Fact Finding Department and your Civil Rights Coordinator.”

It is quite plain that the ADL were not concerned with promoting civil rights, but in abrogating one of the most basic rights of all, the right to freedom of speech.

The circular about me was so defamatory and untrue that after a copy was passed to me I sent a written warning on October 15, 1983 to the then director of the ADL in New York to desist from spreading what I referred to even then as this “libellous garbage”.³³ I warned that I had prevailed in a number of defamation actions in the German law courts enforced against provincial newspapers, political groups, and trades unions including the giant IG Metall, and that other people who innocently spread such legends, including the Israeli author Ephraim Kishon, had preferred to apologise to me in writing for mistakenly giving currency to such smears. The ADL did not reply, and they continued their illiberal campaign against me.

Lipstadt offers a proposal for research

Correspondence with my literary agent showed by 1984 already that the international smear campaign was inflicting financial damage on me.³⁴

It was at precisely this time, 1984, that the Second Defendant, then teaching in the Near Eastern Languages Center of the University of California at Los Angeles, offered her services to Yehuda Bauer in Jerusalem. She attached “A proposal for research: The Historical and Historiographic Methodology of the Holocaust revisionists.”³⁵

I ask Your Lordship to note that on page 38 of this synopsis the Second Defendant mentioned my name in these words (Bun-

dle E, page 38):

“They [*the ‘deniers’*] also find it expedient to associate themselves with those such as David Irving *who do not deny that the Holocaust took place* but seek to shift the blame to others.” (My added emphasis).

To conclude this, on the matter of her employment: on May 31, 1988 she was awarded an additional \$16,000 agreement for research on this topic by the Vidal Sassoon Center for the Study of Anti-Semitism at the Hebrew University of Jerusalem.³⁶

This research, it should be added, was what finally bore fruit as the book complained of, *Denying the Holocaust*. The publisher at that time was to be Robert Maxwell, who was liaising with Professor Yehuda Bauer.³⁷

Deported, arrested

During this period the international campaign against me achieved some ugly successes. Through their Vienna collaborators, the Austrian Documentation-Archive of the Resistance [*Österreichisches Dokumentationsarchiv des Widerstands*], a recognised communist-front organisation, they prevailed upon Austria’s minister of the interior, Karl Blecha to have me illegally deported in June 1984. In July 1986 after an appeal by myself this was overturned, and Austria was ordered to pay me compensation.³⁸

I have to admit that as a writer I was not prepared for this kind of campaign. I do not expect that any of the expert witnesses we have seen have ever had to experience anything like it. When I toured universities and other speaking venues in Australia and New Zealand in 1986 and again in 1987, I learned that every organiser, every television producer had received an information pack from the ADL; and that every university library had received a letter from the corresponding Australian body pleading with them to take my books off the shelves.

This may remind Your Lordship of where Professor Evans said he found my book hidden in the British Library.³⁹ In short, there was and is a hidden network of Orwellian organisations determined to ensure that no version of history of these matters of which they disapproved was given currency, or indeed allowed to survive; the alternative history should be destroyed, its publishers ruined – I am thinking of my good friend Tom Congdon, of Congdon & Lattès – and the writers themselves *ausgerottet* too.

The Second Defendant’s Discovery, which includes such correspondence with, and items from, ADL as she has seen fit to provide, throws some interesting lights on the ADL’s methods. When a local newspaper, *The Daily Pilot*, published in Orange County, south of Los Angeles, reported a function of the Institute of Historical Review (the IHR), the ADL was horrified, as the ADL regional office reported, to find that the reporter “seems to find an air of legitimacy surrounding the group”; the reporter, Bob Van Eyken, who evidently had not got the message, even

³² On Noam Chomsky’s experiences with the ADL, see his book *Language and Politics* (Black Rose Books, 1998), at page 642, quoted in a letter in Bundle E, page at page 248.

³³ Bundle E, page 33, David Irving to Justin Finger, ADL, October 15, 1983; Claimant’s Discovery, No. 925.

³⁴ Bundle E, page 35: David Irving to his literary agent, Max Becker, January 7, 1984; Claimant’s Discovery, No. 946.

³⁵ Bundle E, page 36: Lipstadt to Bauer, August 15, 1984; Second Defendant’s Discovery, No. 36.

³⁶ Bundle E, page 45. Vidal Sassoon Center for the Study of Anti-Semitism at the Hebrew University of Jerusalem: Agreement, May 31, 1988.

³⁷ See Bundle E, pages 61–62..

³⁸ Bundle E, page 40: *The Times*, July . . . 1986.

³⁹ Re Australian libraries: see Bundle E, page 59, para 3.

described the IHR members as “neatly dressed . . . evok[ing] a sense of reasoned dignity.” This clearly clashed with the skinhead, jackbooted, extremist stereotype that the ADL, like the expert witnesses in this case, wished to project for the IHR and other “right-wing” groups.⁴⁰ This material, though clearly discoverable in this action, was withheld from Discovery by the Second Defendant until a summons was issued to produce all her correspondence with the ADL.

We know that the Second Defendant has had extensive dealings with the ADL. Even from her own limited Discovery, about the deficiencies in which I shall have to say more later, we know that she was provided with smear dossiers by them. She thanks them in her Introduction.⁴¹ She made no attempt to verify the contents of this material with me (or so far as this Court knows, with others), but recklessly published it raw and unchecked.

A 25-cent phone call to me would have saved her endless trouble. Instead she preferred to rely on smear sheets like the “confidential” and defamatory four-page item dated October 23, 1986, headed: “Profile on David Irving,” evidently supplied to her by a Canadian body.⁴² Characteristically, the “profile” was disclosed to me by her solicitors without any covering letter from its author or custodian, and shorn of any identifying material; I wrote more than once in vain asking for missing pages to be provided.

St Martin’s Press is bludgeoned

It is quite evident that the ADL set itself the task of destroying my career, in concert with other similar organisations around the world, many of whom if not all collaborated with the Second Defendant in writing her book. The pinnacle of their achievement came in 1996, when the Second Defendant, as she herself boasted to *The Washington Post*, was among those who put pressure on St Martin’s Press Inc., who had been one of my US publishers for some fifteen years, to violate their publishing agreement with me and abandon publication of GOEBBELS. MASTERMIND OF THE THIRD REICH.

For a few days, these enemies of free speech stepped up the pressure. They publicised the private home addresses of St Martin’s Press (SMP) executives on the Internet. They staged street demonstrations in Manhattan. They organised a walkout by SMP staff. When SMP refused to be intimidated, Lipstadt wheeled out the rhetoric: To Frank Rich, a syndicated columnist of *The New York Times*, she accused me of being a repeat killer: “What David Irving is doing . . . is not the destruction of live people, but the destruction of people who already died. It’s killing them a second time. It’s killing history.”⁴³

This was not far distant from the outrageous claim on page 213 of her book, to which no justification has been pleaded, that I applauded the incarceration of Jews in Nazi concentration camps. Quoted by *The Washington Post* on April 3, 1996, Deborah Lipstadt stated:

⁴⁰ Bundle E, page 46: Elisabeth Gale (ADL Orange County Regional Office), memorandum to Betsy Rosenthal, March 15, 1989: “IHR conference, reporter’s account.” Second Defendant, Second List, item No. 66.

⁴¹ Bundle E, Deborah Lipstadt, DENYING THE ½OLOCAUST.

⁴² Bundle E, pages 41–44: Anonymous: Confidential, October 23, 1986: “Profile on David Irving.”

⁴³ Bundle E, page 263: *The New York Times*, “Hitler’s Spin Artist,” April 3, 1996.

“They say they don’t publish reputations, they publish books. But would they publish a book by Jeffrey Dahmer on man-boy relations? Of course the reputation of the author counts. And no legitimate historian takes David Irving’s work seriously.”⁴⁴

WE HAVE HEARD QUOTED IN THIS COURT TWO TASTELESS remarks I am recorded as having made, about Chapaquiddick and about the “Association of Spurious Survivors”, and I do not deny that those words were tasteless. But bad taste is not what is in the pleadings, while express malice is: and the odiousness of Professor Lipstadt’s comparison, in a mass circulation newspaper of record, of a British author with Jeffrey Dahmer, a madman who had recently murdered and cannibalised a dozen homosexuals in the mid-West of the USA, is surely compounded by the fact that Lipstadt had at that time not read a single book I had written, let alone the manuscript on Dr. Goebbels that she had joined others in trying to suppress. It is clear that neither she nor the ADL was concerned with the merits, or otherwise, of the Goebbels biography. They wanted it put down, suppressed, *ausgerottet*: and me with it.

Having, like St. Martin’s Press, thoroughly read it, the major US publisher Doubleday Inc. had selected this book as their May 1996 choice for History Book of the Month. But that deal depended on the SMP contract, and thus it too collapsed. The financial losses inflicted on me by this one episode in April 1996 were of the order of half a million dollars (£312,500), which might seem proper reward for the eight years’ hard work that I had invested in writing this book, and hauling it through its five draft versions.

How it is done

From the publication of HITLER’S WAR onwards, the attitude of the print media to me changed. A strategically placed review written in one afternoon, by one man furnished with the appropriate dossier on me, could go a long way to destroy the product of six or eight years’ research. That was why these dossiers had been created.

To the right journalists or writers, such as the Second Defendant, these dossiers were on tap. A fax from Professor Lipstadt to the Institute of Jewish Affairs in London, or to the ADL in New York, or to the Simon Wiesenthal Centre in Toronto, released to her a cornucopia of filth, which she had no need to double-check or verify, because in the United States such writings are protected by the authority of the First Amendment to the U.S. Constitution, in the laudable name of the freedom of speech, or by the authority of *The New York Times vs. Sullivan*, which effectively declares to libellers that it is open season on any public figure.

Thus my book on The Hungarian Uprising of 1956, published in 1981 by Hodder & Stoughton, was savaged by certain reviewers: Neal Ascherson, Arthur Koestler and others disliked

⁴⁴ Bundle E, page 170, 171–2 : Deborah Lipstadt, quoted by Marc Fisher in *The Washington Post*, April 3, 1996: “The Publisher in a State of Denial”.

it. Ion Trewin, then that firm's chief (and now head of Weidenfeld) wrote to me: "I must say I'm rather shocked by the abuse levelled at you from certain quarters – the obvious liberal ones of course."⁴⁵ And Penguin Books Ltd, now Defendants in this action, wrote to me, "Criticism may have been occasionally necessary, but venom, though to be expected, was not called for."⁴⁶ (Had that same firm remembered that dictum fifteen years later, we should not be here today).

This unfair attack on my works was a source of great concern to me. Reviews are an author's life blood, but the trend of lying reviews continued. When *THE WAR BETWEEN THE GENERALS* (the Eisenhower and Montgomery story) was published in New York in 1981, one review in *The New York Times* on March 8, of that year by John Lukács, to which I referred in Court, sank the book without trace and in fact destroyed the highly reputable American publisher, a close personal friend of mine, too. I will not weary the court with the precise mechanism by which one such review can inflict so much damage, but such is the power of the press.⁴⁷

Whenever I now appeared in the United States to lecture, there were well-orchestrated tumults. Well meaning bodies were tricked by the vile propaganda into organising against me. At the University of California at Berkeley there was violence on October 14, 1994, encouraged openly by the "Hillel" in conjunction with the Marxist and Spartacist organisations – they boasted about this to the campus newspapers – which the campus and city police forces were quite unable to control. One building was comprehensively wrecked, with tens of thousands of dollars of damage being done and several elderly members of my audience hospitalised.

These Nazi methods

This Court will surely not take it amiss of me that I refused to be intimidated by these truly "Nazi" methods, and that I have on a very few occasions used perhaps tasteless language about the perpetrators. The violence spread around the world, and always it was orchestrated by the same organisations.

It would be otiose to list them all here. Some of them can be seen on pages 54 of the Bundle E: On November 5, 1989 the Israelite Community of Vienna, Austria, called for violent action to stop me speaking in that city. I initiated police prosecution of the leader of the community for his public incitement to violence. In 1990 the two Canadian bodies, the League of Human Rights of the B'nai Brith Canada and the Canadian Jewish Congress announced that they were to "monitor" my tour of that country.⁴⁸

"Monitoring" turns out to be euphemism for a campaign of letters, pressure, and threats of violence and commercial pressure against hotels, halls, and lecture-theatres which had been

hired by which ever body, student society, military institute, or group had invited me. Attempts to force the prestigious Ottawa Congress Center to violate its contract failed, resulting in a violent demonstration organised by the same two bodies. One such letter came into my hands, from the League of Human Rights of the B'nai Brith Canada to an Ottawa restaurant owner written in September 1991. Its content, which I shall not quote here – it is in the evidence before Your Lordship – shows clearly the methods used to get hall owners to violate their contracts.⁴⁹ They did this to us, acting as Jews; if we had done the same to them, as Jews, the uproar would have been intense.

To a visiting lecturer and writer like myself, a guest in their countries, finding myself up against powerful and wealthy political lobbies, the situation was deeply disturbing. My livelihood and personal safety were at stake, but I was determined not to be browbeaten or defeated. Seen from the outside, at first this campaign, this huge international endeavour against me, appeared to be coincidental; but eventually it began to bite.

Perhaps publishers are made of less stern stuff than myself. After Andrew Lownie, my new UK literary agent, wrote warning me that four major UK publishers "just do not want to be associated" with me, on November 30, 1990 I wrote expressing astonishment and concern at how rapidly this situation had developed, and stating: "I have begun to suspect a concerted effort [. . .] to rob me of my publishing basis, not just in the U.K. but worldwide."⁵⁰

The Board of Deputies

In England a parallel campaign was launched by the Board of Deputies, and by other organisations which we know to have collaborated with the Defendants in producing this libellous book. This had kicked into high gear after my own imprint published an abridged edition of the *Leuchter Report* in June 1989. Pressure was put on the World Trade Centre in the City of London to repudiate our contract for the press conference. A picket was staged outside our front door to prevent journalists from attending when the conference was switched to my own home. The Board arranged an early day motion in the House of Commons, as a privileged way of publishing a smear on my name. On June 30 of that year the *Jewish Chronicle* revealed that representations had been made to my principal British and Commonwealth publisher, Macmillan Ltd., to drop me as an author.⁵¹

Macmillan had already published several of my books, and were under contract to publish several more. I had no fears that they would succumb to this intimidation. They had informed me that *HITLER'S WAR* was running so successfully that they intended to keep it permanently in print. I am entitled to mention this background, as I have mentioned the Board's other clandestine activities against me, because it was said by Mr. Rampton that I later made one public tasteless remark (in Oc-

⁴⁵ Bundle E, page 12: Ion Trewin, Hodder & Stoughton Ltd., to David Irving, April 3, 1981.

⁴⁶ Bundle E, page 15: Peter Carson, Penguin Books Ltd., to David Irving, April 24, 1981.

⁴⁷ Day 19, page 92: cross-examination of Prof. Evans. In direct consequence of the premature (pre-embargo) Lukács review, the next day's pre-recorded segment on nationwide television's *Good Morning America* show was scrapped; later reviews parroted Lukács's list of my "mistakes".

⁴⁸ Bundle E, page 56: *Canadian Jewish News*, October 25, 1990.

⁴⁹ Bundle E, page 75: League of Human Rights of the B'nai Brith Canada Ian Kagedan to Franco Giammaria, Tudor Hall Restaurant, Ottawa, September 17, 1991.

⁵⁰ Bundle E, page 59: David Irving to Andrew Lownie, November 30, 1990; Claimant's Discovery, No. 1318.

⁵¹ Bundle E, page 49: *The Jewish Chronicle*, June 30, 1989, "IRVING PUBLISHERS WON'T DROP HIM", Claimant's Discovery, No. 1215.

tober 1991) about the Board of Deputies.⁵² If somebody attacks, using secretive and furtive means, the very basis of the existence of my family then it may be at least understandable that I speak ill of them.

It is worth mentioning that when I invited Mr. Leuchter privately to address my Clarendon Club at Chelsea Town Hall in November 1991, the Board tried strenuously to have him gagged. They just do not understand the word, “debate”. They piled pressure onto Kenneth Baker, the then Home Secretary, to stop him coming, and Ben Helfgott of the Holocaust Education Trust of whom we shortly hear more, threatened in July 1991 that “violence would greet the revisionists if they were allowed in.”⁵³ Secretly, on July 17, 1991 – fifty years to the day after Hitler granted police powers to Himmler in the occupied Soviet Union – the Board of Deputies wrote to the president of the German Office for the Protection of the Constitution (BfV), a body of which we have heard greatly admiring words from Professor Funke; this English Board urged that they take steps to stop me, a British citizen like no doubt the members of the Board, from entering Germany.

In the files of the Australian prime minister

Germany is a country on whose publishers and archives I have been heavily dependent, as the Court is aware.⁵⁴ We have only the BfV’s reply, dated August 9, 1991, to Neville Nagler of the Board of Deputies. I retrieved a copy of this letter from the files of the Prime Minister of Australia; so the same Board, in London, had evidently also secretly sent its dossiers to its collaborators in Canberra, and no doubt other countries, in its efforts to gag me worldwide. That is an indication of the world-wide networking that went on, this secret common enterprise, this frantic international endeavour to destroy my legitimacy as an historian and to deprive me of free speech, of which the Defendants have made themselves the willing executioners.

As is evident from a letter from the Austrian ambassador dated June 22, 1992 the Board also applied pressure on that country to ensure that I did not enter, or that I was arrested if I did.⁵⁵ The equivalent Argentinean body, the DAJA, launched a well-coordinated smear on me when I arrived in Argentina in October 1991 to lecture on historical themes at universities and to private associations in Spanish and German.⁵⁶ When the DAJA headquarters building was blown up with heavy loss of life a few months later, it now was inevitable that *my* name would be linked with that outrage too, and my Argentinean publisher was obliged in consequence to abandon its contracts with me, as they re-

vealed privately in a letter to me. (Four years later the similar lie was circulated that I was directly involved in the Oklahoma City bombing.)

Macmillan Ltd. rat on their own author

These tides of hatred and suppression lapped at the doors of my London publishers. On November 27, 1991 a note appeared in the internal files of my publisher Macmillan Ltd., listing the remaining stocks of my books and the current contract positions. This was an ominous sign. In another internal Macmillan memorandum, editor in chief Alan Gordon Walker stated to his editors, “We will not publish Irving again.” I was not told this; in fact my own editor there continued to write oleaginous letters to me, as they were waiting for the GOEBBELS biography which they had paid for and which was under contract.

What had happened meanwhile? Firstly, I had established my own publishing imprint which was capable of producing a better quality of book than Macmillan Ltd. were currently achieving, while using the same printing firm in Somerset. The new omnibus edition of HITLER’S WAR, published in November 1991, was one of its first products. This was just as well. On December 6, 1991 an Internal Office Memo from Macmillan’s files records that “quite a number of people” had commented unfavourably to Macmillan’s about them publishing my books, and one person, an unnamed “Oxford Professor of Politics,” who had evidently learned nothing from the book burning episodes of Nazi Germany, stating “that they would be more inclined to publish with us [*Macmillan*] if we were not publishing Irving.” (The Oxford professor of politics was probably Peter Pulzer, identified by Lipstadt in her book as such and quoted by *The Independent* at the time).⁵⁷

This campaign had been co-ordinated by the Board of Deputies. In some of its members, it seems that the illiberal spirit of Dr. Goebbels lived on behind the Board’s facade. Meeting behind locked doors at their headquarters on December 12, 1991, a body identified as the “Education and Academic Committee” of the Holocaust Educational Trust, registered as a charitable body, had a conference on several matters, of which one pointed specifically indicated that those present, including Mr. Helfgott, were searching for ways to silence my publications; after this meeting, minutes were written, including this point 6:

“DAVID IRVING: Concern was voiced over the publication of the 2nd edition of HITLER’S WAR. There was debate over how to approach Macmillan publishers over Goebbels Diary. It was agreed to await new[s] from Jeremy Coleman before deciding what action to take.”⁵⁸

⁵² Day 20, February 15, 2000; speech at Milton, Ontario, October 5, 1991: “They [*the Board of Deputies*] scurry and hide furtively, they’re like the cockroaches which you don’t see normally by light of day.”

⁵³ Bundle E, page 64: *The Jewish Chronicle*, July 12, 1991: “KEEP HOLOCAUST ‘APOLOGISTS’ OUT OF BRITAIN, HOME SECRETARY IS TOLD”

⁵⁴ We have only the BfV’s reply, August 9, 1991 to Neville Nagler of the Board of Deputies. Bundle E, pages 669. It is in the files of the Prime Minister of Australia, an indication of the world-wide networking that has gone on an endeavour to deprive me of free speech.

⁵⁵ Bundle E, page 70: Walter F Magrutsch to Neville Nagler, Board of Deputies, June 22, 1992.

⁵⁶ Bundle E, page 78: *La Nación*, Buenos Aires, October 18, 1991: “LA DAJA ADVIRTÍO SOBRE UN ‘AGITADOR INTERNACIONAL’.”

⁵⁷ Lipstadt wrote: “Peter Pulzer, a professor of politics at Oxford and an expert on the Third Reich, observed that it was ludicrous for [*Andrew*] Neil to refer to Irving as a ‘mere technician,’ arguing that when you hired someone to edit a ‘set of documents others had not seen you took on the whole man.” For the full list of names of those people and organisations who subjected Neil and *The Sunday Times* to pressure to violate the Goebbels Diaries contract with me, see Bundle E, pages 202–207.

⁵⁸ Bundle E, page 82: Minutes of meeting on December 12, 1991.

We know more of this meeting from the statement to this Court by my witness Dr. John Fox, who was present at this cabal in his capacity as editor of *The British Journal of Holocaust Education*. He testifies:

“As an independently-minded historian, I was affronted by the suggestion concerning Mr. David Irving[. . .] At a certain point in the meeting, attention turned to the subject of Mr. Irving and reports that the publishing company of Macmillan would be publishing his biography of JOSEPH GOEBBELS. Mr. Ben Helfgott, the Chairman of the main United Kingdom Yad Vashem Committee, spoke about how that publication by that publishing firm might be stopped. Mr. Helfgott then turned to me, the only non-Jew present at the meeting, and suggested that ‘John could approach Macmillan to get them to stop publication’.

“I refused point-blank to accede to that suggestion, arguing that in a democracy such as ours one simply could not do such a thing. That amounted to censorship, especially since nobody present had the least idea what Mr. Irving’s biography of Goebbels would contain. For me, such attempted censorship was totally unacceptable. I said that if people did not like what Mr. Irving wrote, the time to respond to him was when anything was actually published. I – and to their credit, at least two other (Jewish) committee members – rejected Mr. Helfgott’s proposal out of hand.

“Nevertheless, as the Committee minutes make it clear, it was planned by some to consider further action about how best to scupper Mr. Irving’s publishing plans with Macmillan.”

The clandestine pressure on Macmillan’s began at once. My editor at Macmillan’s, Roland Philipps, who had married the new Managing Director Felicity Rubinstein, noted in an internal memo of January 2, 1992 that they should reassure prospective authors that they had turned down many other book proposals from me, and had no plans to continue publishing me after GOEBBELS. It was not the bravest of postures to adopt, this Court might think. “If this helps you to reassure any prospective authors we are happy for you to say it (although not too publicly if possible).”⁵⁹

The desire of Macmillan’s for this stab in the back to be kept secret from their own highly successful author is understandable. Their ultimate stab in the back was however still to come, in the summer of 1992.

Lipstadt seeks sources for her libels

In May 1992 we find Deborah Lipstadt providing a list of her personal targets, including now myself, to the US Holocaust Memorial Museum in Washington; she advised the USHMM to contact Gail Gans at the Research Department of the ADL in New York City for additional names, and “tell her I told you to call her.”⁶⁰ This establishes that the Defendants considered that the museum, a US taxpayer-funded body, was actively par-

ticipating in their network, and the museum duly provided press clippings from London newspapers relating to me, which have now turned up in the Defendants’ files.⁶¹

THE ATTEMPTS TO SUFFOCATE MY PUBLISHING CAREER CONTINUED. A second arm of this attack also needs to be mentioned. Since my own imprint would not be intimidated as easily as Macmillan’s, or indeed at all, the hostile groups applied pressure to major bookselling chains to burn or destroy my books and in particular the new edition of HITLER’S WAR. Some of the press clippings reporting this nasty campaign are in my Discovery.

They include reports of a sustained campaign of window smashing of the branches of Waterstone’s bookstore in the biggest Midlands cities, after complaints by “local Jewish and anti-racist groups.”⁶² Waterstones informed one Newcastle newspaper that they were taking the book off public shelves “following a number of vandal attacks on book stores across the country.”⁶³ The Nottingham Waterstones took the book off display after a brick was thrown through its window.⁶⁴

The campaign was clearly centrally co-ordinated from London. None of this was reported in the national press, but one would have thought that these groups would have recognised the bad *karma* in any campaign of smashing windows or burning books. I wrote privately to Tim Waterstone guaranteeing to indemnify his chain for their costs of any uninsured claims.⁶⁵ He refused to be intimidated by the campaign, which is one reason why I removed the names of four Waterstones branch employees from the list of Defendants in this action at an early stage.

Others took a different line. According to the *Evening Standard*, Mr. Ivan Lawrence, a QC, MP, and a member of the Board of Deputies, justified the vandals who committed the window smashing and book burning outrages (while formally “condemning” them).⁶⁶

“Gas Irving Now!”

The Board was at this time actively organising violent demonstrations outside my residence. Its address appeared on at least one leaflets posted over the West End calling for demonstrations outside my private address.⁶⁷ The “Campaign against Fascism in Europe” (CAFE, a body identified by a *Sunday Express* investigation as a Mossad front), set up a “broad based temporary united front” in a “Committee to Stop Irving”. Its primary purpose was to stage what it called “a mass militant

⁶¹ Bundle E, page 94: clippings from *The Guardian*, Jun 22, Jun 23, 1989; forwarded by USHM to Martin Smith, undated. Lipstadt second Discovery, No. 78.

⁶² Bundle E, page 84: *The Jewish Chronicle*, Jun 12, 1942: “IRVING BOOK STORE ATTACKED.”

⁶³ Bundle E, page 86: Newcastle *Evening Chronicle*, Jun 10, 1942: “WAR BOOK GOES UNDER COVER.”

⁶⁴ Bundle E, page 87: *Today*, Jun 1942: “HOLOCAUST BOOK (sic) FURY.”

⁶⁵ Bundle E, page 89: David Irving to Tim Waterstone, June 19, 1992.

⁶⁶ Bundle E, page 91: *Evening Standard*, June 19, 1992.

⁵⁹ Bundle E, page 83: Internal Memo by Roland Philipps to Steven Kennedy, January 2, 1992.

⁶⁰ Bundle E, page 85, Deborah Lipstadt to USHMM, May 6, 1992; Lipstadt second Discovery, No. 78.

demonstration” to prevent me from lecturing to a private seminar in Central London on July 4, 1992 (the topic was Freedom of Speech); it called for “a working class alliance of . . . black, Jewish, lesbian and gay” communities. The leaflets which this faceless body handed out in the West End stated that I “white-wash Nazi crimes and incite racist murder.”⁶⁸

I gave copies of these leaflets to the police. The resulting demonstration was violent and pointless, because I was still in Moscow. A photograph in *The Observer* shows one of the CAFE posters reading “GAS IRVING NOW!”

The newspaper reported that seven people were arrested in the violence, and that my home was under round-the-clock police guard. It quoted me as saying that I had received four or five death threats in the last twenty-four hours. “For thirty years I have been subjected to a reign of terror.”

The same newspaper reported that the Anti-Nazi League and its parent body the Board of Deputies were applying pressure to *The Sunday Times* to violate its contract with me.⁶⁹

ONE REASON WHY I MENTION ALL OF THIS MAY WELL BE apparent to Your Lordship: when I made remarks about certain of my critics, occasionally using vivid language, I had reason.

As an indication of the pressure my family was under: the West End Central Police station telephoned to ask permission to film the interior of my residence, in case we had to be rescued. An officer informed me that they had received information of a planned attack. For twelve months after our young child was born, we lived with a wicker Moses basket in the furthest corner of our apartment, near a window, attached to a length of wire rope in case the building was set on fire and we had to lower her to safety. I arranged with the Grosvenor Estate to increase the fire safety precautions in the building. I have lived since then with a four foot steel spike stowed in a strategic point inside my apartment.

No historian should have to live with his family in a civilised city under such conditions. An orchestrated barrage of abuse and death threats began on my unlisted phone number. One of them I recorded. It is one of the transcripts which the Defendants have *not* shown to Your Lordship.

South Africa bans me too; others follow

At the same time as they organised this campaign of intimidation, and the attacks on my London and foreign publishers, the Board and its collaborating foreign bodies did what they could to hamper my freedom of movement. On April 1, 1992 South

⁶⁷ Bundle E, page 95: Metropolitan Police to David Irving, Jun 24, 1992, about demo planned in Duke Street, July 4, 1992.

⁶⁸ Bundle E, pages 97–99: Committee to Stop Irving, anonymous, leaflet: the phone numbers given were 0171 277 0817 (which is now disconnected) and 277 1314, which has an anonymous ring-back system. And sticker, “Mass demonstration to stop the fascist bigots,” calling for demonstrators to “meet” at my home at 11 A.M. on July 4, 1992.

⁶⁹ Bundle E, page 102: *The Observer*, July 5, 1992: “ARRESTS AT PROTEST OVER GOEBBELS HISTORIAN.”

Africa informed me that I would no longer be allowed to enter the country.⁷⁰ On June 5, 1992 the South African Jewish Board of Deputies wrote a letter to Michael Whine, executive director of the corresponding London Board, gloating over this success.⁷¹ An Israeli survey on subsequent events summarised: “In 1993 the controversial right-wing historian David Irving was granted a three month visa to visit South Africa on condition that he refrain from addressing any public gathering. The South African Jewish Board of Deputies objected to the visit. In December it was reported in the press that Irving had been refused the special permission he needed to visit South Africa during 1994.”⁷² (It has taken Nelson Mandela and the ANC to lift this ban imposed by the outgoing regime.)

On June 9, 1992 I was denied entry to Italy to address university students in Rome.⁷³ That bars me from access to the Archivi Segreti del Stato, the Italian state archives in which I worked on Mussolini’s papers.

Who planted papers on Ottawa’s files?

In Canada, Sol Littman, director of the Simon Wiesenthal Centre in Toronto, joined this formidable international endeavour to destroy my career. Once again we do not have to rely on something as vague as a scholarly “consensus,” or on the opinion of “the social sciences,” to learn what happened. Quoting Littman in their global report *Response* at the end of 1992, the parent Wiesenthal Center in Los Angeles boasted:

“Alerted through its international contacts that Irving was about to begin his 1992 [*Canadian*] tour, the Wiesenthal Center was determined to drop Irving in his tracks to prevent him from entering Canada. A legal research team provided the Canadian Department of Immigration with a brief pointing to Irving’s conviction in Germany. . .”

– which was for describing the *Krematorium I* currently on display to tourists at Auschwitz, truthfully, as a fake.⁷⁴ The League of Human Rights of the B’nai Brith Canada made a similar boast in their confidential annual report to the 1993 B’nai Brith Canada convention. Dr. Karen Mock bragged in this document – and I rely on this too as proof of the international nature of this endeavour, to which the Defendants on this action have added their weight:

“British Holocaust denier David Irving attempted to conduct one of his cross-Canada tours in 1992, but thanks in part to League [*i.e.*, *League of Human Rights of the B’nai Brith Canada*] interventions, and excellent co-operation

⁷⁰ Bundle E, page 153: Department of Home Affairs, Pretoria, to David Irving, April 1, 1992.

⁷¹ Bundle E, page 155: David Kopelowitz, National Director, SAJBOD, to M Whine, Board of Deputies., June 5, 1992.

⁷² Bundle E, pages 193ff: Tel Aviv University, “*Anti-Semitism Worldwide – 1993*” here at page 200; and see *ibid.*, page 216, David Irving to Louis Stofberg, MP, January 5, 1994.

⁷³ Bundle E, page 154. *Die Welt*, June 15, 1992, sent to the Board of Deputies with a covering letter from Gerald [Fleming].

⁷⁴ *Response*, Wiesenthal Center World Report, winter 1992, vol. 13, no. 3, page 13.

between a number of police agencies and government departments, Irving was arrested and deported. He is no longer permitted to enter Canada without ministerial consent. In both these cases, the League worked to warn the Immigration department of these individuals' impending visit and provided information to government officials. Australian and South African Jewish communities have used materials provided by the League to lobby their governments for similar treatment of Irving.⁷⁵

Where did the Canadian "materials" come from? Michael Whine, executive director of the Board of Deputies, unashamedly revealed the answer in an affidavit sworn in November 1996.⁷⁶ He swore this affidavit in connection with the libel action that I later sought to bring against the Board. He confirmed that in response to an appeal by the Wiesenthal Centre in Toronto for dirt that they could plant on government files in Canada – a country I have visited countless times since the 1960s – the Board of Deputies furnished to their Canadian counterparts two "confidential" Intelligence reports that they had concocted on me; the second such report was covered by a letter dated June 17, 1992. The letter also relayed to Toronto reports from similar Jewish organisations in Cape Town and Germany, boasting of their success in getting me banned from South Africa and fined in Germany.

The Whines of this world

The intelligence reports which Whine has admitted he furnished to his Canadian friends contained vicious and damaging libels: I was said to have married the daughter of one of General Franco's top generals to ingratiate myself with the Spanish falangist movement. This gives a clue to the fantasy world that the Whines of this world live in. "Uncorroborated evidence," the document continued, "implies that Irving has been the recipient of substantial funding from unknown sources. It has repeatedly rumoured that these sources are Nazis." I had been, the report stated confidently, "active in the British Union of Fascists." That was another lie. There were hints that I had maintained improper relations with the East German authorities, and the totally untrue statement that during the 1970s "Irving appeared annually on the public list of 'Enemies of the

⁷⁵ Bundle E, pages 180ff: League of Human Rights of the B'nai Brith Canada, Annual Report to the 1993 B'nai Brith Canada Convention. Claimant's Discovery No. 1679.

⁷⁶ Bundle E, page 277, Affidavit of Michael Whine, November 1996: "Mr. Irving's Activities have been monitored by the Board for a number of years. [. . .] The report was compiled by my department as part of its normal day to day activities. [. . .] At some time in 1992 I received a request for information on Mr. Irving by the B'nai Brith League of Human Rights, a similar organisation to the Board in Canada. They were in the process of providing information to the Canadian Department of Citizenship and Immigration which, at the time, was considering whether to permit Mr. Irving to enter Canada. Mr. Irving obtained a copy of the report following his inquiries in Canada under the Canadian Access to Information Act. . ."

⁷⁷ Bundle E, page 116: [Board of Deputies], confidential Intelligence report, David Irving, Biographical Information, 31pp, June 1992.

State" compiled by the German Office for the Protection of the Constitution. And so on.⁷⁷

When I found out – too late – that this fake evidence had been planted on Canadian files, I was angered and astounded that a British organisation could be secretly doing this to British citizens. It turned out from these files that academics with whom I had freely corresponded and exchanged information, including Gerald Fleming, had been acting as agents and informants for this body. I submit that these are the bodies that collaborated directly or indirectly with the Defendants in the preparation of the book and that the Defendants, knowing of the obvious fantasy in some of what they said, should have shown greater caution in accepting their materials as true.

THERE WAS AN IMMEDIATE CONSEQUENCE OF THIS FAKE data planted on Canadian files. One data report recorded the "fact" that I had written many books denying the Holocaust. That was of course untrue.

In August 1992 a docket was placed on Canadian Immigration files about me, saying among other things, "Subject is Holocaust denier, may be inadmissible" under section A.19(1)(d)(1) of the Act. The Canadian government had been provided by the Wiesenthal centre with a list of my proposed travel dates across Canada in October and November 1992. After more lying data was placed on Ottawa files about me, which I have since retrieved by the Access to Information Act, a letter was sent to me by courier stating that I might not be allowed to enter Canada. I did so, legally, on October 26; I was arrested on October 28 at Vancouver, and deported permanently from Canada on November 13, 1992, causing me great damage and financial loss.

Access to the Public Archives of Canada was as essential for my future research as access to the Public Record Office in Kew or those archives in Italy. That is one proof of the direct and immediate cost of the pernicious label, "Holocaust denier."

The U.S. Immigration computer

There was at this time also a determined attempt to secure my exclusion from the United States; if successful, this would finally have sabotaged my career. A document was circulated, purporting to be an official U.S. Government intelligence (Office of Special Investigations) document about me. On my protest to the U.S. security authorities, they were good enough to confirm to me after making inquiries that it was a fake.⁷⁸

In the same month, when I arrived at Washington's Dulles airport I was held in immigration custody for several hours; a senior official then apologised to me that their inquiries had determined that somebody had planted a forged dossier about me on their Immigration Service computer in an attempt to keep me out. "A yard and a half of garbage," was how he described it. The U.S. government again apologised to me, and assured me in writing that the computer file had now been

⁷⁸ Bundle E, page 184: US Embassy, Legal Attaché, to David Irving, April 23, 1993; Claimant's Discovery, No. 1681.

⁷⁹ Bundle E, pages 209–201: David Irving to U.S. Consul, London, June 6, 1993; Claimant's Discovery, No. 1687; *ibid.*, page 211: reply, June 14, 1993, Claimant's Discovery, No. 211.

cleansed.⁷⁹

A few months later Washington area Jewish organisations started putting pressure on the big bookstore chains to stop selling my books, but here they met with blank refusals to comply.⁸⁰

The Simon Wiesenthal Center in Toronto which had orchestrated the Canadian attack on my freedoms prepared similar intelligence reports of its own on me, and one of these eventually came to light – though not without difficulty – in Professor Lipstadt's Discovery in this action, with a covering letter from its chief executive, Sol Littmann, addressed to Professor Lipstadt, the Second Defendant. It goes in my submission to other issues in this action, namely damages and costs, that it required me to issue a summons and make an application for an Unless Order to enforce the proper disclosure of these items; and that copies of the documents to which I was entitled under Order 24 were withheld from me until the eve of the hearing of my application; and that Mishcon de Reya [*Lipstadt's attorneys*] only then furnished me with photocopies of the document, and with a covering letter which had seemingly been backdated – the postmark was dated after the receipt of my summons.

“Must be Eradicated”

In a letter to Professor Lipstadt, Sol Littman asked her to recognise that one intelligence report was “not for publication or direct quotation.” “It contains,” he explained, “many phrases and comments that neither you or I would use in a situation which clearly involves considerable delicacy.” The paper itself, which was originally disclosed to me shorn of any indication of institution, or author, or date, was entitled *History Rewritten: The World of David Irving*. It listed a number of quotations from my works, but confirmed what it called (page 256) my “enticing writing style and thorough archival research” and complained that I continued revisionist themes “interspersed with genuine historical insight.”

Claiming that it was my underlying purpose to rehabilitate Adolf Hitler and the Third Reich, the anonymous Canadian author stated these words – words coming from my enemies which characterise the whole of the global endeavour to silence me:

“Given this accurate version of reality, it is all the more clear why his activities must be curtailed, and why his alleged legitimacy must be eradicated.”⁸¹

I make no apology for quoting that sentence in full again – notwithstanding Mr. Littman's desire that it should not be quoted. The word *eradicated* may even jar us all somewhat, after two months of debate about meanings of *ausgerottet*: but the fact remains that this is what these enemies of free speech have tried for thirty years to do to do – by hook or by crook – to ruin me, and to destroy my hard-won legitimacy as one of the world's most original and incorruptible writers on the Third Reich and

⁸⁰ Bundle E, page 221: *Washington Jewish Week*, May 26, 1994.

⁸¹ Bundle E, pages 251ff. [Anonymous, Simon Wiesenthal centre, Toronto]: *History Rewritten: The World of David Irving*. Here, pages 256 last paragraph, and 258 last paragraph. Lipstadt Discovery, No. 500.

its history.

Writing in *Response*, the Wiesenthal Center world report, Sol Littman reported from Canada that “while David Irving squirmed, bullied, and lied, in the end he was booted out of Canada, never to return without the express permission of the Immigration Minister.”⁸²

The *Jewish Chronicle* reported on November 13, 1992 that Bernie Farber, national director of the Canadian Jewish Congress, had stated that I was “finished” in North America – which seems therefore to have been their common intent.

Mr. Farber was to have been one of the witnesses of fact chosen by the Defendants; he has recently been disallowed by Canadian courts from appearing as a witness in a similar case, because he is held to be prejudiced.⁸³

His evidence is no longer before this Court.

I NOW COME TO MACMILLAN'S FINAL STAB IN THE BACK. THAT is – the hand on the blade was Macmillan's, but the blade had been forged and fashioned by all the Defendants in this courtroom, and by their hidden collaborators overseas.

On July 4, 1992, as this Court knows, I had returned from Moscow with the missing entries of the Goebbels Diaries exclusively in my possession, having gone there on behalf of *The Sunday Times*. This hard-earned triumph caught my opponents unawares. Newspapers revealed that the ADL and its Canadian collaborator, the League of Human Rights of the B'nai Brith Canada, sent immediate secret letters to Andrew Neil at *The Sunday Times* demanding that he repudiate their contract with me.⁸⁴ On Sunday July 5 the London Sunday newspapers were full of the scoop – and also with hostile comment. On Monday July 6, *The Independent* newspaper reported under the headline “JEWS ATTACK PUBLISHER OF IRVING BOOK”, that a U.K. body which it identified as “the Yad Vashem Trust” was piling pressure on to Macmillan's to abandon its contract with me to publish “GOEBBELS. MASTERMIND OF THE THIRD REICH”, failing which they would urge booksellers not to stock or promote it.

Macmillan's finally took fright that same day (as I only now know). After their directors inquired, in an internal memo, how many of my books were still in their stocks, and having been given totals of several thousand copies of all three volumes of my HITLER biography, representing a value of several hundred thousands pounds, my own editor Roland Philipps on July 6 issued the secret order reading: “Please arrange for the remaining stock of [*David Irving's HITLER biographies*] to be destroyed. Many thanks.”⁸⁵ They prepared a “draft announcement,” but it was not released. Although still a Macmillan author, I was not told. The royalties due to me on the sale of those books were

⁸² *Response*, Wiesenthal Center World Report, winter 1992, vol. 13, no. 3, page 13.

⁸³ *The Toronto Star*, November 19, 1999: “JUDGE REJECTS HATE EXPERT”: “Although Farber has previously testified as an expert in about a dozen cases, Mr. Justice Russell Otter ruled in this instance he could be perceived as having a bias.”

⁸⁴ Bundle E, page 106: *Jewish Advocate*, Boston, Massachusetts, July 10, 1992.

⁸⁵ Bundle E, page 104: [Macmillan Ltd] Internal Memo, Roland Philipps to Alan Gordon-Walker and others, July 6, 1992.

lost, destroyed with them. The Defendants' campaign to destroy my legitimacy as a historian, of which the book published by the Defendants became an integral part, had thus reached its first climax.

Macmillan's were still under contract to publish my GOEBBELS biography. In September that year, 1992, still not suspecting that they had done the dirty on me and destroyed my books, I wrote to them asking them to revert all rights in that new biography to me. Allan Brooke of Hodder Headline, the second biggest U.K. publishing group, made a very satisfactory offer two years later for the rights; he had published my books before while at Michael Joseph Ltd. Within a few days however the offer had been formally withdrawn – something which had never happened to me in a lifetime of publishing. Brooke told me that he had come under pressure to revoke his offer. The Defendants' book had now been published and was now, as yet unknown to me, in the bookstores.

The Old School Tie

The campaign to silence me was on a broad front, indeed a global scale, but it also took unusual and petty forms. For twenty-five years I had spoken as a guest at my old school, twice a year, to history classes and sixth-formers. On September 19, 1992 the school informed me in a letter that under "pressure which built up yesterday from Jewish parents, the Anti-Nazi League and [. . .] the press" they had to withdraw their latest invitation, which they recognised as "a sad day for the school and for freedom of speech."⁸⁶ When my club held a private lecture-meeting that same month, leaflets and stickers appeared all over the West End with slogans like "Stop the fascist agitators," "No more Rostocks" (a reference to an incident where an asylum seekers' hostel was burned down), and, more threateningly, "meet at Irving's home," and providing my private address. The global nature of all this is evident from an Israeli survey issued in Tel Aviv "in co-operation with the [New York based] ADL". This stated, among successes in preventing various meetings and lectures from occurring, that "in London the Jewish community and other groups worked together [. . .] and made it difficult for David Irving and his followers to maintain the fiction of the 'Clarendon Club'.⁸⁷

Letters obtained by legal methods in Canada show that on October 21 and November 3, 1992, the Board of Deputies applied secret pressure on the German embassy to stop me, a British citizen like themselves, from entering Germany.⁸⁸ If a ban was applied, it would spell the end for me as a World War II historian because I could no longer reach my publishers, or

access my own collections there (of valuable documents which I had donated to the German archives), let alone the archives of the German government.

The ban Down Under

Australia was the next country to be worked over. The Israeli document quoted above reported unhappily on the press backlash that had arisen from pressure applied to the Australian government to silence me, which, it said, had attracted editorials in major Australian newspapers unfavourable to the Jewish community: "The implication was that a minority group, with extraordinary clout, had pressured the Australian government to act against the country's interest."⁸⁹

Nothing, they implied, could be further from the truth.

What had happened was this: In September 1992 I announced to Australian university professors that I would be visiting their continent for a third lecture tour early the following year. Alerted to this tour by the German professor Konrad Kwiet, one of the Holocaust experts I had written to, the same organisations applied secret pressure on the then prime minister, Paul Keating, to refuse me entry.

The *Australian Jewish News* set up a hue and cry, reporting that I had "sneaked into Canada," to give lectures "denying the Holocaust really happened," and stating that I "incite the gullible to racist violence" and that I "have a record of contempt for anti-racism and immigration laws." Every single one of these statements was a lie.⁹⁰ But the lying was now getting out of hand. When a Munich Court increased the fine on me for denouncing the *Krema I* building at Auschwitz shown to tourists as a post-war fake, the Board of Deputies issued a press-release calling me a "Nazi propagandist" who attending Nazi training camps, and they welcomed the trebling of the fine. Not surprisingly, no British newspaper dared to reproduce such libels but a copy is, significantly, in Professor Lipstadt's *Discovery*.⁹¹ I am of course barred from using it as the basis for the action which it deserved.

Opponents released to Australian television the heavily edited version of Michael Schmidt's 1991 videotape of me addressing the crowd at Halle. As edited, it omitted my visible and audible rebuke to a section of the crowd for chanting Hitler slogans. Grotesque libels about me swamped the Australian press, printed by various organisations including the New South Wales Board of Deputies and the *Australian Jewish News* (February 5, 12, and 19, 1993). One example was an article by a lecturer in politics: "He [Irving] has a history of exciting neo Nazi and skinhead groups in Germany which had burned migrant hostels and killed people. . . Irving has frequently spoken in Germany at rallies . . . under the swastika flag . . . himself screaming the Nazi salute. . ."⁹²

⁸⁶ Bundle E, page 108: Michael Willis, Brentwood School, to David Irving, September 19, 1992.

⁸⁷ Bundle E, pages 193ff: Tel Aviv University, "Anti-Semitism Worldwide – 1993" here at page 194.

⁸⁸ Bundle E, page 109: German Embassy, Ministerialrat Gerhard Kunz, to Neville Nagler, chief executive, Board of Deputies, Nov 9, 1992. This letter thanked the Board for the "manuscript of David Irving," which they had "forwarded to the German authorities." This manuscript had evidently been stolen from me. The embassy did not respond to requests from me beginning on June 25, 1994 (ibid., page 222) to return the manuscript, whatever it was.

⁸⁹ Bundle E, pages 193ff: Tel Aviv University, "Anti-Semitism Worldwide – 1993" here at page 195.

⁹⁰ *Australian Jewish News*, December 25, 1992; Bundle E, page 175: David Irving to *Australian Jewish News*, January 6, 1993 (not printed), Claimant's *Discovery* No. 1668.

⁹¹ Bundle E, page 176. Board of Deputies, Press release, January 14, 1993. Lipstadt's *Discovery*, No. 351.

⁹² Bundle E, page 177–8: David Irving to his lawyer Ed Wall February 27, 1993.

Unsurprisingly in retrospect, on February 8, 1993 the Australian government announced, though to the astonishment of the regular Australian national press, that I was to be refused a visa as I was a “Holocaust denier”. They had thus adopted the phrase that the Second Defendant prides herself on having invented.

The new and very damaging ban on visiting Australia now made it impossible for me to work again in the National Library of Australia in Canberra. At great personal expense I appealed to the Australian Federal Court. The Court declared the minister’s refusal of a visa to be illegal. The government in Canberra therefore changed the law in February 1994 to keep me out, and on May 3, 1994 they again refused my application for entry. We note from Professor Lipstadt’s own *Discovery* that the immigration minister faxed the decision direct to one of her source-agencies that same afternoon.⁹³

IN JULY 1994, AS THE RESULTING FRESH LEGAL ACTIONS WHICH I had started against the government still raged, the Second Defendant [*Lipstadt*] was invited by Australian organisations, all expenses paid, to visit their country; she was to be hired to tour Australia, and to slander my name and reputation and add her voice to the campaign to have me refused entry.

The Court will perhaps remember the Australian TV video which I showed, entitled *The Big Lie*. Broadcast on July 1994, it showed both the expert witness Professor [*Robert*] Van Pelt, and Fred Leuchter standing on the roof of *Krema II* which Van Pelt declared to be the centre of the Nazi genocide, and the Second Defendant being interviewed while still in Australia (and refusing once again to “debate” with the revisionists, rather as she has obstinately refused to go into the witness stand here). Thus I found myself excluded from Australia and inevitably New Zealand too. I lost the ability to visit my many hundreds of my friends down under, and my own daughter too, who is an Australian citizen; and I lost all the bookshop sales that this ban implied in Australia – where my *CHURCHILL* biography had hit the No. 1 spot on the bestseller lists.

There was one interesting little postscript which helps to tie all these things together: I produced a video, a rather unpretentious document entitled *The Search for Truth in History*, which was to travel the Australian continent until I could again enter myself. A closed session of the video censorship authority in Sydney was convened, at the request of the special interest groups who urgently wanted to suppress my video. Afterwards, the security authorities discovered that a hidden microphone had been planted in the chamber. Indicating that he already had the answer, the leader of the opposition, Tim Fisher, challenged the government to admit that it was planted by the Mossad.⁹⁴ This is an indication that some very dangerous forces indeed had aligned themselves behind the Second Defendant and against me.

⁹³ Bundle E, page 219: Hansard Pink, Question answered by [Immigration Minister] Senator Bolkus, faxed by his department in Canberra at 4:53 p.m. that same day, May 3, 1994, to the Sydney fax number 61 2 360 5416.

⁹⁴ Bundle E, page 191: *The Sunday Times*, Perth, May 30, 1993; and page 208, *The Sunday Telegraph Mirror*, Sydney, May 30, 1993: “ISRAEL SPIES IN SYDNEY BUGGING”.

My lecturing engagements in the British Isles came under similar attack. I had often spoken to universities and debating societies including the Oxford and Cambridge Unions in the past. But now, in one month, in October 1993 when I was invited to speak to prestigious bodies at three major Irish universities, I found all three invitations cancelled under pressure and the threat of local Jewish and “anti-fascist” organisations.⁹⁵ The irony will not elude the Court that these Defendants on the one hand have claimed by way of defence that I speak only to the far-right and “neo-Nazi” element, as they describe it, and that it turns out that their own associates are the people who have done their damndest to make it impossible for many others to invite me.

Lipstadt’s racist views on intermarriage

Deborah Lipstadt had meanwhile made some progress with her book.

She told her publisher that she had written a certain statement “with the marketing people in mind,” – in other words sometimes money mattered more than content. She had revealed in September 1991: “I have also spoken to people in England who have a large cache of material on David Irving’s ‘conversion’ to denial.”⁹⁶ We don’t know, but we can of course readily suspect, who in this case those “people” were.

She is, once again, not presenting herself for cross-examination, so there are many things we cannot ask her about – including (and I would have asked her most tactfully) the reasons why she was refused tenure at the University of California and moved downstream to the lesser university in Atlanta where she now teaches.

In the light of Mr. Rampton’s strictures on my now famous little ditty, supposedly urging my nine-month-old little girl not to marry outside her own people, I should also have wanted to ask questions of Professor Lipstadt’s views on Race.

We know that she has written papers, and delivered many fervent lectures, on the vital importance of people marrying only within their own race (“We know what we fight *against*. . .” she wrote, “intermarriage and Israel-bashing, but what is it we fight *for*?”)⁹⁷ She has attracted much criticism from many in her own community for her implacable stance against mixed marriages. In one book Lipstadt quotes a *Wall Street Journal* interview with a Conservative rabbi, Jack Moline, whom she called “very brave” for listing ten things that Jewish parents should say to their children: “Number one on his list,” she wrote (in fact it was number three), “was ‘*I expect you to marry Jews*’.”⁹⁸

⁹⁵ Bundle E, page 213: *The Jewish Chronicle*, September 17, 24, 1993.

⁹⁶ Bundle E, page 73: Deborah Lipstadt to Adam Bellow, Free Press, September 3, 1991: Lipstadt item N o. 77.

⁹⁷ See Professor Deborah Lipstadt, “Benefits of Belonging,” in *Hadassah Magazine*, June/July 1993, an article adapted from her speech in 1992 to the General Assembly of the Council of Jewish Federations.

⁹⁸ Deborah Lipstadt, “Tomer Devorah,” in *Jewish Spectator* (Fall, 1991), page 63. Moline’s actual list is in *United Synagogue of Conservative Judaism, Intermarriage: What Can we Do?* (New York, no date). – Quoted in Ellen Jaff McClain, *Embracing the Stranger* (HarperCollins, New York, 1995), at pages 18, 231–2.

My one little ditty was a perhaps tasteless joke. Professor Lipstadt's repeated denunciation of mixed marriages, addressed to adults, was deadly serious.

Professor Lipstadt accuses me of error and falsification, but is apparently unable to spot a fake even at a relatively close range. She admitted (in a recent interview with *Forward*) that she used the memoirs of the spurious Auschwitz survivor Benjamin Wilkomirski in her teaching of the Holocaust, according to Professor Peter Novick. Those "memoirs" have now been exposed, worldwide, as fraudulent. When it turned out the Wilkomirski had never been near the camp, or in Poland for that matter, but had spent the war years in comfort living with his adopted Swiss family, she [*Lipstadt*] acknowledged that this "might complicate matters somewhat," but she insisted that the Wilkomirski "memoirs" would still be "powerful" as a novel.⁹⁹

It may seem unjust to Your Lordship that it is I who have had to answer this person's allegation that I distort and manipulate historical sources.

Exonerating Hitler

We have Professor Lipstadt's handwritten notes, evidently prepared for a talk delivered to the ADL in Palm Beach, Florida, in early 1994. In these, if I have read her handwriting correctly – and she appears to be relying on something that Lord Bullock had just said – she states that my aim seems to be to de-demonize Hitler; and that I had said that F.D.R., Hitler, and Churchill were all equally criminal. This is hardly "exonerating" any of them. Summarising *HITLER'S WAR* (the 1977 edition), she calls me merely a "historian with a revisionist bent" like A J P Taylor – and she adds, and this seems significant – "Irving denies that Hitler was responsible for the murder of European Jewry. Rather, he claims that Himmler was responsible. But he does not deny its occurrence."¹⁰⁰ Had she stuck with that view, which is a very fair summary of my views both then and now, she and we would not find ourselves here now.

But she was led astray. She fell in with bad company, or associates. These things happen. We know that, in conducting her research for the book, she spoke with the Board of Deputies, the Institute of Jewish Affairs, and other such worthy bodies, since she thanks them all in her Introduction.

Some time in 1992 her book was complete in its first draft, and she sent it to the people who were paying her, the Hebrew University of Jerusalem. We do not know what was in the book, since I cannot question the Second Defendant and she has not disclosed that early draft, with Professor Yehuda Bauer's "scribbles" on it, in her sworn list of documents. It was clearly discoverable.

We do know however what was *not* in it: we know that there was no mention of Hizbollah and Hamas and Louis Farrakhan and the November 1992 terrorists in Stockholm, or of the lie about my speaking on the same platform with them; in fact we also know that in this first draft I was merely mentioned in pass-

ing. This is evident from the letter which Professor Yehuda Bauer wrote, congratulating her on November 27, 1992: Bauer complained that the book lacked the "worldwide perspective," and said: "Irving is mentioned, but not that he is the mainstay of Holocaust denial today in Western Europe."¹⁰¹

Somehow therefore I had to be shoe-horned into the text before publication. Bauer urged her too not to write things inadvertently that might convince the reader that there was "something" to what revisionists ("deniers") said – although that is hardly a true scholar's method, to suppress mention of opposing arguments.

Did Lipstadt swear a perjured affidavit?

In a letter to Anthony Lerman, of the Institute of Jewish Affairs (the same Mr. Lerman who would later spread the lying word that I had supplied the trigger mechanism for the Oklahoma City Bomb), Lipstadt revealed that there was an "earlier incarnation" of the book: that "earlier incarnation" has not been disclosed in her sworn list either.¹⁰² She had been ordered to swear an affidavit on her list. When I made a subsequent complaint about deficient Discovery, her solicitors reminded me that I could not go behind her affidavit until she presented herself for cross examination. This chance has been denied to me.

Lipstadt spent much of that last month of 1992 putting me into the book, and so herself into this courtroom today. They were the weeks after the spectacular success of the global campaign to destroy my legitimacy, which culminated in getting me deported in manacles from Canada on November 13. "I am just finishing up the book," she wrote to Lerman on December 18, "and as you can well imagine David Irving figures into it quite prominently". She pleaded with Lerman to provide, indeed to fax to her urgently, materials from "your files". Your Lordship may think that this haste to wield the hatchet compares poorly with the kind of in-depth, years-long research which I conducted on my biographical subjects. "I think he [Irving] is one of the more dangerous figures around," she added, pleading the urgency.¹⁰³ It was a spectacular Epiphany, this Court might think, given that only three weeks earlier the manuscript barely mentioned me, as Bauer had complained.

Lerman faxed his materials to her a few days later: we don't know precisely what, as here too the Defendants' Discovery is only fragmentary, and these items were provided to me only in response to a summons.

That is an outline of the damage, and the people, including specifically the Defendants in this action, who were behind it. Mr. Rampton suggested at a very early stage that I had brought all of this on myself, that I had even deserved it – he was talking about the hate-wreath that was sent to me on the death of my daughter. We shall see.

⁹⁹ Blake Eskin, "Wilkomirski's new identity crisis," *Forward*, September 18, 1998 at page 12; see Peter Novick, *The Holocaust in American Life*, New York, 1999, page 275.

¹⁰⁰ Bundle E, page 226, ADL release: "Acclaimed author tells how Holocaust deniers assault truth," N.Y. February 15, [1994]. – And *ibid.*, pages 228–9, two pages of handwritten notes from Lipstadt Discovery.

¹⁰¹ Bundle E, page 161–2: Prof. Yehuda Bauer to Lipstadt, November 27, 1992. Lipstadt Discovery No. 80.

¹⁰² Bundle E, page 163: Deborah Lipstadt to Anthony Lerman, December 18, 1992. Lipstadt Discovery No. 81.

¹⁰³ *Ibid.*

Auschwitz and The Holocaust Industry

Auschwitz has been a football of politicians and statesmen ever since World War II. The site has become, like the Holocaust itself, an industry, a big business in the most tasteless way. The area is, I am informed, overgrown with fast food restaurants, souvenir and trinket shops, motels, and the like. Under prime minister Josef Cyrankiewicz (who had been prisoner number 62,993) it was known at its opening in 1948 as a “monument to the martyrdom of the Polish and other Peoples.”¹⁰⁴

Auschwitz was overrun by the Red Army in January 1945. The last prisoner had received the tattooed number 202,499. Informed by Colonel-General Heinz Guderian that the Russians had captured Auschwitz, Hitler is recorded by the stenographers as merely acknowledging: “Yes.”¹⁰⁵ The Court might find it significant that he did not prick up his ears and say something like, “Herr Himmler, I hope you made sure that the Russians will find not the slightest trace of what we have been up to.” (Or even, “I hope you managed to get those holes in the roof slab of *Krema II* cemented over so there’s no trace, before you blew it up!” I will shortly explain the significance of that.) When the name of SS-*Gruppenführer* Hans Kammler, the architect of the concentration camps, was mentioned to him a few days later by Goebbels, it was evident that even Kammler’s name meant little to Hitler.¹⁰⁶

How many had died at Auschwitz? We still do not know with certainty, because the tragic figure has become an object of politics too. Professor Arno Mayer, Professor of European History at the University of Princeton, a scholar of considerably greater renommée than Professor [Richard] Evans, and himself a Jew, expressed the view in one book that most of the victims of the camp died of exhaustion and epidemics. “From 1942 to 1945 more Jews died, at least in Auschwitz, and probably everywhere else, of ‘natural’ causes of death than of ‘unnatural.’”¹⁰⁷

The Russians who captured the camp did not at first make any mention in their news reports of “gas chambers”. Moreover, as we saw on the newsreel which I showed on the first day of the trial, even the Poles, with access to all the records, claimed only that “altogether nearly 300,000 people from the most different nations died in the Auschwitz concentration camp.” It concluded that the camp now stood “as a monument of shame to the lasting memory of its three hundred thousand victims.” (Again, *gassing* was not mentioned).¹⁰⁸ The *New York Times* quoted the same figure, 300,000, when the trial [of the Auschwitz camp staff] began in 1947.¹⁰⁹

The figure gradually grew however. The Russians set up an inquiry including some very well known names – including the “experts” who had examined the “Nazi mass graves” at Katyn,

and even the notorious [Trofim Denisovich] Lysenko, and they announced that four million had been murdered at Auschwitz. Under the Polish communists, a monument to “four million dead” was duly erected, a number adhered to until the 1990s, even under Franciszek Piper, one of the later (but still communist) directors of the Auschwitz State Archives. After the communist regime ended that the figure was brought down, to 1.5 million, and then to 750,000 by the acknowledged expert Jean-Claude Pressac.¹¹⁰ The Defendants’ own expert Peter Longerich spoke of one million deaths there *from all causes*, and in response to cross-examination by myself and to Your Lordship’s queries Dr. Longerich confirmed that he included all non-homicidal deaths, deaths “from other causes,” including epidemics and exhaustion, in that figure.¹¹¹

As for the overall deathroll of the Holocaust, what meaning can one attach to figures? The International Military Tribunal (IMT) at Nuremberg found that “the policy pursued resulted in the killing of six million Jews, of which four million were killed in the extermination institutions”? But the six million figure derives, as US chief prosecutor Mr. Justice Robert H Jackson recorded in his diary in June 1945, from a back-of-the-envelope calculation by the American Jewish leaders with whom he met in New York. Professor Raul Hilberg put the figure at 5.1 million or less.¹¹² Gerald Reitlinger had the figure at 4.6 million, of which he stated about three million were conjectural

¹⁰⁸ German postwar newsreel: *Welt im Film* No. 137, dated January, 8, 1948. Soundtrack: “In Cracow the trial of the principal culprits for the Auschwitz concentration camp came to an end before a Polish Court. The Defendants were German camp guards or members of the German camp administration staff. Unheard-of atrocities against the camp inmates, particularly against female prisoners, were proved against them. Altogether nearly 300,000 people from the most different nations died in the Auschwitz concentration camp. The Court sentenced 23 of the accused to death, six to life sentences, and ten to lengthy jail terms; one was acquitted. The Auschwitz concentration camp remains as it stands today, as a monument of shame to the lasting memory of its three hundred thousand victims.”

[Original German:] “In Krakau ging vor einem polnischen Gerichtshof der Prozeß gegen die Hauptverantwortlichen für das Konzentrationslager Auschwitz zu Ende. Die Angeklagten sind deutsche Lagerwachen oder Angehörige des deutschen Verwaltungspersonals. Es wurden ihnen unerhörte Greuelthaten gegen die Lagerinsassen nachgewiesen, besonders gegen weibliche Gefangene. Insgesamt kamen nahezu 300.000 Menschen verschiedenster Nationen im Konzentrationslager Auschwitz um. Das Gericht verurteilte 23 Angeklagte zum Tode, 6 zu lebenslänglichem Gefängnis, 10 zu längeren Gefängnisstrafen, einer wurde freigesprochen. Das Konzentrationslager Auschwitz bleibt als Mahnmahl der Schande so erhalten, wie es heute steht, zum bleibenden Gedenken an seine 300.000 Opfer.”

¹⁰⁹ *The New York Times*, November 25, 1947: “POLES OPEN TRIAL OF NAZIS. Cracow, Poland, Nov. 24 (AP) – Forty former Nazi officials at notorious Oswiecim [Auschwitz] extermination camp – accused of responsibility for the killing of 300,000 prisoners from a dozen European countries – went on trial today before the Supreme National Tribunal.”

¹¹⁰ Jean-Claude Pressac, *Auschwitz, Technique and Operation of the Gas Chamber*.

¹¹¹ Day 26, Feb 28, at page 58.

¹¹² Jackson papers, diary, Jun 1945; Raul Hilberg, *The Destruction of the European Jews*.

¹⁰⁴ *Pomnik Mecenstwa Narodu Polskiego i innych Narodow.*

¹⁰⁵ Helmut Heiber, *Hitlers Lagebesprechungen*, January 1945.

¹⁰⁶ Goebbels diary, March 1945.

¹⁰⁷ “Erst nach dem Zusammenbruch der Ostfront seien die Umsiedlungspläne gegenstandslos geworden. . . Aber auch jetzt noch seien die meisten Juden an Entkräftung und Epidemien gestorben: ‘Von 1942 bis 1945 erlagen - jedenfalls in Auschwitz, wahrscheinlich jedoch überall - mehr Juden sogenannten ‘natürlichen’ Todesursachen als ‘unnatürlichen.’” Thus the *Frankfurter Allgemeine Zeitung* quoted the Professor Arno Mayer, professor of European History at Princeton University, on April 8, 1989 at page 29.

as it was not known how many Jews had escaped into the unoccupied part of the USSR.¹¹³ The Israeli Prime Minister's office, we are told by Norman Finkelstein, recently stated that there were still nearly one million living survivors.¹¹⁴

There are doubts not only about precise figures but about specific events. The same IMT [*International Military Tribunal, Nuremberg*] ruled on October 1, 1946 that the Nazis had attempted to "utilise the fat from the bodies of the victims in the commercial manufacture of soap." In 1990 historian Shmuel Krakowski of Yad Vashem announced in the world's press that that too had been a ("Nazi") propaganda lie.¹¹⁵

The "silly" Wannsee story

Gradually the wartime stories have been dismantled. As more documents have been found, widely stated propositions have been found to be doubtful. For a long time the confident public perception was that the Wannsee protocol, of the January 20, 1942 meeting, recorded the actual order to exterminate the European Jews. Yehuda Bauer, the director of Yad Vashem, the world's premier Holocaust research institution in Israel, – one of the correspondents of the Second Defendant – has stated quite clearly: "The public still repeats, time after time, the silly story that at Wannsee the extermination of the Jews was arrived at." In his opinion Wannsee was a meeting but "hardly a conference," and he even said: "Little of what was said there was executed in detail."¹¹⁶ Despite this, Your Lordship has had to listen to the "silly story" all over again in this Court from the expert witnesses.

What about a "Hitler order"?

Surely, say my critics, there must now be evidence for a Hitler Order?

Back in 1961 Raul Hilberg, one of Yehuda Bauer's great rivals for the laureate, asserted in *The Destruction of the European Jews* that there had been two such orders, one in the spring of 1941 and the other soon after.

By 1985 – after I had corresponded with him and voiced my own doubts – Hilberg was back-peddalling: Hilberg went methodically through his new edition, excising the allegation of a Hitler Order. "In the new edition," as Professor Christopher Browning, an expert who testified before this Court, criticised in a learned journal, "all references in the text to a Hitler decision or Hitler order for the 'Final Solution' have been systematically excised. Buried at the bottom of a single footnote stands the solitary reference: 'Chronology and circumstances point to a Hitler decision before the summer [1941] ended'." "In the new edition,"

¹¹³ Gerald Reitlinger, *The Final Solution*.

¹¹⁴ Norman Finkelstein, *London Review of Books*, January 6, 2000: "How the Arab–Israeli War of 1967 gave birth to a memorial industry," page 36. He adds, "If everyone who claims to be a survivor actually is one, my mother, a former concentration camp inmate used to exclaim, 'who did Hitler kill?'"

¹¹⁵ Newspaper clipping from *The Daily Telegraph* April 25, 1990: "Jewish soap tale 'was Nazi [sic] lie.'" Claimant's Discovery No. 1278.

¹¹⁶ *Canadian Jewish News*, Jan 30, 1992.

Browning repeats, scandalised, "decisions were not made, and orders were not given."¹¹⁷

Your Lordship will find my exchange with Browning as to whether he had indeed written those words in 1986 on Day 17 at page 121: you will find too that he regretted that he could not recall clearly the events of fifteen years ago, which invited a rather obvious riposte from me about the probably similar memory-deficiencies in the eye-witnesses on which he had on occasions relied.

The director of the Yad Vashem archives has stated that most survivors' testimonies are unreliable. "Many," he writes, "were never in the places where they claim to have witnessed atrocities, while others relied on second-hand information given them by friends or passing strangers" – the phenomenon I have referred to as "cross-pollination."¹¹⁸ Your Lordship may have been as startled as, I confess, was I, upon learning the degree to which the case for the mass gassings at Auschwitz relies on eye-witness evidence, rather than on any firmer sources.

YOUR LORDSHIP WILL REMEMBER THE EXCHANGE I HAD WITH Donald Watt, Professor Emeritus of History at the London School of Economics and a learned diplomatic historian, early on in the trial, about the value of difference categories of evidence:

"IRVING: Professor, I was not going to ask you about eye-witness evidence but where would you rank eye-witness evidence on the scale, if you had for example aerial photographs, if you had prisoner of war intelligence, contemporary prisoner of war intelligence, if you had intercepts from Bletchley Park, if you had captured documents, either captured during the war or after the war, and eye-witness evidence, in other words, anecdotal evidence and, finally, interrogations, whether under oath or not in Court, how would you classify those in order of reliability, starting with the least reliable?"

PROFESSOR WATT: I do not know that there is any way of classifying those, because it depends so much on the individual. I did a great deal of interviews, particularly in the period before the 1967 Public Records Act released documents of 30 years of age, and in my experience the kind of evidence I got differed according to the personality of the person giving it. In some cases I found that the man I was interviewing had his own documentary record and was consulting it, and that what he said was confirmed later. In other cases, including at least one Minister of the Crown, I was given a very plausible and, for all I know, a very true story of a meeting at which he was supposed to have been present; and when the records of that meeting subsequently became available, it was clear that he was not. He should have been, but he just was not that day, and he must have heard the story from one of the people there and then repeated it.

IRVING: But he seriously believed that he had been there?

¹¹⁷ Christopher Browning, "The Revised Hilberg," in Simon Wiesenthal Annual, voll. 3, 1986, page 294; and Day 17, Feb 8, 2000, page 121.

¹¹⁸ Quoted by Norman Finkelstein, *London Review of Books*, January 6, 2000: "How the Arab–Israeli War of 1967 gave birth to a memorial industry," page 36.

PROFESSOR WATT: [. . .] If a gentleman who holds the rank of Admiral of the Fleet and is a junior Minister in the Cabinet tells you that he is there, one's reaction is not to question him [. . .]

IRVING: So to repeat my original question, where you would rank on that scale of material that is lying before you, at one end of the bench you have the eye-witnesses and at the other end of the bench you have, for example, the Bletchley Park intercepts?

PROFESSOR WATT: The Bletchley Park intercepts, in so far as they are complete, are always regarded as the most reliable because there is no evidence that the dispatcher was aware that his messages could be decoded and, therefore, he would put truth in them.”

This supports my view that eye-witness evidence is less credible than forensic evidence and the Bletchley Park intercepts. I do not completely ignore eye-witness evidence, but I feel entitled to discount it when it is contradicted by the more reliable evidence, which should then prevail

The Leuchter Report

I am criticised by the Defendants for having relied initially on what is called the *Leuchter Report*. At the time they levelled their criticism at me, the Defendants appear to have been unaware that subsequent and, more able, investigations were conducted by both American and Polish researchers. The tests were in other words replicated.

First, the *Leuchter Report*: In April 1988 I was introduced by defence counsel at the Canadian trial of Ernst Zündel to the findings made by a reputable firm of forensic analysts of samples extracted from the fabric of various buildings at Auschwitz and Birkenau by Fred Leuchter, who was at the time a professional American execution-technology consultant. These, and his investigations at the Majdanek site, formed the backbone of his “engineering report”.

Since there have been tendentious statements about why the *Leuchter Report* was not admitted in evidence at that trial I have studied the transcripts of that trial. It emerges that engineering reports are not generally admissible under Canadian rules of evidence unless both parties consent; in this case the Crown did not consent. As Mr. Justice Thomas explained, “I get engineering reports all the time [*in civil cases*]. That doesn't make them admissible because they've prepared reports. They [*the expert witnesses*] go in the box, they're qualified as experts, and they testify.”¹¹⁹ The non-admission of the report by Mr. Justice Thomas was no reflection on the worth of the report or on the qualifications of the witness.

Mr. Leuchter testified on April 20 and 21, 1988 as an expert in gas chamber technology. He had inspected the three sites in February and taken samples which were subsequently sent for analysis by a qualified analytical chemist in the United States, a Dr. James Roth of Cornell University, who was not told where the samples had come from. His firm, Alpha Laboratories, were told on the test certificates only that the samples were from

brickwork. Mr. Justice Thomas ruled that Leuchter could give oral evidence, but that the report itself should not be filed.¹²⁰ He held further that Mr. Leuchter was not a chemist or a toxicologist.¹²¹ But he agreed that Mr. Leuchter *was* an engineer, because he had made himself an engineer in a very limited field.¹²²

A summary of the rest of the judge's findings was that Leuchter was not capable in law of giving the expert opinion that there were never any gassings or exterminations carried on in the facilities from which he took the samples.¹²³ For the same reasons he was not capable of testifying regarding the results of the analysis. He was restricted to testifying as to the actual extraction of the samples,¹²⁴ and his own observations on the feasibility of the buildings that he had examined being used as gas chambers.¹²⁵

The Second Defendant therefore was wrong to state on page 164 of her book, “The judge ruled that Leuchter could not serve as an expert witness on the construction and functioning of the gas chambers.”¹²⁶ To give evidence in a criminal trial, Mr. Leuchter *must have* been accepted as an expert. Professor Lipstadt further stated, on pages 164-5 of her book: “The judge's finding as to Leuchter's suitability to comment on questions of engineering was unequivocal.” In fact the Judge's findings referred only to his lack of qualifications to testify on the results of the laboratory tests for cyanide and iron (this was Dr. Roth's area, and he gave the testimony on those matters). On page 169, Professor Lipstadt insists: “The exposure to the elements lessened the presence of the hydrogen cyanide. . . Nor did Leuchter seem to consider that the building had been exposed to the elements for more than forty years so that cyanide gas residue could have been obliterated. He also took samples from a floor that had been washed regularly by museum staff.” Dr. Roth however testified under oath that the formation of Prussian Blue was an accumulative reaction, that it augmented with each exposure to the gas; and that it did not normally disappear unless physically removed by sandblasting or grinding down.¹²⁷

Roth seems since then to have changed his mind, to judge by the television film “MR. DEATH” which is shortly to be shown on Channel Four, and upon which film both I and learned counsel in the current action rely. Zündel's counsel comments, “He [Roth] obviously is frightened” – and no wonder, considering what was subsequently inflicted upon Mr. Leuchter.

Your Lordship will remember that in order to destroy Roth's absurd argument, quoted to the Court by learned Counsel, that the Prussian Blue stain would have penetrated only a few microns into the brickwork, I showed a photograph of the stain penetrating right *through* the brickwork to the outside face of one of the cyanide fumigation chambers, where it has been exposed to sun, wind, and rain for over fifty years, and where it is

¹²² Zündel action, April 1988, Day 32, page 9038.

¹²³ Zündel action, April 1988, Day 32, page 9049.

¹²⁴ Zündel action, April 1988, Day 32, pages 9047-48.

¹²⁵ Zündel action, April 1988, Day 32, page 9054.

¹²⁶ For the formal ruling by the Judge in the presence of the jury that Leuchter was an expert in the construction, design, maintenance and operation of gas chambers, see Zündel action, April 1988, Day 32, pages 9062-3.

¹²⁷ Dr. Roth's testimony on this is at Zündel action, April 1988, Day 32, pages 9297-9298.

¹¹⁹ Zündel action, April 1988, Day 32, page 9031.

¹²⁰ Zündel action, April 1988, Day 32, page 9032.

¹²¹ Zündel action, April 1988, Day 32, page 9034.

still visible, as deep and blue as ever. *Krema II* has been protected from these outside elements; it is possible to crawl beneath the famous roof – about which roof I shall have more to say – but neither Jan Sehn, nor Fred Leuchter, nor James Roth, nor Germar Rudolf, nor any of the subsequent investigations found any significant traces of cyanide compounds present in the fabric of this building, despite the eye-witness accounts of that same chamber having been used for the gassing of half a million people. Moreover, the wood-grain of the original wooden formwork (or moulds) can still be seen on the face of the concrete, which is evidence that it has not been sandblasted or ground down.

The Morgue roof

I referred earlier to the expert witness on Auschwitz and Birkenau in this case, Professor Robert Van Pelt. He has made unequivocal statements both here and elsewhere about *Krema II*, crematorium No. II at Birkenau. To him, it was *the* factory of death, the mass gassing chamber of Birkenau. He did not mince his language. In the new television film *MR. DEATH* we saw him, as the film camera showed Fred Leuchter descending into the hole which was broken post-war through the collapsed concrete roof slab and reinforcing bars of *Leichenkeller 1* (morgue No. 1) of *Krema II*, and we heard him (Van Pelt) uttering these words:

“Crematorium II is the most lethal building of Auschwitz. In the 2500 square feet of this one room, more people lost their lives than any other place on this planet. 500,000 people were killed. If you would draw a map of human suffering, if you created a geography of atrocity, this would be the absolute Center.”¹²⁸

The Court will recall that on the ninth day of this action I cross-examined this witness most closely about this statement, and I offered him a chance to change his mind about the pivotal importance of *Krema II* and its underground *Leichenkeller 1*, the chamber which Pelt alleged had been a mass-gassing chamber.

IRVING: Very well. You say: “In any case, *Krematorium II* is the most [something] of Auschwitz. In the 2500 square feet of this one room”, and you are pointing downwards, “more people lost their lives than in any other place on this planet. 500,000 people were killed. If you would draw a map of human suffering, if you create a geography of atrocities, this would be the absolute centre.” That is a reference to *Krematorium II* and you are standing on the roof of *Leichenkeller No. 1*?

PROF. VAN PELT: It is a reference to *Krematorium II*, but I am actually not in the picture. It is Fred Leuchter standing on the roof of *Leichenkeller 1*.

IRVING: But you are speaking yourself?

PROF. VAN PELT: But I am speaking. [. . .]

IRVING: Professor, just so that we can be completely clear about this and the record can be clear, you are describing *Krematorium II* as being the place where 500,000 people

were killed or –

PROF. VAN PELT: Yes.

IRVING: – give or take a few numbers.

PROF. VAN PELT: Yes.

IRVING: And that this was the centre of the atrocity?

PROF. VAN PELT: Yes.

IRVING: So if I am to concentrate a large part of my investigation in this cross-examination on that one building and, in fact, on *Leichenkeller 1*, the one arm of the crematorium, this is not entirely unjustified if I am trying to establish that the factories of death did not exist as such?

PROF. VAN PELT: No. I think that that the obvious building to challenge would be *Krematorium II*.¹²⁹

The expert witness could hardly have been clearer in his answer. At page 53, I then asked him to identify the buildings referred to, on the aerial photographs of Birkenau and *Krematorium II*, so that there could later be no doubt as to which precise building he had just agreed was the “factory of death.”

THE GREAT PROBLEM ABOUT ACCEPTING THAT THIS BUILDING was an instrument for mass murder is that the evidence produced by Professor Van Pelt relies on three “legs”: a handful of eye-witnesses; a few architectural drawings; and a slim file of documents.

The eye-witnesses have turned out to be liars, particularly those who testified to the SS guards opening manhole covers on top of the flat roof of *Leichenkeller 1* (morgue No. 1) and tipping tins of Zyklon B pellets inside. One witness was David Olère, an artist, who drew sketches years later in Paris, obviously intending to sell them. His sketches show flames and smoke belching from the crematorium chimney of *Krema III*, which was quite impossible¹³⁰; he portrays the victims of the Nazi killers mostly as nubile young females, all naked and sketched in a pornographic way, often clutching naked teenage children to their breasts.¹³¹ It was Olère, I invite the Court to remember, who told Jean-Claude Pressac that the SS made sausage in the crematoria out of human flesh (a passage which Mr. Van Pelt did not inform us of).¹³² Ada Bimko proved at the Belsen Trial that she too had lied. Entering another “gas chamber” building at Auschwitz she said she “noticed two pipes which I was told contained the gas. There were two huge metal containers containing gas.” She evidently did not even know that the “gas” supposed to have been used, Zyklon B, was actually in pellet form, not cylinders.¹³³ Distorting her account too, Pelt also omitted this part of her testimony. Dr. Bendel, another of Pelt’s eye-witnesses, stated that at *Krema IV* the people crowded into

¹²⁹ Day 9, January 25, at page 52.

¹³⁰ On the aerial photographs taken on May 31, June 25, July 8, August 25 and September 13, 1944 there is no visible smoke rising from *any* of the crematorium chimneys. The photographs can be seen on the Internet at <http://www.air-photo.com/grap/bcmp.jpg>.

¹³¹ Day 10, January 26, page 53.

¹³² Pressac, *Technique* etc., 1989: page 554, fourth column, lines 17–22.

¹³³ Raymond Phillips, *Trial of Josef Kramer and 44 others*, transcripts at pages 66–69.

¹²⁸ Transcript of *MR. DEATH*, at 01:00:00.

the gas chambers found the ceiling so low that “the impression [*was given*] that the roof was falling on their heads.”¹³⁴ This too was untrue, as the Court has seen how high those ceilings were in the computer-generated “walk through.” The Court will find that in my cross-examination of Van Pelt, I destroyed the worth of each supposed eye-witness after eye-witness in the same way.

The hunt for the “holes”

Let us first look for those holes. The roof pillars were blown up in 1945, and the reinforced concrete roof slab pancaked downwards into the morgue basement, starred but otherwise intact. Van Pelt suggested that the Zyklon B introduction holes in the roof of *Leichenkeller 1* were not much larger in diameter than tennis balls. The evidence of his eye-witnesses Henry Tauber and Michal Kula was that they were closer to the size of manholes – “70 centimetres [27 inches] square.”¹³⁵

Kula testified that the wire-mesh columns that he had made were of that cross section and three metres (ten feet) tall. One witness said the concrete covers had to be lifted off “with both hands”. As the ceiling height in *Leichenkeller 1* was 2.40 meters, 60 cm of each column would have had to extend through the “holes” in the concrete ceiling, with about six inches poking up outside.¹³⁶ There is no trace of those holes in the roof today. The underside, which can be inspected and photographed from beneath, is intact. Even if one could lose sight of the much smaller, three-inch diameter holes in the pancaked concrete roof, of which Van Pelt spoke¹³⁷, one could not possibly have lost sight of four holes as large as manholes. Those holes would be perfectly obvious today, on the ground at Auschwitz, to any observer using the naked eye, without the slightest possible doubt as to their location.

Van Pelt accepts that those holes are not in that roof slab now. In his expert report – and for this honesty I give him full credit – he writes:

“Today, these four small holes that connected the wire-mesh columns and the chimneys cannot be observed in the ruined remains of the concrete slab. Yet does this mean they were never there? We know that after the cessation of the gassings in the fall of 1944 all the gassing equipment was removed, which implies both the wire-mesh columns and the chimneys. What would have remained would have been the four narrow holes and the slab. While there is no certainty in this particular matter, it would have been logical to attach at the location where the columns had been some formwork at the bottom of the gas chamber ceiling, and pour some concrete in the hole and thus restore the slab.”¹³⁸

¹³⁴ Philipps at page 132; Van Pelt quoted this book on page 271 of his report.

¹³⁵ Jean-Claude Pressac, *Auschwitz, Technique and Operation of the Gas Chambers*; and see the Nizkor website: Nizkor’s essay entitled “Zyklon Introduction Columns”, at <http://www.holocaust-history.org/auschwitz/intro-columns/> with the elevation sketch of the wire net column which I also supplied to the Court and showed to the witness Pelt (Day 11, page 124).

¹³⁶ The ceiling height is given in numerous *Bauleitung* drawings incl. No. 933 [934] on page 278 of Pressac.

¹³⁷ Day 9, January 25, page 182.

¹³⁸ Van Pelt, expert report, page 518; Day 9, January 25, page 187.

Van Pelt thus asserts, without any evidence at all, that late in 1944, with the Red Army winding up to launch their colossal final invasion only a few miles away on the River Vistula, the Nazi-mass murderers would remove the “Zyklon introduction columns” and then fill in the holes to “restore the slab” (before dynamiting the pillars supporting it anyway). He again asserted when I cross-examined him on January 25 that: “It would have been logical to attach at the location where the columns had been, some formwork at the bottom of the ceiling, and pour some concrete in the hole and thus restore the slab.”¹³⁹

How would this have been more logical than completely removing the roof of *Leichenkeller 1*, as the Nazis had removed the roof of *Leichenkeller 2*, identified by Van Pelt as the “undressing rooms,” as shown in the aerial photos taken on December 21, 1944 that one can see on page 15 of *THE HOLOCAUST REVISITED*, the book published by Dino A Brugioni of the CIA? The originals of this photo were shown to Van Pelt in Court. To believe his version, we would have to believe that the Nazis deliberately created architectural relics of *Leichenkeller 1* to confound later generations of tourists and Holocaust researchers.

The “smudges” on the roof

The fact is that the holes are not there – at least they are not visible from a distance of zero to four feet, or when photographed from the underside. Unable to point them out to us in close-up at ground level, the Defendants invited us to consider instead either vertical aerial photographs taken from 35,000 feet up, or a horizontal photograph taken from several hundred yards away, past a locomotive, where three (not four) unidentified objects are placed irregularly on the rooftop (the fourth “object” turns out to be a window on the wall behind). The Court will recall what my response was to the not unexpected discovery that during building works such objects as barrels of tar were parked on a large flat slab, and I shall not repeat it in detail here.¹⁴⁰ The notion that the high-flying plane could have photographed an object of 27 cm diameter, let alone of tennis ball size, protruding six inches above the ground, is quite absurd. The four smudges seen on one photograph are evidently many feet long.

On Day 11, I brought into the Court half a dozen vertical aerial photographs taken by the Americans or South African airforces during 1944, and I invited Van Pelt to find those same smudges on that roof.¹⁴¹

Where until this moment he had seen dots on another photograph with no difficulty, the witness Van Pelt now pleaded poor eyesight (“I have now reached the age I need reading glasses,” he said, “and I do not have them with me. I did not expect this kind of challenge.” Precisely.) Had he used even a microscope, he would not have found the dots on the 1944 pictures I showed him. Because the holes were not there, and are not there, and he and the Defendants know it.

Even if the Nazi architects did willingly agree to the weakening of the roof by having makeshift holes of that size cut through the slab right next to the supporting pillars – I say “makeshift” holes, because there is no provision for them in any of the architectural drawings – we should certainly expect to see the holes now. My Lord, the Court will recall two things:

¹³⁹ Day 9, January 25, Page 188

¹⁴⁰ Day 10, January 26, page 9.

¹⁴¹ Day 11, January 28, pages III et seq.

■ I asked the witness Van Pelt if he was familiar (in view of the fact that he is not qualified architecturally) with the expression “fair faced concrete finish”.¹⁴² He confirmed that it is concrete left untreated. It is not covered with, *e.g.* cement or plaster or pebble-dash or tiling. He confirmed that it is the most expensive such finish that an architect can specify, because the concrete has to be poured right first time: blemishes like holes and cavities can never be retouched afterwards. Filling in the holes with cement, as Van Pelt suggested in an extraordinary piece of naïveté, would have been evident in the concrete face for ever after by differences in general appearance, colouring, wear and fracturing; there would have been a visible “drying line” as a ring around the patch, and the wood grain pattern left by the wooden formwork would have been interrupted. Common sense tells us all of this as well.

■ We have photographed the underside of that slab. There is no trace of any such blemish on the concrete roof’s underside.

A bold challenge on the “holes”

On two occasions I stated a challenge in Court (including to the witness Van Pelt). I challenged the Defendants to send somebody to Auschwitz even now, to scrape the thin layer of gravel and dirt off the topside of the roof slab where they “know” the “holes” must be – because the eye-witnesses agreed they were next to the main columns – and bring back a photo of just one of the holes or evidence that it had been filled in.

If they did, I said, I would abandon my action forthwith, because my position would have become indefensible. To my knowledge, the Defendants have not attempted this exercise. They know, and they knew from the outset, that I was right about that roof. Their entire case on *Krema II* – the untruth that it was used as a factory of death, with SS guards tipping canisters of cyanide-soaked pellets into the building through those four (non-existent) manholes – has caved in, as surely as has that roof.

Accordingly the eye-witnesses who spoke of those holes also lied, or bluffed: and I have called their bluff. In the absence of the holes themselves, and minus his “eye-witnesses,” Professor Van Pelt’s only remaining proofs that *Leichenkeller 1* of *Krema II* was an instrument of mass murder – a factory of death in which five hundred thousand Jews were gassed and cremated – are these: architectural drawings (rather oddly for a “professor of architecture” he calls them *blueprints*); and wartime documents. He confirmed this to Your Lordship, when your Lordship asked.

Wartime documents on “gas chambers”?

As for the wartime documents, he referred for instance to the – to him, sinister – requirement that the morgue should be *vorgewärmt* [*prewarmed*] by a central heating plant. In cross-examination I drew his attention to the relevant section of the

wartime NEUFERT, the architect’s handbook or building code which was standard for the S.S. architects, which specifies that morgues must have both cooling and central heating facilities to avoid damage to the corpses.¹⁴³ Document after document fell by the wayside in the same manner. Mr. Rampton introduced the timesheet of one humble workman in March 1943, showing him actually concreting “the floor in the *Gaskammer*.” But Birkenau camp was full of “gas-chambers”. In his fine facsimile book of the camp documents, Jean-Claude Pressac has printed the drawing No. 801 of November 8, 1941, for an *Entlausungsanlage* (delousing installation) for the prison camp, right in the middle of which drawing is a *Gaskammer*.¹⁴⁴ He also reproduces drawing No. 1293 dated May 9, 1942, of the drainage and water supply of the delousing barracks, buildings BW5b. Here too there is a *Gaskammer* smack in the middle of the drawing.¹⁴⁵

The real handling capacity of the crematoria is also surprisingly difficult to establish. Professor Van Pelt produced a histogram, on an easel, for us, which showed truly staggering projections of cadavers to be cremated in coming years; but on cross-examination he admitted that the projection was based solely on one document, the questionable “crematorium capacities” document of June 28, 1943, and that all else was extrapolated backwards from that.¹⁴⁶ Pelt relies heavily on this document.¹⁴⁷ Even if genuine, the handling figures which this document gives for the furnace installation in *Krematorium II* do not tally with any of the figures in the specifications provided by the manufacturers, the Topf Company, for this type of equipment.¹⁴⁸ Furthermore, the document refers to some crematoria which were at that time shut down, and to others that were due to be taken out of commission.¹⁴⁹

I had shown the Court on the previous day that this one page of paper contained not just one or two, but four or even five bureaucratic discrepancies which indicated that the document is not authentic.¹⁵⁰ Any one of those flaws would normally be enough to call its integrity into question: but five in one document, including the wrong rank for the highest man in the SS site-construction system, SS *Gruppenführer* Hans Kammler? Van Pelt was unable to explain these flaws; he had not noticed them. The document was first published in East Berlin in the 1950s, and it is now to be found in the Auschwitz archives, because it was sent there in 1981. That alone is why it now bears an

¹⁴⁵ Pressac, page 56.

¹⁴⁶ Day 9, January 25, page 148.

¹⁴⁷ See his report, pages 48, 210, 231, 246, 301 and 317. Although he states it is in the Auschwitz museum, on pages 48, 210 and 301 he gives a Moscow archives file reference for it. The fifteen minute cremation rate implied for Kremas II–V is in contradiction of all studies by experts elsewhere; the Gusen camp of Mauthausen never achieved better than 30 minutes per cadaver.

¹⁴⁸ A letter cited by Pressac from the Topf archives gives a top rate of 800 per day for *Krema II* and III

¹⁴⁹ *Krema II* was in service from March 15 to 24 and July 18 to December 31, in 1943; *Krema III* from June 25 to December 31; *Krema IV* from March 22 to May 10. *Krema II* and *IV* were apparently “down” at the date of the alleged document; and *Krema I* was taken right out of service soon after for conversation to an air raid shelter.

¹⁵⁰ Day 8, January 24, page 153.

¹⁴² Day 9, January 25, at page 189.

¹⁴³ Day 10, January 26, page 168.

¹⁴⁴ Pressac, page 55.

Auschwitz archival stamp.¹⁵¹ It did not originate there, but elsewhere. Even if the flaws can be explained, and the figures were genuine, there is no indication of how such huge numbers of bodies were to be handled within 24 hours; nor of where the coke was to come from (there is no acceptable evidence that the Auschwitz staff found any way of improving on the average coke consumption of 30 kg per cadaver achieved by other camps).

The bottleneck in the entire *Krema II* “factory of death” story is however the little freight elevator that was installed between *Leichenkeller I*, as in any such state-of-the-art crematorium, to haul the bodies from the basement-level morgue up to the crematorium furnaces on the ground floor. We are told by the Defendants that this elevator was never anything more sophisticated than something like a builder’s hoist. The real elevator was never delivered. It had no door, or cage, or walls – it was just a platform jolting up and down that elevator shaft. We do know that as finally installed it had a specified load bearing capacity of 1500 kg. Van Pelt suggested that the hoist could therefore have hauled twenty-five cadavers at a time.¹⁵² In practice, as there was just a flat platform with no walls or door, jolting up and down the narrow concrete elevator shaft, it would have been impossible to stack onto one small flat platform twenty-five naked cadavers in the conditions of filth and slime that were described by the eye-witnesses.

It does not bear thinking about, I agree. We can not produce hard figures for this part of the exercise, but one thing is plain: that one elevator in *Krema II* was the inescapable bottleneck, and it makes plain that, whatever *was* happening downstairs in *Leichenkeller I*, it was not on the huge scale that history now suggests.

IN RESPONSE TO YOUR LORDSHIP’S HELPFUL QUESTIONING, Professor Van Pelt stated that the wartime documents had to be *interpreted* if they were to be relied on for this proof. These interpretations are tenuous. He produced to us a document referring to the special secrecy to be attached to the crematorium drawings, and suggested that this was because of the mass gassings being carried on in it. It stressed that this was because of the *wehrwirtschaftlich* importance [*importance to the military economy*] of the work being conducted there. But Van Pelt confirmed under my cross-examination that the homicidal Final Solution, the genocide, was never regarded as being *wehrwirtschaftlich* important. I submitted that the reference was clearly to keeping secret the ugly business of the looting by the SS of gold and valuables from the corpses processed by the building, a system which was undoubtedly *wehrwirtschaftlich* important to the SS.¹⁵³

Similarly, the architectural drawings seemed to provide the required “proof” only when one was compared with another. As Van Pelt said: “. . . we can look now at two or three drawings together and . . . we start to observe some very weird things and

some modifications made between one drawing and the other drawing . . .”¹⁵⁴

Is that the best level of proof that is available now, even after fifty-five years? During his slide-show Professor Van Pelt told us that one cardinal piece of evidence in these drawings was the relocation of an internal double-door which sealed off *Leichenkeller I* from the interior of the building, from the inside of the *Leichenkeller* doorframe (in a December 1942 drawing) to the outside (January 1943). I pointed out that in the new layout, the doors were shown as being actually rebated into the doorframe, and I suggested to the witness that this was indicative of a gas-tight door being fitted as in any standard air raid shelter design. Air raid shelter doors are fitted outside the shelter, to open outwards, so as to withstand blast. NEUFERT, the wartime architects’ handbook, bears this out.

The witness seems not to have considered this possibility. The doors allegedly found around the Birkenau and Auschwitz sites subsequently are all of standard air-raid shelter design, complete with the obligatory peephole that is fitted to air raid shelter doors. The amendment of the drawings to provide for an external door, leading from the far end of the subterranean *Leichenkeller I* to the open air, was also consonant with its dual use as a shelter, and I put this to the witness on Day 11,¹⁵⁵ as was the relocation of the main entrance staircase from the back of the building, to the street-side. Among the architectural drawings provided to us from the Auschwitz archives is one entitled: “Modification of the old Crematorium,” namely *Krema I* in Auschwitz; subtitled: “Air Raid Bunker for SS Station HQ with an Operating Theatre.”¹⁵⁶ So such modifications of the morgues to provide air raid shelters were clearly nothing extraordinary. Mr. Rampton made a lot of the order for doors with peepholes.¹⁵⁷ But peep holes were standard fittings not only on the gastight air raid shelter doors, but also to delousing facilities. Jean-Claude Pressac prints photos of two such doors on the “Canada” delousing chamber at Birkenau.¹⁵⁸

Krema II as an air raid shelter

Krema II, like its mirror-image *Krema III* on the other side of the road, was originally designed as a state-of-the-art crematorium, possibly not just for the camp but for the whole catchment area of Auschwitz which had for centuries been an area of pestilence and plague. No expense was spared in its design; the best equipment and architects were used on what was clearly a permanent facility. Building the *Leichenkeller* underground, instead of above ground, increased construction costs by several times, but provided for keeping the morgue cool during the baking hot Central European summers. Had the building been

¹⁵⁴ Day 10, January 26, pages 150 et seq.

¹⁵⁵ Day 11, January 28, page 21.

¹⁵⁶ “*Ausbau des alten Krematorium. Luftschutzbunker für SS Revier mit einem Operationsraum.*”

¹⁵⁷ Day 8, January 24, page 132.

¹⁵⁸ Jean-Claude Pressac, *Auschwitz, Technique and Operation of the Gas Chambers*, page 46; for more photos, see page 48. On page 61 he offers photos of a gastight door with inspection windows, as used at one of the delousing chambers of the BW5a and BW5b buildings. There have never been any allegations that these buildings or “Canada” were used for homicidal gassings.

¹⁵¹ The document was printed in an East German propaganda book published by the Komitee der antifaschistischen Widerstandskämpfer in der DDR, *SS im Einsatz* (Kongress Verlag, East Berlin, 1957) on page 269. The committee sent a photocopy of it to the Auschwitz archives on May 15, 1981.

¹⁵² Day 11, January 28, page 188.

¹⁵³ Day 11, January 28, page 92.

designed from the start as a human slaughterhouse, it would certainly not have been designed on several levels, with the resultant handling problems. Slaughterhouses are normally built on one level.¹⁵⁹

We saw in Professor Van Pelt's slide-show the pouring of the concrete roof slab of the subterranean *Leichenkeller 2*; the roof was undoubtedly much the same as *Leichenkeller 1* with a six inch reinforced steel mesh). This undoubtedly made the new building one of the most robust on the site: certainly more robust and fireproof in an air raid than the flimsy wooden horse-barracks in which the prisoners and slave labour were housed.

The captured *Bauleitung* records of Auschwitz housed in Moscow confirm that from mid 1942 onwards they began to consider the construction at the camp of shelters, splinter trenches, and other Air Raid Precaution (ARP) measures.¹⁶⁰

To be fair to the witness, when these Moscow catalogue entries were put to Van Pelt he seemed unfamiliar with them. After the air raids on Cologne, Rostock, Lübeck etc., in March/April 1942, the German High Command recognised the likelihood that air raids would spread across Poland and central Europe, and they ordered the construction of extended ARP facilities throughout the occupied eastern territories insofar as they were within bomber range. Existing basements were to be converted into shelters, and anti-gas-equipment provided, and personnel trained in anti-gas warfare, as gas attack was widely expected.¹⁶¹ I put one such document to Prof. Longerich, and on Day 10 I said (at page 95): “[. . .] the Defence rely on a number of photographs of doors found scattered around the compound of Auschwitz and Birkenau, and we will show that these are standard German air raid shelter doors complete with peep holes.” (Photographs of such air raid shelter doors will be found in the bundle that I provided).*

These precautions were not in vain. In May 1943, there was an air raid on the nearby Auschwitz Buna plant. This is reflected in Auschwitz documents. At least one of the American aerial photographs of Birkenau that I produced to the Court and to the witness Van Pelt shows a stick of heavy bombs just released by the plane that took the photograph. By the end of the war there was also an anti-aircraft unit assigned to defending the region, as shown by the reference to Judge Stiglich's membership of the Flak unit that manned it.¹⁶²

Your Lordship will also recall that during his slide show the Dutch historian Van Pelt showed the Court a series of most

¹⁵⁹ Day 9, January 25, page 96.

¹⁶⁰ USHMM microfilms, reel 19, 24, 25, 47, 48, 70, from the Fond No. 502 of the Auschwitz *Bauleitung*, in Moscow archives. File 400 (reel 47) includes “correspondence with firm Geynemann & Co regarding supply of construction materials for construction of bomb shelter, 1942, five pp.” Folder 401 (ibid.) includes “correspondence with Silesian construction inspectorate and other higher institutions regarding provision of bomb and gas shelters (including blueprints), 1940–1944. 21 pp.” The lit was put to Van Pelt on Day 8, January 24, at pages 87 and 100.

¹⁶¹ LS [Luftschutz] Besprechung am 6.8.1942: Richtlinien für den Aufbau des Luftschutzes im Bereich des M.i.G. (NA film T 501, roll 216, frames 1444–7). This emphasises in para. ii the “strength of cellar roofs against rubble” (*Trümmerfestigkeit der Kellerdecken*.)

¹⁶² Extremists: appendix to Funke report, entry under *Stiglich*.

* See *Judgment*, FPP “print” version, <http://www.focal.org/lipstadt/judgment.pdf>, at page 124 for such gastight-door photos.

interesting computer-generated “walk-through” reconstructions of the interiors of Kremas IV and V. Your Lordship memorised the dimensions of the shutters designed to be fitted on the openings inside: 30cms by 40cms. There were also said to be steps leading up to the openings. The wartime German civil defence journal *Luftschutz* (Air Raid Protection) shows precisely this arrangement of gas-tight shutters and steps as a standard air raid shelter feature, designed for the event of gas warfare.

I put this fact to the witness Van Pelt: “Would you agree that those shutters that have been found in the Auschwitz camp are in fact standard German air raid shutters supplied by manufacturers to a standard design?”¹⁶³

The eye-witnesses stated that thousands of victims were gassed in these rooms, and their bodies burned in large pits to the building's rear. But the contemporary air photographs reveal no such pits, nor are they evident today. Confronted with what Your Lordship has yourself referred to as the lack of any documentary evidence for the gassings, Van Pelt could only offer the suggestion that the use of gas chambers at Auschwitz and Birkenau was a “moral certainty”. Three times in his report he fell back upon that semi-religious phrase.¹⁶⁴ The available proofs certainly do not support the belief that the gassings there occurred on a mass scale.

The “moral certainty” of Auschwitz

I will not dwell long on the uniformly poor evidentiary basis on the other extermination camps, known to the Court as the OPERATION REINHARD camps – Belzec, Sobibor and Treblinka. Here we do not even have the “moral certainty” which comforted Professor Van Pelt. I can challenge here only the scale and the systematic nature of the alleged gassing of more than one million people in these centres. The Defendants' own witness, Professor Browning, admits that the documentation for these camps is “scant”. I place great weight on this admission. Here, the expert cannot even find one contemporaneous document. He relies entirely upon the eye-witnesses – men of the ilk of Kurt Gerstein, Jan Karski, Adolf Eichmann and Rudolf Höss. The fictional elements – the “130 foot mountains of clothes” which Browning in his first draft skipped over,¹⁶⁵ the “electrocution chambers”, the “steam chambers”¹⁶⁶, the deliberately inflated death tolls which would otherwise shriek their warnings to critical researchers – are ignored or suppressed, in order to maintain appearances.

There is an impressive level of documentation which demonstrates the liquidation by shooting of hundreds of thousands of Jews, probably over a million, by the Einsatzgruppen; but there is nothing of equivalent value for the Reinhard camps. One word, *Why?*, justifies a revisionist's scepticism.

The Walter Föhl letter produced a similar response. Found in his Berlin Document Center personnel file, this man, in charge of a resettlement office at Cracow, is seen writing on June 21,

¹⁶³ Day 11, January 28, page 71.

¹⁶⁴ Three times: in his Introduction, in chapter 5 and in chapter 7.

¹⁶⁵ Day 17, February 8, at pages 167 et seq.

¹⁶⁶ See Nuremberg Document ND: 3311–PS. The Treblinka “steam chambers” lie was repeated by the Anti-Defamation League in *The Record, The Holocaust in History* 1933–45 (New York, 1985) at page 10. Later, the alleged mode of killing was changed to “diesel exhaust fumes”: Düsseldorf Court verdict, K I Ks 2/64.

1942 to his SS comrades,

“Every day, trains are arriving with over 1000 Jews each from throughout Europe.

“We provide first aid here give them more or less provisional accommodation, and usually deport them further towards the White Sea to the White Ruthenian marshlands, where they all – if they survive (and the Jews from Kurfürstendamm or Vienna or Pressburg certainly won’t) – will be gathered by the end of the war, but not without having first built a few roads. (But we’re not supposed to talk about it.)”¹⁶⁷

The expert witnesses, unable otherwise to explain this document, dismissed it as obvious “camouflage” talk.¹⁶⁸ But why should Föhl use camouflage writing to his “SS comrades”? As I pointed out to Dr. Longerich, Reinhard Heydrich himself had spoken of the White Sea option on February 4, 1942 in Prague too.¹⁶⁹

It was also noticeable elsewhere that none of the experts was willing to give documents their natural meanings when they did not accord with their views. The Ahnert document, recording a meeting at the RSHA in Berlin, under Eichmann, on August 28, 1942, was one example. There was talk of the need for the deportees to be provided with blankets, shoes, eating utensils before dispatch to Auschwitz. Eichmann requested the purchases of barracks for a Jewish deportee camp to be erected in *Russia*, with three to five such barracks being loaded aboard every transport train. In each case, because the document did not accord with their “exterminationist” views, the expert had failed to pursue it. Dr. Longerich who included it as appendix 94 in *Die Ermordung der europäischen Juden*, had forgotten it even existed when I cross-examined him about it.¹⁷⁰

The allegations of racism and anti-Semitism

The Defendants have resorted to the allegations that I am anti-Semitic and racist. Mr. Rampton’s highly paid experts have found one 1963 diary entry – four lines written *thirty-seven years ago*, about a visit to my lawyer Mr. Michael Rubenstein, to discuss a satirical magazine article, after which I commented. “Thick skinned these Jews are!”¹⁷¹

This is all that they could find from the millions of words available to them? When I remarked, on March 2, upon the obvious paradox that an alleged anti-Semite would have retained Michael Rubenstein as his solicitor and respected adviser for

¹⁶⁷ Götz Aly: “Endlösung”. *Völkerverschiebung und der Mord an den europäischen Juden* (Frankfurt a. M. 1995). See too the discussion of this document in Isaiah Trunk, *Judenrat: The Jewish Councils in Eastern Europe under Nazi Occupation*, University of Nebraska press, 1972 and 1996, at pages 260–1: This quotes the SD Report No. 9, dated June 26, 1942, about concentrating Jews in White Russia pending the Final Solution, which is clearly of significance (Nuremberg document ND: NO-5156).

¹⁶⁸ Day 26, February 28, pages 33 et seq.

¹⁶⁹ Day 25, February 24, page 174.

¹⁷⁰ Day 24, February 23, page 75; day 25, February 24, page 199; day 26, February 28, pages 43 et seq.

¹⁷¹ David Irving, Diary entry, 10 June 1963: K4, Tab. 10, page 1.

over twenty years, Mr. Rampton’s comment, which Your Lordship may remember, was: “Many of my best friends are Jews too, Mr. Irving.”¹⁷² This stock line does not disguise the paucity of his evidence against me.

In further support of this contention they have taken isolated remarks made in lectures and speeches – of which they have transcribed around half a million words. I trust that your Lordship will in each case consider both the context in which the remarks are made, and also the broader surrounding countryside, if I may put it like that. For thirty years, as I set out earlier, I have found myself subjected to vicious attack by bodies, acting as they freely admit as Jews. For thirty years I endeavoured to turn the other cheek, and I hope I succeeded.

A joke about Simon Wiesenthal

Mr. Rampton drew attention to the fun I poked at Simon Wiesenthal, a joke made explicitly about his other-than-good looks.¹⁷³ He called that remark “anti-Semitic”. It was not, it was a joke about his looks, of the same genre that Mr. Rampton made on Day 28 when he inquired rhetorically of Professor Funke whether a certain outer-fringe Swedish revisionist seen, in one video shown to the Court, with long blonde hair was a man or a woman.¹⁷⁴

In view of the manner in which the two Simon Wiesenthal Centres have been abusing my name in their fund raising leaflets, and endeavouring to destroy my own livelihood, the Court might think that my fun-making, while tasteless, was not undeserved, possibly even rather *reserved*. It was not anti-Semitic, and Mr. Wiesenthal is no more immune from criticism either as a person, or as a public figure, than I am. Searching hopefully for evidence of “anti-Semitism” in me, the investigators of the Board of Deputies in 1992 came up empty-handed in their secret report to be planted on the Canadian government: they confirmed that I had dealings with Jews in my professional life, and added that I “use this as an excuse” to say that I am not an anti-Semite.

¹⁷² Day 29, May 2, page 76.

¹⁷³ Day 14, page 162. May 29, 1992. RAMPTON TO IRVING: “You say: ‘I had a lot of trouble with Simon Wiesenthal yesterday, and I remember that three or four years ago I had the unnerving experience sitting in my rental car after I had been speaking in London, not London England but London Ontario, which is about 200 miles west of Toronto and I had driven back to Toronto that night, the speaking was very exhausting and I got back in Toronto at half past 2.00 on this November morning and as I drove up Yonge street in Toronto, which is the main artery of Toronto, I pulled up at the traffic lights and glaring at me from the car next to me in the traffic lights was Simon Wiesenthal himself, his face hideously contorted by rage.’ So, evidently, Mr. Irving, some things make him cross too. ‘I got a real shock because he looked in to me through my driver’s window and there was Mr. Wiesenthal, this hideous, leering, evil face glaring at me, then I realised it wasn’t Simon Wiesenthal, it was a Halloween mask’ [Applause]. ‘Now, those of who you have seen Mr. Wiesenthal will know what I’m talking about. Mrs. Wiesenthal, who has seen Mr. Wiesenthal many times, of course, and she says to him at Halloween, ‘Simon, please keep the mask on, you look so much nicer with it on’. That is just pure racist abuse, is it not, Mr. Irving?”

¹⁷⁴ Day 27, February 29, at page 75. FUNKE: “This is now Ditlieb Felderer, a Swedish activist [. . .]” MR. RAMPTON: “Is it a man or a woman — oh, it is a man.”

These people are hard to please: “He is far too clever an opponent,” the Board writes, “to openly admit to being an anti-Semite.” “We endorse all condemnation of anti-Semitism,” they quote me as writing in my newsletter issued on January 31, 1982. All of these things, including this secret 1992 Intelligence report filed by the Board of Deputies, were disclosed to these Defendants in my Discovery.

The Defence quoted a passage from a speech delivered, they said, in May 1992. In fact, as my diary confirms, it was delivered in May 1993, by which time my family and I had been subjected to a catalogue of insults by the leaders of these various bodies. If a writer’s books are banned and burnt, his bookshops smashed, his hands manacled, his person assaulted, his printers burned down, his access to the world’s archives denied, his family’s livelihood destroyed, his phone lines jammed with obscene and threatening phone calls and death threats, his house beset by violent and angry mobs, the walls and posts around his address plastered with stickers inciting the public to violence against him, and a wreath sent to him with a foul and taunting message upon the death of his oldest daughter, – then it ill behoves people to offer cheap criticism if the writer finally stops turning the other cheek and rounds upon his tormentors.

I SINGLE OUT IN THIS RESPECT THE EXECUTIVE DIRECTOR OF the Board of Deputies, Mr. Michael Whine, whose organisation staged the demonstrations outside my home of such a violent and ugly nature that police reinforcements had to be called.

Whine had caused defamatory documents about me to be placed in the files of foreign governments with the intention that my free access to those countries should be impeded. He had caused the surroundings of my home to be stickered with labels bearing inflammatory slogans inciting violence against me. Some of these offensive items have been before the Court. Whine had issued a Press release in January 1993, no doubt one of many, in which he accused me of attending “Nazi Training Camps”. My only response, as Your Lordship has seen, apart from a failed and very costly attempt to sue his Board of Deputies in libel, during which they did not plead justification, but merely that I was out of time, was to make fun of Whine’s name. That may have been tasteless, but it was not anti-Semitism, and it was certainly justified under the circumstances.

The references that I have made to what is now formally called the instrumentalisation of the Holocaust have also been adduced as evidence of anti-Semitism. Are non-Jews disbarred from making a criticism that is being made increasingly vocally by others like Professor Peter Novick?¹⁷⁵ Or by Leon Wieseltier, literary editor of the *New Republic*? He wrote there on May 3, 1993, at page 20:

“It’s a sad fact,’ said the principal philanthropist of the grotesque Simon Wiesenthal Center in Los Angeles, ‘that Israel and Jewish education and all the other familiar buzzwords no longer seem to rally Jews behind the community. The Holocaust, though, works every time.’ His candour was refreshing, even if it was obscene. On the subject of the extermination of the Jews of Europe, the Jews of

America are altogether too noisy.”

I would also draw your Lordship’s attention to the article by Norman Finkelstein in *The London Review of Books*, published as recently as January 6, whose title gives the whole tenor of the piece: “How the Arab–Israeli War of 1967 gave birth to a memorial industry.” Finkelstein makes in this piece the sarcastic comment: “Every questioning of the uniqueness of the Holocaust is taken by American Jews to be an example of Holocaust denial.”¹⁷⁶ I could produce a sheaf of such quotations; they are all equally near the knuckle, equally true, and no more anti-Semitic than my own remarks on the matter.

Obsessions about “Race”

As for the allegation that I am racist, I have produced to the Court enough evidence that I am less reluctant to hire Coloured personal staff than, for example, certain legal teams evidently are. I hire personal staff on a form that has always stated my policy that we are an equal opportunity employer, – “We do not and will not discriminate on the basis of race, religion, national origin, sex, age, handicap, marital status.”

I shall not comment at length on these evil allegations and slurs, which lend fire and fury to the original libel complained of. I submit that the word “racism”, in the ears of that Man on the Clapham Omnibus, is about Stephen Lawrence and cone-heads and burning KKK crosses. It conjures up images of murder, thuggery, violence, and foul-mouthed graffiti. In deliberating on the conduct of the case and on the appropriate scale of damages Your Lordship will however bear them in mind.

I voluntarily provided all my private diaries to the defendants after securing the proper assurances. Those diaries total some twenty million words. Mr. Rampton produced from them one nineteen-word ditty, attached to another quite harmless one about the “messica dressica” of my infant daughter Jessica. To find in all those diaries and telephone conversations written since 1959, just one nineteen-word ditty that Mr. Rampton could trot out for the media does not suggest that I am as obsessed with race and racism as he, and for that matter the newspapers that report these things, are.

Your Lordship will recall that, on what I would call a pretext, Mr. Rampton formally handed to you his own opening statement, containing this allegation, at midday on the first day of this trial, well before I had concluded my opening statement, in order, as he admitted, that his words should therefore come into the public domain. His intent was to ensure that from the very first moment his remarks, both fair and foul, were given the maximum worldwide media coverage; his speech was released prematurely to the media for that precise and prejudicial purpose. I repeat: this multi-million dollar defence team found *one* nineteen-word nonsense poem, recorded in my diary with other Lear- or Belloc-type rhythmic verses as having been recited to my own nine-month infant who has, I am glad to say grown into a delightful and open minded six year old, bearing none of the traces of the “poison” that Mr. Rampton recklessly suggested that I had fed to her. It is fortunate I did not sing to her *Three Blind Mice*, where the farmer’s wife cuts off their tails with a carving knife.

¹⁷⁵ Peter Novick, *The Holocaust in American Life* (Houghton Mifflin, 1999).

¹⁷⁶ Norman Finkelstein, *London Review of Books*, January 6, 2000: “How the Arab–Israeli War of 1967 gave birth to a memorial industry.”

Similarly, from my hundreds of lectures and talks, these very proper spaniels have sniffed out a few lines of music-hall wit of the type that a Dave Allen might indulge in, with Mr. Trevor Macdonald as the butt. That, in Mr. Rampton's words, is "racism".

One wonders which well-shielded part of the modern world is inhabited by learned Counsel. Can anybody go and live there?

The speeches and lectures

My Lord, the Defendants have also fished into my lectures and writings and books, all of which have been provided to them – literally millions of words – and they have put into evidence a minute fraction of those words, comparable to the one-millionth part of the diaries which the ditty represented.

I am not going to defend or justify those utterances *seriatim*.

In general I would invite your Lordship to pick out one such utterance as a sample; to reach then for the transcript of the entire speech – to take note of the rest of its content, its clear references to the very real sufferings of the Jews, the liquidations, the Bruns Report and the rest; and then ask, Was the remark true, was it explicable, was it rhetorically justified as part of the skilled lecturer's armoury.

Your Lordship has been told of my remark that more women had died on Kennedy's back seat than in that gas chamber at Auschwitz – the one shown to the tourists. It is tasteless but, quite literally, true. It is, as I have now shown in this court, even true if the main "gas chamber" at Birkenau is brought into the equation, the notorious *Krema II* "factory of death", because the eye-witnesses lied about that one too. The Poles have admitted that the Auschwitz building and its chimney are a post-1948 fake. My colourful language was a rhetorical way of bringing that extraordinary revelation home to audiences.

Extremist organisations and people

My files confirm that I occasionally addressed audiences of the Association for Free Journalism (GfP), the National Democratic Party (NPD), and the German People's Union (DVU). As documents Nos. 1716, 1717, 1721, and 1723, I disclosed to the Defendants English translations of the policy leaflets and manifestos of these bodies, which in my submission do not show them to be extreme in any way.¹⁷⁷ These were furthermore bodies which were accepted at that time under Germany's very strict laws as being legal and constitutional.

The Court is more concerned, I believe, with individual personages. I have not the slightest doubt that the Court will find that I did not have any meaningful contact with the ugly ragbag of neo-Nazi extremists mentioned by Professor Hajo Funke – people with whom, to make the point quite clearly, the Defendants, their experts, and their legal team seem more familiar than I. Most of the names were completely unknown to me, and the defence have sought in vain for them in my diaries and papers, to which, I emphasise yet again, I gave them unlimited and privileged access. This has not stopped them from bringing them forward, and mentioning these alleged links in open Court, in an attempt to smear me still further – with an eye particularly

to the German media¹⁷⁸ – and I urge that this, their conduct of the case, be held against them. Characteristically of the weakness of their case Funke listed one entry in a diary where I noted a road journey with a "Thomas", whose second name I never learned; Funke entered the name "Dienel" with a question mark behind it. So far as I know, I have never met a Dienel, but it illustrates the kind of evidence that the defence were hoping to rely upon. As for Michael Kühnen – the documentary evidence before both Funke when he wrote his report, and before this Court, is that I explicitly said that I would not attend any function at which he was even present; I never did and I never met him.

By way of evidence, the Court has been shown a number of videos.

Shorn of their commercial packaging, they do not amount to very much. In view of the weight attached to it by learned Counsel and his witness Professor Funke, I have re-examined the raw video of the Halle function of November 9, 1991 at which I briefly spoke, and I have timed and listed the scenes it shows. Your Lordship may wish at some time to have the video to check

¹⁷⁸ *Frankfurter Allgemeine Zeitung*, March 3, 2000. "Er [Irving] befand sich in einschlägiger Umgebung, nicht einmal, sondern viele Male: Michael Kühnen, Gottfried Küssel, Ewald Althans, Ernst Zündel, Christian und Ursula Worch, um einige der Jungen, Otto-Ernst Remer (ein Held dieser Leute, weil er den Aufstand vom 20. Juli 1944 niedergeschlagen hat), Wilhelm Steglich [sic], . . ."

¹⁷⁹ Video No. 226. At 17:00:21 David Irving arrives at hotel restaurant with Mrs. Worch and David Leigh of *The Observer*. 17:01:00 cut to outside hotel – 17:12:12 man identified by Defendants as "Dienel" first appears on film – 17:12:34 Martin Bell visible with "Dienel" – 17:14:40 Mr. Irving visible, still at hotel, speaking to reporter – 17:17:52 man identified by Defendants as "Gottfried Küssel" first seen, as procession straggles off. Mr. Irving is visible at no time during the procession. – 18:00:15 procession still straggles on, "Küssel" with them – 18:00:50 Leigh interviews "Küssel" during procession – 18:11:00 truck is set up as platform – 18:14:26 Mr. Irving and two reporters are seen watching from fringe of square on which truck is ready – 18:15:14 "Dienel" and Worch visible on truck platform – 18:16:00 Mr. Irving arrives, hands in pockets, and mounts platform; "Dienel" is seen to get off to left, no contact whatever between him and Mr. Irving – 18:16:30 Worch briefly introduces Mr. Irving: "Ich übergebe das Wort an den englischen Historiker David Irving." – 18:16:39 Mr. Irving's begins brief speech – 18:17:22 picture interrupted, cut to close up – 18:17:57 picture interrupted, cut to rear view, camera then moves round to his left – 18:18:59 offscreen chanting of "Siegheil" starts, Mr. Irving (holding microphone still in right hand) shakes his head at them, gesticulates with his left hand to people to stop chanting, and interrupts his speech to say: "You must not always be thinking of the Past. You must not keep coming out with the slogans of the Past. We are thinking of the *Future* [voice emphasised] of Germany, we are thinking of the *Future* of the German people. As an Englishman, I have to say . . . [etc]" ["Man soll nicht an die Vergangenheit immer denken, man soll auch nicht immer mit den Parolen der Vergangenheit kommen. Wir denken an die *Zukunft* Deutschlands, wir denken an die *Zukunft* des deutschen Volkes. Ich als Engländer muss sagen. . ."] – 18:19:35 cut – 18:19:50 cut – 18:20:01 Mr. Irving ends speech with words, "Onward Germany." ["Deutschland voran"]; – 18:20:07 immediately, Mr. Irving is seen to hand the microphone wordlessly to Worch and leave the platform without further contact with anybody.

¹⁷⁷ They will be found most readily as pages 11–6 of the bundle headed "Documents on Mr. Irving's 1991 arrest".

that these timings are correct, or the Defendants' solicitors may wish to submit any corrections they feel are needed.¹⁷⁹

The Halle timeline

The raw details are: when the camera's meter shows 17:00:21 I am first seen, arriving at an unnamed hotel restaurant (in Halle) accompanied by Mrs. Worch and David Leigh of *The Observer*; at 17:14:40 I am again glimpsed, still at the hotel, speaking to a reporter. The cameraman and David Leigh then go off to film the rival processions, during which I am no time seen on film (in fact I remained, lunching, at the hotel). At 18:11:00 a truck is seen being rigged as an open-air platform and at 18:14:26 I am seen with two reporters watching from the edge of the square. At 18:16:00 I walk over to the platform, hands in pockets, and mount it. The man whom Professor Funke tells us is "Dienel" is seen to get off to the left, and there is no contact whatever between him and me. Mr. Worch briefly introduces me, I begin speaking at 18:16:39 and the filmed portion of my speech ends three and a half minutes later. When the offscreen chanting of slogans begins at 18:18:59 I am clearly seen to interrupt my speech, shake my head at them, and gesticulate with my left hand to them to stop, and I am clearly heard to say:

"You must not always be thinking of the Past. You must not keep coming out with the slogans of the Past. We are thinking of the *future* [voice emphasised] of Germany, we are thinking of the *future* of the German people. As an Englishman, I have to say . . . [etc]"

Six seconds after ending my brief speech I am seen to leave the platform without further contact with anybody. My diary notes that I at once left by car and drove back to the Ruhr, in western Germany.

Heavily edited, for example to remove my rebuke to the slogan-shouting people, whom I took and take to have been paid *agents provocateurs*, this sequence was shown on November 28 and 29, 1991 to British TV audiences in a *This Week* programme entitled *Hitler's Children, the new Nazis* directed by the German, Michael Schmidt – Professor Funke's star witness – and with none other than Gerald Gable, of *Searchlight*, listed as a "consultant," and in *Despatches*, on the other channel. This indicates whose hands were behind the editing. Again heavily edited, the film has been shown around the world against me. This was the thrice-edited film to which I drew your Lord's attention, in suggesting that it was evidence of dubious admissibility.

May I again remind Your Lordship of my basic principle on lecturing. Unlike the Defendants, who have proudly stated that they refuse to debate with opponents, I have expressed a readiness to address all and any who are willing to listen. Your Lordship will remember my letter of June 24, 1988, to my editor at William Morrow Inc., Connie Roosevelt, in which I wrote:

"I have been invited to speak as a guest speaker at a right wing function in Los Angeles next February. They have offered a substantial fee and all my expenses and until now I have adopted a policy of never refusing an invitation if the organisers meet my terms, namely free speech and fat fee.

On this occasion I intend to give the audience a piece of my mind about some of their more lunatic views."¹⁸⁰

I may secondly point out that were it not for the clandestine activities of the violent and extremist bodies dedicated to destroying my right to free speech and the rights of all audiences in the United States and elsewhere – at Berkeley, at Dublin, at Pretoria, or wherever – to hear my opinions; and equally dedicated to intimidating my publishers around the world and smashing bookstore windows; – were it not for their hate-campaign, I would have been enabled to continue in the normal manner with my exemplary professional career. It rings hollow that the same shabby bodies who have generated the hatred against me, now point their crooked fingers at me and abuse me, using the very considerable privileges afforded to them by this Court, for continuing to make my voice heard wherever I can; and that when I use words to describe them in detail which they well deserve, they wring their hands and lament about "extremism."

I have pointed out that so far as Germany is concerned, none of the German bodies who invited me to speak was illegal or banned. In fact when first invited to address the German People's Union, I wrote to, and telephoned, the German embassy, as the documents in my Discovery show, and asked them specifically whether this was a legal and constitutional body. The embassy confirmed in writing on July 25, 1984 that it was.¹⁸¹ The "extremism" was in the eye of the beholder.

THE FURTHER TO THE LEFT THE BEHOLDER SQUINTED FROM, the more distant these bodies may have seemed from him.

We heard a lot from Professor Hajo Funke, sociologist of the Free University in Berlin. The university may well have become a hotbed of conservative and liberal views since I was last familiar with it and spoke there, but I doubt it. His published sources are all tainted works of the "anti-fascist" genre with which the Court may well be familiar. He readily and uncritically adopted their untruths as his own; thus although we saw with our own eyes in the video of the Munich function on April 21, 1991 that the young people paraded with asses' heads and placards reading, "ASS THAT I AM, I BELIEVE EVERYTHING I'M TOLD" (I have double checked that wording), Funke tried to tell this Court that the wording was: "I STILL BELIEVE IN THE HOLOCAUST, THE ASS THAT I AM", which is something very different.¹⁸²

I submit that Professor Hajo Funke's credentials as a neutral "expert" deserved more penetrating scrutiny than the Court was willing to allow. This expert's extreme left-wing sentiments

¹⁸¹ German embassy, J Wilmans, consul general, to David Irving, July 25, 1984 (Claimant's Discovery, No 1013). See page 17 of the bundle headed "Documents on Mr. Irving's 1991 arrest". – My telephone log shows that on December 14, 1981 at 10:05 a.m. I phoned the German embassy to ask: "Is DVU on Index of Rechtsradikal [*right-wing radical*] parties? Ext. 751".

¹⁸² Funke read out the wording (*Ich Esel glaube noch immer alles was man mir so erzählt*) correctly when shown the video, Day 27, February 29, page 64. In his report on page 74, at para. 5.3.40 he alleged, relying on a tainted source, that the wording was "I still believe in the Holocaust, the ass that I am." He admitted his mistake under cross-examination on Day 28, March 1, at page 112.

¹⁸⁰ Irving to C Roosevelt, Jun 24, 1988; read out at Day 20, page 166.

are visible from his books and activities. Germany's political journals, both left and right, are full of his activism. He participates in extreme left-wing political functions. He was advertised as the main speaker at a function of the Berlin Free University student association (Asta) on the subject of "Asylum Seekers and Deportation: Racist Politics in Society." Ten members of the Christian Democrat Student Ring protested that the Asta (Allgemeine Studentenausschuß, a student body, like the British NUS) had no right to organise such extremist political functions, and the courts fined the Asta five thousand Deutschmarks for organising the function. On another occasion, encouraged by Funke, left wing extremists armed with police whistles and banners physically attacked the speaker Professor Bernd Rabehl (a former colleague of the notorious left-winger Rudi Dutschke) at the Otto Suhr Institute of the university, stole his papers and denounced him as a right-winger.

Funke, billed to appear in a public university debate with Rabehl in May last year, vilified him in public and withdrew from the debate saying he refused to provide him with a forum for his "propaganda". It all sounds very familiar. In short Funke, relied on by the Defendants in this action, is not the harmless, neutral expert on the extreme right-wing that he would have had the Court believe, but an active left wing agitator, following his own agenda of political extremism. He is fêted by the Marxist extreme left in consequence. I submit that his narrow-minded and politically motivated views on what is right-wing extremism and what is not are of little or no value to the Court.

As for his allegation here in court that I "should have known" that various organisations were going to be banned in years ahead: it is difficult for an Englishman, coming from a country with deeper democratic traditions than Professor Funke's, to implant himself into the brain, or mind-set, of the authoritarian German mould, where book-burning is now once again *de rigueur*, where a German academic like Funke does not bat an eyelid upon hearing that a teacher is still serving a seven year jail sentence imposed for *chairing* a lecture at which I spoke, where the two District Court judges who acquitted that teacher were reprimanded, and finally retired in disgrace, by order of the minister of justice, and where recently governments have begun routinely banning fringe opposition parties and circumscribing even their *legal* activities. Germany now has several hundred political prisoners in her jails.

The security authorities in Germany, so readily quoted by Professor Funke, are nothing more than the political arm of each provincial or federal minister of the interior. They have little concern with legality. As the *Frankfurter Allgemeine Zeitung* reported on September 15, 1995, Dr. Ernst Uhrlau, president of the Hamburg branch of the Office for the Protection of the Constitution (BfV) said: "The persistent steps taken by the state authorities against right wing extremists have largely paralysed their legal possibilities of action."¹⁸³ The paralysing of the "legal possibilities of action" of opposition parties can hardly be considered a matter for pride in any normal democratic government. None of these banned parties has anything to do with violence.

¹⁸³ Der Hamburger Verfassungsschutzpräsident Uhrlau sagte: »Das konsequente Vorgehen der staatlichen Behörden gegen die Rechtsextremisten hat deren legale Aktionsmöglichkeiten weitgehend lahmgelegt.« (*Frankfurter Allgemeine Zeitung*, 15.9.1995, page 1).

McCarthyism returns, here and now

My general response to this attempt at "guilt by association" is to compare it with the worst excesses of the inquisitions conducted by Senator Joseph McCarthy. In Britain the courts have always viewed it as repugnant – most recently Mr. Justice Morland in another Court here in this building. Hollywood finest scriptwriters, many of them Jewish, had their careers *vernichtet* by the reckless allegation that they had associated with known communists. Now come these Defendants, levelling the mirror-image of these same charges at my door. McCarthyism was rightly exposed for what it was in more recent, and more enlightened, years. These Defendants, for their own purposes, are seeking to turn the clock back.

As far as the United States are concerned apart from the Institute of Historical Review (IHR), which I shall deal with separately, the one organisation identified by learned Counsel for the defence is the National Alliance. First, let me point out that no doubt with good reason the Defendants have decided not to call their expert on Political Extremism in the United States, Professor Levin, and they have withdrawn his expert report – Mr. Rampton used the word "junked" or "dumped," I believe. Had they not, it would have been "debunked" – by me.

We have therefore no general expert evidence as to the nature of the National Alliance, and the Court is probably as much in the dark about this group as anybody else. The defence invites the Court to study the leaflets put about by that body at one meeting, but can offer to the Court not the slightest evidence that I was aware of such leaflets – or for that matter, if they are once again falling back on "negligence," that I *ought* to have been. If, as I submit, the meetings were organised by individual friends of mine, acting outside whatever their capacity, if any, within the National Alliance may have been, there is no reason why I should have read such leaflets if indeed they were on offer.

The Institute of Historical Review

As for the IHR: I have little to add to what I stated in my various written replies. It is clearly unsatisfactory, though not surprising, that establishment scholars feel the need to dismiss any rival body of scholars as "extremist", merely on the basis that these others propagate a different version of history from their own "consensus" version. The officials of the IHR nearly all hold academic qualifications. True, they are not all trained historians, but then neither are some of the most famous of historians in both ancient and contemporary times. It is clear from correspondence before the court that I recognised shortcomings in the old IHR, and was keen to introduce them to new speakers including main line scholars and historians like John Toland (who did in fact speak there), Professor Ernst Nolte, and Michael Beschloss.

I am not, and never have been, an official of the IHR; at most, one of many friendly advisers. As for speaking engagements, my association with the IHR has been the same as my association was with, for instance, the Cambridge University Fabian Society, or the Trinity College Dublin Lit. & Deb., or any other body of enlightened people keen to hear alternative views. Professor Evans, in his odious attempts to smear and defile my name, which I hope will long haunt him in the common rooms of Cambridge, called me a frequent speaker at the IHR. And

may I say, *So what*: none of my lectures had a Holocaust-denial, or anti-Semitic, or extremist theme. I spoke on Churchill, on Pearl Harbor, on Rommel, on the Goebbels diaries, on my Eichmann-papers find, and on general problems of writing history. The Court has learned that I have in fact addressed functions of the IHR only five times in seventeen years, one lecture each time. No amount of squirming by this expert witness could increase that figure. It is true that I socialised before or after the event with the IHR officials and their wives. *So what*. It is true that I use their warehousing facilities. *So what*. It is true that the IHR (along with thousands of other retail outlets) sell my books. *So what*.

It is also true that I introduced them to subjects which some members of the audience found deeply uncomfortable, for instance the confessions of Adolf Eichmann, the harrowing Bruns Report, and the *Kristallnacht*. I would willingly read out the relevant extracts of my lectures to the IHR, but my Lord, through the courtesy and industry of the Defendants solicitors, which I have had cause already to praise, Your Lordship is already funded with extensive transcripts of those talks, and I would ask that Your Lordship read them with this paragraph in mind. I am accused of telling audiences what they want to hear; that may partially be true, but by Jove, having done so I then used the goodwill generated like that to tell them a lot of things they very much did *not* want to hear!

The Defendants would willingly overlook this aspect of my association with the IHR. I trust that the Court will not.

The National Alliance

As for the National Alliance, an organisation of which the defence makes much. As an Englishman I am completely unfamiliar with the nature of the National Alliance, its logo, and its name. It may be that the name means more to the Defendants and to those who are financing their efforts than it does to me. It certainly meant nothing to the English members of the public gallery on the days that it was mentioned here. It may be that Your Lordship was, even before the trial began, thoroughly familiar with the National Alliance and its officials and policies. But I doubt it. Even now I suspect it does not count for more than a relatively small row of beans.

I have had no meaningful contacts with the organisation as such. One or at most two of its individual members, who were already on my mailing list, volunteered, like scores of other Americans, to organised lectures for me. One was Erich Gliebe, who has always organised my lectures in Cleveland, Ohio; on the evidence of his notepaper from the year 1990 he is also a National Alliance member. I ask the Court to accept that, when asked about it ten years later, I had long forgotten receiving that one letter from him with its heading and logo. Before each lecture date, I mailed an invitation letter to *my* entire mailing list of friends in each state. The audience was therefore largely of my own "people," if I can put it like that. That is why Mr. Breeding rather superfluously welcomes the strangers in his opening remarks on the Florida videotape as seen. Had he told me he would also claim to do so on behalf of his organisation, I would have told him not to. It was my function, and the audience were largely my guests, not his.

The photographs taken at this meeting show, as the Defendants' own agents have warranted, no formal National Alliance presence (flags, armbands, or whatever). The witness statement

of Ms Gutman has confirmed this. Learned counsel for the Defendants has drawn attention to *one* eighteen-inch wide pennant displayed at the function, on a side wall, with what they state is the National Alliance logo on it, visible on a video film. Its logo appears to be based on the CND design.

I did not notice it at the time, nor would I have had the faintest idea what it was if I did. Evidently Mr. Gliebe told me that his pals at the National Alliance had had a hand in organising my successful Cleveland function; and that is why I noted in my diary, with a hint of surprise, that it "turns out" that the National Alliance had organised at the other meeting too. The Court may agree that this phrase alone is evidence that their involvement was (a) not manifest, and (b) not known to me before; and given that the audience was largely of my own making it does not seem worthy of much note.

I submit that this kind of defence evidence does not meet the enhanced standard of proof required by the law on defamation for justification of serious charges.

AS FOR THE UNITED KINGDOM – THE BRITISH NATIONAL party – the defence have no doubt rightly decided to junk their own expert's report on my alleged contacts with British extremists as well. Despite complete access to all my records, their joint effort managed to establish that in a twenty year speaking career I addressed on one occasion what can fairly be described as a *half*-BNP audience, or a hybrid audience, in Leeds.

The invitation came from a BNP official whose letter asked me to reply to his private address. No doubt I gave them the usual uncomfortable litany – the Bruns Report, which I had just discovered, and the other transcripts too. I probably also told them what I had found in Mussolini's files, the evidence that Sir Oswald Mosley had been in the pay of the Italian fascists, picking up large sums of money in brown paper parcels at anonymous street corners in London. I was the first person to find that fact out, and to publicise that, too. It is in my 1981 newsletter. All other BNP invitations I refused, as the exchange on Day 29, pages 74-5, shows; and it seems disingenuous at best, and at worst rather dishonest, for Mr. Rampton, funded and furnished as he was with my entire personal diaries and files, to suggest otherwise.

In general it is also to be stated that at the material times, namely when I associated with those individuals, they were *not* extremists, nor has it been shown to the Court that *at that time* they were. Thus at the time I first met this young man, Ewald Althans, late in October 1989, he seemed full of promise, and eager to learn. I later learned that he had been to Israel for six months on a German-government voluntary scheme for young Germans who wished to atone. Over the two or three years that

¹⁸⁴ *Der Spiegel*, No. 28/1995, at page 18: "PANORAMA – NEONAZIS – NEBENBERUF V-MANN: Der Münchner Neonazi Bela Ewald Althans, 29 [. . .] war zeitweise V-Mann des bayerischen Verfassungsschutzes. Althans berichtete ausführlich über die deutsche Neonazi-Szene und ihre internationalen Beziehungen, etwa nach Nordamerika und Rußland. Weil er gute Verbindungen unter Rechtsradikalen hatte und auch sehr mitteilend war, galt er beim Verfassungsschutz als Spitzenquelle. [. . .] Der Verfassungsschutz beendete die Zusammenarbeit mit ihm 1994 wegen 'mangelnder Nachrichtenehrlichkeit', so ein Verfassungsschützer."

our orbits occasionally intersected, I could see that he was growing more extreme and provocative in his actions. He also became undependable, and wayward in a number of non-political ways that I mentioned to the Court.

According to *Der Spiegel*, reporting his 1995 trial in Berlin, Althans had acted for the Bavarian BfV as a *Spitzenquelle* (top agent) until 1994, when they ended the liaison.¹⁸⁴ The BfV had, as Professor Funke agreed, a record of hiring *agents provocateurs*. Only a few weeks ago, Gottfried Timm, minister of the interior in Lower Saxony, found that the NPD chairman in Wismar, “Martin”, was a paid agent provocateur of the BfV (OPC) who had committed a series of atrocities including attempted murder while acting for the OPC. Timm demanded an inquiry after the agent was unmasked during his trial for arson.¹⁸⁵

Ernst Zündel and his views

Ernst Zündel is a German-born Canadian for whose own particular views I hold no brief. I later learned that he had apparently written some provocatively-themed, books with tongue-in-cheek titles (on flying saucers in Antarctica, and on the *Adolf Hitler that I Knew and Loved*) which are said to be worse than *outré*; wild horses would not make me read such books myself. I had met him in 1986, and found that as a personality he was not as dark as had been painted in the media. I was asked to give expert evidence at his trial in Toronto in April 1988, relating to the Third Reich and Hitler’s own involvement in the Holocaust. I did so to the best of my professional ability, and I was told that I had earned the commendation of the Court for doing so. It is plain to me from what I know that Mr. Zündel has been subjected to a twenty year onslaught by the Canadian organisations dedicated to combatting what they regard as Holocaust denial because of his dissident views, which are certainly more extreme than mine. My own relationship with Mr. Zündel has been proper throughout, and the Court has not been given any evidence to the contrary. At times it has even been strained, because of the misfortune inflicted on me in retribution for having spoken at his trial.

What remains of the Defence Case?

There remain one or two in my view minor matters.

The Defendants allege that I wilfully exaggerated the Dresden death roll in my 1963 book *THE DESTRUCTION OF DRESDEN*, and afterwards, and had no basis for my figures. In fact I have satisfied this court, I believe, that at all times (a) I set and pub-

lished the proper upper and lower limits for the estimates that I gave, giving a range of figures which necessarily decreased, overall, over the years as our state of information improved; (b) I had adequate basis for the various figures which I provided in my works.

It has to be said that authors have little or no control over the content of books sub-licensed to other publishers. Revisions are not encouraged for cost reasons.

I have always been aware of the highly-charged political nature of the figures quoted for this event. The highest figure, of 250,000, which I only mentioned in my works as the maximum ever alleged, was given for example by the German chancellor Dr. Konrad Adenauer in an official West German government publication which I showed the court, *DEUTSCHLAND HEUTE* (page 154, at footnote 2).

The lowest figures only became available in a book published in 1994 by Friedrich Reichert, *VERBRANNT BIS ZUR UNKENNTLICHKEIT*. A copy of this book was provided to me in 1997. By that time I had already published the latest updated edition of my book, now called *APOCALYPSE 1945: THE DESTRUCTION OF DRESDEN*, in which I had lowered the death roll still further on the basis of my own investigations and considerations. This was the first edition over which I, and not the publisher, had total control, as it appeared under my own imprint.

In 1965, as the court is aware, I received written estimates of 140,000 and 180,000 dead from a rather anxious Soviet-zone citizen, Dr. Max Fünfack, who claimed to have received them about nine days after the raid from the city commandant and the chief civil defence officer respectively, both of them his personal friends. That being so, there was no reason why I should have revised the 135,000 estimate which I had earlier received from Hanns Voigt, a city official charged with drawing up death lists, when I was researching my first book in 1961. In 1966, I received the police final report of March 1945; while still remaining sceptical about it for the reasons stated (the officer was responsible for dresden’s ARP; it was too early to achieve any kind of overall final figure; the number of refugees killed was an imponderable) I took the correct action: I sent a letter to *The Times* within a few days of finding the new documents in the mail on my return from a trip to the USA. Not only that, but at my own expense I had the letter reprinted and sent to hundreds of historians and the like.

One hopes that the expert witnesses whom we saw in the witness stand would have had the same integrity to do that.

The Goebbels Diaries from Moscow

As for the Goebbels Diaries, the Defendants do not now seek to justify their claim that I broke an agreement with the Moscow Archives in 1992 to bring sections of the Goebbels’ Diaries back to Germany and London. They have withdrawn the witness reports of the Russian archivists, and will provide me no opportunity to cross examine them. I was prepared to pursue their cross examination vigorously. I produced a witness statement from Mr. Peter Millar, my colleague in Moscow, and I made him available for cross examination. He confirmed that there was no verbal or written agreement, as I had also stated in my various replies, so I could not have broken it.¹⁸⁶ The Defendants have left no satisfactory evidence before the Court that

¹⁸⁵ *Der Spiegel*, No. 46/1999, at page 18: “VERFASSUNGSSCHUTZ: AMTSHILFE FÜR SCHWERIN: Mecklenburg-Vorpommerns Innenministerium hat in Niedersachsen um Amtshilfe gebeten, weil der eigene Verfassungsschutz aus dem Ruder zu laufen scheint. In einem Prozess vor dem Amtsgericht Wismar wegen eines Brandanschlags hat sich einer der Angeklagten als V-Mann der Schweriner Geheimen geoutet. V-Mann, “Martin” war Kreisvorsitzender der NPD in Wismar. Er soll während seiner Tätigkeit für die Ermittler in mehrere Straftaten, darunter einen versuchten Totschlag, verwickelt gewesen sein. Um die Vorgänge aufzuklären, hat Innenminister Gottfried Timm (SPD) nun aus Niedersachsen den Geheimdienstkontrolleur Neidhard Fuchs angefordert, einen Referatsleiter im hannoverschen Innenministerium.”

¹⁸⁶ Day 15, February 3, page 40: Peter Millar, examination in chief.

refutes this. Mr. Millar also confirmed to the Court that he did not agree that my conduct gave rise to significant risk of damage to plates.¹⁸⁷

The plates had been withheld from historians for 55 years or more. By my actions I made these historically very important materials available to the world, and placed copies of them in the appropriate German archives at my own expense.

THE DEFENDANTS REFER TO, AND SEEM TO RELY QUITE strongly on, a document allegedly sent by the Gestapo chief Heinrich Müller to the heads of the four taskforces (*Einsatzgruppen*) on August 1, 1941, about “procurement of visual materials”, which were to be submitted to Hitler on the work of the *Einsatzgruppen* in the east (Longerich report, para 15.6).

I submit that in the special circumstances of this action the Court should not accept this evidence as admissible.

Admissibility of the Müller document

If I had myself found such a document, I would have wanted to know everything possible about how and why it had surfaced, where it had come from, and the surrounding documents in the same folder which might tell us something about the ambiguous contents. The Defendants have sought, unsuccessfully in my view, to devalue the Schlegelberger Document on precisely the grounds of a few other documents found in the same folder.

The Court therefore ordered the Defendants to produce (a) the original document or a facsimile thereof, and (b) to identify the file in which it had been found. The expert witness Dr. Longerich identified the file as ZSt Ludwigsburg, Dok. UdSSR No. 401. etc. The expert witness Dr. Browning cited Peter Klein, ed., *Die Einsatzgruppen in der besetzten Sowjetunion 1941/42: Die Tätigkeits- und Lageberichte des Chefs der Sicherheitspolizei und des SD* (Berlin, 1997), page 342. The archival source was given as Bundesarchiv Signatur BA R 70 Sowjetunion/32. I requested the Bundesarchiv on February 7 to provide me with a facsimile. They replied that the file with that number was something completely different. On January 28, as is evident from the fax line on top of the version of the document now provided by the Institut für Zeitgeschichte, the institute had already supplied precisely the same typed Abschrift to Dr. Longerich. It was forty-two days later provided to me, shortly before close of business before this last weekend, making it impossible for me to follow up. On March 9, the Ludwigsburg office has provided a copy of precisely the same item, microfilmed from a file USSR 401. This does not advance the matter.

Evidentiary Value of the Müller document

If Your Lordship is minded, despite the conduct of the Defendants over this document, to admit the Müller document in evidence, then I submit these comments on its evidential value: The document may not be genuine (although it does have SS runes in the last line, the Russians captured Nazi typewriters); it is a typescript copy totally bereft of any authenticating stamps or signatures; its source is the Central State Archives of the “October Revolution”. The document merely invites the four

taskforce commanders to provide to Berlin, for submission on a current basis to Hitler, “particularly interesting visual material like photos, posters, leaflets and other documents” – none of which seems to relate to the taskforces’ homicidal duties, so much as to their other well known functions as intelligence agencies – specifically tasked to raid and secure the headquarters and files of former Soviet party and administrative offices. It is difficult to imagine what “photos, posters, leaflets and other documents” would be “procured” that might relate to the Final Solution in the east. I know of no response-documents to this appeal – neither letters submitting materials to Müller, referring to this message, nor such materials being forwarded by Müller to Hitler “on a current basis” or on any other basis.

One other matter. Your Lordship will remember that Mr. Rampton put to Professor Funke, on Day 28 (March 1) in re-examination at page 174, a document which I wrote to Dr. Frey and my Munich lawyer, Dr. Michael von Sprenger, in January 1991. Starting at page 178 I was quoted as predicting “a political drawing together of the German-speaking peoples of Europe . . . within a framework of a just settlement with Warsaw”, and expressing the personal view that “the future of England can only be secured in common friendship with the new Germany”. Mr. Rampton argued on the basis of that letter that any person who sympathised with Hitler *in his desire for peace with England* was a neo-Nazi. On March 5 this year, only a few days ago, we learned that in 1940 Her Majesty the Queen Mother held precisely these views and expressed them in private to Lord Halifax when he was the foreign secretary.¹⁸⁸ The papers of the Viscount Monckton of Brenchley, which I examined at the Bodleian ten years ago, have now given up more secrets except for box 24, which contain, according to government sources, correspondence showing the Royal Family’s hostility toward the new prime minister Mr. Churchill and their preference for Lord Halifax, and the Queen Mother’s own desire that Britain conclude an early peace with Hitler.

Is it not remarkable that at precisely the same time that I was being publicly excoriated by Mr. Rampton for expressing those views, which are sincerely held, in several of my books, it turns out that they were inherently the same as those of the Queen Mother? She was well aware from the Cabinet papers, as indeed are most historians now, that Hitler had made such a peace offer during 1940, and several respectable historians, including my friend the late Alan Clark and Professor Charmley have expressed the same belief.

Part 36 offer

It is right that Your Lordship should be informed that pursuant to the Act I made a formal Part 36 offer to the Defendants, many months ago; not once, but twice, since at first they argued that the new Rules did not apply. The Defendants refused the offer.

Costs

I do not propose asking for my costs in this action. Although I have lost three years of my life in preparing for the case, have

¹⁸⁷ Ibid., page 48. And my answers under cross-examination, page 76.

¹⁸⁸ The sources are quoted in *The Independent on Sunday*, March 5, 2000: Sophie Goodchild’s story, “QUEEN MUM WANTED PEACE WITH HITLER”.

had to hire extra staff, and have spent two months in this courtroom, including about twenty days in the witness box, I have decided that it would be too arduous to quantify, in a matter that would satisfy the Taxing Master, every penny that I have had to spend to defend and retrieve my reputation.

I do however ask that Your Lordship give Judgment in the terms and on the premises set out in my writ and statement of claim, namely:

damages including aggravated damages for libel; *and*
an injunction restraining the Defendants and each of them whether by themselves their servants or agents or otherwise from further publishing or causing to be published the said or similar words defamatory of the Claimant.

David Irving Tuesday, March 14, 2000